

## **Report to Colchester Borough Council**

**by Jameson Bridgwater PGDip TP MRTPI and Anne Jordan  
BA(Hons) MRTPI**

an Inspectors appointed by the Secretary of State

Date: 19 May 2022

---

Planning and Compulsory Purchase Act 2004 (as amended)

Section 20

## **Report on the Examination of the Colchester Borough Local Plan 2017 – 2033 (Section 2)**

The Plan was submitted for examination on 9 October 2017

The examination hearings were held between 20 and 29 April 2021

File Ref: PINS/A1530/429/8

## Contents

Abbreviations used in this report .....	3
Non-Technical Summary .....	4
Introduction.....	5
Context of the Plan .....	6
Public Sector Equality Duty .....	7
Assessment of Duty to Co-operate .....	7
Assessment of Other Aspects of Legal Compliance .....	8
Assessment of Soundness .....	9
Issue 1 – Sustainable Growth Policies.....	9
Issue 2 – Environmental Assets Policies .....	14
Issue 3 – Place Policies.....	16
Issue 4 – Development Management Policies.....	33
Monitoring and Delivery .....	37
Overall Conclusion and Recommendation.....	37
Schedule of Main Modifications .....	Appendix

## Abbreviations used in this report

AMR	Authority Monitoring Report
AONB	Area of Outstanding Natural Beauty
CLPs1	Colchester Borough Local Plan 2013 – 2033 (Section 1)
CLPs2	Colchester Borough Local Plan 2017 – 2033 (Section 2)
Council	Colchester Borough Council
DPD	Development Plan Document
DIO	Defence Infrastructure Organisation
DtC	Duty to Cooperate
GTAA	Gypsy and Traveller Accommodation Assessment
HMO	Houses in Multiple Occupation
HRA	Habitats Regulations Assessment
LVIA	Landscape and Visual Impact Assessment
MOD	Ministry of Defence
MM	Main Modification
NPPF	National Planning Policy Framework
PPG	Planning Practice Guidance
PPTS	Planning Policy for Traveller Sites
RAMS	Essex Coast Recreational disturbance Avoidance and Mitigation Strategy
SA	Sustainability Appraisal
SSSI	Sites of Special Scientific Interest
UCO	Use Classes Order

## Non-Technical Summary

This report concludes that the Colchester Borough Local Plan 2017 – 2033 (Section 2) provides an appropriate basis for the planning of the Borough, provided that a number of main modifications [MMs] are made to it. Colchester Borough Council has specifically requested that we recommend any MMs necessary to enable the Plan to be adopted.

Following the hearings, the Council prepared schedules of the proposed modifications and, where necessary, carried out sustainability appraisal and habitats regulations assessment of them. The MMs were subject to public consultation over a six week period. In some cases, we have amended their detailed wording and/or added consequential modifications where necessary. We have recommended their inclusion in the Plan after considering the sustainability appraisal and habitats regulations assessment and all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- Revised housing and employment figures and sites to update the Plan in light of changes since submission and the adoption of the Colchester Borough Local Plan Section 1;
- Adding, amending or deleting site allocations and designations to ensure consistency with the NPPF;
- Rewording policies to ensure they are positively prepared and consistent with the NPPF; and
- Adding, amending or deleting policies and explanatory text to guide development;
- A number of other modifications to ensure that the plan is positively prepared, justified, effective and consistent with national policy.

## Introduction

1. This report contains our assessment of the Colchester Borough Local Plan 2017 – 2033 (Section 2) in terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is compliant with the legal requirements and whether it is sound. The National Planning Policy Framework 2012 (paragraph 182) (NPPF) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The revised NPPF was published in July 2018 and further revised in February 2019 and July 2021. It includes a transitional arrangement in paragraph 220 of the July 2021 NPPF which indicates that, for the purpose of examining this Plan, the policies in the 2012 NPPF will apply. Similarly, where the Planning Practice Guidance (PPG) has been updated to reflect the revised NPPF, the previous versions of the PPG apply for the purposes of this examination under the transitional arrangement. Therefore, unless stated otherwise, references in this report are to the 2012 NPPF and the versions of the PPG which were extant prior to the publication of the 2018 NPPF.
3. The starting point for the examination is the assumption that the Local Planning Authority has submitted what it considers to be a sound plan. The Colchester Borough Local Plan 2017 – 2033 (Section 2), submitted in October 2017 is the basis for our examination. It is the same document as was published for consultation in June 2017.

## Main Modifications

4. In accordance with section 20(7C) of the 2004 Act the Council requested that we should recommend any main modifications [MMs] necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. Our report explains why the recommended MMs are necessary. The MMs are referenced in bold in the report in the form **MM1**, **MM2** etc, and are set out in full in the Appendix.
5. Following the examination hearings, the Council prepared a schedule of proposed MMs and, where necessary, carried out sustainability appraisal and habitats regulations assessment of them. The MM schedule was subject to public consultation for six weeks. We have taken account of the consultation responses in coming to our conclusions in this report and in this light, we have made some amendments to the detailed wording of the main modifications and added consequential modifications where these are necessary for consistency or clarity. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal/habitats regulations assessment that has

been undertaken. Where necessary we have highlighted these amendments in the report.

## Policies Map

6. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as Colchester Local Plan Policies Maps as set out in document reference CBC 1.3.
7. The policies map is not defined in statute as a development plan document and so we do not have the power to recommend main modifications to it. However, a number of the published MMs to the Plan's policies require further corresponding changes to be made to the policies map. In addition, there are some instances where the geographic illustration of policies on the submission policies map is not justified and changes to the policies map are needed to ensure that the relevant policies are effective.
8. These further changes to the policies map were published for consultation alongside the MMs in the Schedule of Proposed Policies Map Modifications.
9. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed in Colchester Local Plan Policies Maps and the further changes published alongside the MMs.

## Context of the Plan

10. The Colchester Borough Local Plan 2017 – 2033 (Section 2) is intended to replace the saved policies of the Colchester Borough Core Strategy, Site Allocations DPD and the Development Policies DPD. It will form part of the development plan for the area along with the Colchester Borough Local Plan 2013 – 2033 (Section 1) (CLPs1) which is a joint strategic plan for the North Essex Authorities, prepared with Braintree and Tendring Councils, and adopted by Colchester Borough Council in February 2021. The Section 2 plan was submitted for examination alongside the Section 1 plan and seeks to implement the strategic aims of the Section 1 plan in respect of the amount and location of development in the Borough. A modification is necessary to set out a list of policies superseded by CLPs2 (Appendix 4) to ensure consistency with CLPs1 and meet the legal requirements (**MM95**).

11. Colchester is a historic town at the centre of a diverse Borough. It is the oldest recorded town in Britain, beginning life as an Iron Age fortress, before becoming the Roman capital of Britain. Since then, the town has retained its strategic (military) and trading importance both regionally and nationally. Modern Colchester has a vibrant town centre and the Borough contains a number of smaller towns and villages that the Council have identified as sustainable settlements, the largest three being Tiptree, West Mersea and Wivenhoe. The Borough also contains important natural landscapes, including the Dedham Vale Area of Outstanding Natural Beauty (AONB), Mersea Island and the Essex Coastline.

## **Public Sector Equality Duty**

12. We have had due regard to the aims expressed in S149 of the Equality Act 2010. This, amongst other matters, sets out the need to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
13. We have considered several matters during the examination including accommodation for Gypsies, Travellers and Travelling Showpeople (Policies DM10, DM11), provision of specialist housing and ensuring there is adequate provision to meet the needs of older people (Policies DM10, DM12). In this way the disadvantages that they suffer would be minimised and their needs met in so far as they are different to those without a relevant protected characteristic. There is also no compelling evidence that the CLPs<sup>2</sup> would bear disproportionately or negatively on them or others in this category.

## **Assessment of Duty to Co-operate**

14. Section 20(5)(c) of the 2004 Act requires that we consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation.
15. The Council has engaged with adjoining local planning authorities, Essex County Council and prescribed bodies on all relevant strategic matters from an early stage in plan preparation as documented in the Council's Duty to Co-operate Statement [CBC 4.12]. The plan was submitted for examination alongside the Section 1 plan which is a joint strategic plan for the North Essex Authorities, prepared with Braintree and Tendring Councils. It is evident that the Council has developed a strong working relationship with Braintree and Tendring Councils (the North Essex Authorities) arising from the extensive cross boundary work on the Section 1 Local Plan and also as relates to the progression of the three Section 2 Plans. The Borough also shares borders with Maldon District Council and Babergh District Council.

16. The DtC was assessed by the Inspector examining the Section 1 plan and was found to have been met. The strategic, cross-boundary matters addressed included assessments of need for housing, Gypsy and Traveller accommodation and employment land, strategic infrastructure, including improvements to the trunk and local road networks and the railway network, education, healthcare and broadband provision and the environmental and other cross-boundary impacts of the Plan's proposals.
17. There are no cross-boundary issues with neighbouring authorities and other relevant organisations, which have not already been considered at the CLPs<sup>1</sup> examination. The Council has continued to engage with these bodies since the submission of the plan and has updated the CLPs<sup>2</sup> to reflect this.
18. We are therefore satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the duty to co-operate has therefore been met.

