

Council AGENDA

Monday, 27th July 2020 at 7.15 pm

In accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, this meeting will be held via Zoom and by the Council's YouTube channel – Braintree District Council Committees.

Members of the public will be able to view and listen to this meeting via YouTube.
To access the meeting please use the link below:

<http://www.braintree.gov.uk/youtube>

Members of the Council are requested to attend this meeting to transact the business set out in the Agenda.

Membership:-

Councillor J Abbott	Councillor P Horner	Councillor J Sandum
Councillor J Baugh	Councillor D Hume	Councillor V Santomauro
Councillor Mrs J Beavis	Councillor H Johnson	Councillor Mrs W Scattergood
Councillor D Bebb	Councillor A Kilmartin	Councillor Mrs W Schmitt
Councillor K Bowers	Councillor D Mann	Councillor P Schwier
Councillor G Butland	Councillor T McArdle	Councillor Mrs G Spray
Councillor J Coleridge	Councillor J McKee	Councillor P Tattersley
Councillor G Courtauld	Councillor A Munday	Councillor P Thorogood
Councillor Mrs M Cunningham	Councillor Mrs I Parker	Councillor N Unsworth
Councillor T Cunningham	Councillor Mrs J Pell	Councillor R van Dulken
Councillor C Dervish	Councillor I Pritchard	Councillor D Wallace
Councillor P Euesden	Councillor M Radley	Councillor T Walsh
Councillor T Everard	Councillor R Ramage	Councillor L Walters
Councillor Mrs D Garrod	Councillor S Rehman	Councillor Miss M Weeks
Councillor A Hensman	Councillor F Ricci	Councillor Mrs S Wilson
Councillor S Hicks	Councillor B Rose	Councillor J Wrench
		Councillor B Wright

Members unable to attend the meeting are requested to forward their apologies for absence to the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by 3pm on the day of the meeting.

A WRIGHT
Chief Executive

INFORMATION FOR MEMBERS - DECLARATIONS OF INTERESTS

Declarations of Disclosable Pecuniary Interest, Other Pecuniary Interest or Non-Pecuniary Interest

Any member with a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest must declare the nature of their interest in accordance with the Code of Conduct. Members must not participate in any discussion of the matter in which they have declared a Disclosable Pecuniary Interest or other Pecuniary Interest or participate in any vote, or further vote, taken on the matter at the meeting. In addition, the Member must withdraw from the chamber where the meeting considering the business is being held unless the Member has received a dispensation from the Monitoring Officer.

Question Time

In response to Coronavirus the Council has implemented new procedures for public question time.

The Agenda allows for a period of up to 30 minutes when members of the public can speak. Members of the public wishing to speak are requested to register by contacting the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by midday on the working day before the day of the Committee meeting. For example, if the Committee Meeting is due to be held on a Tuesday, the registration deadline is midday on Monday, (where there is a bank holiday Monday you will need to register by midday on the previous Friday).

The Council reserves the right to decline any requests to register if they are received after this time.

Registered participants must submit their written questions/statements no later than 9am on the day of the meeting by emailing them to governance@braintree.gov.uk

Participation will be via the submission of a written question or statement which will be read out by the Chairman or an Officer during the meeting. All written questions or statements should be concise and should be able to be read within the 3 minutes allotted for each question/statement. The question/statement will be published on the Council's website. The Council reserves the right to remove any defamatory comment in the submitted question/statement.

Documents

Agendas, reports and minutes for all the Council's public meetings can be accessed via www.braintree.gov.uk

We welcome comments from members of the public to make our services as efficient and effective as possible. If you have any suggestions regarding the meeting you have attended, you can send these via governance@braintree.gov.uk

PUBLIC SESSION		Page
1	Apologies for Absence	
2	Minutes of the Previous Meeting To approve as a correct record the minutes of the meeting of Full Council held on 1st June 2020 (copy previously circulated).	
3	Declarations of Interest To declare the existence and nature of any Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest relating to items on the agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.	
4	Public Question Time (See paragraph above)	
5	To receive any announcements/statements from the Chairman and/or Leader of the Council.	
6	Petition - Call for the Leader of the Council to Resign	4 - 6
7	Approval of Reasons for Absence - Coronavirus Outbreak – Inability to attend meetings	7 - 8
8	The Section 1 Local Plan - Next Steps	9 - 115
9	Progress report on the work undertaken so far by the Climate Change Working Group and a revised schedule for production of the strategy	116 - 123
10	Independent Person	124 - 128
11	Cabinet Report To Full Council	129 - 139

Petition: Call for the Leader of the Council to Resign

Agenda No: 6

Petition presented by Lead Petitioner: Mrs R Pearson, Member of the Public

Petition size: 571 signatures

1. The Petition

1.1 The petition is hosted on an external website (www.change.org.uk) and has been published on the Council's website and can be accessed via the link below:

https://www.braintree.gov.uk/info/200133/council_and_democracy/538/petitions/2

1.2 The petition sets out the following statement:

“Call for the Leader of Braintree District Council, Councillor Graham Butland, to resign

The failed "garden communities" plan has cost taxpayers nearly £8 million pounds and has led to speculative development across our district.

As Leader of Braintree District Council, as a member of the Local Plan Sub-Committee and as a director of North Essex Garden Communities Limited, Councillor Butland is responsible for decisions over several years which have led to the failed bid to build two of the three proposed "garden communities"

There was never any need for these oversized and unpopular developments, which would have added 43,000 extra homes in North Essex alone. BDC had already allocated 14,000 new homes under its "Local Plan (Part 2)". In addition, BDC has left itself in a position where it has been forced to grant many more planning applications due to the delays to its garden communities plan. Braintree has more than enough site allocations to settle its housing needs.

But Councillor Butland ignored the views of thousands of Braintree residents who wrote to protest, and advice given in 2018 by the Inspector. Warnings were ignored that the proposal was flawed. Rightly, it was rejected again - on the grounds that it was unviable, undeliverable and unjustified.

In the two years that this fiasco has continued, the District has been (and will continue to be, due to lack of plan) inundated with speculative building developments.

Councillor Butland is responsible for making wrong strategic decisions and showing extremely poor leadership. As a director of the company behind the Garden Communities bid, he has also shown a questionable Conflict of Interest.

We, the residents of Braintree District, have had enough of his mismanagement and demand that he resigns. We need someone who will engage with residents and represent the people who elected them into office.”

- 1.3 The Petition was submitted to the Councils Monitoring Officer on 19 June 2020, and was reviewed in line with the Council’s Petition Scheme as set out in Chapter Two of the Councils Constitution.

2. Petition Review

- 2.1 As part of the review, the signatures are validated to ensure that they are from individuals who either work, live or learn within the District, and this is determined by the postcode or area provided within the petition. This review identified significant signatories from outside the UK including Nigeria, India, North Carolina, Australia, Singapore, Malaysia and Cape Town. It also identified many of the signatures did not meet the criteria set out above and fell outside the District, examples include, London, Glasgow, Poole, York, Liverpool, Birmingham and Cardiff.

- 2.2 The original petition contained 1628 signatures. However as part of the validation process a total of 1057 signatures have been discounted as they did not meet the Petition Scheme criteria set out above. Accordingly the total number of valid signatures to the petition stands at 571.

- 2.3 The Petition Scheme requires a petition to have a total of 1000 valid signatures before it is presented to full council for consideration and debate. The current petition therefore does not meet this threshold.

- 2.4 However, in light of the nature of the petition and its reference to the Local Plan and North Essex Garden Communities Ltd, which have historically generated wide spread interest, the Council have agreed that this petition should still proceed to full council for consideration and debate.

3. The process

- 3.1 In accordance with the Petition Scheme the petition organiser, Mrs Pearson will be invited to present the Petition to Full Council. A maximum of five minutes is allowed for this presentation of the Petition. As the Council is still hosting its meeting through the virtual platform, if it is not possible for the petition organiser to personally deliver her presentation, steps will be made to ensure that the presentation/statement is read out to Council by a governance officer.
- 3.2 Full Council has a maximum of thirty minutes to discuss the Petition, and Councillor Butland will be able to respond to the petition, should he wish to do so.
- 3.3 Following the debate, any Member of Cabinet will be able to move one of the following options:

1. To move a motion that no further action is required.
2. To Move a motion that the petition is referred to Cabinet or an appropriate Committee.
3. To move a motion that some other action be taken in response to the Petition.

3.4 Once seconded, the motion will be voted upon by full Council.

3.5 Following the conclusion of the matter, the petition organiser will be notified in writing of the decision and it will be published on the Councils website.

Contact:	Councillor Tom Cunningham
Designation:	Deputy Leader of the Council and Cabinet Member for Economic Development and Infrastructure
E-mail:	Cllr.tcunningham@braintree.gov.uk

Approval of Reasons for Absence: Coronavirus Outbreak – Inability to attend meetings		Agenda No: 7
Portfolio	Overall Corporate Strategy and Direction	
Corporate Outcome:	N/A	
Report presented by:	Councillor Graham Butland, Leader of the Council	
Report prepared by:	Kim Cole, Head of Governance and Monitoring Officer	
Background Papers:	Public Report	
	Key Decision: N/A	
1. Introduction		
1.1	Section 85 of the Local Government Act 1972 states that any Member who does not attend a meeting of the Council during any continuous period of six months is automatically disqualified from being a Councillor. Commonly referred to as the 'six-month rule'.	
1.2	In such circumstances, where a Member has been disqualified under this provision, the Council is required to immediately declare their office vacant and declare a vacancy. Following which, it is open to any two electors to indicate that they require a by election to be held. However under the emergency legislation relating to COVID-19 by elections are currently suspended.	
1.3	Section 85 sets out that this provision does not apply if a Member's absence is for a reason approved by a resolution of the full council before the six months period has been incurred. Under the Councils constitution that decision can only be approved by full Council.	
2. Virtual meetings		
2.1	Since April 2020, the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 have enabled councils to hold meetings remotely via video conferencing systems such as MS Teams or Zoom. However, they do not suspend the operation of the six-month rule.	
2.2	Since the beginning of May 2020, the Council has re-introduced its schedule of meetings, and many meetings have now been successfully held remotely. However, it is recognised that during this period it is not as easy for Members to attend a meeting, particularly when it is possible that they may have become unwell.	

2.3 The infrequency with which full council meets, means that it may not be possible for any Member's reasons for absence to be individually considered at a meeting of the full council ahead of their six month period being reached. In this instance, this would result in a Member being automatically disqualified from being a Member of the Council. If that happened, then the Council not be able to hold a by-election until May 2021.

3. Way Forward

3.1 In order to avoid the risk that a Member may lose their seat or be tempted to attend a meeting if they are unwell it is proposed that Council approves the absence of any Member for any reason connected with the coronavirus outbreak.

3.2 In the consideration of the proposals, the Leaders of each of the Political Groups have been consulted and have confirmed their agreement to the recommendations set out below.

4. Recommendation

4.1 That under section 85(1) of the Local Government Act 1972 the Council approves the following as reasons for non-attendance at meetings until the next annual meeting of the District Council:

- a. Being unable to attend a meeting as a result of illness;
- b. Being unable to attend a meeting as a result of a failure of an internet connection or electronic device failing to operate correctly;
- c. Cancellation or non-convening of meetings; or
- d. Any other reason which is reasonably connected with the outbreak of coronavirus in the United Kingdom.

