

21 October 2019

Report of	Assistant Director of Policy and Corporate	Author	Laura Chase ☎ 282473
Title	Update on Recent Changes to Planning Regulations and Guidance		
Wards affected	All		

1. Executive Summary

- 1.1 This report highlights recent changes to Government guidance on a range of planning issues. These include further guidance on what is considered as suitable evidence to demonstrate deliverability of a 5-year housing land supply; requirements for addressing the housing needs of different groups; detail on measuring biodiversity gain; strengthening the weight that can be given to neighbourhood plans; and changes to CIL/Section 106 regulations including the removal of restrictions of pooling contributions.

2. Decision(s) Required

- 2.1 To note the report.

3. Reason for Recommended Decision

- 3.1 The report is for information only.

4. Alternative Options

- 4.1 NA

5. Background Information

- 5.1 Further revisions to the National Planning Policy Guidance (PPG) were published in May and July 2019 to several sections of the guidance. Revisions with particular implications for the plan-making process are summarised below. The Planning Practice Guidance is an on-line tool and is split into several categories. It can be viewed using the following link; <https://www.gov.uk/government/collections/planning-practice-guidance>

5.2 Housing Land Supply

Further guidance is provided on what is considered as suitable evidence to demonstrate deliverability. The two separate bullet point lists of evidence and examples (from the previous PPG) have been merged into one list of evidence. The language has been tightened up to increase the detail of what is needed:

- “Any progress” has been replaced with “**firm** progress” with regards to site assessment work and progress towards the submission of an application,
- “Any relevant information about site viability, ownership constraints or infrastructure provision” has been replaced with “**clear** relevant information about site viability, ownership constraints or infrastructure provision”.

The Council is now using these criteria to back up its evidence of a 5-year housing land supply at appeal.

- 5.2.1 The list of evidence also now includes “*current planning status - for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters*”. This phrasing has a wider scope than the previous reference which was only to “*a hybrid planning permission for large sites which links to a planning performance agreement that sets out the timescale for conclusion of reserved matters applications and discharge of conditions*”. This will be helpful in arguing that progress towards reserved matters, such as pre-application discussions or validation, can be used to evidence progress on schemes.
- 5.2.2 There is a new segment on “*Confirming a 5 year housing land supply*”. The PPG update now provides more detail on the use of annual position statements to confirm the existence of a 5 year supply. Colchester BC will not be in a position to prepare such a statement until the emerging Local Plan is adopted. It also appears to be an onerous process taking 6 months. As a result only 3 local authorities in the entire country submitted an APS this year.
- 5.2.4 There is also a new segment on “*Demonstrating a housing land supply beyond 5 years*”. The section now specifically references the need for Local Authorities to identify a supply of specific, developable sites or broad locations for growth for years 6-10 in addition to years 11-15.
- 5.2.5 New guidance is provided on what evidence plan-making authorities can provide to demonstrate that there is a reasonable prospect that housing sites are developable, expanding on the definition of developable from the Glossary of the NPPF. Emphasis is placed on providing more detailed evidence to support sites that are anticipated to come forward sooner. The specific reference to a ‘statement of common ground’ (SoCG), removes any suggestion that a SoCG is a pre-requisite for clear evidence on a site being deliverable.
- 5.2.6 One area where this section of the PPG has not been amended to provide clarity is with relation to over-supply of housing. The section on past over-supply of housing only states that “*additional supply can be used to offset any shortfalls against requirements from previous years*”. It provides no guidance on whether Local Authorities can use over supply to reduce future requirements where needs have been met and exceeded in previous years.

5.3 **Housing Needs of Different Groups**

The Government’s has introduced a Standard Method for calculating housing supply which the Council is now utilising for the purposes of determining planning applications. The updated section on special needs housing addresses the need for mechanisms to ensure that delivery addresses local needs while increasing overall levels of housing. The section identifies the need to quantify requirements for the elderly and those in need of supported living; travellers; students; self-builders; and those in or seeking affordable or private rented accommodation. In particular, the guidance advocates bringing forward affordable rural exception sites through a collaborative approach between landowners, authorities, parish councils and community land trusts. Policy in the emerging Colchester Local Plan does explicitly acknowledge the need to provide these specific forms of housing. Quantification of need to support these requirements is likely to involve on the supply side ensuring that housing trajectory monitoring work highlights types and tenures of accommodation provided while on the demand side working with relevant partners to maintain up-to-date evidence as follows:

- For requirements for elderly and those in need of supported living this would mean the Essex County Council registers of need.
- For travellers, CBC works jointly with other Essex authorities to maintain Gypsy and Traveller Assessment information.

- For students, CBC has had regard to University of Essex expansion plans in its consideration of student housing schemes. The Council maintains a register for those desiring to self-build accommodation and for those seeking affordable housing.

5.4 Natural environment

- 5.4.1 Biodiversity: The guidance has been updated to include a new section on biodiversity net gain which sets out what biodiversity net gain is, how it can be achieved, how it is calculated, and how it fits into the mitigation hierarchy. Net gain describes an approach to development that leaves the natural environment in a measurably better state than it was beforehand. Biodiversity net gain needs to deliver measurable improvements for biodiversity by creating or enhancing habitats in association with development. Biodiversity net gains can take the form of creating new habitats, enhancing existing habitats, providing green roofs, green walls, street trees or sustainable drainage systems. Benefits can be achieved entirely on-site or by using off-site gains where necessary. Off-site measures can be secured from 'habitat banks', which comprise areas of enhanced or created habitats which generate biodiversity unit 'credits'. A biodiversity metric is being developed which will be used to demonstrate whether or not biodiversity net gain will be achieved. It enables calculation of losses and gains by assessing habitat distinctiveness, condition and extent. Further legislation on this issue is expected through a new Environment Act. The Council has initiated work on development of local guidance for landowners and developers on how to deliver net gain and will seek to work with other Essex councils to develop a consistent approach.
- 5.4.2 The guidance also introduces the concept of a 'Zone of Influence' around protected sites where opportunities exist to work strategically close to high value biodiversity assets in order to streamline development decisions. The Government's 25 Year Environment Plan introduced the idea of a Nature Recovery Network which is conceived as an expanding and increasingly-connected network of wildlife-rich habitats, that comprises a core network of designated sites of importance for biodiversity and adjoining areas that function as stepping stones or wildlife corridors, as well as areas identified for new habitat creation and for targeted action. Local ecological networks can make a significant contribution to developing the Nature Recovery Network and can be identified and mapped as a part of the plan-making process. Colchester Borough Council's Green Infrastructure Strategy 2010 forms a key document in identifying and enhancing local networks.
- 5.4.3 Green Infrastructure: The guidance clarifies that green infrastructure includes 'blue infrastructure' assets such as ponds, canals and other water bodies and that policy that applies to green infrastructure also applies to 'blue infrastructure'. It identifies how high-quality networks of multifunctional green infrastructure can facilitate biodiversity net gain, nature recovery networks and community opportunities in nature conservation work. The importance of Health and Wellbeing Boards as collaborative partners is highlighted.

5.5 Neighbourhood Planning

The weight to be given to emerging neighbourhood plans has been strengthened. Previously, the wording was that it 'may' be a material consideration in many cases. Now the wording has been changed to 'is likely to be'. Factors to consider include the stage of preparation of the plan and the extent to which there are unresolved objections to relevant policies. In terms of the relationship between Local Plans and Neighbourhood Plans, the PPG now advises that Local Plans need only supersede a neighbourhood plan where 'changed circumstances justify this'. Furthermore, the PPG requests Local Plans 'to make appropriate reference to neighbourhood plan policies and proposals' but asks only that neighbourhood plans 'acknowledge the local plan policies that they relate to'.

5.6 Community Infrastructure Levy (CIL)/Planning Obligations

Legislation introduced in 2015 has meant that local authorities have not been able to fund an infrastructure project or type of infrastructure by pooling contributions from 5 or more separate section 106 agreements. The restriction was backdated and applied to all s106 agreements completed since 2010. This restriction on pooling has now been removed, which will increase the Council's ability to realise infrastructure improvements from smaller developments.

5.6.1 CBC does not collect a Community Infrastructure Levy at the moment but will be in a position to do so when the emerging Local Plan is adopted. New regulations came into force on 1 September which modified procedures for CIL to provide that one rather than two rounds of consultation on a charging schedule will be required going forward. Charging authorities can now use both CIL and section 106 contributions to fund the same item of infrastructure, providing them with greater flexibility for infrastructure funding. Councils previously were required to agree a list of funding priorities, known as a Regulation 123 list. The 123 lists will be replaced with a requirement for local authorities, including those who have not implemented CIL to provide an annual infrastructure funding statement by 31 December each year, beginning in 2020.

5.6.2 In relation to monitoring fees, the Regulations have been amended to make it clear that local authorities can seek a fee from applicants for monitoring planning obligations. This fee must fairly and reasonably relate in scale and kind to the development and not exceed the authority's estimate of its cost of monitoring the development over the lifetime of the development. The Council has reintroduced monitoring fees which vary between £400 and £570 per clause. The website has been amended to reflect the latest Government regulations: <https://www.colchester.gov.uk/info/cbc-article/?catid=which-application-form&id=KA-01204> (see Other Guidance section). These charges will be kept under review.

6. Equality, Diversity and Human Rights implications

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

7. Strategic Plan References

7.1 The Council's Strategic Plan 2018-2021 includes "*Opportunity*-Promoting and improving Colchester and its environment." as one of its key objectives.

8. Consultation

8.1 NA

9. Publicity Considerations

9.1 The report is for information only and unlikely to generate publicity.

10. Financial implications

10.1 The relaxation of pooling restrictions and re-introduction of monitoring fees should result in increased income for the Council although it is important to note that all planning contributions have to comply with statutory tests.

11. Community Safety; Health and Safety and Risk Management Implications

11.1 There are no implications.