## **Assessment of Other Aspects of Legal Compliance**

19. The Plan has been prepared in accordance with the Council's Local Development Scheme.
20. Consultation on the Plan and the MMs was carried out in compliance with the Council's Statement of Community Involvement.
21. The Council carried out a sustainability appraisal of the Plan, prepared a report of the findings of the appraisal, and published the report along with the Plan and other submission documents under regulation 19. The appraisal was updated to assess the main modifications in September 2021 and is adequate.
22. The Habitat Regulations Assessment Report (June 2017) and subsequent update (Habitats Regulations Assessment Final Report - March 2021) concluded that the Plan is likely to have a significant effect on Habitats sites, alone or in combination with other plans or projects. A full HRA including Appropriate Assessment was undertaken to accompany the submitted Plan which concluded that subject to policy measures incorporated in the Plan, together with appropriate mitigation, there would be no significant adverse effects on the integrity of the European national site network, either alone or in combination. The Habitat Regulations Assessment (September 2021) of the MMs reaches the same overall conclusion.
23. The Development Plan, taken as a whole, includes policies to address the strategic priorities for the development and use of land in the Local Planning Authority's area.



24. The Development Plan, taken as a whole, includes policies designed to secure that the development and use of land in the Local Planning Authority's area contribute to the mitigation of, and adaptation to, climate change. This is predominantly covered within Issue 2 and Issue 4 of this report.
25. The Plan complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.

## **Assessment of Soundness**

### **Main Issues**

26. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, we have identified four main issues upon which the soundness of this plan depends. This report deals with these main issues. It does not respond to every point or issue raised by representors. Nor does it refer to every policy, policy criterion or allocation in the Plan.

### **Issue 1 – Are the Sustainable Growth Policies (Policies SG1 to SG8) consistent with the CLPs1 and are they justified by appropriate available evidence, having regard to national policy, and local context?**

27. As set out above the CLPs2 was submitted for examination in 2017 with the CLPs1. At the point of submission, the Council had proposed 2 new Garden Communities for the Borough (Colchester/Braintree Borders and Tendring/Colchester Borders) within the CLPs1. However, following the examination, the Colchester/Braintree Borders Garden Community was removed on the grounds of deliverability. Consequently, the Council adopted the CLPs1 in February 2021 with only the Tendring/Colchester Borders Garden Community retained within the plan. In order for the Plan to be effective, and ensure conformity with the adopted CLPs1, it is therefore necessary to delete all references to the Colchester/Braintree Borders Garden Community from the CLPs2 (**MM1, MM3**). Moreover, to ensure that the CLPs2 is up to date at the point of adoption it is necessary to replace all references to international sites, European sites and Natura 2000 sites with 'habitats sites' (**MM2**).

### **Spatial Strategy**

28. Policy SG1: Colchester's Spatial Strategy seeks to direct growth to the most accessible and sustainable locations in accordance with the spatial strategy for North Essex set out in the CLPs1 and with the spatial hierarchy set out in Table

SG1. The spatial hierarchy ranks areas of the Borough in order of their sustainability merits and the size, function and services provided in each area.

29. The plan seeks to direct the majority of growth to the urban area of Colchester which is the most sustainable location for new development due to its high level of accessibility combined with a high concentration of jobs, services and housing. The second tier of the settlement hierarchy consists of 17 sustainable settlements which are considered to be able to accommodate proportionate levels of growth. The second tier also includes the Tendring/Colchester Borders Garden Community. Other Villages make up the third tier, these are generally small with limited facilities, and often share facilities and services in small clusters and are defined by tightly drawn settlement boundaries. The fourth tier is the Countryside, with development restricted to proposals that require either a rural location or help sustain the rural economy and community whilst ensuring that the rural character of the area is protected. This Council's approach, of locating growth in and around existing urban areas and limiting development in less accessible settlements is consistent with the overarching aim of the NPPF in delivering sustainable development and is justified and appropriate.
30. In the interests of clarity and to ensure that the policy and the associated Table SG1 is effective, it is necessary to ensure that the correct policy of the CLPs1 is referred to by deleting 'SP6' and replacing it with 'SP3'. With regard to accessible locations the word 'highly' should be deleted as it is not necessary given the relative accessibility of locations within the various tiers of the Spatial Strategy. In the interests of precision, the policy also needs to be corrected to address the removal of the Colchester/Braintree Borders Garden Community. To ensure that the policy is effective and positively worded in relation to new development in the open countryside it is necessary to delete the text 'only be permitted in exceptional circumstances to preserve' and replace it with 'be required to respect the character and appearance of landscapes and the built environment and preserve or enhance the historic environment and biodiversity to safeguard' (**MM3**).

## Housing Delivery

31. CLPs1 Policy SP4 Meeting Housing Needs requires the provision of at least 18,400 new homes in the Borough over the plan period 2013 – 2033. The CLPs2 is therefore required to identify at least 14,720 new homes for the plan period 2017 – 2033. Policy SG2: Housing Delivery of the CLPs2 sets out the Council's approach to housing distribution in the Borough. To ensure that the policy is consistent with the CLPs1 and is therefore effective, it is necessary to delete references to Colchester/Braintree Borders Garden Community and its allocation (**MM4, MM5**).

32. Since the CLPs2 was submitted in 2017, a significant proportion of the allocated sites within the plan have been developed, or are under construction, or have obtained permission. Furthermore, a number of unallocated sites have been granted permission and some of these have been developed. A modification is therefore necessary to factually update the table 'Colchester's Housing Provision' within the policy that identifies settlements and key development areas for the plan period. The modification ensures that the revised table is more accurately sub-divided into homes delivered 2017 - 2021 (4,075 homes) existing commitments 2021 - 2033 (6,155 homes) and new allocations 2021 - 2033 (5,740 homes). The updated table demonstrates that the Council have delivered and identified sites which could provide approximately 15,970 new homes within the plan period. This approach provides sufficient flexibility beyond the housing requirement derived from the CLPs1, building in flexibility to respond to the variations in the housing market.
33. The Council through their Topic Paper 2 - Housing Matters March 2021 have set out that the CLPs2 can demonstrate at least 5 years housing land supply at the point of adoption. This is confirmed by our assessment of the housing allocations set out below. This concludes that the Council's policy approach to housing delivery means that the housing sites identified within the CLPs2 are both deliverable and developable. As a result, there is a reasonable prospect that the Council will maintain delivery of a five-year supply of housing land to meet their housing target for the plan period.
34. Overall, this is both a pragmatic and robust approach that will ensure that Colchester will be able to deliver much needed homes in a time of significant need. Finally, in the interests of clarity it is necessary to add an explanatory note to the table ensuring consistency with the 2013 - 2033 time period of the plan agreed through adoption of the CLPs1 along with applying a reference number to the housing provision table 'SG2' (**MM5**).

## **Economic Growth and Employment**

35. Policy SP5 of the CLPs1 sets out Colchester's strategic requirement for employment land for office, research & development, industrial, storage and distribution uses, seeking to ensure that there is sufficient supply to meet the anticipated level of growth. The policy sets out a range for the Borough of between 22 Hectares (ha) (baseline) and 30 Hectares (higher growth scenario).
36. Policy SG3: Economic Growth Provision seeks to bring effect to those requirements by identifying employment land to underpin the Borough's economic growth during the plan period. The plan seeks to direct employment uses to appropriate and sustainable locations, with Table SG3 identifying both Strategic Economic Areas (North Colchester, Stanway, and Knowledge

Gateway), Local Economic Areas (Colchester Town Centre, District Centres and Other Rural Areas) and the Garden Communities.

37. To accurately reflect the latest employment land supply position, it is necessary to amend the text of the policy and Table SG3, reducing the overall allocation from 39.7 to 32 hectares to predominantly take into account the grant of planning permission for alternative uses at Stanway. Notwithstanding this, the range of employment sites available to meet market demands is broadly consistent with the requirements of Policy SP5 of the CLPs<sup>1</sup>. Moreover, it is necessary in the interests of effectiveness to amend the policy to respond to the changes to the Use Classes Order (UCO) specifying that the policy applies to principally Class B2, B8 uses, supporting Class E uses and any associated employment generating sui generis uses. In the interests of precision, it is necessary to correctly reference the Tendring/Colchester Borders Garden Community (**MM6**). With regard to Table SG3 a modification is required for precision and effectiveness to address reductions in the Stanway employment allocations, the deletion of Colchester/Braintree Borders Garden Community and the reinstatement of employment land at Marks Tey (**MM7**).
38. Policy SG4: Local Economic Areas is a criteria-based policy that seeks to safeguard sites identified within Table SG4 for employment uses. To address the changes to the UCO a modification is necessary to specify that the policy applies to office use within Class E where appropriate. Moreover, to provide clear direction to the decision maker it is necessary to specifically reference Class B uses within criterion (ii) of the policy (**MM8**).