Contact:	Councillor Graham Butland
Designation:	Leader of the Council
E-mail:	cllr.gbutland@braintree.gov.uk

The Section 1 Local Plan - Next Steps		Agenda No: 8								
<table border="1"> <tr> <td>Portfolio</td> <td>Planning</td> </tr> <tr> <td>Corporate Outcome:</td> <td>Connecting People and Places</td> </tr> <tr> <td>Report presented by:</td> <td>Councillor Mrs G Spray, Cabinet Member for Planning</td> </tr> <tr> <td>Report prepared by:</td> <td>Alison Webb, Governance and Members Officer</td> </tr> </table>			Portfolio	Planning	Corporate Outcome:	Connecting People and Places	Report presented by:	Councillor Mrs G Spray, Cabinet Member for Planning	Report prepared by:	Alison Webb, Governance and Members Officer
Portfolio	Planning									
Corporate Outcome:	Connecting People and Places									
Report presented by:	Councillor Mrs G Spray, Cabinet Member for Planning									
Report prepared by:	Alison Webb, Governance and Members Officer									
Background Papers:		Public Report								
Publication Draft Local Plan 2017 Material set out on the Section 1 Local Plan examination pages https://www.braintree.gov.uk/info/200643/section_1/1065/section_1_examination_publication_local_plan		Key Decision: No								
MINUTE EXTRACT										
LOCAL PLAN SUB-COMMITTEE – 16th JULY 2020										
4	<u>BRAINTREE DISTRICT PUBLICATION DRAFT LOCAL PLAN 2017 – SECTION 1 NEXT STEPS</u>									
	<p>INFORMATION: Consideration was given to a report on the Braintree District Publication Draft Local Plan 2017 and, in particular, the next steps in respect of Section I of the Plan.</p> <p>Prior to discussion of this item, the Chairman of the Local Plan Sub-Committee made a statement regarding a letter issued by the Local Plan Inspector on 2nd July 2020. The letter referred to the implications of the 2018-based household projections issued by the Office for National Statistics (ONS) on 29th June 2020.</p> <p>In his letter, the Inspector referred to the 2014-based and 2016-based household projections submitted as evidence by the North Essex Authorities' (NEAs) at the examination of Section 1 of the draft Plan to support the housing requirement figures in the Plan and which he had concluded were soundly based. However, in order to determine whether or not the Plan's housing requirements remained soundly based, the Inspector needed to consider whether the 2018-based household projections represented a meaningful change in the housing situation. The Inspector had asked the NEAs to submit their views on this to him by 24th July 2020. The Inspector had indicated that he was also likely to seek the views of other examination participants.</p> <p>In her statement the Chairman reported that the Council was awaiting the advice of its expert consultants on the latest housing projections. However, if the</p>									

updated figures proved to be credible and robust it was anticipated that the Council would request that the revised 2018 figure should be adopted by the Inspector as this would reduce the number of homes required in Section 2 of the draft Plan. It was for the Inspector to conclude whether the housing number in the Local Plan was correct, or to recommend an alternative number.

Section 1 of the submitted Local Plan set out an overarching strategy for future growth across Braintree, Colchester and Tendring. As well as including policies setting the overall housing and employment requirements for North Essex up to 2033, the Section 1 Plan proposed 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 Plans' for each of the three authorities contained more specific local policies and proposals relevant to their individual areas.

Examination hearings for the Section 1 Plan had taken place in 2018 and 2020. Following the most recent hearing, the Planning Inspector had issued a letter dated 15th May 2020 (attached at Appendix 1 to the report) in which he had concluded that two of the three proposed Garden Communities (the Colchester Braintree Borders Garden Community and West of Braintree Garden Community) were not viable or deliverable and that therefore the Section 1 Local Plan, in its current form, was not sound. However, the Inspector had agreed that the Tendring Colchester Borders Garden Community was viable and deliverable; and that the housing and revised employment targets in the Local Plan were also sound, including the requirement of 716 homes a year in the Braintree District.

In the event that a Local Plan was found not to be sound, the Inspector was required to recommend modifications to the Local Plan that would make it sound. In his letter, the Inspector had given the NEAs two options for how to proceed. These were to consult on the main modifications to remove the Colchester Braintree Borders and West of Braintree Garden Communities from the Local Plan and other necessary 'modifications' as set out at Appendix 2 to the report; or to withdraw the plan. The advantages and disadvantages of each option were set out in the report.

In order to continue with the draft Local Plan, the first option of consulting on the main modifications had to be undertaken, otherwise the alternative position was to withdraw the Plan from examination. All three of the NEAs would be required to make the same decision. If neither of the options outlined by the Inspector were considered acceptable, the NEAs could ask the Inspector to consider further evidence on one or both of the Garden Communities which were proposed to be removed; or to lobby the Secretary of State to direct that the Plan was submitted for him to consider. However, both options would involve further cost and delay to the Local Plan process and it was recommended that the Councils should endorse the Inspector's first option to continue with the Plan process and to consult on the proposed modifications. It was reported that both Colchester Borough Council and Tendring District Council had endorsed this approach.

With the consensus of all three Authorities, the Planning Inspector would be advised of the NEAs agreement to the removal of the Colchester Braintree Borders and West of Braintree Garden Communities from the Section 1 Plan; and to proceeding with the examination of the Local Plan by undertaking public consultation on the proposed modifications. The Inspector would be asked to

formally issue his finalised schedule of main modifications and to advise the NEAs on the programme and timescales for the remainder of the examination.

The Councils would publish the main modifications on behalf of the Planning Inspector for a six-week period. In addition, consultants LUC would be preparing an update to both the Sustainability Appraisal (SA) and the Habitats Regulation Assessment (HRA) to assess the socio-economic and environmental impacts on the Section 1 Local Plan of the Inspector's recommended modifications and these documents would also be published for consultation. It was proposed that consultation would take place in August and September 2020. Any comments received would be submitted to the Inspector for his consideration.

In the meantime, work would continue on preparing Section 2 of the draft Local Plan for examination. This would be in accordance with a timetable to be issued by the Planning Inspectorate.

In discussing this report, Members of the Sub Committee refuted the criticism of Council Officers which had been made in some statements and questions read out during Question Time. Members of the Sub-Committee wished to record their utmost support for the integrity and professionalism of the Officers, who provided advice and guidance to enable Councillors to make decisions on the Local Plan.

DECISION: That it be Recommended to Council that:-

- a) The findings of the Planning Inspector's letter dated 15th May 2020 (attached as Appendix 1 to the report) and his recommended modifications (attached as Appendix 2 to the report) be noted;
- b) The Inspector's suggested main modifications to remove both the Colchester Braintree Garden Community and the West of Braintree Garden Community from the Section 1 Local Plan for the purpose of soundness be accepted and;
- c) Subject to the views of the other North Essex Authorities (Colchester Borough Council and Tendring District Council), to notify the Planning Inspector of the intention to continue with the present Local Plan process, formally request his finalised schedule of recommended main modifications for soundness and establish the timescales for the consultation exercise and subsequent stages in the process;
- d) It be noted that public consultation will be undertaken on all 'main modifications' recommended by the Planning Inspector to make the Local Plan sound (as set out in draft in Appendix 2); and
- e) It be noted that an update to the Sustainability Appraisal (SA) and the Habitat Regulations Assessment (HRA) for the Modified Section 1 Local Plan will need to be produced and published for consultation alongside the Inspector's main modifications and that consultants LUC are already instructed to undertake this work;
- f) That should a reduced OAN figure be considered to be an accurate position of the housing need in the District, Braintree District Council will, during the consultation, make representations and encourage residents to make representations, that an updated figure be adopted for the District of Braintree.

Recommended Decision:

That Full Council approves the Local Plan Sub-Committee's recommendation as set out above.

Purpose of Decision:

To provide Full Council with the Local Plan Sub-Committee's recommendation on the next steps for the Section 1 Local Plan.

The Section 1 Local Plan Next Steps		Agenda No:
Portfolio	Planning	
Corporate Outcome:	Connecting People and Places	
Report presented by:	Emma Goodings – Head of Planning and Economic Growth	
Report prepared by:	Emma Goodings	
Background Papers:	Public Report: Yes	
Publication Draft Local Plan 2017 Material set out on the Section 1 Local Plan examination pages https://www.braintree.gov.uk/info/200643/section_1/1065/section_1_examination_publication_local_plan	Key Decision: No	
Executive Summary:		
<p>Section 1 of the submitted Local Plan ('the Section 1 Plan') set 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 proposed 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 authorities contains more specific local policies and proposals relevant only to their individual area. Before a Local Plan can be formally adopted by a Council, it must be examined by a government-appointed Inspector whose job it is to check 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).</p> <p>Examination hearings for the Section 1 Plan first took place between January and May 2018; with further examination hearings in January 2020, the Planning Inspector has issued a further 'post-hearing letter' to the NEAs. This letter is Appendix 1 to this report.</p> <p>The Inspector has concluded that two of the three proposed Garden Communities (the Colchester Braintree Borders Garden Community and West of Braintree Garden Community) are not viable or deliverable and therefore the Section 1 Local Plan, in its current form, is not sound.</p> <p>The Inspector has however agreed that the Tendring Colchester Borders Garden Community is viable and deliverable and the housing and revised employment targets in</p>		

the Local Plan are also sound, including the requirement of 716 homes a year in Braintree.

In the event that a Local Plan is found not to be sound, the Inspector must, if asked to do so by the local planning authority, recommend modifications to the Local Plan that would make it sound. The Council requested this through its previous decisions.

The Inspector has given the NEAs two options for how to proceed: 1) to consult on the main modifications to remove the Colchester Braintree Borders and West of Braintree Garden Communities from the Local Plan and other necessary 'modifications'; or 2) withdraw the plan. The proposed draft main modifications have been provided by the Inspector and are attached as **Appendix 2** to this report.

To continue with the Draft Local Plan the first option of consulting on the main modifications suggested must be undertaken, otherwise the alternative position is that the Plan is withdrawn from examination and the Council will be required to start again. All three of the NEAs will need to come to the same conclusion.

Recommended Decisions:

That the Local Plan Sub-Committee make the following recommendations to Council:

- a) Notes the findings of the Planning Inspector's letter dated 15 May 2020 (attached as Appendix 1 to this report) and his recommended modifications (attached as Appendix 2);**
- b) To accept the Inspector's suggested main modifications to remove both the Colchester Braintree Garden Community and the West of Braintree Garden Community from the Section 1 Local Plan for the purposes of soundness and;**
- c) Subject to the views of the other North Essex Authorities (Colchester Borough Council and Braintree District Council), to notify the Planning Inspector of the intention to continue with the present Local Plan process, formally request his finalised schedule of recommended main modifications for soundness and establish the timescales for the consultation exercise and subsequent stages in the process;**
- d) Notes that public consultation will be undertaken on all 'main modifications' recommended by the Planning Inspector to make the Local Plan sound (as set out in draft in Appendix 2); and**
- e) Notes that an update to the Sustainability Appraisal (SA) and the Habitat Regulations Assessment (HRA) for the Modified Section 1 Local Plan will need to be produced and published for consultation alongside the Inspector's main modifications and that consultants LUC are already instructed to undertake this work;**

Purpose of Decision:

- a) To report the findings of the Local Plan Inspector as to the legal compliance and 'soundness' of the Section 1 Local Plan for North Essex following the further examination hearings of January 2020 and receipt of his latest letter dated 15 May 2020.
- b) To endorse the next steps of the plan-making process required to make the plan 'sound' including consultation on the Local Plan Inspector's recommended 'modifications'; and
- c) To highlight any implications of the Inspector's findings for the content and next steps for progressing both the Section 2 Local Plan which contains planning policies and proposals specific to Tendring and the 'Development Plan Document' (DPD) which will set out more detailed parameters for the Tendring Colchester Borders Garden Community.

Any Corporate implications in relation to the following should be explained in detail.

Financial:	The costs of completing the Local Plan are met from base budgets. A decision to withdraw the Plan will mean that considerable costs will be incurred in the production of a new Local Plan.
Legal:	The Local Plan must be produced in accordance with the legal framework. The Inspector has agreed that the Local Plan to date has met all the legal tests. Further steps towards the adoption of the Local Plan will need to continue to follow the legislative framework.
Safeguarding:	None arising from this report
Equalities/Diversity:	The Local Plan has been subject to an Equalities Impact Assessment. An updated assessment will be carried out on the final document.
Customer Impact:	The Local Plan impacts on development in the District and therefore has consequences for all residents and businesses in the District.
Environment and Climate Change:	The Local Plan has been subject to a number of studies to consider its impacts on the environment including a Sustainability Appraisal and Habitats Regulations Assessments. All these studies are published alongside the Local Plan on the examination website. Revisions to the Sustainability Appraisal and Habitats Regulation Assessment will need to be completed if the recommendations are this report are accepted. These would be available alongside the modifications for a 6 week public consultation period.
Consultation/Community Engagement:	The Inspectors letter confirms that the Local Plan was carried out in line with all legislative requirements, including those relating to consultation. There have been 3 overall consultation periods on the Local Plan plus two further focused publications on specific matters.

