

Local Plan Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ**

Thursday, 27 February 2020 at 18:00

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

Information for Members of the Public

Access to information and meetings

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

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

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

Have Your Say!

The Council welcomes contributions and representations from members of the public at most public meetings. If you would like to speak at a meeting and need to find out more, please refer to the Have Your Say! arrangements here:

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

Audio Recording, Mobile phones and other devices

The Council audio records public meetings for live broadcast over the internet and the recordings are available to listen to afterwards on the Council's website. Audio recording, photography and filming of meetings by members of the public is also welcomed. Phones, tablets, laptops, cameras and other devices can be used at all meetings of the Council so long as this doesn't cause a disturbance. It is not permitted to use voice or camera flash functions and devices must be set to silent. Councillors can use devices to receive messages, to access meeting papers and information via the internet. Looking at or posting on social media by Committee members is at the discretion of the Chairman / Mayor who may choose to require all devices to be switched off at any time.

Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to the Library and Community Hub, Colchester Central Library, using the contact details below and we will try to provide a reading service, translation or other formats you may need.

Facilities

Toilets with lift access, if required, are on each floor of the Town Hall. A water dispenser is available on the first floor.

Evacuation Procedures

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

Library and Community Hub, Colchester Central Library, 21 Trinity Square,
Colchester, CO1 1JB

telephone (01206) 282222 or textphone 18001 followed by the full number you wish to call

e-mail: democratic.services@colchester.gov.uk

www.colchester.gov.uk

COLCHESTER BOROUGH COUNCIL
Local Plan Committee
Thursday, 27 February 2020 at 18:00

The Local Plan Committee Members are:

Councillor Nick Barlow
Councillor Lee Scordis
Councillor Lewis Barber
Councillor Tina Bourne
Councillor Phil Coleman
Councillor Andrew Ellis
Councillor Chris Hayter
Councillor Patricia Moore
Councillor Beverley Oxford

Chairman
Deputy Chairman

The Local Plan Committee Substitute Members are:

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

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

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

1 Welcome and Announcements

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

2 Substitutions

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

3 Urgent Items

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

4 Declarations of Interest

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

5 Have Your Say!

The Chairman will invite members of the public to indicate if they wish to speak or present a petition on any item included on the agenda or any other matter relating to the terms of reference of the meeting. Please indicate your wish to speak at this point if your name has not been noted by Council staff.

6 Local Plan Committee Minutes 16 December 2019

5 - 16

The Councillors will be invited to confirm that the minutes of the meeting held on 16 December 2019 are a correct record.

7 Local Plan Update

17 - 24

See report by the Assistant Director Place and Client Services providing an update on the Local Plan examination and setting out possible outcomes, alternative proposals and the implications for other parts of the service.

8 Exclusion of the Public (not Scrutiny or Executive)

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

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

Local Plan Committee

Monday, 16 December 2019

Attendees: Councillor Lewis Barber, Councillor Nick Barlow, Councillor Tina Bourne, Councillor Phil Coleman, Councillor Andrew Ellis, Councillor Chris Hayter, Councillor Patricia Moore, Councillor Lee Scordis

Substitutes: No substitutes were recorded at the meeting

Also Present:

182 Have Your Say!

Sir Bob Russell addressed the Committee pursuant to the provisions of Meetings General Procedure Rule 5(3). He referred to the recent planning appeal decision in relation to Queen Street, Colchester and his disappointment with the outcome. He wished it placed on record that Middlewick Ranges was not a brownfield site, that it be confirmed that the site had been included in the Local Plan due to a decision of the Ministry of Defence (MoD) to dispose of the firing range. He preferred the allocation in the Plan for 1,000 units on the site in comparison to the 2,000 units originally proposed by the MoD but he was concerned that future efforts would be made to deliver a greater number of houses than currently allocated. He advocated a scheme including the creation of a country park on the area fronting Abbots Road, development south of the Firing Butts but with no coalescence which would link the existing communities of Old Heath, Monkwick and Berechurch. He acknowledged the need for access improvements to Abbots Road but emphasised this would not resolve existing, nor future, traffic issues.

Karen Syrett, Planning and Housing Manager, confirmed, as stated at previous Committee meetings, that Middlewick Ranges was a greenfield site, not brownfield, and the Council's view that the site was not suitable for 2,000 homes. She further explained that more on evidence-based work to inform more detailed plans was currently awaited, including ecology work which would help to determine where development could take place.

Councillor Barber sought clarification regarding the allocation of Middlewick Ranges in the Local Plan and the potential for the Council to have opted instead to allocate an alternative site or various alternative sites which would be capable of delivering 1,000 units.

The Planning and Housing Manager, confirmed, that the Middlewick site had been identified very late in the process and, as such, hadn't received the same scrutiny as

other sites, meaning it had been given a different allocation to the other residential allocations. She confirmed that if Middlewick had not been included in the allocations the Council would have been looking for other sites to deliver the required 1,000 units.

183 Local Plan Committee minutes 21 October 2019

The minutes of the meeting held on 21 October 2019 were confirmed as a correct record.

184 Local Plan Update

Ian Vipond, Executive Director, provided a verbal update on the current situation regarding the Local Plan. He explained that for the next stage of the examination process the bulk of the evidence had been submitted to the Inspector and various parties, including the Local Authorities, had produced statements which had been published online. The Local Authorities' Statements of Common Ground had also been published. He confirmed that 16 December 2019 was the deadline for the North Essex Authorities' comments to the Inspector arising from other parties' statements and these would be published online later in the week. This therefore had concluded the submissions to the Inspector and the examination would be resumed on 14, 15, 16, 21, 22, 23 and 30 January 2020.