## Retailing

39. The retailing section of the CLPs<sup>2</sup> contains 3 policies that define the centre hierarchy for the Borough (Policy SG5), provide guidance on appropriate town centre uses and set thresholds for when retail impact assessments must be provided (Policy SG6). The section also provides guidance for the decision maker on how they should approach development proposals for local centres (Policy SG6a).
40. Policy SG6: Town Centre Uses is a criteria-based policy that seeks to manage and support appropriate growth within the town and district centres whilst safeguarding the role and function of each of the centres and their hierarchy as set out in Policy SG5. To ensure that the policy is both effective and consistent with the NPPF it is necessary to amend the text of the policy requiring applicants to 'demonstrate flexibility on issues such as format and scale'. To provide clear direction to the decision maker, it is necessary to ensure that criteria (i) and (ii) relate specifically to proposals in and on the edge of the Town and District Centres and to clarify that the centres referred to in criteria (iv) and (v) are 'defined' centres. Moreover, it is necessary to delete the distinctive

treatment of Tollgate Centre within criterion (vi) which is not consistent with the NPPF in regard to centres, along with consequential changes to the explanatory text in paragraphs 12.49 and 12.50 (**MM9, MM10**).

41. To take account of changes in the retail market the Council commissioned the Retail and Town Centre Study Update 2020. This highlighted, in particular the increasingly mixed-use nature of development proposals, and a requirement for a simplified approach to retail impact test thresholds. For effectiveness, the modification revises the thresholds for when retail impact assessments must be provided to 1,500sqm gross for Colchester, Tollgate, Peartree Road, Turner Rise and Highwoods and 1,000sqm gross for Tiptree, West Mersea and Wivenhoe. As amended the thresholds are appropriate and justified by the available evidence (**MM11**).

## **Infrastructure**

42. Policy SG7: Infrastructure Delivery and Impact Mitigation seeks to ensure that new development is supported by and has good access to all necessary infrastructure. The policy is positively worded and allows for a degree of flexibility allowing for infrastructure needs to be addressed by way of on-site and off-site provision, financial contributions or the provision of land. The policy also allows for developers to make direct infrastructure provision. To ensure the policy is effective, a modification is necessary to secure measures to mitigate the impacts of recreational disturbance on habitats sites to be delivered in accordance with adopted Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) (**MM12**). In reaching these conclusions we have considered if it is necessary to provide further guidance in relation to the potential introduction of Community Infrastructure Levy (CIL) by the Council. However, this is not necessary for soundness as this is already clearly set out in the national Planning Practice Guidance.

## **Neighbourhood Plans**

43. Policy SG8: Neighbourhood Plans seeks to encourage communities to develop plans to meet their specific needs. To ensure that the policy remains up to date and effective it is necessary to remove references to the current status of individual Neighbourhood Plans (either made or in the process of preparation). Furthermore, in the interests of clarity it is necessary to simplify the text in the policy to make clear that once a Neighbourhood Plan is made, it becomes part of the Development Plan (**MM13**).

## **Conclusion**

44. In summary subject to the main modifications identified above the Sustainable Growth Policies (Policies SG1 to SG8) of the CLPs2 are justified by the

available evidence and consistent with the CLPs<sup>1</sup> and the NPPF and consequently are likely to be effective.

## **Issue 2 – Are the Environmental Assets Policies set out in CLP Section 2 justified by appropriate available evidence, having regard to national policy, and local context, including meeting the requirements of CLP Section 1?**

45. There are 6 policies within the environmental assets chapter of the CLPs<sup>2</sup> that seek to provide clear direction in relation to the Borough's environment. The policies seek to conserve and enhance Colchester's natural and historic environment. The chapter also provides clear guidance for the decision maker with regard to coastal areas, green infrastructure, Dedham Vale AONB, pollution and contaminated land. The chapter also contains a policy that seeks to ensure development mitigates and adapts to the challenges of climate change.

### **Environment**

46. Policy ENV1: Environment is a criteria-based policy that seeks to provide clear direction to the decision maker as to how they should approach development proposals in relation to the natural and historic environment, to ensure, amongst other things, that the Borough's biodiversity, geology, history and landscape character are safeguarded. In the interests of effectiveness, it is necessary to modify the explanatory text at paragraph 13.3 with regard to the terminology used in relation to the need for appropriate assessment and the submission of a Habitat Regulations Assessment (**MM2, MM14**). A modification is required to factually update paragraph 13.5 of the policies explanatory text to take into account the adoption of the RAMS and SPD (**MM15**). In the interests of clarity and effectiveness, it is necessary to modify paragraph 13.7 to ensure that development proposals initially be assessed to establish the likely presence or absence of Protected Species or Species/Habitats of Principal Importance (**MM16**).
47. A modification is necessary for effectiveness to provide additional explanatory guidance within paragraph 13.8 setting out that all development proposals must comply with current requirements and best practice for measurable biodiversity net gain and Nature Recovery Strategies and Networks. Furthermore, the additional text explains that a minimum, 10% biodiversity net gain is required or as otherwise indicated in national policy and/or legislation (**MM17**).
48. Amendments and additions to the explanatory text at paragraph 13.9 are required for clarity with regard to the Hedgerow Regulations 1997. We amended the advertised modification in the interests of precision and

effectiveness consistent with the comments of Essex County Council. Additional guidance is necessary with regard to the legal requirements to improve the water environment and to set out that development proposals should contribute towards delivering the aims and objectives of the Anglian River Basin Management Plan (**MM18**). To ensure that the policy is effective in relation to protecting landscape character, it is necessary to modify paragraph 13.13 to provide additional guidance to protect open stretches of countryside around, and between, existing settlements and ensure that new development in the countryside is compatible with local landscape character and setting (**MM19**).

49. Taking into account the modifications set out above (MM2, MM14 to MM19), it is necessary to amend and structure Policy ENV1 to ensure that it is effective and provides clear direction to the decision maker. In the interests of clarity and effectiveness it is necessary to introduce alphabetic ordering of criteria. It is also necessary to update and clarify the guidance in relation to the Anglian River Basin Management Plan, designated sites, Essex Coast RAMS, biodiversity and geodiversity, irreplaceable habitats and the countryside (**MM20**).

## **Coastal Areas**

50. Policy ENV2: Coastal Areas is a criteria-based policy that seeks to apply an integrated approach to coastal management. The policy provides clear guidance for the decision maker on how to react to the varied planning considerations and land uses that need to be managed in the Borough's coastal belt. To ensure that the policy is effective it is necessary to add 'and seascape' in criterion (iii), after the word landscape to ensure that the effect of development on the coastal character of an area can be fully assessed (**MM21**).
51. Policy ENV3: Green Infrastructure seeks to protect and enhance the existing network of green and blue (water) infrastructure in the Borough along with encouraging the delivery of new green infrastructure where deficiencies and gaps are identified. To ensure that the policy is effective in relation to water bodies and to ensure that development proposals contribute to the management of flood risk, it is necessary to add an additional paragraph to the policy. The modification identifies measures that could contribute to achieving these outcomes including, amongst other things, de-culverting, creation and management of ecological buffer strips and new wetland areas (**MM22**).

## **Pollution and Contaminated Land**

52. Policy ENV5: Pollution and Contaminated Land seeks to ensure that development proposals do not result in an unacceptable risk to public health or safety. To ensure that the policy is effective it is necessary to add 'alone and

cumulatively' to the first paragraph to enable the decision maker to fully consider the potential impact of a development proposal (**MM23**).

## **Climate Change**

53. Policy CC1: Climate Change seeks to address and mitigate the effects of climate change and in this regard the Council declared a climate emergency in 2019. To ensure that the policy is effective in making a contribution towards combating climate change it is necessary to modify the policy and supporting text to include guidance in relation to encouraging green network connections to the 'Colchester Orbital' and seeking the provision of tree canopy cover in major developments (paragraph 13.49 and criterion iii). Moreover, it is necessary to make factual updates to the policy in relation to the deletion of the district heating network in East Colchester (criterion vi), which is no longer being progressed. Finally, it is necessary in the interest of clarity to correct a typographical error in criterion (xi) to refer to water and wastewater infrastructure (**MM24, MM25**).

## **Conclusion**

54. The Environmental Assets Policies of the CLPs2, subject to the main modifications identified above, are justified by the available evidence and consistent with the CLPs1 and the NPPF and consequently are likely to be effective.

## **Issue 3 – Are the Place Policies of the CLPs2 justified by appropriate available evidence, having regard to national policy, and local context, including meeting the requirements of the CLPs1?**

### **Place Policies**

55. The Place Policies chapter of the CLPs2 identifies key locations in the Borough where growth should be directed consistent with the spatial strategy. The policies allocate and provide site specific guidance for development sites. The chapter also contains policies that provide guidance in relation to infrastructure and mitigation, location specific transport infrastructure requirements and development in rural villages and the countryside.

### **Infrastructure and Mitigation**

56. Policy PP1: Generic Infrastructure and Mitigation Requirements is an overarching policy that sets out the requirement for development to provide, or contribute towards, meeting identified infrastructure needs and/or mitigation in the Borough. A modification is necessary in the interests of effectiveness to



specify that development proposals should contribute towards the provision of educational infrastructure. To ensure that the policy is effective in addressing water related issues and ensure consistency with the CLPs1 it is necessary to clarify the text of criterion (i) to add 'water supply network enhancements'. An amendment to criterion (v) is also required for effectiveness, replacing 'listed buildings' with 'heritage assets' meaning that the policy provides the necessary protection for all heritage assets rather than its original narrow definition. Moreover, it is necessary to ensure consistency with policy SP2 of the CLPs1 to add a new criterion to the policy (vii) setting out that developments will be required to contribute towards mitigation measures in accordance with the RAMS (**MM26**).

## **Colchester Town Centre (Policies TC1 to TC4)**

### **Town Centre Policy and Hierarchy**

57. Policy TC1: Town Centre Policy and Hierarchy seeks to encourage and support appropriate development, along with securing improvements to public spaces and streetscapes within the town centre. The overall aim of the policy is to create an attractive, vibrant and safe town centre. To ensure that the policy is effective and consistent with the increased flexibility set out in national policy, a modification is required to include a reference to shared mixed-use spaces and short-term uses as appropriate within the town centre (**MM27**)

### **Retail Frontages**

58. Policy TC2: Retail Frontages seeks to ensure that the function and vitality of the town centre is supported by clear guidance in relation to retail frontages. The policy sets out the approach the decision maker should take particularly in regard to development proposals located within primary and secondary street frontages. However, as set out elsewhere in the report there have been changes in national policy and the UCO that increase flexibility particularly with regard to the interchangeability of retail, leisure and office uses. As such, in the interests of clarity, a modification is necessary to ensure the guidance provided within the policy is consistent with that at a national level (**MM28**).

### **Town Centre Allocations**

59. Policy TC3: Town Centre Allocations identifies a range of mixed use, residential and employment site allocations within the town centre. Given the passage of time since the submission of the CLPs2 for examination it is necessary to amend the text of the policy to reflect the updated position with regard to site allocations in the town centre. Moreover, for clarity it is necessary to update the site specific guidance in relation to the Vineyard Gate allocation, setting out that it is now a residential led mixed use development, delivering approximately 100

new dwellings, consistent with the latest proposals for the site. Furthermore, with regard to the site allocations at St. Botolphs and Priory Walk it necessary for clarity to delete the policy requirements for retail sequential and impact tests, as these are already adequately addressed in the NPPF. Finally, to ensure that the policy provides clear direction to the decision maker it is necessary to provide additional guidance with regard to the effect of development proposals within the town centre on heritage assets (**MM29**).

### **Transport in Colchester Town Centre**

60. Policy TC4: Transport in Colchester Town Centre seeks to ensure that development proposals reinforce the town centre's key role in providing and supporting a sustainable transport hub for the Borough. To ensure that the policy is effective and consistent in relation to the requirement of policy SP6 of the CLPs1 for a rapid transit system, it is necessary to amend the text of the policy to reference the route connecting the Tendring Colchester Borders Garden Community with East Colchester, the Town Centre, and North Colchester. Moreover, it is necessary for effectiveness, in relation to heritage assets, to provide guidance within the policy with regard to the siting and size of highway infrastructure (e.g., bus shelters, signage and other infrastructure) (**MM30**).

### **North Colchester (Policies NC1 to NC4)**

#### **North Colchester and Severalls Strategic Economic Area**

61. Policy NC1: North Colchester and Severalls Strategic Economic Area provides a zoned approach to guide development proposals within this strategically important area of the Borough. The policy primarily focuses on safeguarding existing, and encouraging new, employment and leisure/recreation uses in the area. The policy also includes a residential allocation for approximately 300 new dwellings, 260 extra care units and associated open space. To respond to the changes to the UCO, it is necessary for effectiveness to delete references to Class B uses from the policy, replacing with 'appropriate employment uses' (**MM31**).

### **Transport in North Colchester**

62. Policy NC4: Transport in North Colchester seeks to ensure that development proposals contribute towards a package of sustainable transport measures including walking, cycling, public transport, travel planning and the promotion of sustainable travel. A modification to the policy is necessary for clarity, to ensure that it is consistent with policy SP6 of the CLPs1 in relation to securing enhancements to the east/west public transport services by including reference

to the route connecting the Tendring Colchester Borders Garden Community with East Colchester, the Town Centre, and North Colchester (**MM32**).

## **South Colchester (Policies SC1 to SC3)**

### **South Colchester Allocations**

63. Policy SC1: South Colchester Allocations provides guidance for the residential development for land at Gosbecks Phase 2 (up to 150 dwellings) and South of Berechurch Hall Road (up to 150 dwellings). The policy also safeguards land at Maldon Road/Shrub End and Land at Gosbecks for economic uses.
64. Within South Colchester is the ABRO site. It was previously part of the Royal Artillery Barracks (latterly known as Le Cateau Barracks), the northern most part of the old Colchester Garrison. The now vacant ABRO site has an approximate area of 4.26 hectares, that includes 3.80 hectares, that was identified for residential use within the Colchester Site Allocations DPD 2010 with further detail set out in the Garrison Masterplan. During the preparation of the CLPs2 the Council inadvertently omitted the ABRO site allocation. Therefore, a modification is necessary to update Policy SC1 and supporting text to carry forward the ABRO site allocation into the CLPs2. Furthermore, it is necessary for effectiveness to signpost the guidance contained within the Essex Minerals Local Plan for development proposals on allocated sites to provide a Minerals Resource Assessment (**MM33, MM34**)

### **Middlewick Ranges**

65. Policy SC2: Middlewick Ranges is a site allocation policy that provides criteria-based guidance for the residential development and associated supporting infrastructure of the 76ha site. The site is owned by the Defence Infrastructure Organisation (DIO) and is currently used by the Ministry of Defence (MOD) as a live firing range. The DIO are in the process of disposing of the site as part of a wider review with the MOD operations being relocated to another site. It is expected that the site will become vacant sometime during 2022. A modification is necessary to the explanatory text at paragraph 14.54 to ensure that the context of the policy is up to date and that it is clear that the development of the site is for up to 1000 new dwellings, along with signposting the requirement for a masterplan (**MM35, MM47**).
66. We have had regard to the detailed representations in writing and at the hearings that sought the deletion of the allocation from the CLPs2, and we have considered carefully the detailed contributions in relation to the potential effect of development of the allocation on traffic and transportation, biodiversity and environmental considerations, heritage, landscape impact, contamination,

infrastructure and developer contributions and the need for the management of the ecological areas/habitats and mitigation land.

67. We have carefully considered the extensive representations in relation to traffic and transport for both the allocation and the surrounding area. In this regard the traffic and transportation elements of the policy and supporting text as submitted do not provide the sufficient direction for the decision maker. To address these shortfalls the Middlewick Ranges – Transport Overview - October 2020 provides further evidence including transport impact modelling of a number of development scenarios for the site. The report also evidences engagement with Essex County Council as the Highway Authority as part of the modelling process.
68. The Transport Overview findings, demonstrate that a development of up to 1000 new homes could be accommodated by both the local and wider highway network. Furthermore, the report concludes that the development of the site could also deliver opportunities to improve the highway network, along with public transport, cycling and walking. To ensure that any potential effects of the proposed allocation can be fully assessed, modifications are necessary to ensure that the policy provides the requisite direction and is consequently effective in addressing traffic and transport matters for both the allocation and the surrounding area. As such, further guidance is required at paragraph 14.55 and within the policy to require the submission of a transport assessment setting out that sustainable transport should be the primary means of access and movement to, from and within the site and that a travel plan should be provided.
69. The modifications also ensure that any development makes the necessary provision for local bus services to traverse the site and provide frequent and regular connections to the town centre, railway stations and any other identified and agreed destinations. This seeks to ensure that local transport in the area will be improved to access employment opportunities that are located beyond Colchester town centre. The modifications also require the provision and enhancement of walking and cycling routes across the site, ensuring integrated links to the wider networks, including connection and enhancement to the Colchester Orbital, a circular walking and cycling route around the town's perimeter (**MM36, MM47**). Having considered all of the evidence, we consider that subject to the modifications set out above, the development of Middlewick Ranges would not have a severe impact on the transport network.
70. Middlewick Ranges is a designated Local Wildlife Site. The Ecological Evidence Report (November 2020), confirms that the habitats within the site are of high biodiversity value, including 53 Ha of acid grassland that supports a range of protected species such as invertebrates, breeding birds and bats. The habitats, and in particular the acid grassland, have been largely maintained by the mowing regime that has been in place to support the functional use of the site as a live firing range since Napoleonic times.

71. The evidence presented at the examination is clear that the allocation of the site for development is likely to result in the loss and damage of habitats. To address this, the policy as submitted seeks to secure mitigation and the provision of compensatory habitat. However, in the interest of clarity, a modification is necessary to the explanatory text at paragraph 14.56 and within the policy to clearly set out the requirements for a minimum of 10% bio-diversity net gain within the allocation site.
72. The policy sets out a requirement for biodiversity net gain and the provision of compensatory habitats to replace any habitats lost in any future development of the site. However, there is limited detail within the policy or supporting text to set out how this should be planned for. This is particularly important in terms of the need to identify an appropriate site or sites which will need to be secured to create new areas of compensatory acid grassland. Consequently, modifications are necessary for clarity and effectiveness to ensure that the masterplan for the development of the site is informed by robust and detailed evidence in relation to biodiversity and habitats including the assessment of any compensatory habitat sites. Furthermore, given the complexity of creating new habitats it is essential for the policy to be amended to secure the long term management of the ecological areas/habitats and mitigation land. The modifications set out that developers will be expected to enter into a legal mechanism to ensure the long-term establishment, management and maintenance of the mitigation/compensation land (acid grassland) for a minimum of 30 years (**MM37, MM45, MM46, MM47**). Having considered all of the evidence we are satisfied that the ecological measures proposed subject to the modifications set out will be effective in delivering the necessary mitigation and compensation.
73. In the interests of effectiveness, it is necessary to set out the reasoning behind the requirements of the policy to provide on-site open space within paragraph 14.57 of the supporting text. The modification sets out the need for the development to minimise footfall on the Essex coastal sites and nearby Roman River Site of Special Scientific Interest (SSSI) and provide substantial buffers to existing sensitive habitats. The modification also directs developers to introduce amongst other things accessible natural greenspace, formal playing pitches, parks and playspace, and green corridors, noting that these should ensure connectivity both across the site and connect with the existing Colchester Orbital (**MM38, MM47**).
74. Middlewick Ranges has the potential for the presence of buried archaeological remains, in particular, relating to prehistoric, Roman, civil war and World War II defences. The site also contains pill boxes, and tank line that were a component part of the Colchester Stop Line, a World War II defensive arrangement constructed to defend Colchester, in the event of an invasion. A modification is therefore necessary for effectiveness to provide clear guidance to ensure that any masterplan for the site takes account of the full range of heritage assets on and around the allocation (**MM39**). We are therefore

satisfied that subject to the modification, a developable scheme for the site could come forward within the plan period which adequately preserves the identified heritage assets.

75. To ensure that landscape considerations are addressed within any masterplan, it is necessary to modify the policy and supporting text for effectiveness to provide clear direction with regard to the requirements for the landscape character evidence base, including the requirement to provide a Landscape and Visual Impact Assessment (LVIA). Furthermore, the modifications provide guidance in relation to key issues and features that should be addressed including amongst other things, the settlement pattern, woodlands, hedgerows and the opportunities for screening. The modified guidance also identifies the landscape benefits of removing the Extra High Voltage electricity pylons and potentially replacing them with underground cabling, although noting that this may not be feasible (**MM40, MM47**).
76. To ensure that the policy is effective in addressing any potential contamination issues, a modification is necessary to provide greater clarity in paragraph 14.59 of the supporting text with regard to the scope of any site investigation with particular regard to MOD activities, previously inaccessible areas and fly tipping since the submission of the original site investigation report (**MM41**).
77. Modifications are also required to provide clear guidance on the timing and approach to the preparation and submission of a masterplan. Therefore, in the interests of effectiveness it is necessary to delete paragraph 14.60, renumber paragraph 14.62 and insert a new paragraph to ensure that a masterplan is agreed with the Local Planning Authority prior to the submission of any planning application. The modifications also make clear that the masterplan process should include engagement of the local community along with setting out suggested approaches to design and identifying appropriate parameters (**MM42, MM43, MM47**).
78. Modifications are required to the supporting text at paragraph 14.61 and within the policy in the interests of clarity and effectiveness in relation to the scope of developer contributions. The modifications address potential requirements for site remediation; community infrastructure including education provision; traffic and highways mitigation including enhancements to the public transport, walking and cycling infrastructure; accessible natural green space and public open space (**MM44, MM47**).
79. To bring effect to the additional requirements set out in main modifications above (**MM35 to MM46**), it is necessary to restructure and clarify the precise wording of the policy. The modification also updates criterion (vi) to direct that the built footprint of the development is sited to minimise the effects on protected habitats and species. Furthermore, to ensure that the policy is

effective it is necessary to provide further clarification in relation to the provision and funding of early years, primary and secondary educational requirements (criterion xiii and xiv). It is also necessary to provide further direction within the policy with regard to assessing and mitigating the impact of any future development on wintering birds and their habitats (**MM47**).

80. In conclusion, although a complex site, Middlewick Ranges is sustainably located and provides the opportunity to reuse an extensive area of land previously used for MOD purposes. The allocation of the site for residential development is consistent with the wider development strategy for the Borough as set out in Policy SG1. The allocation and subsequent development of Middlewick Ranges will make a significant contribution towards meeting Colchester's identified housing need during the plan period.
81. As amended, the policy will ensure that the potential effect of development of the site on traffic and transportation, biodiversity and environmental considerations, heritage, landscape impact, contamination, infrastructure and developer contributions and the need for the management of the ecological areas/habitats and mitigation land will be adequately addressed. Moreover, the modifications secure the requirement for engagement with the local community in the development of the masterplan, which will ultimately inform any future development proposals for the site. Therefore, subject to the main modifications set out above Policy SC2: Middlewick Ranges is justified, positively prepared, consistent and deliverable.

### **Transport in South Colchester**

82. Policy SC3: Transport in South Colchester seeks to secure improvements to the area's highway network and transport infrastructure. To ensure that the policy is effective in securing enhancements to the area's bridleways, it is necessary to amend the policy to seek improvements for horse riding infrastructure where appropriate (**MM48**).

### **East Colchester (Policies EC1 to EC4)**

#### **Knowledge Gateway and University of Essex Strategic Economic Area**

83. Policy EC1: Knowledge Gateway and University of Essex Strategic Economic Area seeks to maximise the economic and social benefits associated with the University of Essex and its contribution to the economy, vitality and viability of the town centre. The policy is supportive of the significant expansion of the University and Knowledge Gateway and provides clear direction for the decision maker setting out clear development principles including the requirement to contribute towards infrastructure and to pay special regard to heritage assets in and around the area. In the interests of effectiveness, in relation to the new

Garden Community it is necessary to update the text of the policy by deleting 'University' and replacing it with 'Tendring Colchester Borders'. In the interests of precision, it is necessary to specify that development will be expected to contribute to the cost of 'direct' infrastructure improvements as required. To respond to the changes to the UCO, it is necessary for effectiveness to specify that land and premises will be safeguarded for employment uses, primarily for 'office use within E class where appropriate' (**MM49**).

### **East Colchester/Hythe Special Policy Area**

84. Policy EC2: East Colchester/Hythe Special Policy Area seeks to encourage and support the regeneration of the former commercial harbour and underused industrial land. The criteria-based policy seeks, amongst other things, to ensure that development proposals maximise the opportunities of the area that include good public transport connections, proximity to the University and the advantages of a riverside location. The policy also sets out requirements and guidance in relation to flood risk and contamination. In the interests of effectiveness, it is necessary to modify criterion (i) to direct the decision maker to site allocations shown on the East Colchester Policies EC1-4 map. To ensure that the policy is up to date at the point of adoption it is necessary to delete criterion (xi) that relates to the East Colchester Energy Centre and HEAT network as this is no longer current (**MM50**).

### **East Colchester Allocations**

85. Policy EC3: East Colchester Allocations is a criteria-based policy that provides guidance and direction for the development of land at Port Lane (up to 130 dwellings), East Bay Mill (up to 22 dwellings), Barrington Road/Bourne Road (up to 28 dwellings) and the Magdalen Street sites (up to 200 dwellings indicated in explanatory text paragraph 14.85). The policy also safeguards land at Whitehall Industrial Estate, land at Barrack Street, land at Brook Street, Moorside Business Park and Port Lane for economic uses. To ensure that the policy is consistent with the site allocations set out in Policy SG3: Economic Growth Provision it is necessary to address the omission of the Place Farm mixed use allocation (2.7 ha of employment land and up to 30 new dwellings) by including it within the policy and correctly referencing Table SG4 (**MM51**).

### **Transport in East Colchester**

86. Policy EC4: Transport in East Colchester seeks to secure improvements to the area's highway network and transport infrastructure. To ensure that the policy is effective and consistent in relation to the requirement of policy SP6 of the CLPs1 for a rapid transit system, it is necessary to amend the text of the policy to reference the route connecting the Tendring Colchester Borders Garden Community with East Colchester, the Town Centre, and North Colchester.



Moreover, it is necessary to amend the policy to seek improvements for horse riding infrastructure where appropriate to ensure that the policy is effective in securing enhancements to the area's bridleways (**MM52**).

## **West Colchester (Policies WC1 to WC5)**

### **Stanway Strategic Economic Area and Tollgate District Centre**

87. Policy WC1: Stanway Strategic Economic Area and Tollgate District Centre provides criteria-based direction for the assessment of development proposals in regard to the area. The policy applies a zonal approach that seeks to safeguard the Stanway Strategic Economic Area for employment uses along with providing guidance in relation to development proposals within the Tollgate District Centre.
88. A modification is necessary to clarify the extent of the coverage of the policy by adding Tollgate District Centre to its title and introductory paragraph. To respond to the changes to the UCO, it is necessary to delete references to Class B uses from the policy relating to the Stanway Strategic Economic Area. Furthermore, to ensure that the policy is effective and consistent with national policy, it is necessary to provide greater clarity relating to how a decision maker should react to proposals for main town centre uses within Tollgate District Centre. The modification also corrects a number of minor typographical errors (**MM53**).

### **Stanway**

89. Policy WC2: Stanway allocates and safeguards five sites for predominantly residential uses along with providing criteria-based guidance for their effective development. The policy sets out the necessary infrastructure to support the residential allocations including, amongst other things, the provision of a new primary school, an early year's childcare facility and the identification of strategic open space.
90. In the interests of effectiveness, it is necessary to provide additional detail within the text of the policy in relation to the requirement for new development to contribute to the provision of educational facilities to meet existing and future requirements. In regard to the allocations at land to the North of London Road and land to the West of Lakelands, it is necessary, in the interests of clarity, to provide further direction within the policy in regard to assessing and mitigating the impact of any future development on wintering birds and their habitats in accordance with the recommendation of the HRA.

91. To address an omission from the policy it is necessary for effectiveness to signpost the guidance contained within the Essex Minerals Local Plan requiring development proposals at land to the North of London Road to provide a Minerals Resource Assessment. To ensure that the policy is up to date at the point of adoption and therefore effective, it is necessary to delete the allocation at the former Sainsburys site to reflect the grant of planning permission for a non-residential use and increase the allocation from 150 dwelling to 250 dwellings at land to the West of Lakelands. Finally, to avoid unnecessary duplication within the policy in relation to educational contributions it is necessary to delete criterion (v) from the allocation land off Dyers Road including Fiveways Fruit Farm (**MM54**).

### **Colchester Zoo**

92. Policy WC3: Colchester Zoo acknowledges the importance of the visitor attraction and the contribution it makes to the local economy. The policy therefore safeguards land and provides direction to the decision maker to allow the potential expansion of this key visitor attraction, whilst addressing issues related to it being located within an environmentally sensitive location. To ensure that the policy is effective, and supportive of all modes of sustainable travel, a modification is required to the explanatory text at paragraph 14.118 that encourages improvements to equestrian routes (**MM55**). In the interests of effectiveness, it is necessary to provide further direction within the policy with regard to assessing and mitigating the impact of any future development on wintering birds and their habitats in accordance with the recommendation of the HRA. Moreover, to ensure that the policy is consistent with the terminology of the NPPF it is necessary to amend the text in relation to Scheduled Monuments, deleting the word 'Ancient' (**MM56**).

### **Sustainable Settlements**

93. Policy SG1 identifies 17 Sustainable Settlements within the Borough where appropriate sustainable growth should be directed. The policies (SS1 to SS16, OV1, OV2) identify both site allocations and/or levels of growth required to contribute towards meeting the requirement of at least 14,720 new homes for the plan period 2017 – 2033. Employment and infrastructure requirements also are identified along with measures to ensure that amongst other things habitats and heritage assets are protected.

### **Abberton and Langenhoe**

94. Policy SS1: Abberton and Langenhoe allocates and provides guidance for the residential development of 2 sites within the village, at land to the west of Peldon Road (50 dwellings) and land to the east of Peldon Road (5 dwellings). For the policy to be effective, a modification is necessary to ensure that the

necessary protection is afforded to the designated heritage assets close to the sites that include the Grade II listed Pete Tye Hill and Old Cottage (**MM57**).

### **Copford**

95. Policy SS4: Copford allocates and provides guidance for the residential development of 2 sites within the village, at land east of Queensberry Avenue (70 dwellings) and land west of Hall Road (up to 50 dwellings). For the policy to be effective, a modification is necessary to ensure that the necessary protection is afforded to the designated heritage assets close to the sites which include the Grade II listed Copford Place and stable, Brewers Cottage, Stanway Bridge and Brook Cottage (**MM58**).

### **Eight Ash Green**

96. Policy SS5: Eight Ash Green sought to provide guidance for the preparation and adoption of a Neighbourhood Plan for the parish. However, since the submission of the CLPs<sup>2</sup> for examination, the Eight Ash Green Neighbourhood Plan has been made in December 2019. Therefore, in the interests of effectiveness it is necessary to delete the existing policy text and replace it with the following wording 'All development proposals in Eight Ash Green parish will be determined against and be required to comply with policies in the Eight Ash Green Neighbourhood Plan and any relevant Local Plan policies' (**MM59**). It is not necessary for soundness to amend the text of the policy in relation to how to respond to development proposals outside the settlement boundary. This circumstance is adequately addressed by other policies in the plan.

### **Fordham**

97. Policy SS6: Fordham allocates and provides guidance for the residential development of land east of Plummers Road (up to 20 dwellings). For the policy to be effective a modification is necessary to add an additional criterion (iv) to ensure that the necessary protection is afforded to the designated heritage assets close to the site which include the Grade II listed Plummers Farmhouse, Grade II listed Thrifts Cottage and Plummers Green Monument (**MM60**).

### **Great Horkesley**

98. Policy SS7: Great Horkesley allocates and provides guidance for the residential development of 2 sites within the village, land at Great Horkesley Manor (80 dwellings) and land at School Lane (13 dwellings). In relation to the site at School Lane it is necessary for effectiveness to amend criterion (ii) to provide greater clarity with regard to the requirements for community facilities.

Moreover, it is necessary in the interests of precision to amend criterion (iv) to ensure that the necessary protection is afforded to the designated heritage assets close to the site and by specifying the other heritage assets on The Causeway' as 'School House and Oak Cottage' (**MM61**).

## **Great Tey**

99. Policy SS8: Great Tey allocates and provides guidance for the residential development of 2 sites within the village, at land on Brook Road (10 dwellings) and land off Greenfield Drive (30 dwellings). In relation to the site at land on Brook Road, for the policy to be effective it is necessary to amend criterion (ii) to ensure consistency in terms of the decision makers approach to heritage assets. Moreover, with regard to the allocation at land off Greenfield Drive it is necessary to amend criterion (i) to provide clarification with regards to access arrangements in the interests of highway safety and (ii) deleting the requirement that the open space should be adjacent to existing public open space. Furthermore, to ensure that the CLPs<sup>2</sup> is positively prepared it is necessary to add an additional criterion (iii) that sets out that character of the development will be shaped by the emerging Neighbourhood Plan (**MM62**).

## **Langham**

100. Policy SS9: Langham allocates and provides guidance for the residential development of 2 sites within the village, land at Wick Road (10 dwellings) and land at School Road (70 dwellings). With regard to land at Wick Road for the policy to be effective a modification is necessary to ensure that the necessary protection is afforded to the designated heritage assets close to the sites which include the Grade II New House, similarly for land at School Road it is necessary for precision to specify the Grade II School Farmhouse heritage asset (**MM63**).

## **Layer de la Haye**

101. Policy SS10: Layer de la Haye is a criteria-based policy that allocates and provides guidance for residential development in the village. To ensure that the policy is positively prepared and flexible a modification is necessary to insert 'at least' before 35 new dwellings in criterion (i). To provide clear direction to the decision maker it is necessary to add further guidance to the policy in relation to the requirement for a Minerals Resource Assessment, and mitigation for wintering birds identified in the Habitat Regulations Assessment (**MM64**).

## Marks Tey

102. Policy SS11: Marks Tey sought to direct the decision maker to the emerging Braintree Colchester Borders Garden Community DPD and the emerging Marks Tey Neighbourhood Plan. However, as set out above, for effectiveness it is necessary for consistency to delete all references to the Braintree / Colchester Borders Garden Community along with amending the guidance provided for the preparation of the Marks Tey Neighbourhood Plan to ensure flexibility (**MM1, MM13, MM65**).

## Mersea Island

103. Mersea Island is a small tidal island located to the south-east of Colchester. It is situated in the estuary area of the Blackwater and Colne rivers. Access to the island is via the Strood, a causeway carrying the B1025 road. However, it can often be closed at high tide, in particular during spring tides. In reaching our conclusions below we have carefully considered the representations made in relation to the ability of residents to access services and facilities both on and off the island.
104. Policy SS12a: West Mersea is a criteria-based policy that allocates sites at Dawes Lane and Brierley Paddocks for residential development and associated infrastructure (around 200 dwellings in total). It also seeks to safeguard the three existing designated Local Economic Areas in Mersea. Although the allocations at Dawes Lane and Brierley Paddocks have secured planning permission since the submission of the CLPs<sup>2</sup> in 2017, it is necessary to retain Policy SS12a within the plan. This is to ensure that should any alternative proposals come forward for the allocations they will still be required to make provision for infrastructure and facilities identified within the plan as a whole.
105. Policy SS12b: Coast Road, West Mersea is a criteria-based policy that seeks to provide clear guidance for development proposals on the seaward and landward side of Coast Road, West Mersea. To ensure consistency with the NPPF it is necessary to replace the word 'historic' with 'heritage' within the text of criterion (ii). Moreover, to ensure that the policy is up to date and therefore effective, it is necessary to amend criterion (iii) to reflect the adoption of the RAMS. In doing so we have amended the advertised modification for effectiveness, by deleting the word "or" replacing it with "and, where appropriate," consistent with the comments of Natural England (**MM66**).
106. Policy SS12c: Mersea Island Caravan Parks applies a criteria-based approach in relation to proposals to expand, intensify or change the use of such sites on Mersea Island. The policy is supportive of tourism and the benefits it brings to the area, whilst seeking to ensure that the effects of any proposal do not harm the Island's habitats/environment or the amenity of the residents/business that

are located in proximity to any development proposal. To ensure that the policy is effective it is necessary to amend the introductory text of the policy to set out that development proposals 'will only be supported where they meet all of the following criteria'. Moreover, with regard the protection of the Island's habitats (designated breeding and wintering species) for effectiveness it is necessary to amend criterion (ii) to require development proposals to be supported and informed by a Habitat Regulation Assessment and where required appropriate assessment (**MM2, MM67**).

107. In conclusion, subject to the above-mentioned modifications, the policies and housing allocations on Mersea Island are justified, effective and consistent with national policy.

### **Rowhedge**

108. Policy SS13: Rowhedge is a criteria-based policy that allocates and provides guidance for the residential development of 40 new dwellings in the village at Rowhedge Business Centre. To ensure that the policy is up to date and therefore effective with regard to new health services in North East Essex it is necessary to delete criterion (iv) as the need for flexible approaches to the provision of health care may not require land on the allocated site (**MM68**).

### **Tiptree**

109. At the time of submission of the CLPs<sup>2</sup> for examination, Policy SS14: Tiptree set out a criteria-based approach with regard to the requirements and scope of the emerging Tiptree Neighbourhood Plan. This included amongst other things defining the extent of the settlement boundary, the allocation of specific housing sites to provide 600 new homes, associated infrastructure requirements and to give consideration to strategic issues including the A12 junction improvements. However, the examination of the Tiptree Neighbourhood Plan (October 2020), recommended that it could not proceed to referendum.

110. Modifications are therefore necessary for effectiveness to ensure that the policy is up to date regarding the progress of the Neighbourhood Plan along with amendments to the explanatory text and in criterion (iv) of the policy to provide more detailed guidance in relation to the provision of traffic generation forecasts for the proposed new junction 24 onto the A12, and the potential for a new road linking the B1022 and B1023. We have altered the advertised modifications by adding 'a minimum of' before 400 dwellings in the explanatory text to ensure consistency within the policy and replacing the requirement for a "detailed transport assessment" with "strategic transport appraisal" which is more proportionate and flexible. This is consistent with comments received from Essex County Council as the Highway Authority (**MM69, MM71**). Moreover, it is necessary to provide new guidance within the explanatory text to reflect the

latest position in the village following the grant of planning permission for 200 new dwellings at Barbrook Lane, and to incorporate this as an existing commitment in terms of housing supply amending the housing requirement within criterion (ii) of the policy deleting '600' and replacing with 'a minimum of 400 dwellings' (**MM70, MM71**).

111. To provide clear direction and provide the necessary flexibility for the delivery of housing in the village, via the Tiptree Neighbourhood Plan, it is necessary to amend the opening text of the policy to direct growth to the preferred directions of growth in the south-west and north/north-west of the village (taking into account existing constraints). Furthermore, it is necessary to provide clear direction to the decision maker with regard to ensuring the protection of habitats by setting out the requirement for surveys and subsequent mitigation for wintering birds identified in the Habitat Regulations Assessment (**MM71**). It is not necessary for soundness to amend the text of the policy in relation to how to respond to development proposals outside the settlement boundary or any future boundary established by a neighbourhood plan. This circumstance is adequately addressed by other policies in the plan.

### **West Bergholt**

112. Policy SS15: West Bergholt sought to provide guidance for the preparation and adoption of a Neighbourhood Plan for the parish. However, since the submission of the CLPs<sup>2</sup> for examination the West Bergholt Neighbourhood Plan has been made in October 2019. Therefore, in the interests of precision it is necessary to delete the existing policy text and replace it with the following wording 'All development proposals in West Bergholt parish will be determined against and be required to comply with policies in the West Bergholt Neighbourhood Plan and any relevant Local Plan policies' (**MM72**). It is not necessary for soundness to amend the text of the policy in relation to how to respond to development proposals outside the settlement boundary. This circumstance is adequately addressed by other policies in the plan.

### **Wivenhoe**

113. Policy SS16: Wivenhoe sought to provide guidance for the preparation of a Neighbourhood Plan for the town. However, since the submission of the CLPs<sup>2</sup> for examination the Wivenhoe Neighbourhood Plan was made in May 2019. Therefore, for effectiveness a modification is necessary to bring the policy up to date, deleting the existing policy text and replacing it with text and criteria consistent with the Wivenhoe Neighbourhood Plan including amongst other things identifying the settlement boundary, housing allocations to deliver 250 dwellings and additional land outside of the settlement boundary for the provision of a care home (**MM73**). We have altered the modification to assist

with clarity in relation to the Neighbourhood Plan area deleting the reference to the parish.

### **Other Villages and the Countryside**

114. Policy OV1: Development in Other Villages seeks to support proposals that enhance the vitality of rural communities, providing direction to the decision maker by outlining the types of development that would be appropriate within the Borough's smaller rural villages. To bring full effect to the policy it is necessary to move the explanatory text (paragraph 14.246) that seeks to ensure that development proposals do not result in material harm to habitats sites to within the policy itself (**MM74**).

115. Policy OV2: Countryside provides direction for the decision maker as to how they should respond to development proposals in the countryside. To bring full effect to the policy it is necessary to move the explanatory text (paragraph 14.246) that seeks to ensure that development proposals do not result in material harm to habitats sites to within the policy itself (**MM74**). In the interests of effectiveness, it is necessary to modify the policies terminology regarding assessing the effects of residential development on the character and appearance of landscapes and the built environment and ensuring the development preserves or enhances the historic environment and biodiversity. Furthermore, it is necessary in the interests of effectiveness to provide additional direction within the policy with regard to identifying local affordable housing need in relation to small scale rural exception sites needed to meet need (**MM75**).

### **Conclusion**

116. In summary, subject to the main modifications identified above, the site allocations and supporting policies contained within the Place Policies chapter of the CLPs2, are positive, justified and consistent with the CLPs1, and national policy. The evidence demonstrates that the site allocations set out in the Place Policies chapter are deliverable and are likely to be effective in making a significant contribution to meeting the identified housing requirement of at least 14,720 new homes for the plan period 2017 – 2033.



#### **Issue 4 – Whether the Development Management Policies of the Colchester Borough Local Plan 2017 – 2033 (Section 2) are justified, consistent with the Colchester Borough Local Plan 2013 – 2033 (Section 1), and are likely to be effective?**

117. The Development Management section of the CLPs<sup>2</sup> contains 25 policies that seek to provide clear direction for the decision maker in relation to development proposals within the Borough.
118. Policy DM1: Health and Wellbeing seeks to promote healthy lifestyles and avoid adverse impacts on public health. In the interests of clarity, it is necessary to amend the introductory text of the policy by adding the words 'and active' before lifestyles. To maximise positive health benefits from development and ensure that the policy is positively worded criterion (ii) requires the addition of the following text 'horse riding and formal sport, as well as clearly seeking to improve opportunities to increase levels of physical activity within the community' (**MM76**).
119. Policy DM2: Community Facilities is a criteria-based policy that seeks to safeguard existing provision and infrastructure where it meets or will meet an identified local need. The policy also seeks to ensure that new development provides or contributes to the provision of community facilities to meet and/or mitigate the increase in demand generated. To ensure that the policy is flexible and positively worded to enable school provision it is necessary to add an additional criterion '(iv) The proposal involves a state funded school which is seeking to relocate into new buildings or sell assets to fund improved education services' (**MM77**).
120. Policy DM3: Education Provision seeks to protect sites that are proposed for, or are currently in, or have previously been in, educational use. To be effective a modification (**MM78**) is necessary for consistency with Policy DM2 to delete the first paragraph of the policy and replace with text that ensures adequate school/education provision is maintained should a development proposal for an alternative use be put forward in relation to an educational site.
121. The Council is seeking to protect, enhance and deliver new sports and leisure facilities through Policy DM4: Sports Provision. The aim of the policy is to increase participation by way of formal and informal recreation. One of the mechanisms to achieve this is through community use agreements where practical to do so. However, the policy omits to include school sports facilities, which contribute towards overall provision in the Borough. To ensure that the policy is effective in this regard a modification (**MM79**) is necessary to include 'school sports facilities' within the text.

122. Policy DM5: Tourism, Leisure, Culture and Heritage seeks to support appropriately located development proposals for new and extended visitor attractions, leisure, cultural and heritage facilities along with visitor accommodation. The policy also seeks to ensure that development does not result in material harm to the amenity of neighbouring areas or have an adverse impact on the integrity of habitats sites or the Dedham Vale AONB. For effectiveness it is necessary to ensure that development proposals make a positive contribution towards the communities they affect, modification (**MM80**) requires proposals where practical to demonstrate how they could make a positive contribution to neighbouring areas and secure biodiversity enhancements.
123. Policy DM6: Economic Development in Rural Areas and the Countryside is a criteria-based policy that seeks to protect rural employment sites within the Borough and provide guidance in relation to development proposals for such uses. In the interests of effectiveness to ensure the protection of habitats sites it is necessary to move paragraph 15.32 from the explanatory text to within the policy. We have amended the advertised modification by re-ordering the paragraph for improved legibility (**MM81**). To respond to the changes to the UCO and for effectiveness, references to Class B1 are replaced with Class E(g)(i) offices to carry out any operational or administrative functions; Class E(g)(ii) research and development of products or processes; and Class E(g)(iii) industrial processes. The modification also provides criteria against which proposals for alternative uses will be considered. These changes are necessary for clarity and effectiveness (**MM82**).
124. Policy DM7: Agricultural Development and Diversification is a criteria-based policy that seeks to encourage and provides guidance in relation to agricultural development and farm diversification schemes that support the rural economy and are compatible with the rural environment. For effectiveness it is necessary to provide clear direction to the decision maker, modification (**MM83**) is required to reference habitat sites and Sites of Special Scientific Interest (SSSI) to ensure that they are afforded the necessary protection.
125. Policy DM8: Affordable Housing provides guidance with regard to the delivery of affordable housing in the Borough. However, to ensure consistency with the NPPF it is necessary amend the threshold at which the policy engages to '10 or more' dwellings. Furthermore, it is necessary for clarity and effectiveness to provide additional locational guidance within the policy in relation to the provision of affordable housing on rural exception sites (**MM84**).
126. Policy DM11 seeks to ensure that there is an adequate supply of sites within the Borough to meet the identified accommodation requirements of Gypsies, Travellers, and Travelling Showpeople. The Gypsy and Traveller Accommodation Assessment (GTAA) identifies a future need, to 2033, of 2 pitches to meet the needs of Gypsies and Travellers that meet the 2015

definition and 13 pitches for those not meeting the Planning Policy for Traveller Sites 2015 (PPTS) definition. The GTAA confirms that there is no need for plots for Travelling Showpeople and that the need for any transit provision should be kept under review. We are satisfied that the assessment has been carried out using a robust methodology and that the assessment is up to date.

127. The policy sets out the requirements for site/pitch selection should a development proposal come forward. To ensure that the policy is effective modifications are necessary to provide additional guidance in relation to flood risk and to confirm that sites are capable of being provided with appropriate drainage, water supply and other necessary utility services. Furthermore, to ensure that the identified need is continually met during the plan period and in the interests of consistency with the PPTS, it is necessary to add an additional clause within the policy that sets out that 'planning permission will be refused for the change of use of all Gypsy and Traveller sites or Travelling Showpeople yards identified in the Gypsy and Traveller Accommodation Assessment unless acceptable replacement accommodation can be provided, or it can be demonstrated that the site is no longer required to meet any identified needs' (**MM85, MM86**).
128. Policy DM12: Housing Standards seeks to ensure that residential development is of a high standard of design and construction. In light of the Grenfell fire and to ensure consistency with the Building Regulations, a modification is necessary for effectiveness to seek to secure sprinkler systems in development proposals for accommodation, with a top storey above 11m (about 4 storeys) in height. The modification also seeks to encourage the inclusion of sprinklers in houses in multiple occupation (HMOs), care homes and sheltered accommodation. (**MM87**).
129. Policy DM13: Domestic Development is a criteria-based policy that seeks to provide direction to the decision maker in relation to proposals for residential alterations, extensions, outbuildings, annexes, replacement dwellings in the countryside and flat conversions. In the interests of clarity, it is necessary to add additional explanatory text as a note to criterion (v) the replacement dwellings in the countryside section of the policy. The note sets out the presumption in favour of retaining properties considered to be heritage assets and/or properties which positively contribute to the character of a rural conservation area (**MM88**).
130. Policy DM15: Design and Amenity is a criteria-based policy that seeks to ensure that all development should be designed to a high standard, responds positively to its context and achieves good standards of amenity. To ensure that the policy is effective in relation to creating healthy and vibrant environments additional criterion (xi) and (xii) are necessary to encourage active design and secure green infrastructure, open space and landscape within development proposals (**MM89**).

131. Policy DM16: Historic Environment seeks to protect and enhance the historic environment of the Borough. To ensure that the policy is effective and provides clear direction to the decision maker it is necessary to make alterations to the text in the first and second paragraphs of the policy deleting 'development that adversely affects' and 'in the first instance' and adding '(or other method of identification of historic assets)'. Furthermore, for effectiveness it is necessary to replace the term 'Heritage Statements' with 'Heritage Impact Assessments' with regard to development proposals related to or impacting on the setting of heritage assets (**MM90**).
132. The amount of, and approach to, car parking provision for development proposals is set out in the criteria-based Policy DM22: Parking. To ensure the policy is consistent with the updated Essex County Council parking standards it is necessary to replace the term 'guidance' with 'standards' in the text of the policy. To ensure that policy contributes to combating climate change it is necessary to add an additional criterion (v) to ensure facilities are incorporated for electric and other ultra-low emission vehicles within development proposals (**MM91**).
133. Policy DM23: Flood Risk and Water Management is a criteria-based policy that requires proposals for new development to reduce the risk, or consequences of flooding and sustainably manage surface water. A modification (**MM92**) is required to Paragraph 15.133 of the explanatory text to ensure consistency with the NPPF with regard to the setting out of the requirements for site specific Flood Risk Assessments. To ensure clarity for the decision maker in relation to run off rates a modification is required to criterion (ii) that sets out the requirements for all major developments, along with seeking to limit discharge rates as much as practical for minor sites (**MM93**).
134. Policy DM25: Renewable Energy, Water, Waste and Recycling is a wide ranging policy that seeks to address the challenges of climate change and improve sustainability in the Borough. In the interests of effectiveness, it is necessary to amend the policy wording to ensure consistency with the Building Regulations with regard to water efficiency (paragraph 4). To provide clear direction to the decision maker in relation to potential adverse effects from renewable energy proposals, amendments to the policy text are needed for effectiveness to highlight the requirement for a Habitats Regulation Assessment and if necessary, carry out an Appropriate Assessment (paragraph 6). It is necessary to specify that development proposals for renewable energy schemes with potential for adverse effects on nationally designated nature conservation sites and heritage assets will only be supported in exceptional circumstances (paragraph 7). Moreover, to ensure that the policy remains up to date and effective, it is not necessary to refer to National Policy Statement for Energy and the guidance note, it is therefore necessary to delete the final paragraph of the policy (**MM94**).

## **Conclusion**

135. In summary the Development Management policies (DM1 to DM25) of the CLPs2 subject to the main modifications we have identified are justified by the available evidence and consistent with the CLPs1 and the NPPF and consequently are likely to be effective.

## **Monitoring and Delivery**

136. The Monitoring chapter of the CLPs2 sets out how the Council will monitor the performance of the Plan and provides most of the necessary evidence on which to assess the success or failure of delivery and what alternatives might reasonably be provided if necessary. The Authority Monitoring Report (AMR) will be the main mechanism for assessing the Plan's performance and effect. The Plan contains clear indicators for delivery and the Council's monitoring regime should ensure that any risks to non-delivery are 'flagged up' and interventions made to alleviate risks should this prove necessary.

## **Overall Conclusion and Recommendation**

137. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that we recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explained in the main issues set out above.

138. The Council has requested that we recommend MMs to make the Plan sound and capable of adoption. We conclude that the duty to cooperate has been met and that with the recommended main modifications set out in the Appendix, the Colchester Borough Local Plan 2017 – 2033 (Section 2) satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.

*Jameson Bridgwater and Anne Jordan*

Inspectors

This report is accompanied by an Appendix containing the Main Modifications.