	If the recommendations in this report are accepted the modifications will be subject to a further period of public consultation by the local authorities on behalf of the Planning Inspector. Further details of this process are set out in paras 5.2 – 5.4 of this report.
Risks:	<p>There is a risk of legal challenge following the adoption of the Local Plan if any party believes that the Inspector or the Councils have made any legal or procedural errors. This risk has however been minimised with the Inspector taking particular care to thoroughly examine legal and procedural matters, twice, as part of the examination process. Any party has the right to apply for a legal challenge if they so wish.</p> <p>There is also a risk that all three local authorities do not make the same decision as to the next steps for the Local Plan.</p>
Officer Contact:	Emma Goodings
Designation:	Head of Planning and Economic Growth
Ext. No:	2511
E-mail:	Emma.goodings@braintree.gov.uk

1 Background

- 1.1 The Section 1 Plan currently 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. In contrast, ‘the Section 2 Plan’ for each of the three authorities contains more specific local policies and proposals relevant only to their individual area.
- 1.2 Examination sessions on the section 1 Plan were held in January and May 2018 and further hearing sessions took place in January 2020 to consider the additional evidence that the NEA’s had prepared, primarily on the Garden Communities.
- 1.3 On 15 May 2020, the lead Officers for the NEAs received the Inspector’s letter setting out his further post-examination conclusions. This letter was published on the 19th May and is included as an Appendix to this committee report. Members heard a statement at Council on the 1st June 2020 and had the opportunity to ask questions on the contents of that letter.
- 1.4 Whilst the Inspector has agreed that the Section 1 Plan has been ‘positively prepared’, his letter identifies continued issues with the viability and deliverability of the proposed Colchester Braintree Borders Garden Community and the West of Braintree Garden Community which bring into question the Plan’s performance against the requirements to be ‘justified’, ‘effective’ and ‘consistent with national policy’.
- 1.5 The Inspector’s overall conclusions on the soundness of the Section 1 Plan are summed up in paragraphs 255 to 266 as follows:

257. “Viability appraisal shows that, with an appropriate 40% contingency allowance on transport and utilities infrastructure, the proposed Colchester / Braintree GC would not achieve a viable land price, and that the proposed West of Braintree GC is below, or at best is at the very margin of, financial viability, contrary to advice in the PPG [Planning Practice Guidance]. On this basis, neither GC is deliverable.

258. For separate reasons, given in paras 143-151 above, neither RTS Route 3 nor RTS Route 4 has been shown to be deliverable. The proposed West of Braintree GC depends on Route 3 for its public transport links to destinations outside the GC, and on Route 4 for links to places east of Braintree. Without those routes, apart from the few journeys that might be possible on foot or bicycle, the car would be the only realistic choice for travel beyond the GC itself.

259. Housing development at the proposed Colchester / Braintree Borders GC is intended to help meet the housing needs of both Colchester borough and Braintree district, and there is a strong commuting relationship between the two local authority areas. Notwithstanding the links to other destinations

offered by RTS Route 2 and by rail services from Marks Tey station, the GC would depend on Route 4 for its public transport links westward to Braintree.

260. In these circumstances, the fact that RTS Routes 3 and 4 have not been shown to be deliverable is entirely at odds with the Plan's aspirations for integrated and sustainable transport networks. Even if the A120 dualling scheme has a good prospect of being delivered as part of the RIS [Road Investment Strategy] 3 programme, not to provide the necessary public transport connections from these two GCs would directly conflict with the NPPF's advice that the transport system needs to be balanced in favour of sustainable transport modes.

261. For the foregoing reasons, therefore, I find that the proposed Colchester / Braintree Borders and West of Braintree GCs are not justified or deliverable. Consequently, the Plan's spatial strategy, and thus the Plan itself as submitted, are unsound."

- 1.6 In conclusion, the Inspector has found that the Section 1 Local Plan, in its current form, is not sound and could therefore not proceed to adoption without some significant changes.

2 Options for progressing the Local Plan

- 2.1 Although the Inspector has very clearly come to the view that the Section 1 Local Plan, in its current form is not sound because of the viability and deliverability issues at the Colchester Braintree Borders and West of Braintree Garden Communities, he goes on in his letter to explain that the Tendring Colchester Borders Garden Community is deliverable and that there could be a way of progressing the Local Plan towards adoption. He states (para 264): *"Based on the NEAs' current housing trajectory, and taking into account my conclusions on the rate of housing delivery, the Tendring / Colchester Borders GC would deliver over 2,000 dwellings during the Plan period. That would make a worthwhile contribution to meeting the Plan's overall housing requirement.*

- 2.2 In paragraph 266 of his letter, the Inspector states: *"I therefore conclude that development of the Tendring / Colchester Borders GC would enable the delivery of sustainable development in accordance with the NPPF's policies. If the unsound Colchester / Braintree Borders and West of Braintree GC proposals are removed from the Plan, the Plan is capable of being made sound."*

He then (para 267) states:

"In the light of this conclusion it appears to me that the NEAs have two main options:

- *To propose and consult on main modifications to remove the Colchester / Braintree Borders and West of Braintree GC proposals from the Plan; or*
- *To withdraw the Plan from examination.*

- 2.3 The Inspector has asked that the NEAs advise him, as soon as we are able to, which of the options (or any alternative course of action) we wish to pursue.

This will then enable a timescale for the remainder of the examination to be developed, should we select the first option.

2.4 Officers across all three NEAs have given careful and urgent consideration to the Inspector's two suggested options in order to make a recommendation to Councillors.

2.5 The benefits of 'Option 1' (to remove two Garden Communities from the Plan and consult on this and other modifications) include:

- A clear way forward for the Local Plan that avoids the need to start the plan-making process from scratch under the requirements of the new National Planning Policy Framework, and which ensures all three authorities can progress to the examination of their individual Section 2 Plans.
- The opportunity to 'lock down' the housing and employment figures and move swiftly towards getting a plan in place and thus giving all three authorities an up to date policy framework that will help protect their areas from speculative, unwanted and poor quality development.
- The ability for the authorities to review their Local Plan, either on a joint or individual basis within five years of adoption, giving more time for them to consider whether or not to bring forward or re-introduce any strategic development proposals or new Garden Communities to meet longer-term housing and employment needs post 2033. Those reviews would be carried out under the relevant national policy framework and plan-making guidance in place at that time.
- Ensuring that all the investment in time and resources putting together the Local Plan has not been wasted and is still put to good use in enabling a plan to progress.

2.6 The disadvantages of Option 1 include:

- The removal of two of the three Garden Communities from the Local Plan will no doubt lead to objections, to the modifications, from the landowners and developers who were promoting those schemes and the possibility of legal challenge, if those parties believe there are grounds for such a challenge.
- The loss of the Garden Communities removes 2,710 homes from the Braintree Local Plan. The Council will have to make sure they allocate sufficient land in their Section 2 Local Plans to ensure that five-year housing supply is maintained.

2.7 Turning to Option 2 (withdraw the Plan and start again), the advantages are:

- Opportunity for a complete fresh start to the plan making process (jointly or individually), under the guidance in the new version of the NPPF and with the benefit of the Inspectors findings and some of the evidence that has been prepared.

- Current housing need figures which the new Local Plan would be prepared under are higher overall across much of the south and North Essex as a whole, but are lower for Braintree District.

2.8 The disadvantages of Option 2 include:

- Continuation of the ‘policy vacuum’ in which Local Plan policies are out of date and the authorities remain vulnerable to speculative, unwanted, potentially poor developments and ‘planning by appeal’ for at least another three years.
- Significant cost, to the tax payer, in having to start the plan making process from scratch, including considerable evidence gathering and consultation exercises.

2.9 The authorities cannot adopt the Local Plan contrary to the Inspectors findings. Therefore if neither of the approaches outlined by the Inspector were considered acceptable then the NEAs would need to consider an alternative approach to challenge those findings. It should be noted that as the letter currently received is not his formal recommendation nor a decision it would not be itself challengeable by judicial review.

2.10 The alternative options available to the Council at this point would therefore be;

- To ask the Inspector to consider further evidence on one or both Garden Communities which are proposed to be removed before making a final decision on the Local Plan
- To lobby the Secretary of State to direct that the Plan is submitted for him to consider.

2.11 Both options would involve further cost and delay to the Local Plan process, including putting at risk the £99million Housing Infrastructure Funding secured to assist in the delivery of the Tendring Colchester Borders Garden Community. There is no guarantee that either potential challenge route would be successful. It should be noted that these routes to challenge the Local Plan are also available to other parties involved in the process such as developers or community groups.

2.12 Having considered the costs and benefits of the options across all three local authorities, officers therefore recommend that the Council endorses the Inspector’s first option, to continue with the Plan process and consult on proposed modifications.

3 Modifications

3.1 Following receipt of the Inspector’s letter, officers from the NEAs asked the Inspector to advise on the specific ‘modifications’ he would likely recommend if the Councils’ agree to proceed with his first option to enable these to be considered by the relevant Committees. Many of the draft modifications (set

out in Appendix 2) reflect the suggested amendments that the Committee considered and agreed for consultation in 2019. The most notable of the additional modifications being indicated by the Inspector are those that reflect the removal of two of the three Garden Communities from the plan.

- 3.2 The Inspector has specifically advised as to the 'main modifications' required to make the Section 1 Plan sound i.e. modifications that represent fundamental changes to the policies and proposals in the plan – whereas modifications deemed not to constitute 'main modifications' i.e. minor modifications or consequential changes to the supporting text within the plan are at the discretion of the Councils and are mainly in line with those already considered and agreed by the Committee in 2019.
- 3.3 The detailed schedule of draft modifications is attached as Appendix 2 to this report. The main modifications relate mostly to the deletion of Policies SP9 and 10 from the Section 1 Plan which set out the requirements for the West of Braintree and Colchester Braintree Borders Garden Communities that have been found not to be sound. Of the policies to remain in the modified plan, there are notable modifications proposed for Policies SP2, SP4, SP5, SP6 and SP7 along with the proposed addition of a new Policy SP1A in relation to the 'Recreational disturbance Avoidance Mitigation Strategy' (RAMS).
- 3.4 In summary, the main modifications include:
- Removal of the West of Braintree and Colchester Braintree Borders Garden Communities from the policies and associated maps and diagrams in the Section 1 Local Plan and any other references to those developments in the text of the plan.
 - A new policy SP1A on 'Recreation disturbance Avoidance and Mitigation Strategy' (RAMS) setting out how the impacts of new development on internationally important wildlife sites will be avoided and mitigated in line with the European Habitat Regulations.
 - Modifications to Policy SP2 'Spatial Strategy for North Essex' to refer to just one Garden Community – the Tendring Colchester Borders Garden Community.
 - Modifications to Policy SP4 'Providing for Employment' to update the employment land requirements for each of the three Councils to reflect the latest evidence, including the requirement for Braintree for between 20.9 and 43.3 hectares of new employment land in the plan period to 2033.
 - Modifications to Policy SP5 to refer specifically to the 'Tendring Colchester Borders Garden Community' and to include a new section (E) aimed at ensuring there is sufficient capacity in the water supply and waste water infrastructure to serve the development.
 - Modifications to Policy SP6 'Place-shaping Principles' to include specific requirements in regard to the protection of internationally important wildlife sites which, depending on the findings of ongoing survey work, might

include the creation of a new habitat to offset and mitigate any impacts arising as a result of the development.

- Modifications to Policy SP7 to refer specifically to the 'Development and Delivery of a New Garden Community in North Essex' (as opposed to three) and to state specifically that the Tendring Colchester Borders Garden Community will deliver between 2,200 and 2,500 homes and 7 hectares of employment land within the plan period to 2033 (as part of an expected overall total of between 7,000 and 9,000 homes and 25 hectares of employment land to be delivered beyond 2033) and provision for Gypsies and Travellers.
- Further modifications to Policy SP7 to explain that a Development Plan Document (DPD) will be prepared for the garden community containing policies setting out how the new community will be designed, developed and delivered in phases; and that no planning consent for any development forming part of the garden community will be granted until the DPD has been adopted.
- Modifications to Policy SP8 'Tendring / Colchester Borders Garden Community' to state that the adoption of the DPD will be contingent on the completion of a 'Heritage Impact Assessment' carried out in accordance with Historic England, which will inform the content of the DPD.
- Modifications to Policy SP8 to explain how housing delivery for the garden community, irrespective of its actual location, will be distributed equally between Tendring District Council and Colchester Borough Council when it comes to counting house completions and monitoring delivery against each of the Councils' housing targets.
- Modifications to Policy SP8 also requiring that the planning consent and funding approval for the A120-133 link road and Route 1 of the rapid transit system are secured before planning approval is granted for any development forming part of the garden community.
- Other modifications to Policy SP8 emphasising the need for development at the garden community to achieve an efficient use of water, manage flood risk, avoid adverse impacts on internationally important wildlife sites arising from sewerage treatment and discharge, conserve and enhance heritage assets and their settings, and to minimise adverse impacts on sites of international, national and local importance for ecology.
- Finally, modifications to Policy SP8 to require the allocation of land within the garden community to accommodate expansion of the University of Essex.

3.5 If the Councils agree to proceed with the current Local Plan process and to consult on main modifications, Officers will make a formal request to the Inspector to issue a finalised version of the schedule which is to be published for consultation. Officers are not expecting the Inspector's finalised schedule of modifications to be materially different from the draft in Appendix 2

4 Implications of the Heathrow Airport Decision

- 4.1 Before he issued his letter, the Planning Inspector received correspondence in the form of a paper from Ms. Pearson of CAUSE and Mr. O'Connell, both participants in the Local Plan examination, highlighting the February 2020 decision of the Court of Appeal in relation to Heathrow Airport and expressing their view on the implications for the Section 1 Local Plan.
- 4.2 In that decision, the Court of Appeal ruled on the proposed expansion of capacity at Heathrow Airport through the addition of a third runway, as part of the 'Airports National Policy Statement: new runway capacity and infrastructure at airports in the south east of England' (the 'ANPS'). The ANPS designated by the then Secretary of State for Transport in June 2018 was the subject of a number of legal challenges and the Court of Appeal ruled, in February 2020, that the expansion plans for a third runway at Heathrow were unlawful. This is because the government had not taken into account the UK's commitment to the Paris climate agreement or the full climate change impacts of the proposal.
- 4.3 Ms. Pearson and Mr. O'Connell suggested that the Section 1 Local Plan might be liable to legal challenge for similar reasons and therefore the Inspector has asked the NEAs to provide their view on the implications of the judgement.
- 4.4 Officers have consulted Dentons (advisers to the NEAs throughout the examination process) and consultants LUC (authors of the Additional Sustainability Appraisal and Habitats Regulation Assessment) and a letter is being prepared for the Inspector's consideration which responds to the issues raised and explains how climate change has been adequately taken into account through the preparation and examination of the Section 1 Local Plan.
- 4.5 Both the paper from Ms. Pearson and Mr. O'Connell and the NEAs letter in response will be able to be viewed on the Braintree District Council examination website in due course.

5 Next Steps

- 5.1 With the consensus of all three authorities, officers will respond to the Planning Inspector to confirm that the NEAs agree to the removal, from the Section 1 Plan, of the Colchester Braintree Borders and West of Braintree Garden Communities and wish to proceed with the examination of the Local Plan by undertaking public consultation on this main modification along with other modifications recommended by the Inspector. The Inspector will be asked to formally issue his finalised schedule of main modifications and to advise the NEAs on the programme and timescales for the remainder of the examination.
- 5.2 The next stage would then be for the Councils to publish the main modifications on behalf of the Planning Inspector for a six-week consultation. Consultants LUC are preparing an update to both the Sustainability Appraisal (SA) and the Habitats Regulation Assessment (HRA) to assess the socio-economic and environmental impacts of the Section 1 Local Plan with the Inspector's recommended modifications and these documents will be published for consultation alongside the

modifications. Any comments received will be submitted to the Inspector for his consideration before coming to a final decision on whether or not the Section 1 Plan, with those modifications, is sound and can be formally adopted. It is proposed that, subject to the Inspector's agreement, the consultation will take place in August and September – following completion of the SA and HRA work.

- 5.3 The consultation will be only on the proposed main modifications set out in Appendix 2 to this report. It is not to consider the general merits or otherwise of the Local Plan and its contents (unless these relate to the main modifications). As such and given the current covid 19 situation it is considered appropriate that this consultation will mostly take place online. However officers will ensure that a process is put in place to ensure that there are hard copies of the modifications to view for members of the public who may not have access to the website and that responses can be submitted via letter as well as email and through the Councils planning policy consultation system. Whilst in person events are not being planned, officers of this Council will be available to answer questions on the process of consultation via telephone and other virtual means as required throughout the length of the consultation process.
- 5.4 As with previous consultations during the examination process, the Inspector has asked to receive details of the consultation proposed and see copies of the consultation response forms and other materials being produced before the consultation period begins.
- 5.5 In the meantime, Officers will continue work to prepare for the examination of the Section 2 Local Plan. Once the three authorities have come to a decision on how to progress with the Section 1 Local Plan, the Planning Inspectorate will advise the Councils on the likely timetables for the Section 2 examinations.
- 5.6 Consideration will need to be given to the implications on the section 2 Local Plans of the proposed modifications to section 1 as well as any emerging or updating necessary to ensure the section 2 Local Plan is sound. Reports to the Local Plan sub-committee on this matter will follow, if the recommendation to continue with the Local Plan in this report is approved.

6 Recommendations

6.1 That the Local Plan Sub-Committee make the following recommendations to Council:

- a) Notes the findings of the Planning Inspector's letter dated 15 May 2020 (attached as Appendix 1 to this report) and his recommended modifications (attached as Appendix 2);**
- b) To accept the Inspector's suggested main modifications to remove both the Colchester Braintree Garden Community and the West of Braintree Garden Community from the Section 1 Local Plan for the purposes of soundness and;**

- c) Subject to the views of the other North Essex Authorities (Colchester Borough Council and Braintree District Council), to notify the Planning Inspector of the intention to continue with the present Local Plan process, formally request his finalised schedule of recommended main modifications for soundness and establish the timescales for the consultation exercise and subsequent stages in the process;**
- d) Notes that public consultation will be undertaken on all ‘main modifications’ recommended by the Planning Inspector to make the Local Plan sound (as set out in draft in Appendix 2); and**
- e) Notes that an update to the Sustainability Appraisal (SA) and the Habitat Regulations Assessment (HRA) for the Modified Section 1 Local Plan will need to be produced and published for consultation alongside the Inspector’s main modifications and that consultants LUC are already instructed to undertake this work.**

NORTH ESSEX AUTHORITIES**Shared Strategic (Section 1) Plan**

Inspector: Mr Roger Clews

Programme Officer: Mrs Andrea Copsey

Tel: 07842 643988

Email: copseyandrea@gmail.com

Address: Examination Office, PO Box 12607, Clacton-on-Sea, CO15 9GN

To:

Emma Goodings, Head of Planning and Economic Growth, Braintree District Council

Karen Syrett, Planning and Housing Manager, Colchester Borough Council

Gary Guiver, Planning Manager, Tendring District Council

15 May 2020

Dear Ms Goodings, Ms Syrett and Mr Guiver

EXAMINATION OF THE SHARED STRATEGIC SECTION 1 PLAN**Introduction*****Purpose of this letter***

1. My letter to the North Essex Authorities [NEAs]¹ of 8 June 2018 [examination document IED/011] set out the shortcomings which, on the evidence available to me at that time, I had identified in the submitted Section 1 Plan and its evidence base. My letter went on to outline the significant further work which I considered the NEAs would need to undertake in order to address those shortcomings, and to set out three options for taking the examination forward.
2. The NEAs decided to pursue Option 2, which involved them producing and commissioning a number of additional evidence base documents with the aim of overcoming the deficiencies I had identified. The examination of the

¹ The three NEAs in the context of this letter are Braintree District Council, Colchester Borough Council, and Tendring District Council.

Section 1 Plan was paused from December 2018 until the end of September 2019 while this further work was carried out and public consultation on the additional evidence took place. I read all the responses to the public consultation, and held further hearing sessions in January 2020 focussing mainly on the additional evidence base documents and the responses to them.

3. I am now in a position to advise the NEAs of my findings, based on the evidence currently before me, on the legal compliance and soundness of the Section 1 Plan, and on the options available to them as a result. In giving this advice, I have taken into account all the written and oral evidence and representations that have been submitted to the examination since it began in October 2017.
4. The examination has now been in progress for two-and-a-half years. It would be in no-one's interests for uncertainty to be prolonged any further. My advice in this letter is therefore given on the basis that it is desirable for the examination of the Section 1 Plan to be brought to a conclusion as soon as possible.
5. This letter focusses on the matters that I consider critical to the outcome of the examination, and sets out my views on those matters. My formal recommendations and the full reasons for them will be given in my report to the NEAs at the end of the examination.
6. This letter should be read in conjunction with IED/011 and also with my supplementary letter to the NEAs of 27 June 2018 [IED/012], in which I gave my views, based on the evidence available to me at that time, on the housing requirements set out in policy SP3 of the Section 1 Plan.
7. The Programme Officer recently forwarded to the NEAs a paper entitled *Relevance of Heathrow Court of Appeal Decision for Section 1 North Essex Authorities Local Plan* [EXD/091], submitted by Mrs Pearson of CAUSE and Mr O'Connell. I would be grateful if the NEAs would provide a response to that paper along with their response to this letter. When I have the NEAs' response I will consider whether any further action is needed on this matter.

Context

8. Before addressing the critical matters I have identified, it is necessary to set the context by considering the overall structure and purpose of the Section 1 Plan. Although it was produced by the three NEAs and covers the whole of the Braintree, Colchester and Tendring local authority areas, it was not produced as a joint plan under the provisions of section 28 of the

Town and Country Planning Act 2004, as amended [“the 2004 Act”]. Instead, it is intended that the Section 1 Plan (with identical content and wording) will form an integral part of each NEA’s individual Local Plan, alongside a Section 2 Plan which each NEA has prepared independently. Because the Section 1 Plan is common to all three NEAs, it is being examined as a single entity, separately from and in advance of the three Part 2 plans.

9. The Section 1 and Section 2 Plans have distinct and complementary roles. Section 1 deals with cross-boundary issues: it provides a spatial portrait of and a strategic vision for the North Essex area, sets out the requirements for housing and employment growth for each of the three districts, and highlights key strategic growth locations across the area². The Section 2 Plans are intended to operate at individual local authority level, providing the strategy for the distribution of, and identifying sites for, most of the new development which each NEA proposes to accommodate in its district.
10. Most significantly, the Section 1 Plan proposes the development of three garden communities [GCs] in North Essex. Two would occupy cross-boundary sites, at Tendring / Colchester Borders and Colchester / Braintree Borders, to the east and west of Colchester respectively. The third would be to the West of Braintree, next to the border with Uttlesford district.
11. The broad locations identified for the three GCs amount to over 2,000 hectares in total, and the Plan, as submitted, expects them to provide up to 43,000 dwellings altogether. Because of their scale, only a relatively small proportion of the development they are proposed to contain would be completed by the end of the plan period in 2033, with the rest coming forward over several decades into the future. Indeed, it is envisaged that the largest of the proposed GCs would not be completed until around the end of this century.
12. The NEAs have appropriately high aspirations for the quality of development at the proposed GCs. A *North Essex Garden Communities Charter*, based on the Town & Country Planning Association’s Garden City Principles, but adapted for the North Essex context, sets out 10 place-making principles that articulate the Councils’ ambitions for the GCs. In accordance with those principles, the Plan itself expects the GCs to exhibit “the highest quality of planning, design and management of the built and public realm”; to “provide for a truly balanced and inclusive community and meet the housing needs of local people ... including 30% affordable housing at each GC”; to “provide and promote opportunities for

² See the Section 1 Plan, para 1.13.

employment within each new community and within sustainable commuting distance of it"; and to be planned "around a step change in integrated and sustainable transport networks ... that put walking, cycling and rapid public transit networks and connections at the heart of growth in the area"³.

13. These policy requirements appropriately reflect the advice at paragraph 150 of the 2012 NPPF that Local Plans are the key to delivering sustainable development which reflects the vision and aspirations of local communities. More specifically, NPPF paragraph 52 advises that

The supply of new homes can sometimes best be achieved through planning for larger scale development, such as new settlements ... that follow the principles of Garden Cities. Working with the support of their communities, local planning authorities should consider whether such opportunities provide the best way of achieving sustainable development.

In reflecting garden city principles, therefore, the Plan's policies for the GCs are consistent with the NPPF's guidance on the way in which sustainable development can be achieved through the development of garden communities.

14. The Section 1 Plan identifies broad locations for the proposed GCs and contains strategic policies to govern their development. After it has been adopted the NEAs intend to bring forward Strategic Growth Development Plan Documents [DPPDs] to define specific areas within the broad locations where development will take place, and to set more detailed requirements for the development of the GCs. The NEAs also envisage that masterplans, and other planning and design guidance, will be prepared for each GC.

My role

15. My role is to examine the Section 1 Plan [hereafter referred to for brevity as "the Plan"] in order to determine whether or not it meets the relevant legal requirements and is sound⁴. In determining its soundness I must have regard to national policy in the *National Planning Policy Framework* [NPPF] as published in March 2012. (The March 2012 version of the NPPF, rather than the current version, applies in this examination because the Plan was submitted for examination before the date specified in relevant transitional provisions⁵.) If I find that the Plan is not legally-compliant or

³ Submitted Plan policy SP7

⁴ The 2004 Act, section 20(5)

⁵ 2019 NPPF, para 214. Any previous national Planning Practice Guidance which has been superseded since the new NPPF was first published in July 2018 also continues to apply.

sound, I am empowered to recommend main modifications to make it so, if the NEAs ask me to.

16. It is this Plan which will establish whether or not the proposed GCs are acceptable in principle. In considering the soundness of the Plan I have been mindful of the need not to stray into matters of detail that would be more appropriately dealt with in the Strategic Growth DPDs or masterplans. I have also paid careful attention to the support given in national planning policy for the development of settlements that follow Garden City principles⁶, and to the fact that the Government has provided direct support for the North Essex GC proposals through its Garden Communities Programme.
17. My examination of the Plan has been informed by a great deal of detailed evidence, both supportive of and critical of the Plan's proposals. Although it is not possible or indeed necessary for me to refer to every point that was raised in the evidence, I am grateful to everyone who has invested their time and effort in contributing to the examination so far.

The proposed West of Braintree GC and the former emerging Uttlesford Local Plan

18. The former emerging Uttlesford Local Plan, which was under examination until 30 April 2020, contained a proposal to identify land in Uttlesford district to form a cross-boundary GC in combination with the proposed West of Braintree GC in North Essex. Land in Uttlesford district cannot be identified or allocated for development by the NEAs, and so it is not for me in this examination to determine whether or not any such proposal is sound.
19. In January 2020 the Inspectors examining the former emerging Uttlesford Local Plan wrote to the Council expressing significant concerns about the soundness of that plan, and indicating that in their view withdrawal of the plan from examination was likely to be the most appropriate option. In paragraph 2 of their letter, they said

In particular, we are not persuaded that there is sufficient evidence to demonstrate that the Garden Communities⁷, and thus the overall spatial strategy, have been justified. We therefore cannot conclude that these fundamental aspects of the plan are sound.

⁶ 2012 NPPF, para 52

⁷ Three GCs were proposed in the former emerging Uttlesford Local Plan, namely West of Braintree, Easton Park, and North Uttlesford.

20. On 1 May 2020 Uttlesford District Council wrote to notify the Planning Inspectorate of their decision to withdraw the plan. In the light of that decision, and of the examining Inspectors' comments above, no assumption can be made that any of the GC proposals in the former emerging Uttlesford Local Plan will be included, and found sound, in any future version of that plan. I take this into account when considering the Plan as a whole, and the proposed West of Braintree GC in particular.

Legal compliance

21. In IED/011 I concluded that each of the NEAs had met the duty to co-operate in the preparation of the Section 1 Plan, and that they had met the relevant procedural requirements with regard to consultation and submission. There has been no subsequent evidence which alters those conclusions. Nor do I find any evidence that anyone's interests were materially prejudiced by the way in which consultation was publicised and carried out in August and September 2019 on the additional evidence prepared by the NEAs.
22. There are legal obligations on the NEAs to prepare and submit a Habitats Regulations Assessment and a Sustainability Appraisal of the Plan. I consider these below.

Soundness

23. At paragraph 182 the 2012 NPPF advises that the soundness of plans is to be examined by reference to four criteria. The Plan undoubtedly meets the first of these. It has been **positively prepared** with the aim of identifying development and infrastructure requirements for the plan period, and it includes the proposed GCs which are intended to make a substantial contribution to meeting those requirements, both in the plan period and beyond.
24. When considering whether or not the Plan is **justified** – that is, whether it is the most appropriate strategy when considered against the reasonable alternatives – the principal evidence base document before me is the Sustainability Appraisal [SA]. I therefore consider the SA in detail below.
25. The NEAs' purpose in producing the Section 1 Plan was to work across local authority boundaries in order to meet strategic priorities. The key question in deciding whether or not the Plan is **effective**, therefore, is whether it is deliverable.
26. There was some discussion at the hearing sessions about the meaning of the word "deliverable" in this context, and I was assisted by further

representations, including legal submissions, on the point. In my view the straightforward meaning of the word, ie “able to be delivered”, is to be preferred⁸. But that then raises the question of what it is that must be able to be delivered.

27. The relevant sentence of NPPF paragraph 182 says that the plan should be deliverable. It seems to me that, in this context, the term “the plan” has to be taken to include the policies and proposals in the plan. It would not make sense only to require that the plan document itself is deliverable, if the policies and proposals it contains are not.
28. The sentence also includes the qualification “over [the plan’s] period”. It was suggested that this means that I need not consider whether the GC proposals in the Plan are deliverable beyond the end date of the Plan in 2033. But, as will be seen when I consider the SA below, the advantage which the SA identifies for the Plan’s strategy is that “it provides clear direction for strategic development over many decades to come”. In my view, the Plan could not be considered to be sound if I were to find that the proposed GCs were justified having regard to their ability to provide for strategic development over many decades to come, but reached no finding on whether or not they were deliverable beyond 2033.
29. The 2012 NPPF advises at paragraph 177 that it is important to ensure that there is a reasonable prospect that planned infrastructure is delivered in a timely fashion. The Plan’s policies include a comprehensive set of infrastructure requirements for the GCs, which (in accordance with national policy) appropriately reflect the garden city principles that underpin them⁹. In considering whether the GCs are deliverable, therefore, it is also necessary to take into account whether or not the infrastructure necessary to support them is deliverable.
30. Below I consider in detail the deliverability of the necessary supporting infrastructure and of the proposed GCs themselves.
31. The NPPF’s fourth soundness criterion is that the Plan is **consistent with national policy**, that is, it enables the delivery of sustainable development in accordance with the NPPF’s policies. I consider whether or not the Plan meets this criterion in my overall conclusions on soundness.

⁸ The definition of deliverable sites at footnote 11 in the 2012 NPPF is given in the context of the guidance in NPPF para 47 on the five-year housing land supply, not in the context of the para 182 test.

⁹ See paras 12-13 above.

32. In considering the soundness of the Plan it is also necessary to review, in the light of current circumstances, the conclusions I reached in IED/011 on the housing requirement figures in the Plan. I deal with that matter first.

The housing requirement figures in the Plan

33. By virtue of the transitional provisions referred to at paragraph 15 above, the guidance on determining housing need at paragraph 60 of the 2019 NPPF does not apply to the Plan: instead the assessment of housing need was appropriately carried out based on guidance in the 2012 NPPF and the corresponding PPG. In IED/011 I concluded that the housing requirement figures for each of the NEAs, as set out in submitted policy SP3, represent their respective objectively-assessed housing needs, and accordingly that the Plan's housing requirements are soundly based.
34. NPPF paragraph 158 requires plans to be based on up-to-date evidence. Given the time that has elapsed since June 2018, it is therefore necessary to consider whether there has been a meaningful change in the situation regarding housing need¹⁰ in North Essex, which would justify a reconsideration of the Plan's housing requirements.
35. Factors that might indicate a meaningful change in housing need include population and household projections and employment forecasts published since June 2018, and any changes in market signals.

Population and household projections

36. The official 2016-based household projections, published in September 2018, show higher household growth for Colchester borough and Tendring district over the 2013-37 period than the corresponding 2014-based projections. However, for Braintree district they show the opposite, such that the additional growth in Colchester is effectively matched by lower growth in Braintree. Since Braintree and Colchester are part of the same housing market area, redistribution of household growth from one to the other does not constitute a meaningful change in housing need overall.
37. For Tendring district the evidence from recent population and household projections has to be considered in the context of my finding in IED/011 that the NEAs were justified in not using official household projections as the basis for assessing housing need in the district. My full reasons for reaching that finding are given in IED/011, but to summarise briefly,

¹⁰ See PPG ID Ref 2a-016-20150227

Tendring has one of the highest rates of Unattributable Population Change [UPC]¹¹ in the country. The evidence before me in June 2018 showed that this was due in substantial part to errors in the migration trend rates used to produce the official population projections, and that it was highly likely that those errors were continuing to distort the official household projections for Tendring, to the extent that the NEAs were justified in using a different basis for assessing future housing need.

38. The official 2016-based sub-national population projections [SNPP] were before me when I considered the issue of UPC in Tendring in IED/011. They form the basis for the 2016-based household projections. Consequently, the publication of the 2016-based household projections does not alter my conclusions on that issue.
39. Since June 2018 the official 2017 and 2018 mid-year population estimates [MYE] have also been published. The fact that the 2018 MYE figure for Tendring closely matches the 2018 population predicted by the 2016-based SNPP is in itself no indication of a meaningful change in the housing situation, since both are informed by the same migration trend rates. I note that the Quality Indicators published alongside the MYEs estimate that there is a relatively low proportion of hard-to-estimate groups (including internal migrants) in Tendring. However, I have seen no evidence that since June 2018 the Office for National Statistics has addressed the specific errors in migration trend rates that gave rise to a substantial part of the exceptional UPC for Tendring.
40. The increasing proportion of older people in the North Essex population may affect the type of housing that needs to be provided, but has no impact on the overall number of dwellings required, as it is accounted for in the population and household projections. Policies on housing type are a matter for the Section 2 Plans.

Employment forecasts

41. In calculating objectively-assessed housing needs, account was taken of two 2016 economic forecasts of job growth and associated dwelling requirements over the Plan period. The housing requirements for Braintree and Colchester meet the higher of the dwelling requirements from those two forecasts, from the East of England Forecasting Model [EEFM]. A bespoke economic forecast for Tendring similarly showed that its housing requirement would meet future labour demand in full. As a result, in

¹¹ UPC is the term for the unexplained difference between the population change between 2001 and 2011 as estimated by the Censuses in those years, and the population change over the same period as predicted by official projections.

IED/011 I found that economic growth in North Essex would not be hampered by any lack of housing.

42. Since June 2018 a more recent, 2017 forecast from the EEFM has been published. Compared with the 2016 forecast, it shows a reduction of 96 dwellings per annum [dpa] in the dwelling requirements for Braintree, and an increase of 202dpa for Colchester. For Tendring there is no significant change. On the face of it, these results might appear to indicate a potential increase in housing need for North Essex as a whole.
43. However, whereas the 2016 EEFM forecast for Colchester predicted growth of 928 jobs per annum and a corresponding dwelling requirement of 920dpa, in EEFM's 2017 forecast the jobs per annum figure fell to 724 while the dwelling requirement increased to 1,122dpa. This is a dramatic and apparently anomalous change from EEFM's 2016 figures, and it diverges to an even greater extent from the 2016 forecast by Experian (1,109 jobs per annum, 866dpa).
44. Since I was given no explanation for this apparent anomaly, I consider that substantially less weight should be given to EEFM's 2017 forecast than to the two 2016 forecasts, when assessing housing need. In my experience, economic forecasts can show significant variations from one year to the next, and without corroboration it would be unwise to place reliance on a single set of results. Consequently, I find that the EEFM 2017 forecast does not indicate a need to increase the Plan's housing requirements in order to meet labour demand.

Market signals

45. Evidence of market signals since June 2018 tends to indicate worsening affordability across North Essex in respect of both house prices and rents, relative to England and Wales as a whole. However, worsening affordability trends were already apparent when the objectively-assessed housing needs were assessed in 2016, and were taken into account in uplifting the housing requirement for each of the three NEAs' areas by at least 15% compared with the demographic starting-point.
46. As a result, the Plan already makes substantial provision to improve affordability over the Plan period. It would be unrealistic to expect any turn-around in affordability trends to have occurred in the past one or two years, especially since the Plan has not yet been adopted. No meaningful assessment of the Plan's impact on affordability can be made after such a short time. As a result, recent market signals evidence does not indicate that the Plan's housing requirements need to be reviewed.

Conclusion on the housing requirement figures

47. For these reasons, I conclude that neither the population and household projections and employment forecasts published since June 2018 nor recent evidence from market signals indicate that there has been a meaningful change in the housing situation that I considered in IED/011. Consequently, the Plan's housing requirement figures remain soundly based.

Habitats Regulations Assessment [HRA]

48. In IED/011 I referred to a judgment of the Court of Justice of the European Union [CJEU]¹² and indicated that the NEAs would need to ensure that the HRA report on the pre-submission Plan was consistent with that judgment. In response, the NEAs commissioned Land Use Consultants [LUC] to produce an updated HRA report on the Plan [EB/083]. The updated report takes account of recent caselaw including the judgment I referred to. It concludes:

... providing that key recommendations and mitigation requirements are adopted and implemented, the [Plan] will not result in adverse effects on the integrity of European sites either alone or in-combination.

Natural England concur with this conclusion.

49. The NEAs consider that the Habitats Regulations¹³ do not require an assessment of future growth beyond the Plan period. Nonetheless, both they and LUC made it clear that EB/083 does in fact take account of the implications for European sites of the development beyond 2033 that is proposed in the Plan – ie, future growth at the proposed GCs. In my view that is appropriate, since the Plan's policies envisage that development of the GCs will occur both within the Plan period and for a long period beyond. However, some references in the report appear to indicate that it considers impacts within the Plan period only. The NEAs and LUC should review those references so that the report is consistent on this point.
50. EB/083 follows a sound methodology, beginning with a screening stage to assess the likelihood of significant effects on European sites by the Plan's proposals (alone or in combination). This is followed by an Appropriate Assessment in which any likely significant effects are assessed, in the light of avoidance and mitigation measures, in order to determine whether or

¹² *People over Wind, Peter Sweetman v Coillte Teoranta* [CJEU Case C-323/17]

¹³ *The Conservation of Habitats and Species Regulations 2017*

not they would result in an adverse effect on the integrity of any European site.

51. I consider that it is reasonable for EB/083 to conclude that main modifications to Plan policies SP5, SP7, SP8, SP9 and SP10, requiring adequate waste water treatment capacity to be provided before dwellings are occupied, will ensure that no adverse impact on any European site will occur as a result of changes in water quality.
52. It is also reasonable for EB/083 to conclude that any adverse impacts arising from loss of offsite habitat¹⁴ for wintering birds will be avoided provided that mitigation safeguards are incorporated into the Plan through a main modification to policy SP8. Those safeguards include requirements for surveys of the broad location of the Tendring / Colchester Borders GC to identify whether it provides any functionally-linked offsite habitat for relevant bird species, and if necessary, phasing of development and provision of alternative offsite habitat to offset any loss resulting from development.
53. The size of the broad location means that there is no real doubt that alternative habitat could be provided on site, through the DPD and master-planning processes, if it were found to be necessary. Accordingly, it is not necessary for the surveys to take place before the Plan itself is adopted.
54. The other cause of likely significant effects identified by EB/083 is the impact of the recreational activities of future residents on European sites along the Essex coast and its estuaries. This is also a concern for other local authorities in Essex. In response, an Essex Coast Recreational avoidance and Mitigation Strategy [RAMS], initiated by Natural England, has been adopted by 11 Essex authorities. Its implementation is managed by a steering group on which Natural England is represented.
55. The RAMS, which is to be funded by a per-dwelling tariff on residential development, involves a range of measures including habitat creation, access management, information and consciousness-raising, and enforcement. EB/083 concludes that the RAMS provides a high degree of certainty that recreational pressures will not lead to adverse effects on the integrity of the European sites.
56. In my view, EB/083 has adequately assessed the likelihood of significant effects arising from recreational activities, including by identifying

¹⁴ "Offsite habitat" in this context means habitat that is not part of a European site but is functionally linked to it, providing ecological support for the bird populations for which the site was designated.

appropriate zones of influence based on visitor surveys. It may be that measures to control airborne activities, such as powered paragliding, are more difficult to enforce than for land- or water-based activities. But airborne activities involve relatively small numbers of people, whom it would be possible to target with information and education campaigns. Indeed I was told that such campaigns are already under way.

57. The current RAMS covers the period 2018 to 2038. However, the NEAs made it clear that they intend the RAMS approach to operate in perpetuity. Plainly, that will be essential if significant development within the zones of influence is to be able to continue beyond 2038, assuming that the Habitats Regulations (or a similar protection regime) remain in force. Funding arrangements to ensure that it occurs are proposed in the current RAMS document. I therefore see little danger that the RAMS approach will cease after 2038.
58. The RAMS includes provision for monitoring its effectiveness, which it is intended will feed back into the mitigation measures in an iterative fashion, enabling adjustments and improvements to be made in response to evidence of how successful the measures are. In my view this is a strength rather than a weakness of the RAMS approach. While there is currently no conclusive evidence that RAMS approaches elsewhere have ensured that no adverse effects on integrity have occurred, that is not because there is evidence that they have failed, but because they have not been operating long enough for definitive conclusions to be drawn.
59. Taking into account the mitigation measures, which as well as the RAMS include the proposed modifications to the Plan's policies, the NEAs are satisfied that there is sufficient certainty that the Plan would not adversely affect the integrity of any European site, alone or in combination. In the light of all the above points, I consider that they are justified in taking that view.

Justification for the proposed GCs

Sustainability Appraisal

Background

60. In IED/011 I identified a number of shortcomings in the June 2017 SA of the Plan carried out by Essex County Council [ECC]'s Place Services [SD/001], and made a number of specific suggestions as to how those shortcomings might be rectified. In response, the NEAs commissioned external consultants LUC to carry out an Additional Sustainability Appraisal

of the Plan [SD/001b, hereafter "the ASA"], which was completed in July 2019.

61. The ASA does not replace the June 2017 SA in its entirety: its purpose is to address my concerns about the approach of that earlier SA document to the assessment of alternative GC options and of alternative spatial strategies. Accordingly, the ASA replaces Appendix 1 of the June 2017 SA, which deals specifically with these matters, and provides further appraisal information relevant to chapters 4 to 7 of the June 2017 SA. In this letter I focus on the ASA, as it is specifically intended to redress the shortcomings I had previously identified.
62. The ASA has a two-stage methodology, which closely follows my suggestions in IED/011. In Stage 1, LUC appraise alternative strategic sites that could form part of the Plan's spatial strategy. In Stage 2, they appraise a range of alternative spatial strategies, including various combinations of the strategic sites that survive the Stage 1 appraisal. The NEAs themselves decided which strategic sites were taken forward from Stage 1, and which spatial strategic alternatives were to be appraised at Stage 2, giving their reasons in Appendix 6. In Appendix 8 the NEAs give their reasons for preferring the spatial strategy in the submitted Plan to any of the alternative strategies.

National policy and guidance

63. Paragraph 165 of the 2012 NPPF advises that:

A sustainability appraisal which meets the requirements of the European Directive on strategic environmental assessment should be an integral part of the plan preparation process, and should consider all the likely significant effects on the environment, economic and social factors.

64. The PPG defines the role of SA as:

... to promote sustainable development by assessing the extent to which the emerging plan, when judged against reasonable alternatives, will help to achieve relevant environmental, economic and social objectives.

This process is an opportunity to consider ways by which the plan can contribute to improvements in environmental, social and economic conditions, as well as a means of identifying and mitigating any potential adverse effects that the plan might otherwise have. By doing so, it can help make sure that the proposals in the plan are the most appropriate given the reasonable alternatives¹⁵.

¹⁵ PPG ID Ref 11-001-20140306

65. The reference to “help[ing] make sure that the proposals in the plan are the most appropriate given the reasonable alternatives” indicates that SA is directly relevant to the assessment of whether the plan meets the “justified” test of soundness. As I noted in paragraph 24 above, in this case the SA (including the ASA) is the principal evidence base document which seeks to show that the Plan meets that test.

Issues to be considered

66. In my view the NEAs have met the relevant statutory requirements for consultation on and submission of the SA and ASA reports. In assessing the likely significant effects on the environment of the GC proposals in the Plan and of the reasonable alternatives to them which it identifies, the ASA deals with all the relevant issues identified in Schedule 2 of the SEA Regulations. In combination with the June 2017 SA, it also meets the Schedule 2 requirements to identify the measures envisaged to prevent, reduce and as fully as possible offset any significant effects on the environment of implementing the Plan, to describe the monitoring measures envisaged, and to provide a non-technical summary.

67. The principal issues that require further consideration are:

- whether reasonable alternatives for the Stage 1 and Stage 2 assessments were properly identified, so that no reasonable alternative was excluded from the assessments;
- whether adequate reasons were given following the Stage 1 assessment for the selection of alternative strategic sites and alternative spatial strategies to be assessed at Stage 2, and for the rejection of other alternatives;
- whether the assessment, at both Stage 1 and Stage 2, of the likely effects (including cumulative effects) of the Plan’s proposals and of the reasonable alternatives were carried out at the same level of detail, and in sufficient depth to enable a proper evaluation to be made;
- whether the ASA, together with the June 2017 SA, helps to demonstrate that the proposals in the Plan are the most appropriate, given the reasonable alternatives.

Were reasonable alternatives properly identified?

68. Reg 12(2)(b) of the SEA Regulations makes it clear that it requires assessment of the likely significant effects of reasonable alternatives taking into account the objectives of the plan. From what is said in the Section 1

Plan about its purpose¹⁶, it does not have the objective of providing an overarching strategy to govern the distribution of all development across the North Essex area. Consistent with this is the fact that the shared Section 1 Plan has not been prepared as a joint development plan document under section 28 of the 2004 Act, as one would expect if it were intended to have the role of a joint spatial strategy.

69. The limited role of the Section 1 Plan is explained further in paragraphs 3.1-3.2 of the reasoned justification to policy SP2 (Spatial Strategy for North Essex):

New homes, jobs, retail and leisure facilities serviced by new and upgraded infrastructure will be accommodated as part of existing settlements according to their scale, sustainability and role, and by the creation of strategic scale new settlements. ... For the majority of settlements these issues are addressed in the second part of the Local Plan dealing with each authority's area.

70. Against this background, in my view it is legitimate for the ASA to confine itself to assessing reasonable options for providing the amount of development which the Section 1 Plan expects the GCs to deliver in the plan period. Policy SP2 makes it clear that this is at least 7,500 dwellings, together with employment development and necessary infrastructure and facilities. That is the relevant objective which the Plan sets for itself. The Plan does not seek to provide, or to set out a strategy for the provision of, all the development needed across the North Essex area. Apart from the GC development proposed in the Plan itself, those tasks are left to the Section 2 plans.
71. Similarly, it is legitimate for the ASA to identify, as reasonable options for the Stage 1 assessment, only strategic sites capable of delivering at least 2,000 dwellings. The relevant Section 1 Plan objective in this context is to identify key strategic growth locations. It is not to identify every possible location for development across North Essex. Given that the largest of the sites proposed for allocation in the Section 2 plans would comprise around 1,700 dwellings, the decision to set a 2,000-dwelling capacity as the cut-off point between strategic and other sites was in my view a reasonable planning judgment, appropriately reflecting the respective roles of the Section 1 and Section 2 plans.
72. 23 alternative strategic sites (including the three GC sites in the Plan) were assessed during the Stage 1 assessment, and most of them were assessed at a range of different sizes. They made up an impressively comprehensive

¹⁶ See the Introduction to the Plan, in particular para 1.13, and section 3, Spatial Strategy.

list, and I find no evidence that any strategic site that could have been a reasonable alternative was excluded from it.

73. I consider whether or not reasonable alternatives for the Stage 2 assessment were properly identified as part of the next issue.

Were adequate reasons given for the selection of alternative strategic sites and alternative spatial strategies to be assessed at Stage 2, and for the rejection of other alternatives?

74. Appendix 6 to the ASA, which was prepared by the NEAs, sets out how the reasonable spatial strategy alternatives for the Stage 2 assessment were identified, giving reasons for taking forward or discounting the alternative strategic sites assessed at Stage 1. It also describes what each of the spatial strategy alternatives would provide.
75. Over half of the **alternative strategic sites** assessed at Stage 1 were not taken forward into the spatial strategy options assessed at Stage 2, for reasons that are set out in ASA Appendix 6, Table 2. The reasons given in the table make no explicit reference to the Stage 1 ASA. This may reflect the fact that the outcome of the Stage 1c assessment does not show any of the alternative sites to be clearly preferable to the others. Against many of the objectives, all the sites are deemed to have the same or very similar impacts, and for the objectives against which they differ, there is little overall distinction between them when all their positive and negative impacts are taken into account.
76. Instead, broader planning reasons are given for not taking forward the discounted sites from Stage 1. They are summarised in Appendix 6 as follows:

The main reasons for sites being discounted at this stage relate to either a lack of evidence to suggest there are reasonably deliverable proposals being advanced through the plan-making process at this time, or a lack of evidence to demonstrate that they are reasonable options in practical planning terms. Some sites have been discounted because they overlap or form part of a larger site that is being carried forward into Stage 2 or, following responses to the engagement with site promoters, it has been decided to merge certain sites together.

77. For each of the discounted sites, Table 2 then sets out the NEAs' reasons for not taking it forward into Stage 2. These include concerns about highway capacity and availability of infrastructure and services, impact on landscape character, relationship to existing settlements, and deliverability. It may be that others would have made different planning judgments on some of these points, but nothing I have heard or read indicates that any of the judgments made by the NEAs was unreasonable or irrational.

I therefore consider that Table 2 provides adequate reasons for not taking forward the discounted sites.

78. The NEAs' selection of **alternative spatial strategies** to be assessed at Stage 2 was informed by a series of seven principles which they devised in the light of discussions with stakeholders and of my comments in IED/011. As the NEAs correctly note, attempting to assess every possible combination of every site taken forward into Stage 2 would be an unmanageable task. Devising principles to inform the selection of alternative spatial strategies is, therefore, a reasonable way to proceed, providing of course that the principles themselves are sound.
79. Five of the seven principles are that the alternative strategies should be coherent and logical, and reasonable, that they should test the alternative spatial approaches suggested by me in IED/011, that they should deliver social infrastructure, and that any strategic site included in them should deliver a minimum of 2,000 dwellings in the plan period. In my view, and taking into account my comments above on the reasonableness of the 2,000-dwelling threshold for alternative strategic sites, these principles are sound ones.
80. Principle 1 is entitled "Meet the residual housing need within the plan period". Residual housing need is the gap between the Plan's overall housing requirement for North Essex (43,720 dwellings) and the number of dwellings completed, committed, and planned for in the NEAs' Section 2 Plans. Self-evidently, it is a sound principle that this need should be met.
81. When the Plan was submitted in 2017, residual housing need across North Essex was around 4,700 dwellings. The 7,500 dwellings proposed at the GCs would therefore mean that housing supply over the Plan period would exceed the requirement by about 2,800 dwellings, or around 6% of the overall requirement.
82. By the time the ASA was published in July 2019, residual housing need had been reduced to around 2,000 dwellings¹⁷, meaning that the 7,500 dwellings proposed at the GCs would generate a surplus in supply of about 5,500, or around 13% above the overall requirement.
83. Despite this, the NEAs still believe it is right to test spatial strategy alternatives with the potential to deliver 7,500 dwellings in the remainder of the Plan period to 2033. In Appendix 6, they justify this by saying that delivery of 7,500 dwellings on strategic sites would provide "a healthy level

¹⁷ See ASA Appendix 6, Table 1. The reduction is apparently due mainly to grants of planning permission on unallocated sites.

of over-allocation", thereby ensuring that the Plan's housing requirement would be met even if some of the sites allocated in the Section 2 plans fail to come forward.

84. No evidence appears to have been provided at the time to show why 7,500 dwellings, rather than some lower figure, would produce an appropriate level of over-allocation. Moreover, the latest evidence from the NEAs is that, excluding any dwellings proposed in the Section 1 Plan, there is no longer any residual housing requirement for the Plan period¹⁸. On that basis, the addition of the 7,500 dwellings sought under Principle 1 of the ASA would represent an over-allocation of around 18%, not 13% as was the case when ASA Appendix 6 was drawn up.
85. The ASA's authors cannot be criticised for proceeding on the basis of the figures that were current at the time when it was produced. And, in my view, it is reasonable for the Plan to identify more land than may be needed to meet the NEAs' housing requirements, to help ensure that the requirements are met in the event that some of the expected provision does not come forward. The scale of any such over-allocation is a matter of planning judgment. An over-allocation of 18% against the Plan's overall housing requirement for the period would provide an even healthier level of reassurance than one of 13%. Consequently, I see no reason to find that the ASA is unsound in seeking alternative spatial strategies to deliver at least 7,500 dwellings over the Plan period.
86. Principle 3 is entitled "Reflect relative housing and commuting patterns in any alternative strategy". In explaining the principle, the NEAs say that housing need is greater in the western part of North Essex (the area west of Colchester) than in the eastern part. That is generally borne out by the respective housing requirements of the three NEAs, and by the breakdown of residual housing need across the three NEAs at the time when Appendix 6 was prepared. Differences in commuting relationships¹⁹ and transport links between the areas to the west and east of Colchester also justify considering the two areas separately.
87. It is logical, therefore, that in accordance with Principle 3 alternative strategies were selected to deliver a greater proportion of housing to the west of Colchester than to the east, broadly reflecting the residual requirements which applied in July 2019.

¹⁸ See the NEAs' Matter 8 Further Hearing Statement, December 2019, Table 1b. In fact the figures in the table show a small surplus of 377 dwellings.

¹⁹ See EB/018, pp9-11.

88. Based on the NEAs' seven principles, Appendix 6 identifies 11 alternative spatial strategies for the area to the west of Colchester, and six alternative strategies for the area to the east, giving clear reasons for each. They include strategies to distribute housing growth proportionately to settlements across North Essex, alongside various combinations of the alternative strategic sites taken forward from Stage 1 of the ASA. The alternatives are sufficiently distinct from one another to enable meaningful comparisons to be made.
89. Taken as a whole, the alternative strategies represent an appropriate range of different ways of delivering the amount of development that is sought, taking appropriate account of my suggestions in IED/011, and I see no basis on which to conclude that any reasonable alternative was excluded from the assessment.

Was the assessment of the Plan's proposals and the reasonable alternatives carried out at the same level of detail?

90. Stage 1 of the ASA is scrupulously fair in considering the broad locations for the proposed GCs and the reasonable alternative strategic sites at the same level of detail. The 23 strategic sites are assessed against a common set of criteria which appropriately reflect the Plan's objectives and the full range of considerations relevant to SA, and the results are clearly presented in tabular format. The assessment shows no sign of bias in favour of or against any of the sites.
91. The same applies to the assessment of the 17 alternative spatial strategies considered at Stage 2. I find no evidence that there was a failure to assess potential cumulative effects at either stage.

Was the assessment of the Plan's proposals and the reasonable alternatives carried out in sufficient depth?

92. Stage 1 consists of two sequential steps. Stage 1a appraises the location of each of the 23 strategic sites in relation to existing key services, facilities, employment locations, transport links, and environmental assets and constraints without considering what the development itself might deliver. These spatial tests were carried out using a geographical information system.
93. Stage 1c (which replaces a previous Stage 1b) then takes into account how the accessibility of each site to the key services, facilities, employment locations and transport links identified at Stage 1a would be modified by what is likely to be provided by development coming forward on each site, at different scales. In other words, each site was assumed to provide

education, community, health and retail facilities, employment space and public transport services in proportion to its size.

94. In assessing what is likely to be provided, account was taken of site-specific information drafted by the NEAs and confirmed with the site promoters and with CAUSE²⁰. The Stage 1 assessments in turn informed the assessment of the alternative strategic sites at Stage 2. Provision of rapid transit services was excluded from the Stage 1c assessment, but was taken into account for the relevant spatial strategy alternatives at Stage 2.
95. The ASA was criticised for taking at face value the site-specific information on the forms drafted by the NEAs. But a great deal of additional work would have been required to interrogate that information, for example to ascertain whether or not each of the alternative sites is financially capable of delivering all the facilities attributed to it. Such detailed scrutiny is appropriate when assessing the soundness of a preferred option, but would have been disproportionate at this stage of the SA process. Asking the site promoters and CAUSE to confirm the information drafted by the NEAs ensured that sufficient information for Stage 1c was provided, on an equivalent basis for each site.
96. A broader criticism of the Stage 1 ASA was that its proximity-based approach is too crude, and so fails to make a proper assessment of each alternative site's accessibility to facilities and services, and of its environmental impacts. It is true that at Stage 1a more detailed assessment could have differentiated the quality of facilities and services accessible from each site, for example, the range of employment opportunities or the frequency of public transport. However, that would have made little difference to the outcome of the assessment, since no sites were excluded at Stage 1a. At Stage 1c the provision of facilities and services as part of the development of each site was more decisive in the appraisal of accessibility than proximity to existing facilities.
97. In assessing environmental impacts, however, in most cases a similar (albeit not necessarily identical) proximity-based approach to that used at Stage 1a was employed at Stage 1c. For example, effects on heritage assets are assessed based on whether 5% or more of each site lies within a certain distance of a designated heritage asset. In fact, every site assessed at Stage 1c is deemed to have a "significant negative effect with uncertainty", reflecting the fact that all of them lie within 500m of at least one designated heritage asset.

²⁰ CAUSE are a group with an alternative Local Plan strategy, known as Metro Town.

98. The ASA's approach was criticised by, among others, Historic England, who argue that the lack of detailed evidence on the likely effects of the alternative strategic sites on the **historic environment** has led to over-simplification and inadequate differentiation between them. They consider that a high-level Heritage Impact Assessment [HIA] of each site should have been undertaken to inform the ASA. In the absence of adequate assessment, Historic England say, there can be no confidence that the GC sites proposed in the Plan are capable of accommodating the proposed number of dwellings without adversely impacting on the historic environment.
99. Historic England also draw attention to the facts that the ASA does not identify (or fully identify) some of the designated heritage assets in and around the proposed GC sites, does not consider the effects of alternative sites on non-designated heritage assets, and uses a distance-based approach contrary to Historic England's published advice²¹.
100. There can be little doubt that a more detailed assessment of the likely effects of the alternative strategic sites on the historic environment would have enabled the ASA to differentiate more clearly between them. But I am not persuaded that the absence of such assessment is a fatal defect in the ASA. This is mainly because the Section 1 Plan does not make specific site allocations for the proposed GCs: instead it identifies broad locations, within which it is intended that the Strategic Growth DPDs will identify specific locations for development. In this context, it appears to me that Historic England's advice on site allocations is more applicable to the future DPDs than to the Section 1 Plan.
101. In taking a proximity-based approach to impacts on heritage assets, the ASA is consistent with the approach it takes to other environmental impacts. Were it to use more detailed evidence to assess impacts on one type of environmental asset, but not the others, this could run the risk of unbalancing the overall assessment. It is unfortunate that the ASA does not identify all the designated heritage assets potentially affected. But had it done so, it is highly unlikely that the outcome of the Stage 1 assessment would have been any different, since all the alternative sites (and indeed all the spatial strategy options assessed at Stage 2) are already deemed to have significant negative effects, with uncertainty, on heritage assets.
102. That said, I share Historic England's concern that, without a detailed Heritage Impact Assessment, there can be no certainty that any of the GCs proposed in the Plan are capable of accommodating the amount of

²¹ In *The Historic Environment and Site Allocations in Local Plans* – Historic England Advice Note 3

development which the Plan attributes to them, without unacceptable adverse impacts on the historic environment. Given the size of the broad locations proposed for the GCs, I consider it is reasonable at this stage to assume for the purposes of the ASA that they are capable of doing so. But appropriate policy safeguards need to be included in the Plan in the event that, in future, evidence shows this not to be the case. This could be achieved by main modifications to the relevant Plan policies.

103. On the face of it, it appears surprising that the ASA finds only uncertain minor negative effects on **air quality** for some of the strategic site alternatives, and no significant effects for the majority of the spatial strategy alternatives. However, the ASA advises that without traffic modelling of each strategic site alternative, its assessment needs to be treated with a great deal of caution.
104. While I acknowledge the severe effects of air pollution on human health, I am also mindful of the need for a proportionate approach to gathering evidence for SA²². It would be disproportionate to require traffic modelling of each of the 23 strategic site alternatives, and all 17 alternative spatial strategies, when only three strategic sites are actually proposed in the Plan.
105. The ASA appropriately acknowledges the difficulties in compiling the information needed to assess impacts on air quality. Any differences it finds between the alternatives on this issue are so small as to make it highly unlikely that they affect the overall outcome of the assessment. For these reasons I consider that the ASA's approach to the issue is adequate at this stage.
106. The ASA finds no significant effects on **water quality** in respect of any of the strategic sites assessed, while acknowledging a degree of uncertainty given that not all scales of growth for all the sites have been covered in the Water Cycle Studies and because specific waste water infrastructure requirements will only be finalised at planning application stage. Those are reasonable findings at this stage of planning, taking into account that, with main modifications, Plan policies are capable of requiring adequate water supply and waste water treatment capacity to be provided before any dwellings are occupied.
107. At Appendix 5, paragraph 3.1173, the ASA says that the potential **noise effects** from Stansted airport flight-paths on future residents of the proposed West of Braintree GC are judged to be negligible. However, based on the assessment of the potential effects of operations at the

²² See PPG Ref ID 11-009-20140306

adjacent Andrewsfield airfield, the Stage 1c scoring chart for the West of Braintree GC site [NEAGC1] shows an overall “uncertain minor negative effect” score against the noise nuisance criterion.

108. Taking into account all the evidence before me, including noise contour plans supplied by the airport operator, evidence on the number of flights passing over the West of Braintree site at 7,000 ft or lower, and existing and emerging Government guidance on aircraft noise, I consider that even if a finding of “negligible effect” from Stansted airport flight-paths on NEAGC1 is not within the range of reasonable planning judgment, a finding of “uncertain minor negative effect” would be. Moreover, I note that in summarising and concluding on the findings of the Stage 1c assessment on noise pollution, the ASA makes no distinction between sites with minor negative effects (uncertain or otherwise) and those with negligible effects. Therefore, it appears that even if the finding of “negligible effect” is unjustified in respect of the noise effects of Stansted flight-paths, it has not materially affected the ASA’s conclusions.
109. The ASA is justified in finding that, since the West of Braintree GC as proposed in the submitted Plan does not overlap with the Andrewsfield airfield site, development of the former would not directly lead to loss of flight operation facilities, community facilities, or historic assets forming part of the latter. The impact on Andrewsfield of the West of Braintree proposal in the former emerging Uttlesford Local Plan is not a matter for this examination.
110. Taking all the above points into account, I conclude that the assessment of the Plan’s proposals and of the reasonable alternatives was carried out in sufficient depth to enable a proper evaluation to be made.

Does the ASA help to demonstrate that the proposals in the Plan are the most appropriate, given the reasonable alternatives?

111. From the ASA, LUC conclude that the spatial strategies that rely solely on proportionate growth at existing settlements are the poorest performing, but that for the others, the differences are much more finely balanced. They say that it is therefore not possible to come to a definitive conclusion that any one strategy, whether west of Colchester or east of Colchester, is the most sustainable option. The advantage of the strategy in the submitted Section 1 Plan, according to LUC, is that it provides clear direction to accommodate strategic development over many decades to come, and therefore more certainty in terms of coherence and investment. However, some of the alternatives offer opportunities to deliver similar benefits.

112. In my view it is reasonable to draw those conclusions from the ASA.
113. In Appendix 8 to the ASA the NEAs set out their reasons for proceeding with the spatial strategy in the submitted Plan, that is to say, the three proposed GCs, rather than any of the alternatives. They say that
- a number of sites and spatial strategy options perform similarly against the sustainability objectives, but nothing arises from the [ASA] to suggest that the spatial strategy in the submitted Plan is wrong or that there are any obviously stronger-performing alternatives ...
114. To the west of Colchester, the NEAs say, the proposed West of Braintree and Colchester / Braintree Borders GCs have the genuine advantages of providing for long-term strategic growth. West of Braintree has direct access to the A120 and the proposed rapid transit system [RTS], and is well-located to Stansted airport which is a centre of employment and provides opportunities for new business growth. Colchester / Braintree Borders is close to Marks Tey station which has regular services to London, Colchester and beyond, is well located at the intersection of the A12 and A120 with good opportunities for integration with other transport modes, including the RTS, and has opportunities for sustainable travel into Colchester which is a regional centre for employment and has major health, shopping and cultural facilities.
115. To the east of Colchester, the NEAs consider that the Tendring / Colchester Borders GC offers benefits to Colchester and Tendring in terms of housing delivery, improved accessibility through rapid transit and the A120/A133 link road, and unlocking the economic potential for expansion of the University of Essex and the Knowledge Gateway.
116. It is clear from this that, apart from any specific locational advantages, many of the benefits which the NEAs ascribe to the proposed GCs depend on the delivery of strategic transport infrastructure, for example the RTS and the A120/A133 link road. Similarly, the advantages which the proposed GCs offer in providing for long-term strategic growth would only be realised if the GCs are actually capable of being delivered over the long term. Accordingly, deliverability is critical to the justification of the Plan's spatial strategy, including the proposed GCs. I consider the issue of deliverability in the next section.

Deliverability of the proposed GCs

Infrastructure needed to support the proposed GCs

Trunk road improvements

117. In IED/011 I said that “greater certainty over the funding and alignment of the A120 dualling scheme and the feasibility of realigning the widened A12 at Marks Tey is necessary to demonstrate that the GC proposals are deliverable in full”.

118. Since June 2018 trunk road schemes in North Essex have moved forward as follows:

- A preferred route for the A120 dualling scheme has been established, and development work on the scheme is included in the Department for Transport’s Roads Infrastructure Strategy 2 [RIS2] for 2020-25.
- This means that the scheme is in the “pipeline” for RIS3 (2025-30), but currently there is no commitment to the construction of the scheme. The RIS2 document says

New proposals need to consider a wide range of impacts: not only what can be promised with certainty, but also where a proposal has the potential to support wider and more ambitious local plans for development. ... We also expect that where a proposal enables significant development nearby, the developer will contribute to the cost of delivering the scheme. There is also potential for funding from other sources to support a developing proposal. Funding contributions will make a significant difference to the likelihood of government choosing to bring forward a proposal to the next stage, and ultimately to commit it as part of the next RIS.

- Widening of the A12 between junctions 19 and 25 is included in the RIS2 programme.
- The Spring 2020 Budget statement announced a £272M grant from the Housing Infrastructure Fund. According to the Treasury’s East of England Factsheet, this funding “will be used to realign the eastern section of the A12 between Junctions 24 and 25 in order to unlock up to 20,931 homes as part of the North Essex Garden Community”. In late 2019 Highways England consulted on alternative options for the realignment, the aim of which is to overcome the severance effect on the Colchester / Braintree Borders GC of the A12’s existing alignment.

119. The publication of RIS2 and the Spring 2020 budget mean that it is now reasonable to assume that the A12 widening scheme will go ahead,

including the realignment between junctions 24 and 25, with a good prospect of completion by Highways England's expected date of 2028.

120. On the other hand, notwithstanding its inclusion in the RIS3 pipeline, there is still no certainty on whether or not the A120 dualling scheme will go ahead. However, the fact that it would support development at two of the three proposed GCs, and that contributions towards it are expected from the GC developers, are strong factors in its favour. If funding for the scheme is confirmed, there is a good prospect that it will also be completed by 2028.
121. The implications for the two GCs to the west of Colchester are as follows.
122. Both Highways England and ECC consider that completion of the A120 dualling scheme is necessary to support the full build-out of 10,000 dwellings at the West of Braintree GC²³. However, partial build-out in advance of the A120 scheme could be achieved without severe detriment to the road network, when account is taken of other committed road improvements, including those to M11 junction 8, the A131 between Braintree and Chelmsford, and the A120 / B1018 junction at Braintree.
123. At the Matter 6 hearing session, the NEAs' representative indicated that at least 2,000 dwellings could come forward at the West of Braintree GC in advance of the A120 scheme, but that the scheme would become necessary at some point between the completion of 2,000 and 10,000 dwellings. I do not read ECC's application to the National Productivity Investment Fund for funding for road improvements at Braintree as contradicting that view.
124. Promoters of the West of Braintree GC contend on the basis of census data that only a small proportion of journey-to-work trips to and from the West of Braintree GC would use the A120 to the east of Braintree, and consequently that the feasibility and deliverability of the GC does not rely on delivery of the A120 dualling scheme. However, in the absence of detailed modelling to support that conclusion, I give more weight to the views of Highways England and the local highway authority.
125. Taking into account likely future improvements to M11 junction 8, I see no reason to consider that development at the proposed West of Braintree GC would be constrained by capacity issues on the A120 to the west.
126. Turning to the Colchester / Braintree Borders GC, there is no substantial evidence to contradict the NEAs' position that completion of both the A12

²³ While submitted Plan policies SP7 & SP10 propose an overall total of between 7,000 and 10,000 dwellings, the NEAs' viability appraisal assumes a total of 10,000.

widening scheme, including one of the alternative route options between junctions 24 and 25, and of the A120 dualling scheme are needed to support the full build-out of 21,000 dwellings at the GC²⁴.

127. Consequently, notwithstanding the decision to proceed with the A12 widening as part of RIS2, full build-out of the Colchester / Braintree Borders GC is dependent on confirmation of funding for the A120 scheme.

128. The promoters of the Colchester / Braintree Borders GC say that their technical evidence demonstrates that it would be possible to build up to about 2,500 dwellings without the need for either the A12 widening or the A120 dualling scheme. However, a 2,500-dwelling development at Colchester / Braintree Borders would be very different from the GC proposal in the Plan. If funding for the A120 scheme were to be confirmed, it might in principle be appropriate to allow some development to proceed before the A12 and A120 schemes are complete. But for the reasons given in paragraphs 28 and 116 above, it would be entirely inappropriate to find that the proposed GC is deliverable if the available infrastructure would allow only a small fraction of it to be built.

A120-A133 link road

129. ECC have secured £65 million [M] from the Housing Infrastructure Fund [HIF] to build a dual-carriageway link road between the A120 and A133 to the east of Colchester²⁵. The cost breakdown provided by ECC [in EXD/082] indicates that £65M would cover all the costs of the road and would include a contingency allowance of around 21%. Other participants provided alternative costings, but I have no reason to consider that the figures prepared by the local highway authority, ECC, which were subject to scrutiny through the HIF bid process, are unreasonable. Having said that, a contingency allowance of 21% appears low at this stage of planning, especially when compared with the 44% contingency allowance which ECC considered appropriate for the RTS (see below).

130. ECC undertook consultation on route options in Autumn 2019. Each route option is located towards the eastern edge of the broad location for the proposed Tendring / Colchester Borders GC. They vary in the extent to which they impinge on the potential development areas within the broad location. While at least one of the options appears likely to have a

²⁴ Full build-out at Colchester / Braintree Borders is now considered by the NEAs to comprise 21,000 dwellings, and viability appraisal has been carried out on that basis, notwithstanding that submitted Plan policies SP7 & SP9 propose a total of between 15,000 and 24,000 dwellings.

²⁵ The HIF funding also includes £35M for Route 1 of the RTS: see below.

significant severance effect within the broad location, the range of options available means that there is the opportunity to minimise any such effect. However, it will also be important to ensure that there is adequate access, including for pedestrians and cyclists, from the proposed GC across the link road into the countryside to the east. It is unclear to what extent that requirement has been taken into account in the costings.

131. The A12 widening scheme, discussed above, would provide capacity for the additional traffic on the A12 resulting from the provision of the link road. Funding for complementary local road improvements, including to the Greenstead roundabout in Colchester, would be sought from the developers of the Tendring / Colchester Borders GC. An allowance for that funding is made in the NEAs' viability assessment. The NEAs consider that, in combination, all the proposed road improvements would provide adequate mitigation for the impacts of traffic from the GC. I concur with that view. That is not to say, however, that increased congestion will not occur when all sources of traffic growth, including from the proposed GC, are taken into account.

Rapid transit system

132. Plan policy SP7 requires the new communities to be planned around a "step change" in integrated and sustainable transport systems. To fulfil that requirement, it is necessary for it to be shown that high-quality public transport services linking each of the proposed GCs to key destinations are capable of being provided. Without that, the GCs would not comply with NPPF's advice that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice over how they travel²⁶. Moreover, in order to meet that advice and the Plan's policy aspirations, the service must be available from early on in the life of the GCs, both to provide transport for residents without a car, and to influence the travel choices of residents with cars.
133. The NEAs' intention is that the RTS will be the primary public transport service for the proposed GCs. Since June 2018 planning for the RTS has continued, and in July 2019 ECC and their consultants published their report *Rapid Transit System For North Essex – From vision to plan* [EB/079] [hereafter, "Vision to Plan"]. The report firms up a number of issues that had been left open in the previous RTS report²⁷ which I considered in 2018:
- For the foreseeable future, the RTS will use high-quality buses. The options of using trams or guided buses have been discarded. The

²⁶ 2012 NPPF, para 29

²⁷ The *North Essex Rapid Transit Study* [EB/066]

possibility of trackless trams (a technology currently on trial in China) being used at an undefined point in the future is contemplated, but the Plan does not rely on this.

- Four RTS routes have been devised, respectively linking the Tendring / Colchester Borders GC to Colchester town centre and the Park and Ride site north of Colchester (Route 1); linking the Colchester / Braintree Borders GC to Colchester town centre and providing connections to Route 1 (Route 2); linking the West of Braintree GC eastwards to Braintree and westwards to Stansted airport (Route 3); and linking Colchester / Braintree Borders GC to Braintree, thereby joining up Routes 2 & 3 (Route 4).
- Options for the four routes have been developed, identifying alternative alignments for, and the degree of segregation of, each route section.
- Capital costs and passenger and revenue forecasts for each route have been developed, and proposed timescales for the introduction of each route have been established.
- Capital funding for RTS Route 1 has been secured from the Housing Infrastructure Fund.

134. Notwithstanding concerns expressed about the feasibility of some of the proposed alignments and their effects (including on other road users, on-street parking and residential amenity), I consider that the route section options have been worked up in sufficient detail to demonstrate that a bus-based RTS with priority over other traffic for much of its length could, in principle, be provided along the routes proposed in Vision to Plan. However, important questions remain about three central aspects of the RTS proposals, which I consider in turn below.

135. **Capital cost estimates** were developed for each RTS route for both “lower-investment” and “higher-investment” scenarios, using standard assumptions based on section lengths and degree of segregation from other traffic. For Routes 1, 2 & 3, Table 5-1 in Vision to Plan shows that the lower-investment scenario produces RTS end-to-end journey times between 26% and 37% longer than journey times in the higher-investment scenario. Section 5.5 of Vision to Plan comments that the greater capital investment in the higher-investment scenario would deliver higher patronage, higher revenue, lower operating costs, and higher mode shares for RTS both on and off the GCs, compared with the lower-investment option.

136. I agree with that analysis. Even in the higher-investment scenario, it is by no means clear that the forecast end-to-end journey times for the RTS routes would offer any significant advantage over car journey times in current peak traffic conditions, while in current off-peak conditions the car would almost certainly be quicker for many journeys. In the lower-investment scenario, it is likely that the RTS would be considerably slower than the car for most if not all journeys, at all times of day. In this context, I consider that only in the higher-investment scenario would the RTS have any prospect of meeting Plan policy SP5's aspiration for sustainable modes of transport that can compete effectively with private vehicles, and of giving people a real choice over how they travel, as the NPPF advises.
137. Vision to Plan gives higher- and lower-bound capital costs for the higher-investment scenario, with the lower bound representing the base cost and the higher bound representing the base cost plus a 44% contingency allowance. When benchmarking the capital costs of the RTS routes against two similar schemes elsewhere, