

22 July 2019

Report of	Assistant Director of Policy & Corporate	Author	Karen Syrett & Chris Downes
Title	Update to Local Plan and Evidence Base		☎ 506477
Wards affected	All		

1. Executive Summary

- 1.1 In October 2017, the North Essex Authorities submitted their Local Plans to the Secretary of State to begin the formal process of Examination in Public.
- 1.2 Section 1 of the submitted Local Plan ('the Section 1 Plan') sets out an overarching strategy for future growth across Braintree, Colchester and Tendring – the 'North Essex Authorities' ('NEAs'). As well as including policies setting the overall housing and employment requirements for North Essex up to 2033, the Section 1 Plan proposes three new cross-boundary 'Garden Communities' along the A120 corridor with the potential for longer-term and comprehensively-planned growth. In contrast, the 'Section 2' Plan for each of the three North Essex Authorities contains more specific local policies and proposals relevant only to their individual administrative area.
- 1.3 Before a Local Plan can be formally adopted it must be examined by a government-appointed Inspector whose job it is to ascertain that 1) the plan has been prepared in line with various legal requirements and 2) that the policies and proposals in the plan comply with the 'tests of soundness' contained within the National Planning Policy Framework (NPPF). Examination hearings for the Section 1 Plan took place between January and May 2018; and in June 2018 the Inspector wrote to the NEAs setting out his initial findings. Whilst he confirmed the legal compliance and soundness of some elements of the plan and praised the NEAs' innovation and ambition, the Inspector found some of the evidence and justification in support of Garden Communities to be lacking and was therefore unable to find the Section 1 Plan sound.
- 1.4 In his letter, the Inspector offered the NEAs advice and options for how best to proceed. Having considered his advice, the NEAs in October 2018 confirmed that they remained committed to using Garden Communities principles to secure the future housing requirements in North Essex and would produce additional evidence to address each of the Inspector's concerns. On the 10th December 2018, the Inspector confirmed that he was satisfied that the proposals for further work on the evidence base satisfactorily responded to the points he had raised as identified issues. At this point the Inspector formally paused the Examination until the NEAs' further work on the evidence base and the Additional Sustainability Appraisal was completed. Monthly updates have since been submitted to the Inspector on the programme timetable as requested.
- 1.5 The additional evidence has now been completed and the findings are detailed within the main body of this report at Section 5.
- 1.6 As well as producing the evidence in response to the Planning Inspector's concerns about Garden Communities, the North Essex Authorities have also compiled a table of proposed

'modifications' to the Section 1 Plan. These modifications are aimed at addressing certain issues identified by the Inspector, partner organisations and objectors to the Plan and ensuring the plan meets the tests of soundness. Many of the proposed modifications arose from suggestions and discussions at the Examination hearings in 2018 and the Inspector's interim findings whereas others arise from the findings of the additional evidence base.

- 1.7 Importantly, Officers are not recommending any substantial changes to the strategy for growth as set out in the Section 1 Local Plan. The additional evidence prepared in response to the Inspector's original concerns demonstrates that the establishment of three Garden Communities in the broad locations already identified in the plan is justified and represents an appropriate, sustainable and deliverable strategy.
- 1.8 It will be the Inspector's decision whether or not to accept the proposed modifications to the Local Plan through the resumed Examination process. Section 20(7C) of the 2004 Act provides that the Inspector must (if asked to do so by the local planning authority) recommend modifications to the Local Plan that would ensure its legality and soundness. Therefore, additional modifications could be suggested by the Inspector through the Examination process.
- 1.9 It is proposed that the Additional Sustainability Appraisal and all of the additional new evidence base documents along with the table of proposed modifications are published for six weeks public consultation between 19th August and 30th September 2019 before they are submitted, along with people's comments, to the Planning Inspector to enable him to resume the Examination. It is expected that the further Examination hearings will take place in November/December 2019.

2. Recommended Decisions

- 2.1 The Local Plan Committee is asked to resolve that:
 - a. The additional evidence base contained within Appendices 1 to 12 of this report [or listed as background papers] is accepted as part of the evidence base to support Section 1 of the submitted Local Plan which contains strategic planning policies and proposals common to the North Essex Authorities of Braintree, Colchester and Tendring;
 - b. It agrees that the evidence base (including the additional evidence) supports the existing spatial strategy for growth in the submitted Local Plan proposing three cross-border Garden Communities and is justified as being the most appropriate strategy;
 - c. It approves the Additional Sustainability Appraisal (SA) work (attached as Appendix 1) and it considers and takes account of the findings of the additional SA work which appraises the submitted Local Plan strategy for three cross-border Garden Communities and the realistic alternatives to this strategy;
 - d. It approves the schedule of proposed modifications to the Local Plan (attached as Appendix 12);
 - e. It agrees a six week public consultation on the schedule of proposed modifications, the Additional Sustainability Appraisal and the additional evidence base be undertaken, starting on 19 August 2019 and ending on 30 September 2019;
 - f. Following the period of consultation, the above documents along with any duly made representations received during the consultation period, be submitted to the

Secretary of State to enable the Local Plan Inspector to resume and complete the Examination of the Section 1 Local Plan and recommend any further changes to the Publication Draft Local Plan as necessary to make it sound.

- g. To note that the evidence base confirms the need for the infrastructure contained in the current HIF Bids submitted by Essex CC with regard to the North Essex Garden Communities and as currently being considered by Government and that the Councils would expect a decision on those Bids before submitting further evidence to the Secretary of State under recommendation 2.1.f above.

3. Reason for Recommended Decision

- 3.1 To enable the Local Plan Examination to resume.

4. Alternative Options

- 4.1 The alternative course of action available to the Council is withdrawing the plan and then starting the plan-making process from the beginning. However, significant time and resource has been applied to producing the evidence following committee approval of the current option in October 2018. Failure to resume the Examination would mean this time and money would have been wasted. It would also jeopardise the Housing Infrastructure Funding applications (HIF bids) that are being considered by Government and amount to £328m potential funding for infrastructure. It would also mean starting the Local plan process again delaying adoption by several years and leaving the Council vulnerable to 'planning by appeal'.
- 4.2 Officers recommend continuing with the Examination as it provides the "best opportunity" to protect government funding applications and ensure a robust and demonstrable housing land supply.

5. Background Information

- 5.1 In October 2017, the North Essex Authorities submitted their Local Plans to the Secretary of State to begin the formal process of Examination. The Secretary of State then appointed a Planning Inspector, Mr Roger Clews, to undertake the Examination of the shared Section 1 Local Plan.
- 5.2 Following the Examination hearing sessions, the Councils received three letters from the Local Plan Inspector containing interim feedback on the soundness and legal compliance of the Section 1 Local Plan. The first letter dated 8 June 2018 set out the Inspector's initial findings mainly in respect of legal compliance and the soundness of the Garden Community proposals. The second letter dated 27 June 2018 set out the Inspector's findings in respect of the need for new homes. The third letter dated 2 August 2018 contained the Inspector's response to questions of clarification raised by the NEAs in respect of the Inspector's first letter. The contents of these letters were all reported to Members at the time.
- 5.3 Overall, the Inspector was satisfied that the NEAs had complied with the legal duty to cooperate and other legal and procedural matters and was also satisfied that the overarching employment and housing targets in the plan had been justified on the basis of sound evidence. He also praised the Authorities for their innovation and ambition in promoting three new Garden Communities and stated that if carried out successfully it has the potential to provide for housing and employment needs not just in the current Plan period but well beyond it.
- 5.4 However, the Inspector found the evidence provided to support the Garden Communities was lacking in a number of respects. The main areas of concern the Inspector raised, related to:
- Sustainability Appraisal – the Inspector questioned the objectivity of the appraisal and raised concerns that it was biased in favour of the NEAs preferred strategy.
 - Strategic road improvements – in particular the lack of certainty over the delivery, timing and funding of the A12 and A120;
 - Rapid Transit System - the Inspector asked for more details relating to the feasibility of delivering the system (including route options) as well as the system's commercial viability
 - Build out rates – the Inspector raised concerns over the level of evidence to support housing delivery higher than 250 dwellings per year at the Garden Communities;
 - Employment provision – the absence of any indication as to how much employment land would be provided as part of the new Garden Communities was asked to be addressed;
 - Viability – in particular the assumptions used in the original assessment relating to transport infrastructure costs, land purchase and interest costs, and contingency allowances.
 - Delivery mechanisms – in respect of the NEAs approach to delivering Garden Communities through the formation of a locally-led New Town Development Corporation and whether the development could be delivered through other alternative methods.
- 5.5 In summary, the Inspector identified a number of key issues about the viability and deliverability of the Garden Community proposals and the way in which the NEAs had selected the strategy of Garden Communities over other reasonable alternatives in the

Sustainability Appraisal. Due to this, he was unable to find the Section 1 Local Plan sound. Instead, the Inspector provided the Authorities with three options for how to progress the Local Plan towards adoption.