Councillor Ellis referred to one of the pieces of evidence submitted to the Inspector which demonstrated that, at 31 March 2019, the Council had already exceeded its housing target, he asked when the Council had become aware of this statistic and why the Committee had been informed that the development of garden communities was the only option for the Council to secure the 7,500 housing shortfall across Essex and the 2,500 shortfall in Colchester. He referred to the considerable funding already provided to deliver the garden community projects and asked why it was necessary to continue with these projects.

The Executive Director explained that the table setting out the housing numbers was a combination of planning permissions and the allocations in Section 2 of the Local Plan. He referred to the objections which had been submitted to the housing numbers allocated to sites in Section 2 and explained the requirement for a Local Plan to specify a minimum housing provision, together with a requirement for flexibility with the housing numbers. He also explained that, if the Council did not proceed with the current Local Plan currently under examination, the Council would be assessed in accordance with the new housing number calculations contained within the latest version of the National Planning Policy Framework (NPPF) which would require an additional 200 houses to be added to the current housing target for each of the forthcoming fifteen years. He also confirmed that the new housing calculations would apply when the current Local Plan was reviewed in five years' time and that this was likely to require, in very broad terms,

an extra housing target of approximately 7,500 homes. He emphasised, therefore, the need for sufficient flexibility to be built into the housing numbers and the inevitability that the anticipated peak delivery of 600 houses per year from the Garden Community projects would be required. He also commented that, at the Section 2 Local Plan examination, it was highly likely that developers would be making representations in support of additional housing and he was of the view that the Council needed to ensure there would be sufficient flexibility in housing numbers to defend those representations.

Councillor Ellis questioned whether the flexibility requirement had been built into previous Local Plan processes and whether this approach had been adopted by other Local Authorities. He commented on the historical under-delivery of housing targets by both Braintree and Tendring in contrast to Colchester's record of over-delivery and whether there was any merit to be gained from over-delivery. He strongly regretted that the Local Plan Committee had not been given the opportunity to consider the question of flexibility and over-delivery of housing numbers and speculated what the Committee's view may have been had this not been the case. He further commented on the use of windfall allowances in their Local Plan by other Local Authorities and that the annual average of 260 windfall sites in Colchester would contribute greatly to development over a 15-year period and would provide for substantial over-delivery.

The Executive Director confirmed that the housing numbers for Colchester had not yet been met and he explained that, in his view, Colchester had not over-delivered but, on average, had successfully delivered on target. He could not comment on whether the Council had received credit for consistently meeting its target but, in terms of defending the five year housing land supply at appeals, the Council was permitted to meet a buffer of 5% in contrast to others who are required to demonstrate a 20% buffer. He was of the view that this was a significant factor in the Council not having lost a major housing appeal within the last 10 years. He acknowledged that the Committee may not have been required to consider the need for flexibility in delivering its housing numbers but considered the current status of the Local Plan in relation to the current NPPF had put the Council in an unusual situation. He went on to explain the likelihood that the last 10 years of the current Local Plan would require a higher housing number than the actual housing need calculation.

The Planning and Housing Manager further clarified that the current total of planning permissions and housing allocations was continually changing, as new sites lapsed and others came forward. She confirmed that Local Authorities were required to provide a minimum of housing units and for the currently adopted Local Plan a number of greenfield sites were included as a contingency but had ultimately been brought forward. She explained that the Council's previous over-delivery meant that the Council had been provided with a lower housing target for the period 2008 to 2021. However, under the current methodology, over-delivery did not stand in the Council's favour. She referred to a recent presentation on the Housing Delivery Test which showed that Colchester was one of four Council's which had received no sanctions for the year. She also explained

that the draft Local Plan included 200 houses at a site in Tollgate, Stanway which was now the subject of an alternative permission and, as such, it would be necessary to identify an equivalent 200 units from elsewhere.

Councillor Ellis congratulated the Planning and Housing Manager on her and her Team's success at defending Appeals. He understood that an equivalent 200 units in Stanway had already been identified and that flexibility in housing numbers was required to be built into the emerging Local Plan for Braintree and Tendring but he had been unaware that this was also a requirement for Colchester and did not consider it to be a usual requirement for the majority of Local Plans that he had seen. He also referred to the declaration of a climate emergency and considered this to be a material change to the Council's plans for future development.

The Executive Director confirmed that the Inspector would make an assessment of the issues and he considered this to be more likely in respect of Section 2. He referred to the Sustainability Appraisals which continued to find the Garden Community proposals more sustainable than dispersed development and he considered the Committee had previously ruled out proposals involving a range of ad hoc sites in villages and settlements across the borough. He therefore considered that the Garden Community proposals to be the best form of sustainable development for the current and future Local Plan periods.

Councillor Ellis was of the view that the climate emergency declaration imposed a requirement to consider development in a different way to reduce reliance on the car and to move away from creating car dependent communities. He referred to village communities who were acknowledging this issue by accepting new development in order to attract improved bus provision. He also voiced his concerns that the Garden Community proposals would fail to be considered the most appropriate strategy by the Inspector.

Councillor Barber acknowledged the need for Garden Communities to be considered, particularly given the requirement for flexibility in housing numbers although he considered the Committee should have had the opportunity to consider a range of strategies. He was also of the view that the option to bring forward the consideration of Section 2 of the Local Plan would have provided an opportunity to give the Garden Community proposals more detailed consideration. He also explained his concern that the Garden Community proposals, once commenced, would require a long-term commitment of up to 80 years for them to reach their conclusion.

Councillor Moore regretted the inclusion of the Garden Communities proposals within the Local Plan and considered that the Council will have lost credibility with the public as a consequence.

Councillor Scordis asked for clarification on the number of Local Authorities which were

using a similar large-scale strategy within their Local Plans and whether there was a risk that a flexible approach to housing numbers was likely to lead to over-development.

Councillor Bourne referred to the Council's housing needs register, the affordability of housing for younger people and the potential for development to take place on land adjacent to Colchester borough but within the border of a neighbouring Local Authority. In this context, she welcomed the Garden Communities proposals and considered that extensive debate on this strategy had taken place at meetings of the Committee and it had been the subject of numerous separate briefings. She considered that the direction to be pursued to provide the housing needed in the borough had been agreed and she voiced her concern that the declaration of a climate emergency was now being cited as a reason not to develop in certain areas. She did not consider further development of the urban areas of the borough to be an acceptable solution as an alternative to the Garden Communities proposals.

The Executive Director explained that the credibility of the Local Plan had to be demonstrated to the Inspector. He acknowledged that previous versions of the Local Plan would have contained more precise numbers of houses planned to be delivered. However, the Government had confirmed a housing crisis in the country and had placed pressure on Local Authorities to collectively deliver 300,000 houses each year. He commented that, in this context, planning Inspectors were required to determine whether a Local Plan was likely to deliver the number of houses required of each Local Authority. He acknowledged that the five-year land supply was currently the subject of heavy scrutiny due to the current status of the Local Plan in the process and the Plan's allocated sites currently being unconfirmed. As a consequence, the Council's ability to successfully defend Planning Appeals was significantly dependent on successfully bringing forward further developments. He stressed the need for the emerging Local Plan to achieve adopted status and for the allocated sites to be confirmed to enable the five-year land supply to be successfully demonstrated.

RESOLVED that the Local Plan update provided by the Executive Director be noted.

185 Planning Obligations Supplementary Planning Document

The Committee considered a report by the Assistant Director Policy and Corporate explaining that the Council had prepared a Supplementary Planning Document (SPD) on Planning Obligations, with the intention to consult on the SPD for a six-week period prior to incorporation of consultation comments and its return to the Local Plan Committee for adoption.

Laura Chase, Planning Policy Manager, presented the report and, together with Karen Syrett, Planning and Housing Manager, responded to members questions. The Planning Policy Manager explained that Councils were able to require planning applicants to provide financial contributions to mitigate development impacts under Section 106 of the

Town and County Planning Act 1990. In addition, the National Planning Policy Framework (NPPF) ensured that the collection of contributions was confined to measures that were required to mitigate the impact of development.

To ensure consistent and effective guidance the Council had prepared a Supplementary Planning Document (SPD) on Planning Obligations and it was intended to consult on the SPD for a six-week period prior to incorporation of consultation comments and its return to the Local Plan Committee for adoption.

The SPD set out a range of obligation types which may be required as part of any Planning Obligation Agreement. Each section set out the policy background to requiring such obligations, the relevant points at which they might be required, when the obligation was expected to be provided, any exceptions and any other relevant information. In addition, a range of topic areas were identified, including housing, sustainable transport, flood protection and water management; sports, recreation and leisure; green infrastructure; natural environment mitigation; historic environment and community infrastructure. The SPD also highlighted and cross-referenced to requests from other authorities for development contributions to ensure that this Council's requests were considered in the context of all other relevant requests. Essex County Council was updating its guidance on planning obligations and had carried out a consultation on a draft Developers' Guide to Infrastructure Contributions.

Councillor Moore sought clarification on the degree of flexibility contained in the Guidance in relation to contributions across the topic areas for any given development.

The Planning Policy Manager confirmed that the SPD did promote flexibility by means of the work of the Development Team in assessing the package of contributions for any one planning application. She also explained that some elements had formulas attached which acted as a starting point for contribution negotiations. She also explained that it was now recognised that viability was assessed inclusive of any relevant contributions.

Councillor Barber recollected a presentation received at a previous meeting of the Committee from representatives from the North Essex Clinical Commissioning Group (NECCG) who had referred to restrictions imposed on the number of development proposals which could be requested by the statutory health consultees.

The Planning Policy Manager explained that the NECCG had been looking into new ways that health services were likely to be delivered, including shared spaces, and in this context had made reference to the restrictions on pooling which were contained in the Community Infrastructure Levy (CIL) Regulations but which had recently been removed. She also explained that the Council had been looking at different models of how to work with health care providers, including potential collaborations between Benefits, Health and Social Care and Essex County Council. In terms of the SPD it was intended to provide an enabling framework for the consideration of new approaches so

long as the impact of development was mitigated.

Councillor Ellis welcomed the SPD and referred to one advantage of Garden Communities proposals being the increase in land values, from which the infrastructure would be delivered. He commented on the AECOM evidence submitted to the Inspector which highlighted a £355 million infrastructure funding gap by 2036 as a consequence of not being able to capture funding contributions from developers. He sought clarification on the continued requirement to mitigate specific developments as opposed to adopting a blanket approach to mitigation and he also stated his strong view that local councillors and community members should be consulted at the very earliest opportunity on proposed developments and Section 106 contributions so that the views of the local community can be taken into account by the Development Team.

Councillor Barlow fully supported the view for ward councillors and community members to be involved at the earliest opportunity in Section 106 negotiations and was of the view that this needed to be taken forward as a matter of priority.

The Planning Policy Manager explained that it was still an option for the Council to adopt the CIL once an adopted Local Plan was in place whilst explaining that it had advantages and disadvantages for Colchester and other Local Authorities.

The Planning and Housing Manager confirmed that a blanket approach to mitigation was intended for small scale developments, such that pooling of contributions could now take place for small developments, as such applications were required to be submitted together with a unilateral undertaking to confirm the provision of the mitigation. She welcomed the suggestion for some local involvement in the assessment of Section 106 contributions, in relation to the Communities and the Parks and Recreation elements. She acknowledged it would be late in the process, but she confirmed that all Section 106 contribution heads of terms were presented to the Planning Committee which did provide an opportunity for review by ward councillors at that stage.

Councillor Coleman referred to the link between population increase and pressure on facilities and asked for clarification on the latest published population statistics.

The Planning Policy Manager confirmed that the 2011 census continued to be relied upon currently, but mid-year population projections were available which she would arrange to forward to councillors after the meeting.

Councillor Bourne advocated the provision of school places in the right areas, citing school children being driven to schools, together with siblings being split between different schools. She considered improvements needed to be made in the timely planning of school places in areas where they were needed. She explained there was an extreme shortage of nursery school places and she was concerned about the impact on congestion in the town due to the need for children to travel distances to get to school.

She referred to co-location and integration of services and sought clarification on these policies could be used to good effect in relation to school places.

The Planning Policy Manager acknowledged collaboration with Essex County Council (ECC) in relation to education, social care and highways, confirming that there was close working between the two Authorities. She explained that ECC was currently updating its policy on planning obligations and discussions were beginning in relation to co-location and there was an aspiration for a more joined-up approach, but more detailed consideration needed to take place.

The Planning and Housing Manager acknowledged the issues around school place provision and attributed this to catchment area issues and freedom of choice for parents. She explained that Colchester had offered to act as 'treasurer' for ECC planning obligations funding whilst specific projects remained to be identified with the intention that the finds would be retained for the area of the development and not lost to a project elsewhere. She supported the co-location of services whilst acknowledging difficulties at planning application stage when a named provider had yet to be identified

Councillor Moore referred to the potential for a school bus system to be introduced along the lines of the system that successfully operated in the USA and asked whether Section 106 funding could be used for this purpose.

The Planning and Housing Manager confirmed that Section 106 funding had been used for school transport services, but this was likely to have been for large scale developments to facilitate transport from a distance away to a school with capacity, pending the opening of a nearer school.

Councillor Ellis sought clarification regarding the submission of the results of the consultation exercise back to this Committee, the ability of the Committee to comment on the document at that stage and when that was likely to happen.

The Planning and Housing Manager confirmed that the consultation was due to commence in January and, whilst she could give no assurance, it may be possible to arrange for this to commence slightly earlier to provide more time if the Committee was keen to consider the document again at its meeting in April.

Councillor Bourne referred to the Health and Well-being Statement and asked about the potential for the NECCG to be invited back to the Committee to provide an update on the current situation on the integrated care system. The Chairman supported this suggestion and suggested arrangements be made for this to be delivered in the form of a briefing for the Committee.

RESOLVED that –

- (i) The publication of a Planning Obligations Supplementary Planning Document

(SPD) for a six-week consultation period from 24 January to 6 March 2020 be approved and authority be delegated to the Planning and Housing Manager to make minor revisions to the document prior to publication;

(ii) In order to facilitate the submission of the results of the consultation to the Committee's meeting in April, the Planning and Housing Manager be authorised to commence the consultation period earlier than 24 January 2020, subject to other work commitments

186 Affordable Housing Supplementary Planning Document and Self and Custom Build and Specialist Housing Supplementary Planning Document

The Committee considered a report by the Assistant Director Policy and Corporate explaining that the Council had prepared a separate Affordable Housing Supplementary Planning Documents (SPD) due to its national and local level of importance and a second Self and Custom Build and Specialist Housing SPD covering other specific types of housing contributions.

Bethany Jones, Planning Policy officer, presented the report and, together with Laura Chase, Planning Policy Manager and Karen Syrett, Planning and Housing Manager, responded to members questions. The Planning Policy Officer explained that Local Planning Authorities are able to request affordable housing, self and custom build housing and specialist housing from planning applicants to meet the needs of different groups within the community in line with paragraph 61 of the National Planning Policy Framework (NPPF). This is further outlined for self and custom build provision via the Self Build and Custom Housebuilding Act 2015. To ensure consistent and effective guidance, the Council had prepared a separate Affordable Housing SPD due to its national and local level of importance, and a Self and Custom Build and Specialist Housing SPD which covered other specific types of housing contributions. It was intended to consult on the SPDs for a six-week period, prior to incorporation of consultation comments and be returned to the Local Plan Committee for adoption.

Both SPDs set out the policy background, evidence base, delivery and example Section 106 agreements. The SPDs also provided the context of when and how these specific housing types could be delivered across the Borough which was intended to ensure that, in line with national and local policy, these specific types of housing were secured through the planning application process in order to meet the needs of the local community.

The Affordable Housing SPD outlined the affordable housing provision for above policy threshold sites, rural exception sites, vacant building credit and alternatives to only be considered in exceptional circumstances including off site provision and commuted sums. The Self and Custom Build and Specialist Housing SPD was divided into two main sections, the first detailing the delivery of different types of self-build, design requirements and how self-build could be delivered as affordable housing. The second

section detailed delivery of different types of specialist housing with particular reference to wheelchair users and delivery of specialist types of affordable housing.

The Planning Policy Manager explained that paragraph 4.5 of the Specialist Housing report would need to be amended but explained that this was due to the definition of gypsy being changed to including those actively travelling and seeking work. The original work had concluded a requirement for 15 pitches whilst the revised definition provided for a requirement of 13 pitches for those identifying as gypsies with an additional 2 pitches for gypsies actively travelling or seeking work.

Councillor Bourne referred to affordable housing types and tenure and sought clarification on whether this could be amended to state the Council's requirements for affordable housing rather than for it be in the form of a negotiation. She also referred to the pepper-potting of affordable housing and the delivery of good housing management which tended to be improved where sites were located together and integrated. She asked about the category of homes accessible for wheelchair users, student housing, the erroneous definition of social housing as set out in the Appendix to the report and she questioned the proportions of affordable housing, council housing and market housing.

The Planning and Housing Manager explained that social housing had been the generic term for housing which was available at less than market value/rent and subsequently this housing had been known as affordable housing despite it being acknowledged that there were several different tenures. She agreed to make arrangements to amend the social housing definition in the draft document to address the Councillors concerns. She referred to the pepper-potting of affordable housing in relation to the Strategic Housing Market Assessment, the expectation that housing development will be tenure-blind and the negotiations with developers where certain circumstances were required at specific sites. She acknowledged there was a move away from pepper-potting of affordable housing and she agreed that more flexibility was desirable. She also acknowledged the need to amend the wording in relation to the mix of affordable housing to reflect that 80% would be affordable or social rented and 20% would be other tenures such as shared equity.

Councillor Barber sought clarification about student housing being exempt from developer contributions for affordable housing.

The Planning and Housing Manager explained that this exemption was likely to be related to nominations and students not being on the housing register.

Councillor Ellis supported the comments made about pepper-potting of affordable housing and the definition of social housing and commented on the delivery of only 10.7% of affordable housing despite the Council's target for 20%, now rising to 30%. He asked about the 80/20 split and the views of the North Essex Garden Communities Ltd

(NEGC) that this was no longer possible due to a change in legislation.

The Planning and Housing Manager referred to a range of initiatives to achieve delivery of affordable housing, including contributions for the delivery of housing elsewhere, the New Homes Bonus which could be used to purchase properties, the Right to Buy Back and the development of Council garage sites. She also agreed to clarify the policy stated in the NPPF relating to the affordable housing mix.

RESOLVED that –

- (i) The publication of the Affordable Housing SPD and Self and Custom Build and Specialist Housing SPD for a six-week consultation period from 24 January to 6 March 2020 be approved and authority be delegated to the Planning and Housing Manager to make minor revisions to the document prior to publication;
- (ii) In order to facilitate the submission of the results of the consultation to the Committee's meeting in April, the Planning and Housing Manager be authorised to commence the consultation period earlier than 24 January 2020, subject to other work commitments

187 Authority Monitoring Report

The Committee considered a report by the Assistant Director Policy and Corporate giving details of the Authority Monitoring Report which provided an annual summary of key statistics allowing the Council to monitor the effectiveness of its Local Plan.

Bethany Jones, Planning Policy officer, presented the report and, together with Karen Syrett, Planning and Housing Manager, responded to members questions. The Planning Policy Officer explained that the Authority Monitoring Report provided an annual summary of key statistics that allow the Council to monitor the effectiveness of its Local Plan. The key statistics for the monitoring period 1 April 2018 to 31 March 2019 included:

- 1,659 planning applications received;
- 1,165 homes completed;
- 110 new build affordable units delivered;
- 41% of new or converted dwellings built on previously developed land (brownfield);
- Potential net loss of -2,587 square metres of commercial floorspace, and potential net gain of + 5,820 square metres of commercial floorspace resulting in a net balance of +3,233 sqm if all applications were implemented;
- Council adoption of 46,182m² additional areas of open spaces;
- Funding from DEFRA to manage a two-year community project focusing on behavioural change by encouraging walking and cycling for short journeys and switching off engines when not moving (idling).

Councillor Barber referred to issues around walking and cycling in Colchester and the

work progressing to improve joint working between Essex County Council (ECC) and this Council and he suggested another opportunity be taken to invite ECC officers to a future meeting of the Committee. He also referred to the information sent to ward councillors on the results of air quality monitoring and the potential for this information to be used to apply to the Local Highway Panel (LHP) for funding for improvement schemes. He considered it would be useful for Councillors to receive regular updates illustrating where the 'hotspots'/problems are in the Borough and for the data to be considered at a future meeting of the Local Plan Committee.

Councillor J. Young, Portfolio Holder for Culture and Performance, attended and, with the consent of the Chairman, addressed the Committee. She confirmed that the LHP had considered the issue of cycle improvements and more collaboration between ECC and the Borough. She referred to the need for a range of improvements along the route from Colchester North Station into the town centre, including cycle and air quality improvements. She supported the aspiration for the Committee to be involved in a range of issues to inform how the Council should move forward, so long as the work of other Council Groups such as the Conservation and Environmental Sustainability Task and Finish Group and the Policy and Public Initiatives Panel (PPIP) was not compromised.

The Planning and Housing Manager referred to the forthcoming consideration of cycling security at the next meeting of the PPIP and the potential for this to be widened to include clarification on current ECC and this Council's strategies relating to walking and cycling, a suggestion which was supported by Councillor Coleman.

Councillor Ellis acknowledged the potential for the work of other Council groups to be compromised and suggested that, for issues which had an impact on the responsibilities of more than one Committee or Panel, a collective briefing rather than a formal meeting be arranged. He also supported the view that the Borough Council needed to be involved in the decision making around highway infrastructure proposals locally.

RESOLVED that the 2018-19 Authority Monitoring Report (AMR) be approved for publication on the Council's website.

27th February 2020

Report of	Assistant Director of Place and Client Services	Author	Karen Syrett ☎ 506477
Title	Local Plan Update		
Wards affected	All		

1. Executive Summary

- 1.1 This report provides members with an update on the Local Plan examination and sets out possible outcomes, alternative proposals and the implications for other parts of the service.

2. Recommended Decision

- 2.1 The Committee is asked to proceed with the Local Plan as submitted to conclude the examination process.

3. Reason for Recommended Decision

- 3.1 Officers were instructed by Council to develop a contingency Plan B to the current proposals in Section 1 of the emerging Local Plan, for submission to the Local Plan Committee within one month of the completion of the Section 1 public hearing.

4. Alternative Options

- 4.1 Members could decide to proceed with a Plan B/alternative scenario.

5. Background Information

5.1 Last year Full Council passed the following motion;

'Officers are instructed to develop a contingency Plan B to the current proposals in Section 1 of the emerging Local Plan, for submission to the Local Plan Committee within one month of the completion of the Section 1 public hearing'.

5.2 At the same time Officers acknowledged that there would be a need to review Section 2 of the emerging Local Plan given the time that had elapsed since submission. There is some overlap with these tasks.

5.3 Background to the Local Plan

The three Local Planning Authorities (Colchester, Tendring and Braintree - sometimes referred to as the North Essex Authorities or the 'NEA's') are responsible for taking forward their respective Local Plans, but are currently jointly promoting the 'Section 1 Plan' which contains a number of strategic policies as well as the specific policies allocating the three proposed Garden Communities. The soundness of the Local Plans will ultimately be determined by an independent Inspector appointed by the Secretary of State.

5.4 The NEAs' shared strategic Section 1 Plan sets out the principles of development across North Essex including the Garden Communities as well as providing a planning framework to guide the preparation of future Development Plan Documents (DPDs) for those Communities. The plan is subject to an ongoing examination process which has resulted, following the initial concerns of the independent Inspector, in further evidence base work being prepared to support the case for the proposed Garden Communities. The latest hearing sessions have just closed, but the 'Examination' is still open until the Inspector concludes his work. The Inspector could decide to hold more hearings.

5.5 Progress Update

The NEAs have concluded the further Examination hearings on the additional evidence base documents including the Additional Sustainability Appraisal and suggested amendments related to Section 1 of their Local Plans. The hearings were held on 7 days during the period 14-30 January;

1. 14 January – Habitats Regulation Assessment, employment provision, and housing need;
2. 15 January – delivery mechanisms, state aid, build-out rates;
3. 16 January – transport infrastructure, Rapid Transit System, modal share strategy;
4. 21 January – viability seminar;
5. 22 January – viability, infrastructure costs and phasing;
6. 23 January – sustainability appraisal and spatial strategy;
7. 30 January – suggested amendments to the Section 1 Plan.

5.6 The Inspector indicated at the end of the hearings that he felt it was in everyone's interest to now conclude the examination process as soon as possible, given the length of time it has already taken. He intends to issue his initial findings in a few weeks. Accordingly, he does not intend to propose any general further work that would generate the need for significant further evidence and additional consultation. The Inspector has already written to examination participants advising on his views on whether further specific bits of evidence submitted during the examination will be accepted and given them an opportunity to respond in writing (by the 21st February). He will not entertain any other submissions.

He will then advise the NEA's of his initial proposed decision, which will be one of three possible outcomes:

1. Section 1 Plan as submitted is sound and legally compliant*
2. Section 1 Plan as submitted is unsound and/or legally non-compliant and inviting the Councils to withdraw the Plans. Inspectors cannot formally require withdrawal but if the Inspector remains unsatisfied with the Local Plan and evidence base after two examinations, and does not think that identified proposed modifications can address the concerns, it is unlikely that he would be satisfied by a further round of evidence preparation, consultation and examination.
3. Section 1 Plan can be made sound and legally compliant if main modifications are made to it. These main modifications would be subject to sustainability appraisal and to full public consultation before he made his final recommendations. It is possible that the proposed modifications could include the deletion of one or more of the garden communities.

* 1. Is technically possible, but now highly unlikely as policy modifications have already been agreed on some matters with statutory partners.

- 5.7 If the third option is recommended by the Inspector and the plan is found sound subject to main modifications, the NEA's would need to commission a sustainability appraisal update and carry out a six-week consultation on modifications before the Inspector considers any final representations and issues his final letter. At the same time the Inspector would indicate if any further evidence base work from the NEA's would be required on specific detailed issues only. If the Councils make the recommended modifications to their Plan, then each Council would then be able to proceed to Examination of the second section of their Plans which contain local policies and allocations prior to adoption of the overall Plan. The Councils have indicated that they would seek to adopt the Section 1 Plan ahead of their Section 2 Plans.
- 5.7.1 If the Inspector accepts that all three garden communities can proceed (with modifications) then the Council would continue, as previously agreed, with the Local Plan as submitted and carry out the necessary additional consultation prior to a final letter being issued by the Inspector and adoption.
- 5.7.2 It is possible that the main modifications recommend the deletion of one or more of the proposed garden communities. If one is proposed for deletion then the Council's response would depend on which community and the basis for the proposed deletion. It would also depend on the response of the other two authorities. The process adopted would depend on the nature of the proposed changes.
- 5.8 If the Inspector concludes that the Section 1 plan is or can be made sound then the Section 2 Plan can proceed to examination. It will need to be sound and legally compliant in its own right. This is why a review of the Section 2 plan and the evidence base supporting it is underway.
- 5.9 If the Inspector finds the Section 1 Plan unsound and invites the Council to withdraw the plans the Council would need to consider withdrawing both Section 1 and Section 2 and preparing a new Local Plan. Section 2 cannot proceed in isolation because the strategic policies are contained in Section 1.

5.10 An Alternative to Section 1

An alternative to Section 1 would in the view of your officers require the preparation of a new plan in its entirety. This would need to comply with the 2019 NPPF. It is likely to require a thorough review of evidence, a new sustainability appraisal and new allocations.

5.11 Officers are of the view that it will not be possible to develop a Plan B in relation to Section 1 in isolation for a number of reasons;

- Section 1 is a joint plan and requires the agreement of other local authorities
- Section 1 contains housing targets which are needed to inform section 2
- Section 1 contains employment targets which are needed to inform section 2
- Section 1 contains housing and employment allocations which contribute to the 15 year targets required for a new plan
- The sustainability appraisal was carried out on the basis of garden communities being included
- An alternative strategy without garden communities (or with a reduced number) would require changes to the vision and spatial strategy.

5.12 Review of Section 2

Officers have commenced work on a review of Section 2 to ensure it is still sound and legally compliant. This work has also helped inform the work to consider whether a Plan B for section 1 is possible.

5.13 This work has and will require the following;

- Undertake a pragmatic review of the evidence - has anything significant happened which renders it out of date and has implications on the Plan?
- In light of evidence review consider whether it can just be acknowledged that something has changed or if a focussed update of the evidence needs to be undertaken (by officers or consultants);
- Consider if there have been any other changes in circumstances which trigger the need to update evidence and/or modify the Plan e.g. planning permission having been granted;
- The plan as submitted will be examined against the 2012 National Planning Policy Framework (NPPF). However, officers will need to be pragmatic and consider where any fundamental differences in the revised NPPF (2019) have a bearing on the implementation of policy as drafted. Advice from Chelmsford CC was that generally the principles are unchanged and Policies should only be modified where there are any implications for implementing the policy, being careful not to change anything which has consequences on the evidence that has informed the plan, especially where it informs viability. The aim therefore is for any changes to be considered compliant with both versions of the NPPF. References to the NPPF should be generic and avoid paragraph numbers where possible.
- Sustainability appraisal - refresh to reflect factual corrections and seek confirmation from an independent consultant that it remains fit for purpose in the light of the Section One Inspector's comments on the SA
- Identify the minimal changes to the Plan required to reflect any evidence / other update where appropriate

5.14 Adopting this approach will enable officers to get to a position quite quickly in understanding what additional evidence updates are needed and extent of change to the plan.

5.15 A new Local Plan

If Section 1 is found unsound or one or more of the garden communities is proposed to be deleted the Council will need to consider its options, as will TDC and BDC. If one authority chooses to withdraw it may make it difficult for any of the other Councils to proceed with their Section 1 Local Plan. It will then be necessary to consider if there is still an appetite to continue with all/any of the garden communities and if so, do all the authorities agree and can evidence be produced which supports this approach?

- 5.16 It would not be practical to promote a garden community to the East of Colchester without the support of TDC because of the limited land within the Colchester boundary. Failure to proceed with this proposal could result in losing the funding for the A120/A133 link road and rapid transit. This would also have implications for the completion of the segregated bus route in Mile End alongside the Via Urbis Romanae.
- 5.17 There is more land within Colchester to the west and in principle proposals could be progressed by Colchester working alone.
- 5.18 In the meantime it is important to point out that landowners and promoters can submit planning applications for development of land within the broad areas of the garden communities. In the case of both Tendring Colchester Borders Garden Community (TCBGC) and Colchester Braintree Borders Garden Community (CBBGC) this could be land on the edge of but outside Colchester Borough boundary. This would mean the applications would be determined by another planning authority – Colchester would only be a consultee.
- 5.19 If the Council decides not to progress the Garden Communities it can prepare its own local plan based on development within its own boundaries, similar to previous local plans. Some of the evidence will remain fit for purpose but there will be significant changes required to a new plan, it will not be possible to simply 'tinker' with the current section 2. The new plan will be submitted under the 2019 NPPF which will also necessitate changes. The most significant changes and the implications are as follows;
1. Timescales – the plan will cover the period 2023 – 2038 (assuming adoption in 2023)
 2. Spatial Strategy and Vision– the change in approach would require changes to the spatial strategy and vision
 3. Housing – there will be a requirement to plan for approximately 1086 new homes per year, compared to the current 920 (an additional 1826 up to 2033 plus the additional 5 years in their entirety – 5430; resulting in a total of 7256). There will also be a need for some flexibility as we cannot assume every site will come forward. If the current plan is adopted the increase is delayed by 5 years until the next review. Officers are reviewing the current allocations and permissions but it is highly likely a new Call for Sites will be required if new allocations are necessary.
 4. The further away from a new adopted plan the greater the risk of not being able to defend the position that the Council has an up-to-date Local Plan which automatically triggers Paragraph 11 d of the NPPF in appeal decisions (the presumption in favour of development). It is hard to defend now and the longer it takes us to get a plan that is without question up to date the more difficult this will become.
 5. Changes in housing targets could impact on Neighbourhood Plans – for those allocating sites, the target is set in the Local Plan. If we are starting a new plan with higher strategic targets it would suggest Neighbourhood Plans such as Tiptree, which are still to go through examination, might have to take higher numbers. There may also be uncertainty in those areas which do have an adopted Neighbourhood

Plan, such as Wivenhoe, West Bergholt and Eight Ash Green, as additional sites would have to be found. This would undermine the confidence in the Neighbourhood Plan process.

6. Employment – land was allocated within the Garden Communities which would need to be reallocated elsewhere in the borough. Additional employment land may also need to be allocated to reflect the additional 4 years for the extended plan period
 5. Infrastructure – development at scale can help provide infrastructure which benefits both existing and new residents – partly because of the land available. Land would need to be identified which could deliver new infrastructure such as schools and health facilities. Whilst financial contributions can be made towards infrastructure from smaller developments, it is often harder to allocate sufficient land. The Government's current consultation 'First Housing' would if implemented mean there is likely to be less money available for new infrastructure as it is diverted to providing new 'affordable' homes for sale.
 6. A new sustainability appraisal would be required including Strategic Environmental Assessment .
 7. A new Habitats Regulation Assessment would be necessary.
 8. An Appropriate Assessment
 9. Other new evidence base reports would be required covering matters including retail, flood risk, water cycle, affordable housing, development boundary review, etc.
 8. Additional consultation would be required.
- 5.20 There are approximately 100 evidence base documents which support the current Local Plan. Much of this evidence is required to be undertaken by expert external consultees and therefore a competitive tender process would be entered into. The estimated cost of the additional work is between £250,000 - £400,000 depending on the exact scope of the work needed and the ability to save costs by working with partners.
- 5.21 If Garden Communities were excluded there is unlikely to be a need for a joint planning document. Assume therefore a single Local Plan examination at a cost of around £100,000.
- 5.22 A new spatial strategy would need to be formulated and tested through evidence including Sustainability Appraisal and highway modelling. Some of this work can take a lot of time to complete. Alternatives would need to be appraised and pros and cons considered carefully through the Local Plan Committee process.
- 5.23 The Plan period would need to be rolled forward to at least 2037 and therefore new housing, retail, employment and gypsy and traveller allocations would need to be sought to meet the additional identified needs. A further Call for Sites would therefore need to be undertaken to seek new potential sites. This would need to be supported by an updated Strategic Housing Land Availability Assessment
- 5.24 Detailed policies and smaller allocations which have not yet been built could be rolled forward into the new document subject to a review of their compliance with the revised NPPF which could be done in house.
- 5.25 There would be a need to undertake the minimum 2 rounds of consultation (instead of the more traditional 3) to provide the quickest possible route back to examination. However, this would need to be a member decision.

5.26 Timescales

Plan A – assumes Sections 1 is found sound:

- Section 1 –
 - Inspectors report expected – February/March 2020
 - Consultation on modifications/sustainability appraisal update – April – June 2020
 - Inspectors Final Report – August 2020
 - Adoption – Autumn/Winter 2020
- Section 2 –
 - Review evidence base – December 2019 – June 2020
 - Examination – November/December 2020
 - Inspectors Report – January 2021
 - Consultation on Modifications – February/March 2021
 - Inspectors Final report – May 2021
 - Adoption – June 2021

Plan B – new plan

- Evidence base review and updates, including sustainability appraisal – December 2019 – December 2020
- Rewrite Local Plan –September 2020 – March 2021
- Committee approval – April 2021
- Reg 18 consultation – May/June 2021
- Review responses, carry out additional studies if required and update the plan following consultation – July 2021 – December 2021
- Member approval – February 2022
- Reg 19 consultation – March/April 2022
- Submission – July 2022
- Examination – November 2022
- Inspectors report – February 2023
- Consultation on modifications – April 2023
- Inspectors final report – Spring/Summer 2023
- Adoption – Summer 2023.

If third parties seek to legally challenge any decision by the Council in relation to the Local Plan, it is normally done at adoption stage. This could apply to all scenario's.

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/4962/Strategic-Policy-and-Regeneration> or go to the Colchester Borough Council website www.colchester.gov.uk and follow the pathway from the homepage: Council and Democracy > Policies, Strategies and Performance > Equality and Diversity > Equality Impact Assessments > Strategic Policy and Regeneration and select Local Development Framework from the Strategic Planning and Research section.
- 6.2 There are no particular Human Rights implications.

7. Strategic Plan References

- 7.1 The Local Plan provides a delivery framework for a number of objectives contained within the Strategic Plan.

8. Consultation

- 8.1 There is no consultation proposed as a result of this report.

9. Publicity Considerations

- 9.1 The Local Plan continues to generate publicity for the Council.

10. Financial Implications

- 10.1 The financial implications will only be known when the outcome of the examination and the Council's preferred option is confirmed.

11. Health, Wellbeing and Community Safety Implications

- 11.1 There are no immediate implications. Implications would need to be assessed if the Section 1 Local Plan is proposed to be withdrawn or substantially amended.

12. Health and Safety Implications

- 12.1 There are no immediate implications. Implications would need to be assessed if the Section 1 Local Plan is proposed to be withdrawn or substantially amended

13. Risk Management Implications

- 13.1 There are no immediate implications. Implications would need to be assessed if the Section 1 Local Plan is proposed to be withdrawn or substantially amended

14. Environmental and Sustainability Implications

- 14.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework (NPPF). Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives.
- 14.2 The National Planning Policy Framework sets out the Government's planning policies for England and provides a framework within which locally-prepared plans for housing and other development can be produced. The underlying purpose of the planning system is to contribute to the achievement of sustainable development.