- 5.6 Option 1 would have involved removing Garden Communities from the Local Plan and proceeding with the Examination of Section 2, so long as the Local Plan was reviewed again within 2-3 years (at which point the evidence in support of Garden Communities might have been stronger). Option 2 effectively meant undertaking more work to fill the gaps in the evidence and pausing the Examination of Section 2 until the Inspector had been satisfied that the Garden Communities were deliverable, and that Section 1 of the Plan was sound. Option 3 would have meant withdrawing the Local Plan and starting the process again.
- 5.7 On 22nd October 2018, the NEAs wrote to the Inspector to advise him that the Councils remained committed to using Garden Communities principles to secure the future housing requirements in the North Essex Authorities area and would provide the further evidence requested by the Inspector including evidence on:
- the availability of funding for the necessary strategic infrastructure;
 - the financial viability of the proposed communities;
 - the environmental effects, including transport issues;
 - employment provision within the Communities (and elsewhere); and
 - continuing engagement with local communities.
- 5.8 The Councils also committed to reviewing the original Sustainability Appraisal which informed original decisions on the choice of spatial strategy in the Local Plan, to ensure that it considered a full range of reasonable alternatives to the Garden Communities, at a range of different sizes. Importantly, the Councils committed to reviewing all the above evidence before submitting it to the Inspector and before any further consultation – to see whether any changes to the plan or the overall strategy were necessary.
- 5.9 The following part of this report covers the Additional Sustainability Appraisal commissioned by the NEAs to address the Inspector's concerns on the original Appraisal. The report then addresses other updates.
- 5.10 The role of Sustainability Appraisal (SA)
The strategy for growth or 'spatial strategy' in the Section 1 Local Plan includes the establishment of three Garden Communities along the A120 corridor to deliver long-term growth within the current plan period to 2033 and beyond. One of the tests of soundness is to ensure that the plan and its spatial strategy is 'justified'. To be justified, the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence. The Sustainability Appraisal (SA) is a legal requirement and key piece of evidence designed to test different policies, proposals and alternative strategies and to inform the decisions a planning authority takes when choosing its strategy for growth.
- 5.11 The purpose of the SA is to ensure that potential environmental effects are given full consideration alongside social and economic issues. SA is also a legal requirement and should be undertaken at each of the key stages of the plan making process. Section 19 of the Planning and Compulsory Purchase Act 2004 requires a local planning authority to carry out an SA of each of the proposals in a Local Plan and the consequence of reasonable alternatives, during its preparation. More generally, section 39 of the Act

requires that the authority preparing a Local Plan must do so “with the objective of contributing to the achievement of sustainable development”. SAs also incorporate the requirements of the Environmental Assessment of Plans and Programmes Regulations 2004 (commonly referred to as the ‘Strategic Environmental Assessment Regulations’), which implement the requirements of the European Directive 2001/42/EC (the ‘Strategic Environmental Assessment Directive’) on the assessment of the effects of certain plans and programmes on the environment.

5.12 The Inspector’s concerns about the original SA and suggestions for further work

In his June 2018 letter (paragraphs 93-129) the Inspector raised a number of concerns about the previous SA prepared and submitted alongside the Section 1 Local Plan. He firstly questioned the objectivity of the assessment; concluding that its authors had made optimistic assumptions about the benefits of Garden Communities and correspondingly negative assumptions about the alternatives, without evidence to support many of those assumptions - thus he felt that the assessment lacked objectivity and was unreliable. He secondly questioned the rationale behind the choice of alternative strategies that were tested as part of the assessment and identified a lack of clarity in the description of the alternatives and why they were tested at certain scales – making it difficult for the public to understand the alternatives and to give an effective opinion. Thirdly, the Inspector questioned the combinations of sites that were tested, in particular the reasons for excluding of the alternative ‘Monks Wood’ development proposal from Lightwood Strategic as an option for testing in combination with other Garden Communities. Because of the shortfalls identified in the previous SA, the Inspector concluded that the choice of three Garden Communities as part of the preferred spatial strategy had not been properly justified and it had not been demonstrated that the chosen strategy was the most appropriate when considered against the reasonable alternatives.

5.13 In advising the NEAs on how to proceed, the Inspector provided some suggestions in his letter as to how the shortcomings in the SA might be rectified. He first suggested (paragraph 122) that before embarking on any Additional SA work the NEAs re-examine the evidence base for any Garden Community proposals they wish to assess, especially with regard to viability, the provision of transport infrastructure and employment opportunities, in order to ensure that they have a sound basis on which to score them against the SA objectives. As explained elsewhere in this report, additional evidence in respect of each of these subjects has now been prepared.

5.14 The Inspector also advised (paragraph 123) that Additional SA work must be an objective comparison of individual Garden Community site options at a range of different sizes, insuring (in particular) that the Monks Wood proposal is assessed as an alternative at an appropriate scale. Adequate reasons (paragraph 124) would have to be given for taking forward or rejecting certain options from the first stage of the assessment. In the second stage of the assessment, the Inspector (paragraph 125) would expect an assessment of alternative spatial strategies for the Plan area including, as a minimum, the following:

- Proportionate growth at and around existing settlements;
- CAUSE’s Metro Town proposal; and
- One, two or more Garden Communities (depending on the outcomes of the first-stage of the assessment).

The Inspector also advised (paragraph 128) that different consultants be used to undertake the Additional SA work than the authors of the previous SA to help ensure that the further work is free from any earlier influences and is therefore fully objective.

5.15 Methodology for the Additional Sustainability Appraisal

Independent consultants LUC have been appointed to undertake the Additional SA advised by the Inspector. The methodology that LUC has applied takes on board the Inspector's advice and was the subject of consultation in its own right with statutory consultees, other partner organisations and participants in the Local Plan Examination (including campaign groups and site promoters). The methodology has also been shared with the Inspector himself to allow him the opportunity to indicate any suggestions or concerns with the Additional Sustainability Appraisal [SA] Method Scoping Statement. In his letter in December 2018, the Inspector confirmed he was satisfied with the approach being adopted. There has also been engagement between LUC and various stakeholders in the form of meetings, a 'check and challenge workshop' and requests for information from alternative site promoters which have all helped to ensure that the assessment is as robust, and transparent, as possible.

5.16 The methodology for the Additional SA work has followed a two-stage process – the first involving an assessment of a range of potential development sites throughout North Essex at different scales of development; and the second involving an assessment of different 'spatial strategy' alternatives derived from different combinations of those sites, ensuring that the alternatives identified specifically by the Inspector are tested.

5.17 All sites and spatial strategy alternatives are assessed against the established 15 sustainability objectives which include creating safe, cohesive communities; meeting housing needs; achieving more sustainable travel behaviour; conserving and enhancing wildlife and geological sites; improving air quality; conserving and enhancing landscape quality; and safeguarding and enhancing soil quality and mineral deposits.

5.18 Options tested

The alternative spatial strategy options tested as part of the Additional SA work have been derived following some key principles to ensure they represent a good range of reasonable alternatives. The principles include: ensuring all options meet the required housing need in the plan period to 2033; reflecting the relative housing need and commuting patterns as they affect different parts of North Essex; and ensuring alternative strategies are coherent, logical and reasonable. 17 spatial strategy options have been tested which comprise 11 options for the area of North Essex to the west of Colchester (mainly affecting Braintree district) and 6 options for the area east of Colchester (mainly affecting Tendring) – with the idea being that the most appropriate option to the west is combined with the most appropriate option to the east to result in the most appropriate spatial strategy for North Essex overall.

5.19 As required by the Inspector, the option of proportionate growth around existing settlements has been tested. It takes two forms in the assessment – a 'percentage-based' approach to growth which requires all towns and villages in North Essex area to accommodate the same percentage increase in dwelling stock in the period up to 2033; and a 'hierarchy-based' approach which directs more development towards larger towns

and less development towards smaller villages with limited services and facilities. Both approaches take into account the amount of housing development that is already proposed through existing planning permissions and housing allocations in respective Section 2 Local Plans – which already account for some 80% of expected growth. The percentage-based growth scenario involves a ‘thin spread’ of development around nearly every town and village in the western part of the North Essex area (Option West 1) and a stronger focus for major development around the coastal towns to the east, including Clacton, Harwich, Frinton, Walton, West Mersea and Wivenhoe (Option East 1). In contrast, the hierarchy-based growth scenario involves a greater focus on development on the edge of Braintree and at Hatfield Peverel and Halstead to the west (Option West 2); and significant growth around the coastal town of Brightlingsea to the east (Option East 2).

- 5.20 Options involving different numbers and different combinations of Garden Communities have been also tested in line with the Inspector’s advice. To the west of North Essex, the current strategy in the Section 1 Local Plan of Garden Communities west of Braintree and at the Colchester/Braintree border at Marks Tey (Option West 3) has been re-assessed as well as alternatives incorporating the Monks Wood alternative Garden Community proposal from Lightwood Strategic. These include Monks Wood being developed alongside and in addition to the existing Local Plan Garden Community proposals (Option West 4); and as a direct alternative to either of the two current proposals (Options West 5 and West 6).
- 5.21 Strategic developments in the form of major urban extensions to the east of Braintree (Option West 7) and on land at Halstead (Option West 8) have been tested alongside proportionate growth around other settlements; and the option of just having one single Garden Community alongside proportionate growth around existing settlements has also been tested in a different combinations involving the West of Braintree Garden Community alone (Option West 9); the Colchester/Braintree Borders Garden Community alone (Option West 10); and the Monks Wood alternative Garden Community alone (Options West 11).
- 5.22 For the eastern part of North Essex, the alternative options that have been tested are the current Tendring/Colchester borders Garden Community (Option East 3); a north-east urban extension to Colchester (Option East 4); ‘Tendring Central Garden Village’ – a proposal for major development on land around Frating, as promoted by Edward Gittins & Associates (Option East 5); and, in line with the Inspector’s advice, the ‘Metro Plan’ concept promoted as an alternative by the Campaign Against Urban Sprawl in Essex (CAUSE) which involves developing land around the railway stations at the villages of Alresford, Great Bentley, Weeley and Thorpe le Soken which are all along the Colchester to Clacton branch line.
- 5.23 Assessment findings (see Appendix 1)
The Councils have now received from LUC the ‘Summary of Draft Findings’ with the full SA report to be completed in time for the meetings of the three authorities’ respective Committees.
- 5.24 The options for further proportionate growth around existing settlements to end of the plan period in 2033 performed relatively poorly against the various sustainability objectives compared to alternatives that involved more focussed strategic development in the form

of new settlements or major urban extensions – particularly in relation to travel patterns, modes of transport and the delivery of affordable housing. The proportionate growth scenarios have therefore been found to be less sustainable - which demonstrates, importantly, that the NEAs are justified in exploring more strategic alternatives that involve the establishment of new communities.

- 5.25 For those more strategic spatial strategy alternatives to the west of Colchester, the SA finds that performance against the various sustainability objectives is fairly similar and there is consequently 'little to choose' between the different options. Professional judgement is therefore required to distinguish between them, taking other factors into account.
- 5.26 For the spatial strategy alternatives to the east of Colchester, again the options perform similarly against the sustainability objectives although the proposal for a north-east extension to Colchester (Options East 4) is considered to be the weakest due to its potential negative impacts on the Bullock Wood SSSI and limited transport connections into Colchester. The Tendring/Colchester Borders Garden Community (Option East 3) and Tendring Central Garden Village (Option East 5) perform better than the CAUSE Metro Plan (Option East 6) in the longer term because they would provide for a scale of development sufficient to accommodate a health care facility; although Tendring Central is likely to be subject to significant adverse effects from noise pollution.
- 5.27 The Tendring/Colchester Borders Garden Community performs well in terms of potential economic growth. Metro Plan performs well in terms of its easy access to railway stations which could help to reduce carbon emissions, however the rural location of the Metro Plan developments could lead to longer journeys by car where rail is not a realistic choice. For shorter journeys, the Garden Community performs most strongly.
- 5.28 In many respects Tendring Central Garden Village performs as well as the Tendring/Colchester Garden Community, although no better; and whilst it has the advantage of an existing employment area and would retain its own distinctiveness being separated by some distance from Colchester, its location and distance from Colchester is likely to encourage a high proportion of journeys by car.
- 5.29 Officers' recommendation following the findings of the Additional SA work
Whilst many of the alternative spatial strategy options perform similarly against the various sustainability objectives, the findings of the Additional SA work do not suggest in any way that there is a clearly stronger alternative to the current strategy for three Garden Communities set out in the submitted Section 1 Local Plan. On this basis, there are no reasons arising from the SA findings for Officers to change their recommendation in respect of the most appropriate strategy for growth in North Essex. It is considered that the Additional SA work will satisfy the Inspector that reasonable alternatives have been considered in an objective way and that the choice of spatial strategy for the Section 1 Plan is both justified and sound.

5.30 Additional Evidence Base

As well as the work on the Additional Sustainability Appraisal, there are various other pieces of evidence aimed at addressing the Inspector's specific concerns. Below is a

summary of the evidence, setting out the Local Plan position, the issues raised by the Inspector and how the evidence addresses those issues.

5.31 Strategic transport infrastructure funding

The Section 1 Local Plan (through Policy SP5) identifies 'strategic priorities for infrastructure provision and improvements' to support the major growth proposed for North Essex. These include improved road infrastructure and strategic highway connections to reduce congestion and provide more reliable journey times along the A12, A120 and A133 to improve access to markets and suppliers for businesses, widen employment opportunities and support growth.

- 5.32 For the Tendring/Colchester Borders Garden Community, Policy SP8 in the Section 1 Plan requires primary vehicular access to the site to be provided off the A120 and A133 and the Concept Framework prepared by David Lock Associates shows a potential link road between the A133 and the A120.
- 5.33 For the Colchester/Braintree Borders Garden Community, it is already proposed that the A12 will be widened – however the form that widening will take will have implications for the scale of development that the Garden Community can deliver. Policy SP9 in the Section 1 Plan envisages between 15,000 and 24,000 new homes. The Concept Framework prepared by David Lock Associates shows how realigning the A12 to follow a more southerly route could release more land to enable development to achieve the upper-end of that range and a pattern of development that can be centred around key facilities.
- 5.34 Both the Colchester/Braintree Garden Community and the West of Braintree Garden Community benefit from additional road capacity being created through the dualling of the A120 between Braintree and the A12 – the form of which would also have implications for the way in which the Colchester/Braintree Borders scheme is to be laid out.
- 5.35 In his June 2018 letter, the Inspector (paragraph 37) indicated that greater certainty over the funding and alignment of the A120 dualling scheme and the feasibility of realigning the widened A12 at Marks Tey would be necessary to demonstrate that the Garden Communities were deliverable in full. At the time of the Local Plan examination in 2018, no decisions had been taken in respect of either of these schemes.
- 5.36 In response to the Inspector's advice, the NEAs can now provide an update on the progress of two bids that have been made by Essex County Council to the government's Housing Infrastructure Fund (HIF). Essex County Council has submitted two bids under the 'Forward Funding' element of the HIF programme, which seeks to provide upfront early funding of strategic infrastructure to enable housing to come forward:
- **Colchester Braintree Borders Garden Community (£229m):** The bid seeks funding to support the realignment of the A12 between Kelvedon and Marks Tey to facilitate and realise the full growth potential of the Garden Community. Land is currently being promoted either side of the A12 and a comprehensive development is unlikely to be deliverable given the severance that would occur should the A12 remain in, or near to, its current location. The infrastructure provided by the proposed scheme would facilitate the delivery of 21,000 new homes at the CBBGC

site of which 15,000 are unlocked by this HIF investment. Without this funding, development at the site would be capped at around 6,000 homes. Without HIF funding this is likely to continue to be promoted as a single site but unlikely to achieve full Garden City principles, would still suffer from access issues, and may well remain stalled. The realigned route is proposed to reconnect with the existing A12 south and west of Marks Tey, and not east of Marks Tey as per the Colchester Braintree Borders Concept Framework (DLA, 2017, reference EB/026) illustrative alignment, which reduces capacity of the site to 21,000 units. The bid also includes a new junction 25 which will provide direct access to the proposed Garden Community, signalling junction 23 at Kelvedon where the A12 meets a new A120 to facilitate traffic flow and widening of the Kelvedon Bypass to four lanes in each direction to accommodate future traffic volumes.

- **Tendring Colchester Borders Garden Community (£99m):** The bid seeks funding for a new A120 – A133 Link Road and provision for a rapid transit system (RTS). Funding is sought to implement the RTS which will prioritise public transport on key routes into Colchester for new and existing residents. The system will service a new Park and Ride and help to better connect the planned Garden Community on the borders of Colchester and Tendring with the rest of the town. A new strategic link between the A120 and A133 will improve connectivity locally and within the wider region and relieve traffic going to the University of Essex and its Knowledge Gateway technology and research park.

5.37 The bids are currently being evaluated by Homes England. Engagement between ECC (with the NEAs) and Government officials has been very positive to date, and ECC has written to Government Ministers setting out the importance of announcements on the outcome of the HIF bids as quickly as possible. The bids require works and spend to be implemented by April 2024 and therefore Essex County Council is continuing to evolve more detailed proposals and work on delivery of the infrastructure components in advance of funding decisions, in order to provide a strong foundation for future delivery.

5.38 A12 widening and junction improvements

As per the position at the examination, this scheme is included in the funding round known as Road Investment Strategy (RIS) 1 with funding already secured. The A12 programme between J19-25 will be delivered by Highways England under the Project Control Framework (PCF). It is anticipated that Highways England will make a preferred route announcement on the A12 widening project in Summer 2020. The A12 works will require consent through Development Consent Order and the current programme expects this to be submitted in 2022, with start of physical construction in Spring 2023 with works anticipated to be complete by 2027/28.

5.39 Highways England have recently announced the appointment of their Delivery Integration Partner, Costain, who alongside Jacobs, will deliver the A12 Chelmsford to A120 Widening scheme from preliminary design and planning application submission, through to construction. Highways England, Essex County Council, Braintree District Council and Colchester Borough Council are continuing to work closely to understand the impact of the scheme on the proposed Colchester Braintree Borders Garden Community as well as existing residents at Marks Tey. The proposed development is likely to affect the alignment

of the A12 between junctions 24 and 25, and consequently it may be necessary to put forward new plans that reconsider the road alignment between junctions 24-25. In this case, Highways England will consult with those affected on any potential realignments.

5.40 A120 Dualling

At the time of the hearing sessions held in January and May 2018 and the Inspector's June 2018 letter, there had been no decisions in respect of the proposed alignment for the dualled A120 and the Inspector was concerned (paragraph 36) that the various options for realigning the A120 that were under consideration at the time could have quite different implications for the A120's relationship with the Colchester Braintree Borders Garden Community.

5.41 ECC announced its favoured route in June 2018, which was recommended to Highways England / Department for Transport for inclusion in RIS2. The favoured route runs from Galley's Corner at Braintree to a new junction with the A12 to the south of Kelvedon. If the A120 Braintree to A12 upgrade is included in RIS2, it is expected to be announced in 2019. If successful, this would likely be followed by a Preferred Route Announcement by Highways England. Provided that the scheme progresses as planned, and funding is made available, it is anticipated that construction could commence in 2023 with the road ready for use by 2027. ECC will continue to lobby the Government if the A120 is not included in RIS2 to include it for improvement at the earliest possible opportunity.

5.42 The A120 Essex project team and Highways England have established a joint Project Board to take strategic and collective decisions and to review progress of the scheme. The project has been reviewed at several points both by Highways England and through an Independent Assurance Review process. Highways England is satisfied that the project has undertaken its technical and consultation processes effectively, and in accordance with its requirements. The review team concluded that the project team is on track to identify a viable scheme for consideration for inclusion in RIS2. They gave the project a 'green' Delivery Confidence Assessment, the highest available.

5.43 Rapid Transit System

The Section 1 Local Plan (through Policy SP7) proposes a step change in integrated and sustainable transport systems for the North Essex area that put walking, cycling and rapid public transit networks and connections at the heart of growth in the area, encouraging and incentivising more sustainable active travel patterns. Key to achieving this, it is proposed that each Garden Community is served by a 'rapid transit system' (RTS) to enable fast public transport connections into Colchester, Braintree and Stanstead. A Movement and Access Study produced in support of the plan set a target of 30% of all journeys to, and from the Garden Communities, to be made by rapid transit.

5.44 In his June 2018 letter (paragraph 39), the Inspector raised concerns that such a target could only be achieved if RTS was available early on in the lifetime of the Garden Communities and that, at the time of the hearing sessions, the planning for RTS was at a very early stage and that there was insufficient evidence on which to determine the likely form of RTS, its capital cost (which would be key to the overall viability of Garden Communities) and the timescales for delivery.

5.45 In response to the Inspector's concerns, Essex Highways (the partnership between Essex County Council and consultants Jacobs) have produced a document entitled 'North Essex Rapid Transit System – from vision to plan' (summarised in Appendix 2) which explains how a high quality, fast, reliable and frequent public transport system can be created which, alongside other measures incorporated into the Garden Communities, will provide the best possible chance of achieving a successful outcome in terms of mode share. The document considers different modes of rapid transport and recommends that in the early stages (up to 2033) the focus should be on delivering segregation route infrastructure. This would enable the system to evolve beyond the end of the plan period so that it could accommodate the very latest in transport technology, potentially using trackless tram technology. The report also sets out four clearly identified route options for the RTS (see below) which enable rapid linkages between the Garden Communities, town centres, key employment areas (including London Stansted Airport) and other important attractors utilising a combination of newly created routes and existing roads.

5.46 The four route options for the RTS are:

- **Route 1** connecting Tendring/Colchester Borders Garden Community, a potential eastern park and ride site, the university, the main rail station, the hospital and the existing Colchester northern park and ride site.
- **Route 2** connecting Colchester/Braintree Borders Garden Community, a potential western park and ride site, the town centre and the rail station.
- **Route 3** being planning jointly with Uttlesford District Council and connecting Stansted with Braintree via the West of Braintree Garden Community.
- **Route 4** connecting Braintree and the Colchester Braintree Borders Garden Community, and in doing so connects the two subsystems that would have been created.

5.47 More detailed study work has already begun on Route 1 as part of the HIF bid for the A120/A133 link road. In terms of delivery, it is expected that Routes 1, 2 and 3 will be in place by the end of the plan period. Post-2033, the intention is to extend the level of segregation on Routes 1-3 and introduce Route 4, which connects the two subsystems. The timescales for this further investment will be timed according to funding availability. Whilst significant investment is planned as part of the garden communities, it is expected that additional bids will be made to government for funding (e.g. Housing Infrastructure Fund; Strategic Infrastructure Tariff).

The report explains how the proposed form of RTS is commercially viable and that it can be incrementally developed, in a phased manner from the outset, alongside the growth at Garden Communities. The report is bolstered by input from national public transport operators, including the Go Ahead Group.

5.48 **Modal Shift**

In addition to the document produced on RTS, a paper entitled 'Mode Share Strategy for the North Essex Garden Communities' (see extract in Appendix 3) has been produced separately by consultants ITP which sets out a variety of measures that can be put in place to influence the way in which people travel, which, alongside RTS will enable the 30% target to be achieved. Such measures include achieving mixed-use developments which

integrate residential, leisure and employment land uses together; higher density development in certain locations; building close to the public transport network; the use of car parking restrictions on specific streets; giving priority to walking and cycling in the layout of development; and creation of car free areas in certain locations.

5.49 Marks Tey Station

Policy SP9 in the Section 1 Plan in respect of the Colchester/Braintree Borders Garden Community states that opportunities will be explored to establish how Marks Tey rail station can be made more accessible to residents of the new community including through the improvement of walking, cycling and public transport links to the station, or to relocate the station to a more central location. A Concept Framework for the Garden Community shows the relocation of the station some 2km to the south-west where it could form part of a transport interchange in the centre of the community. Neither the Section 1 Plan nor the Concept Framework say that the relocation of the station is essential to the success of the Garden Community.

- 5.50 In his letter, the Inspector stated (paragraph 44) that the current peripheral location of the station would integrate poorly with the structure of the proposed Garden Community and whilst he acknowledged (paragraph 45) that relocation was not essential, he nonetheless felt it would be a missed opportunity if a Garden Community on the scale currently proposed were to proceed with the station on its periphery. Furthermore, the Inspector noted (paragraph 47) that the viability appraisal in support of the Local Plan allocated a considerable cost of some £50million towards the relocation of the station albeit 30 years into the build programme which, in his view, would be too late to enable the station to be integrated into the planning of the new town centre.
- 5.51 Further joint working is being undertaken with Network Rail regarding the potential for a new rail station. Network Rail has undertaken a timetable evaluation to understand the potential implications of a new station on the Great Eastern Main Line (GEML). This analysis indicated that the provision of an additional new station would have a detrimental impact on journey times between Colchester and Chelmsford. Network Rail have advised that it would be more appropriate to consider providing improved connectivity to/from existing stations on the GEML as opposed to the provision of a new station. Additional work is ongoing to look into the capacity of the GEML to consider the impacts of the GC and wider growth on the line.
- 5.52 Update from discussions with Network Rail that suggest relocating Marks Tey Station to the centre of the proposed Garden Community for the Colchester/Braintree Borders Garden Community is unlikely to be practical option. Although the Garden Community was never reliant on the station being relocated, there is now clarity in moving forward that the development will need to be planned to integrate with the station's existing location.

5.53 Housing Delivery (build out rates)

All three of the proposed Garden Communities are expected to deliver new homes partly within the timescale of the Local Plan up to 2033 but mostly beyond 2033 and potentially over multiple plan-periods. Whilst they propose between 29,000 and 43,000 in total over their full period of construction, it was only expected that 7,500 new homes will be delivered

i.e. 2,500 in each of the three locations up to 2033. To achieve this level of development between now and 2033, each location would need to see rates of development increasing over time to between 250 and 350 homes a year.

5.54 In his letter, the Local Plan Inspector (paragraph 53) found that whilst not impossible that one of more of the Garden Communities could deliver at rates of around 300 homes a year, he felt (based on the evidence before him) that it would be more prudent to plan on the basis of an annual average 250 a year. If the NEAs were to adopt this approach, the total number of homes that Garden Communities could be expected to contribute towards housing supply in the period up to 2033 would reduce slightly from 7,500 to nearer 7,000 but more importantly the overall construction period for the Garden Communities would be extremely long, particularly for the larger Colchester/Braintree Borders Garden Community where the construction period would be somewhere between 60 and 96 years. The implications on viability of such a long construction period are considerable – particularly in relation to interest payments.

5.55 In response to the Inspector's comments, Officers from the three NEAs have conducted further research into the rates of housebuilding that are achievable and have produced a topic paper entitled 'Build out rates in the Garden Communities' (findings summarised in Appendix 4). The topic paper includes a review of the evidence that was before the Inspector at the examination hearings and a review of recent publications which explore how to boost housebuilding (including the Oliver Letwin Review) as well as evidence on high build-out rates that have either been achieved or are expected to be achieved on sites in other parts of the country.

5.56 The topic paper concludes that since the examination hearings the Inspector's advice to plan for an annual average of 250 completions a year at the Garden Communities is overly cautious and that, based on the evidence compiled, rates of more than 300 homes a year are achievable.

5.57 Viability

It is important that proposals in the Local Plan are economically viable to ensure they have a realistic prospect of being delivered within the timescales envisaged. The Garden Community proposals were supported by an assessment of viability undertaken by Hyas (North Essex Local Plans (Section 1) Viability Assessment: Main Report & Appendices, April 2017), which was subject to considerable debate at the Examination in Public.

5.58 In his letter following the Hearing sessions, the Inspector acknowledged the 'strategic' nature of the viability work in light of the early stage of proposals, the residual valuation methodology and key importance of making sound assumptions. The Inspector accepted that generally reasonable assumptions had been adopted with respect to a broad range of key inputs but highlighted a number of areas where he felt that the viability assessment required additional work and therefore had not sufficiently demonstrated that the proposed Garden Communities were financially viable.

5.59 The specific areas of concern were:

- Transport infrastructure costs – where the Inspector (paragraphs 66 & 68) found that the potential cost of a rapid transit system and/or any likely developer contributions towards the A12 and A120 improvements required further consideration and needed to be fully taken into account as part of the viability assessment work.
- Land purchase and interest – where the Inspector (paragraph 71) found that no allowance had been included in the viability appraisal for the cost of interest on any borrowing to fund the purchase of land by a master developer – which, given the likely scale and during of the Garden Communities, could be substantial.
- Contingencies and sensitivity testing – where the Inspector (paragraph 77) found that the ‘contingency’ allowance being applied to certain capital sums for specific elements of infrastructure was potentially too low.
- Price of Land – where the Inspector (paragraphs 82-85) found that landowners would require sufficient land values to persuade them to bring land forward for development and that the viability assessment would need to demonstrate that such reasonable uplifts over and above current use values could be achieved.
- Other specific aspects including the cost and timing of a potential new rail station at Marks Tey (paragraph 47), the build out rate being achievable (paragraph 53), the provision of employment land consistent with the wider approach, and ability to deliver the required level of affordable housing.

5.60 In response to these issues, Hyas have produced an updated viability assessment (summarised in Appendix 5) which takes into account the latest information on the costs of all strategic infrastructure (including the RTS and elements included in the HIF bids), includes an allowance for interest costs on land purchase, applies higher contingency rates and addresses all other matters raised by the Inspector. The update also considers updates to national planning policy and guidance relating to viability since the previous Examination in Public which provide further clarity to the consideration of viability going forward. A detailed cost estimate produced by Gleeds (extract in Appendix 8) has set out the overall scope, scale and estimated costs of all strategic infrastructure requirements for each proposed Garden Community.

5.61 The updated assessment finds that all three of the Garden Community proposals can be considered viable in that they are capable of producing Residual Land Values that will create significant uplift for landowners well in excess of existing/current values. This is alongside generating sufficient profit for developers and investors to meet their requirements, including supplementary considerations of the time/value of money through a discounted cash flow analysis.

5.62 The assessment for West of Braintree Garden Community projects positive uplifts in land value (to circa £80,000-£140,000 per gross acre) without any grant assistance and with no allowance for inflation. This is considerably in excess of current use values with greenfield

agricultural land worth in the order of £10,000 per acre with positive inflation (which would be expected over time), the uplifts in land value could be considerable meaning that this Garden Community is comfortably viable across a range of scenarios.

- 5.63 The Tendring/Colchester Borders Garden Community is located in an area where house prices are generally lower than those achievable to the West of Braintree and therefore the projected uplift in land value are also generally lower. That said, even without grant assistance and no allowance for positive inflation, the development could still achieve a positive, albeit lower uplift (between £15,000-£70,000 per gross acre) beyond similar agricultural land values (circa £10,000 per acre). The site is more marginal in viability terms at the highest consideration of contingencies. However, the achievement of Government grant funding for upfront strategic infrastructure (such as via the currently shortlisted HIF bid, or any subsequent funding opportunity) would increase uplifts to higher levels (upwards to around £200,000 per gross acre). With positive inflation, the scheme could deliver a much higher uplift (upwards of £300,000 per hectare).
- 5.64 The Colchester/Braintree Garden Community comes with significantly higher upfront infrastructure costs than the other two schemes (primarily due to the need to invest in works to the A12) and, as a result, without grant or positive inflation, the development would not achieve an uplift beyond current land values and would not be considered viable. That said, the site benefits from a short-listed infrastructure funding bid and it is therefore not unreasonable to anticipate the proposals to be considered favourably for potential grant funding, either through the current HIF process, or through any future infrastructure funding opportunities that may be implemented to support strategic housing growth. In addition inflation based scenarios produce considerably higher residual land values. With grant but no positive inflation, the development could achieve a positive land value uplift (£60,000 to £100,000 per gross acre) and with inflation the uplift would be considerably higher.
- 5.65 The assessments therefore reveal that for both Tendring Colchester Borders and Colchester Braintree Borders there is a degree of reliance on securing either Grant funding, and/or inflationary impacts to demonstrate viability. The consultants consider that such scenarios are both credible and realistic given the long history of Government support in infrastructure to support housing growth, and trends in inflation over recent decades (including through periods of economic change and uncertainty, albeit recognising that forecasting over such a long timescale will be subject to considerable uncertainty).
- 5.66 The updated viability work is clear in that it can only provide a strategic overview of viability and a point in time consideration that will need to be monitored and reviewed over time. There will be a broad range of factors which could depress or enhance viability going forward and are set out in the viability update report. Some aspects such as unforeseen costs or wider economic conditions are considered as factors that may depress viability, but a wide range of other factors are identified that could enhance viability over time such as enhanced value created through placemaking, construction cost efficiencies such as through wider uptake of modular construction, inflation rates being higher than forecast, speedier delivery and ability to secure future Government investment support. The updated viability assessment has taken a relatively prudent approach to many

assumptions thus providing further confidence that the viability position could improve over time.

- 5.67 As a further consideration, the approach to the Garden Communities is based upon the preparation subsequent site specific Development Plan Documents and ultimately through the development management process. As such viability will need to be subject to ongoing monitoring and review as part of a future and ongoing processes to track costs, values and potential returns.
- 5.68 The overall findings of the updated viability assessment suggest that there is no reason to abandon any of the three Garden Community proposals at this stage in the process over insurmountable concerns about economic viability, as there are realistic and credible scenarios which can deliver viable schemes.

5.69 Employment Land

- 5.70 Section 1 (through Policy SP6) aims to deliver sufficient employment within the Garden Communities to accommodate the 'one job per household' ambition set out in the NEGC Charter. The submitted Section 1 does not specify how much land should be allocated for employment uses, instead opting for an approach that would allow for the amount of employment land within each Garden Community to be defined through the Strategic Growth Development Plan Documents (DPDs).
- 5.71 In his interim findings the Inspector took issue with this approach and whilst he accepted the difficulties involved in forecasting employment requirements so far into the future, he nonetheless considered it appropriate for Section 1 to provide an indicative employment land requirement. He therefore recommended that the NEAs modify Section 1 to include employment land figures for each Garden Community; doing so would provide direction to the preparation of the DPDs in a similar way to how the housing ranges will be used to inform residential land requirements in the DPDs.
- 5.72 To address this issue, the NEAs appointed Cebr (Centre for Business and Economic Research) to prepare an evidence base document (Appendix 6) which defines the amount of employment land required at each Garden Community. In doing so Cebr have analysed the existing sectors within the North Essex economy and forecasted the growth of these sectors using a variety of assumptions including past trends and the ability to intervene to attract particular sectors to the area. From this analysis Cebr were able to apply industry standard employee to floorspace ratios (different sectors have different ratios) which provided a volume of employment floorspace for each sector. This floorspace information was then converted into gross employment land.
- 5.73 Using Cebr's work, the NEAs are therefore now in a position to modify Section 1 to include employment land requirements for three Garden Communities as follows:
- Tendring Colchester Borders – 6.9ha within the plan period (part of a total of 24.5ha)
 - Colchester Braintree Borders – 4.0ha within the plan period (part of a total of 70.1ha)
 - West of Braintree – 9.1ha within the plan period (part of a total of 43.4ha)

These employment land requirements are suggested for inclusion in the proposed modifications.

5.74 Phasing and delivery

Section 1 of the Local Plans sets out an ambitious plan to uphold high standards of placemaking and design, whilst also ensuring timely delivery of transport, community, health, education and green and infrastructure. For example, Policy SP7 (at point iv) states that infrastructure will be delivered ahead of, or in tandem with, residential development to support new residents and establish sustainable travel patterns.

- 5.75 In his interim findings, the Inspector concluded that whilst he supported the NEAs ambition to deliver infrastructure in such a way he was not convinced that he had seen sufficient evidence to demonstrate the deliverability of such an approach. For example at paragraph 134 he remarks:

‘...The NEAs have, quite rightly, set high aspirations for the quality of their GC proposals and for the provision of affordable housing, open space, and social and community facilities in them. Clarity is needed at the outset over the affordability and deliverability of those aspirations, to ensure that they are not compromised during the development process because of unclear or conflicting expectations.’

- 5.76 In response to the Inspector’s findings the NEAs considered it necessary to provide evidence on the deliverability of the ambition set out in Policy SP7 as well as the site specific Garden Community policies (SP8, SP9 and SP10). The NEAs therefore appointed AECOM to prepare an Infrastructure Planning, Phasing and Delivery report (extract for Tendring/Colchester Borders in Appendix 7 and Colchester/Braintree Borders in 7a), the purpose of which is to demonstrate the phased manner in which infrastructure will be delivered alongside new homes at the Garden Communities. The report looks in detail at the requirements of Section 1 to ensure that the phasing approach is compliant with policy requirements and more generally fulfils the NEAs’ ambition of infrastructure-led communities. Importantly the NEAs have ensured that this report is fully consistent with the viability evidence, demonstrating both the deliverability and the financial viability of the approach put forward in Section 1.

5.77 Habitats Regulation Assessment (HRA)

The ‘Habitats Regulations’ relate to the protection of wildlife sites of European importance including Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) which include the Colne Estuary, Hamford Water and the Stour Estuary. ‘Habitats Regulation Assessment’ (HRA) is required to determine whether or not a proposal, policy or plan for development would adversely affect the integrity of a European site – either alone, or in combination with other plans and projects. The HRA has to be undertaken by the ‘competent authority’ who, for the Section 1 Local Plan, are the NEAs (i.e. Braintree, Colchester and Tendring Councils).

- 5.78 HRA was undertaken for the Section 1 Local Plan but in April 2018 (after the Local Plan had been submitted, but before the Inspector issued his letter) there was a landmark legal ruling from the Court of Justice for the European Union (CJEU) called the ‘People over Wind, Peter Sweetman v Coillte Teoranta’ judgement. That judgement had implications for

how HRA should be carried out and at which stage of the process mitigation measures (intended to avoid or reduce and harmful effects) should be carried out. In his letter, the Inspector advised that the NEAs would need to consider the implications of this legal judgement and would need to ensure that the HRA is compatible with this landmark judgement. In response, 'Land Use Consultants' (LUC) were commissioned by the NEAs to update the HRA for the Section 1 Local Plan, in consultation with statutory agencies including National England, in light of the legal judgement and this was completed in June 2019.

- 5.79 The 'HRA Report for North Essex Authorities Shared Strategic Section 1 Local Plan' (conclusions attached as Appendix 9) identifies the likely significant effects on European sites as being loss of offsite habitat, recreational impacts and water quality impacts. The assessment concludes that mitigation measures can be secured as part of the relevant developments to address loss of offsite habitat; that recreation impacts can be mitigated through the measures in the Essex Recreation disturbance Mitigation Strategy (RAMS) put in place by Essex authorities; and that the development should not result in adverse impacts to water quality so long as there is a commitment to address water treatment capacity issues prior to specific developments. Modifications to the policies in the Section 1 Local Plan are suggested to ensure that the plan properly reflects the findings of the updated HRA and that necessary mitigation is put in place. This report, alongside the suggested modifications, should demonstrate to the Inspector that the NEAs have complied with the Habitats Regulations in assessing the impacts of the Local Plan.

5.80 Delivery Mechanisms

The Section 1 Local Plan explains that the NEAs are committed to ensuring that the new garden communities are as sustainable and high quality as possible and that the infrastructure needed to support them is delivered at the right time. This will require the Councils to work very closely with the relevant landowners using a robust delivery mechanism that ensures a fair and equitable distribution of the costs and land requirements needed to secure the ambitions for the Garden Communities and create a long term legacy appropriate to the scale of the ambition. Given the scale of complexity of the proposed Garden Communities, it is envisaged that 'Local Delivery Vehicles' (LDVs), with both private and public sector representation, will be used to oversee these developments.

- 5.81 Whilst, in his letter, the Inspector acknowledged that this approach was generally compatible with national planning policy and deploying new models of delivery was a legitimate aspiration, he questioned if other delivery mechanisms could be adopted – suggesting that there was no substantial evidence to show that only new models of delivery were capable of delivering Garden Communities in the way envisaged.
- 5.82 In response to this, the Councils' legal advisors Dentons have produced a specific paper entitled 'Delivery of the Garden Communities' (Appendix 10) which explains that since the submission of the Local Plan in 2017, the government has placed greater emphasis on local authorities taking a more pro-active role in the delivery of new homes and the delivery of Garden Communities. It also explains that new statutory provisions have been put in place promoting 'Locally Led New Town Development Corporations' (LLNTDCs) as a mechanism by which new development can be delivered. It is proposed that modifications

to the Local Plan are made to reflect the potential for Garden Communities to be delivered via LLNTDCs but that it will ultimately be for the Councils to decide whether this is the most appropriate means by which to proceed.

- 5.83 The paper also explains that if LLNTDCs are not used as a vehicle to deliver the Garden Communities and landowners and developers are left to bring the development forward on their own, they will be expected to meet all costs associated with their delivery in accordance with both the policies in the Local Plan and any more detailed requirements set to be included in the new Development Plan Documents (DPDs) for each of the schemes. It also explains that if landowners were unwilling to release their land at a reasonable price which allows for these costs to be met, the NEAs would be willing to use 'Compulsory Purchase Order' (CPO) powers to acquire the land – something that is supported by national planning policy, where necessary.
- 5.84 Dentons' paper will help to explain to the Inspector that whilst a Local Delivery Vehicle or a LLNTDC is the preferred means by which to deliver the Garden Communities, other delivery mechanisms are available and could be employed to ensure that the developments come forward in the way envisaged. When the detailed delivery mechanisms for the Garden Communities are discussed and decided, State Aid issues will be addressed (see Appendix 11).

5.85 Proposed modifications

If, through the examination process, an Inspector identifies certain issues with the soundness of a Local Plan that can be easily resolved, they can recommend 'modifications' to the plan. Under normal circumstances, modifications are published for consultation following the completion of the examination and responses are considered by the Inspector before they confirm that the plan is sound and can be formally adopted.

- 5.86 For the Section 1 Plan for North Essex, a number of areas have already been identified which would benefit from amendments which have arisen from a number of sources, including representations received in response to the publication of the plan in 2017; statements of common ground entered into with statutory consultees in the run up to the examination hearings; responses to the Inspector's initial Matters Issues and Questions (MIQs) before the examination hearings; the discussions at the examination hearings themselves; and the Inspector's post-examination letters.
- 5.87 Officers have compiled a schedule of proposed amendments and the Inspector has agreed that these should be published for consultation alongside the Additional Sustainability Appraisal work and other evidence before the examination is resumed. The majority of the proposed amendments are minor changes to the wording of policies and supporting text but others could be considered to represent more fundamental changes to policies and how they are interpreted.
- 5.88 Whilst Members are being asked to endorse the proposed amendments for public consultation, it will be the Inspector who will ultimately decide which, if any, of the amendments should be main modifications to the final version of the plan before it is adopted. Any final modifications recommended by the Inspector will require further consultation following the completion of the examination, but the consultation proposed for

the current schedule of modifications will enable objections to be considered, by the Inspector, when he resumes the examination in due course.

5.89 The full schedule of proposed amendments is provided at Appendix 12. None of these amendments represent fundamental changes to the overarching strategy in the plan. The most significant of the proposed amendments are highlighted below:

- New Policy SP1A ‘Delivering Sustainable Development through the planning system’

An additional policy is suggested for inclusion in the Section 1 Local Plan, on the advice of the Inspector, to clarify how the policies in the Local Plan, taken as a whole, will operate in practice in the determination of planning applications. The proposed policy would state:

“Development that demonstrably contributes to the achievement of the policies in this Local Plan (and, where relevant, of policies in neighbourhood plans) will normally be permitted unless material considerations indicate otherwise.

Development that is not in accordance with, or which will prejudice the delivery of, the strategic scale development or the achievement of the place making principles, in this Local Plan will not normally be permitted.”

- New Policy SP1B ‘Recreational disturbance Avoidance and Mitigation Strategy (RAMS)’

An additional policy is suggested for inclusion in the Section 1 Local Plan, as agreed with Natural England, to reflect the new Essex-wide approach to mitigating against the impacts on internationally important wildlife sites arising from an increase in development and the associated risk of increased recreational disturbance at those sites. The proposed wording would state:

“An Essex Coast Recreational disturbance Avoidance and Mitigation Strategy will be completed in compliance with the Habitats Directive and Habitat Regulations. Contributions will be secured towards mitigation measures identified in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMs) which will be completed by the time the Local Plan is adopted.

Prior to RAMS completion, the NEAs will seek contributions from proposed residential development to deliver all measures identified (including strategic measures) through project level HRAs, or otherwise, to mitigate any recreational disturbance impacts in compliance with the Habitat Regulations and Habitats Directive.”

- Policy SP3: ‘Meeting Housing Needs’

Modifications to Policy SP3 are suggested to provide some explanation, on the Inspector’s advice, as to how the housing figures in the policy will be used for assessing each authority’s five-year housing supply requirements. The additional wording proposed would state:

“The annual housing requirement figures set out below will be used as the basis for assessing each authority’s five-year housing land supply subject to any adjustments in Section 2 of each plan to address any undersupply since 2013. The North Essex authorities will review their housing requirement regularly in accordance with national policy requirements, and in doing so will have regard to the housing needs of the wider area.”

- Policy SP4: ‘Providing for Employment’

Adjustments to the employment land requirements for the three authorities have been recommended by the Inspector to reflect the outcome of discussions at the examination hearings. In particular, they will rectify errors found within the figures for Braintree and Tendring. The revised employment land figures will be as follows:

	Baseline (ha)	Higher Growth Scenario (ha)
Braintree	20.9	43.3
Colchester	22.0	30
Tendring	12.0	20.0
North Essex	54.9	93.3

- Policy SP5: ‘Infrastructure and Connectivity’

Modifications to the infrastructure and connectivity policy are suggested to provide greater clarity over what would happen if, for whatever reason, it becomes clear that the infrastructure required for the Garden Communities will not be funded or delivered. The modifications also provide greater clarity over what key infrastructure projects will need to be secured in advance of the start of the Garden Communities. The main relevant wording would be as follows:

“If the necessary strategic infrastructure for the Garden Communities as required by Policy SP5 is not committed within a reasonable period of time and phased alongside the delivery of new communities a review of the Plan will be undertaken prior to any consent being implemented, in order that the consequential shortfall in housing delivery does not overburden the infrastructure of existing communities/settlements.”

“Infrastructure provision will be secured in a timely manner and programmed to keep pace with growth of new communities.

Funding and route commitments for the following strategic transport infrastructure projects will need to be secured in advance of the start of the Garden Communities as follows:

- Colchester/ Braintree Borders –
- A12 widening and junction improvements
- A dualled A120 from Braintree to the A12
- Tendring /Colchester Borders –
- A120-A133 Link road
- A scheme and specification for a phased rapid transit network and programme for the integration of the three Garden Communities into the rapid transit network
- Provision of appropriate sustainable travel options will be required to encourage and facilitate sustainable travel behaviour from the outset and to provide viable alternatives to single-occupancy private car use, and will be informed by masterplanning.

Requirements for other strategic Garden Community infrastructure are outlined in sections D, E and F of Policies SP8, 9, and 10 and will be further set out in the Development Plan Documents for each Garden Community.”

- Policy SP7: ‘Development and Delivery of New Garden Communities in North Essex’

A number of modifications are suggested for the wording of this policy, the most significant of which is to address the Inspector’s request that the Section 1 Local Plan specifies the employment land requirements for the Garden Communities. The relevant wording would be as follows:

“In accordance with the Garden Community Charter principle of providing one job per household within the new community or within a short distance by public transport, provide and promote opportunities for employment within each new community and within sustainable commuting distance of it. Around 850,000 square metres of floorspace will be provided in total, with allocations to be defined within Development Plan Documents for each Garden Community totalling some 138 hectares.”

- Policies SP8, SP9 and SP10: Specific policies for each of the three Garden Communities

It is suggested that each of the policies that correspond with the specific Garden Community proposals are modified to include wording agreed with Natural England in relation to the impact of waste water on internationally important wildlife sites. The wording would be:

“To ensure new development does not have an adverse effect on any European Protected sites, the required waste water treatment capacity must be available including any associated sewer connections in advance of planning consent.”

Additional wording is also proposed to address issues raised by Historic England at the examination in respect of the potential impact of the Garden Communities on the historic environment, as follows:

“A Heritage Impact Assessment for each DPD in accordance with Historic England guidance will be required in order to assess impact of proposed allocations upon the historic environment, to inform the appropriate extent, nature and form of the development and establish any mitigation measures necessary.”

- 5.90 Each Garden Community policy will also include a section to set out the amount of employment space to be created as part that development – based on the evidence contained within the report from Cebr. For the Tendring/Colchester Borders Garden Community (SP8) the figure will be 24.5 square metres; for the Colchester/Braintree Borders Garden Community (SP9) it will be 70.1 square metres; and for the West Braintree Garden Community (SP10) it will be 43.4 square metres.

5.91 Further bespoke modifications to each of the Garden Community policies are also proposed to reflect specific infrastructure or environmental requirements, for example additional wording around the proposed A120/A133 link road, the realignment of the A12 and the dualling of the A120 and the need to protect relevant internationally and nationally important wildlife designations.

5.92 Overall Conclusions

Officers consider that the findings of the further Sustainability work and the additional pieces of evidence outlined above provide responses to all of the issues raised by the Inspector in his 2018 letters and demonstrate that the spatial strategy for growth set out in the submitted Section 1 Local Plan, including the three Garden Communities, meets the tests of soundness set out in the National Planning Policy Framework (NPPF).

5.93 The further SA work provides an objective assessment that addresses the Inspector's concerns about the previous assessment and follows a robust and transparent methodology developed through positive engagement with objectors to the plan and promoters of alternative development proposals. The findings of the SA work demonstrate that none of the reasonable alternative spatial strategy options perform notably better than the current strategy in the Section 1 Plan and provides no reason for Officers to conclude that the strategy should change. Given that the findings of the additional SA work suggest that many of the options perform similarly against the sustainability objections, planning judgement based on wider factors has to be exercised in determining the most appropriate strategy for growth in North Essex.

5.94 The alternative of further proportionate growth around existing settlements up to 2033 has been assessed as part of the additional SA work to help determine whether or not the NEAs are justified in taking a more strategic cross-border approach involving the establishment of new communities. However, the Local Plan process has already considered options relating to growing the main urban areas across North Essex and the majority of housing allocations in the three authorities' Section 2 Local Plans comprise such sites. The NEAs consider that reasonable opportunities to accommodate growth around existing settlements have been exhausted for the purposes of the plan period to 2033. It should be noted that the NEAs have also had a strong record in making use of existing previously developed 'brownfield' sites within settlements where possible.

5.95 Adding more development to existing towns and villages to make up the residual housing requirement to 2033 raises some genuine concerns about the efficient provision of infrastructure with existing and future residents having to cope with unnecessary pressure and demand on existing services and facilities that are not able to be efficiently expanded to cater for growth. Applying a 'percentage-based' approach to achieving further proportionate growth around existing settlements, including rural settlements would result in a thin distribution of development around numerous settlements, particularly to the west of Colchester and from a transportation perspective, such a thin distribution of growth is likely to lead to further dependence on the private car. The percentage-based approach would also push more development to coastal towns such as Clacton, Harwich, Frinton/Walton, Brightlingsea, Wivenhoe and West Mersea and this raises serious concerns about environmental impacts on internationally important wildlife areas, impacts

on existing transport infrastructure and the ability for the market to realistically deliver the number of homes required given the weaker housing market conditions to the east.

- 5.96 A 'hierarchy-based' approach to proportionate growth which directs additional housing to larger settlements would, in contrast, place a large proportion of North Essex's development to land on the edge of Braintree (a town that is already earmarked for significant growth in the plan period to 2033 in the Braintree Section 2 Plan); and, to a lesser extent, Halstead and Hatfield Peverel. In the face of highly challenging housing requirements going into the future and the constraints and challenges associated with continuing to expand existing settlements, the NEAs are justified in working together to establish new communities in line with Garden Community principles that provide scope for long-term managed growth in strategically important locations extending beyond the timeframes of the current plan that achieve a scale of development that will incorporate and deliver new infrastructure and thus reduce the pressure for expansion of existing communities.
- 5.97 To the west of Colchester, whilst many of the alternative strategies for strategic growth perform similarly against the sustainability objectives in the additional SA work, the proposals for Garden Communities to the West of Braintree and crossing the Colchester/Braintree Border carry genuine advantages. The proposal West of Braintree provides a strategic long term opportunity to deliver growth within the current plan period and beyond and to address needs in the western part of North Essex with direct access to the A120. It is well located to Stansted Airport both as a centre of local employment but also providing opportunities for new business growth. It also provides access to the M11 and the London Stanstead Cambridge Corridor. It is well located to the urban area of Braintree thus enabling it to benefit from the services and facilities provided in that higher order settlement, with a rapid transport system integral to realising that benefit.
- 5.98 The Colchester/Braintree Borders Garden Community also provides the potential for long term growth on a site with close proximity to the mainline railway station at Marks Tey and regular train links to London, Colchester and beyond within walking, cycling or bus rapid transport system to the station. It is well located at the intersection of the A12 and A120 thus providing opportunities for good accessibility and attractiveness to prospective residents and employers alike. There are also more opportunities for sustainable travel links into Colchester, a regionally important centre of employment offering a full range of facilities including a hospital and a major shopping and cultural destination.
- 5.99 Lightwood Strategic's proposal for an alternative Garden Community at Monks Wood (Pattiswick) is located within 3km of the proposed Colchester/Braintree Borders Garden Community with Coggeshall located between the two. It performs similarly against the sustainability objectives in the additional SA work but given the scale and proximity of these two proposals, it is not considered appropriate to include Monks Wood in the plan as well as the current Colchester/Braintree Garden Community given the impact on infrastructure, landscape and the existing resident population that these two large developments would have. Monks Wood is accessible to a much smaller, albeit very successful, cluster around Earls Colne Airfield and Coggeshall and is closer to Braintree than the Colchester/Braintree Borders Garden Community. However, the employment market in Braintree is not as strong as Colchester's and major new employment areas are

proposed on the west side of Braintree which is in closer proximity to the proposed West of Braintree Garden Community. A Garden Community at Monks Wood would be located on the highly trafficked single carriageway of the A120 and whilst it is proposed that the A120 is dualled and realigned further south (between Kelvedon and Braintree), the only other roads in the vicinity are rural lanes with very limited opportunity to access a site of this size by other routes. The impact on the historic character of the dispersed settlement of Pattiswick is also considered to be greater than on the character of Marks Tey which is much more of a modern settlement.

5.100 To the east of Colchester, the Tendring/Colchester borders Garden Community offers multiple benefits to both Colchester and Tendring in terms of housing delivery, the A133/120 link road and the opportunities to relieve traffic and unlock the economic potential for more expansion of the University of Essex and the Knowledge Gateway whilst relieving pressure caused by continued growth on the edge of existing towns and villages. CAUSE's Metro Plan concept does not offer such mutually beneficial outcomes, raises concerns about encouraging car-borne journeys where rail is not a viable alternative, and would significantly and unnecessarily alter the character of a number of rural communities in Tendring. The Tendring Central Garden Village concept scores similarly to the Tendring/Colchester Borders Garden Community in the additional SA work, but critically does not offer the mutual cross-border benefits to Colchester and Tendring that arise from the link road and potential for growth at the University of Essex and the Knowledge Gateway – it would be an unnecessary standalone development further east into Tendring that would encourage longer car journeys.

5.101 Officers therefore consider that the current strategy in the Section 1 Local Plan which proposed three Garden Communities in the locations currently suggested remains the most appropriate strategy for North Essex. The other additional evidence, including studies on rapid transit, housing delivery and viability respond directly to the issues raised by the Inspector and demonstrate that the three proposed Garden Communities are viable and deliverable.

5.102 Next Steps

The relevant Committees of the three Councils are all considering the additional evidence that has been prepared, the findings of the additional Sustainability Appraisal work, and proposed amendments. Braintree and Tendring District Councils will need to make recommendations to Full Councils following their respective Local Plan Committees. If all three authorities agree, the additional evidence base, Additional Sustainability Appraisal work and the proposed amendments will be published for six-weeks consultation to allow third parties the opportunity to consider both the modifications and the evidence and make any comments. The six-week consultation period is expected to run from 19 August 2019 to 30 September 2019.

5.103 The Officers of the three authorities will collect any representations made and, following the six-week consultation period, will submit the schedule of modifications, further SA work and all the other additional evidence to the Secretary of State, along with all the comments received from third parties. The Inspector will then consider all of this information and will liaise with the NEAs to confirm the timetable for resuming the examination and undertaking

further examination hearings. The Inspector may issue a further series of Matters, Issues and Questions (MIQs) to establish the main topics he wishes to examine and to invite written responses from participants in the examination ahead of the hearings. It is currently anticipated that hearings will take place either at the end of 2019 or in early 2020.

5.104 Following the completion of the further examination hearings, the Inspector will write to the NEAs to confirm whether or not his concerns about the Garden Communities have been addressed and whether or not the Section 1 Local Plan now meets the tests of soundness. The Inspector will have the ability to recommend additional post-examination modifications to the plan which would need to be the subject of further consultation in their own right before the plan can be finalised and formally adopted by the NEAs.

5.105 The examination of the authorities' individual Section 2 Local Plans will not take place until Section 1 has been examined and found to be sound.

6. Equality, Diversity and Human Rights implications

6.1 An Equality Impact Assessment has been prepared for the Local Plan, and is available to view by clicking on this link: -
<http://www.colchester.gov.uk/article/12745/Policy-and-Corporate>

7. Strategic Plan References

7.1 The Strategic Plan is relevant in particular in contributing towards priorities under all the themes of Growth, Responsibility, Opportunity and Wellbeing:

- Growth - Develop jobs, homes, infrastructure and communities to meet the borough's future needs by creating new Garden Communities
- Responsibility - Promote responsible citizenship by encouraging residents to get involved in their communities and to identify solutions to local issues; and create new routes for walking or cycling and work with partners to make the borough more pedestrian-friendly.
- Opportunity - Ensure a good supply of land available for new homes through our Local Plan.
- Wellbeing- Encourage belonging, involvement and responsibility in all the borough's communities; and help residents adopt healthier lifestyles by enabling the provision of excellent leisure facilities and beautiful green spaces, countryside and beaches.

8. Consultation

8.1 As outlined in the May 2019 update to the Planning Inspector, the NEAs will undertake consultation on the revised evidence base, additional sustainability appraisal, and proposed modifications to Section 1 from Mid-August to the end of September, subject to decisions made at the respective committees.

8.2 The purpose of the consultation will be to gather views on the additional evidence base documents that have been commissioned to address the issues raised in the Inspector's interim findings on Section 1 in June last year. By doing so the NEAs hope that any issues with the evidence base will be raised at the earliest opportunity to help inform the Examination.

- 8.3 The questions posed to consultees will be intentionally general in nature as the proper place for specific questions on the revised evidence base will be through any additional matters, issues and questions the Inspector may publish prior to reconvened hearing sessions. However, it will be important for the consultation and the responses to the consultation to avoid revisiting matters which the Inspector has not raised as of concern to the Examination of Section 1.
- 8.4 The consultation will be jointly hosted on the NEAs' web-based portal and measures will be put in place to avoid duplicate responses being made to individual authorities. Due to the technical nature of the consultation the NEAs do not intend to carry out any drop-in sessions, however previous consultees to Section 1 consultations will be informed of the consultation.
- 8.5 Following the consultation the NEAs will process all comments received and submit them (alongside the documents subject to the consultation) to the Programme Officer in a similar fashion to which followed the Regulation 19 Submission consultation in October 2017. They will be forwarded to the Inspector and used to inform further hearing sessions.

9. Publicity Considerations

- 9.1 The report, evidence base and consultation is expected to generate significant publicity. The Council will approach this in a transparent manner and proactively seek to get accurate information into the public domain. Steps have been taken to improve the section of the Councils website which deals with Garden Communities.

10. Financial implications

- 10.1 The additional evidence base has been funded through an approved budget.

11. Health, Wellbeing and Community Safety Implications

- 11.1 The Garden Communities are intended to promote health, wellbeing and community safety by improving housing choice and employment opportunities, access to green open space and community facilities, as well as other infrastructure.

12. Health and Safety Implications

- 12.1 N/A

13. Risk Management Implications

- 13.1 Adoption of the Local Plan will reduce the risk of inappropriate development.

Appendices

1. 'Additional Sustainability Appraisal of North Essex Local Plan Section 1: Summary of Draft Findings.'
2. Executive summary of 'North Essex Rapid Transit System for North Essex: From vision to plan'.
3. Conclusion and next steps from 'Mode Share Strategy for the North Essex Garden Communities'.
4. Summary of findings and conclusion from 'Build Out Rates in the Garden Communities'.
5. Executive summary of 'North Essex Local Plans (Section 1) Viability Assessment Update – Main Report'.
6. Employment Provision for the North Essex Garden Communities.
7. Tendring/Colchester Borders extract from 'North Essex Garden Communities Infrastructure Planning, Phasing and Delivery.'
- 7a. Colchester/Braintree Borders extract from 'North Essex Garden Communities Infrastructure Planning, Phasing and Delivery.'
8. Summary of 'North Essex Authorities Infrastructure Order of Cost Estimate (41,000 homes)'.
9. Conclusions of 'HRA Report for North Essex Authorities Shared Strategic Section 1 Local Plan.
10. 'North Essex Authorities' Position Statement on Delivery Mechanisms'.
11. 'North Essex Authorities' Position Statement on State Aid.
12. Schedule of proposed amendments.

Background Papers

There are numerous background papers all of which are available on the Examination website hosted by Braintree DC;

https://www.braintree.gov.uk/info/200643/section_1/1065/section_1_examination_publication_local_plan_braintree_district_colchester_borough_and_tendring_district_council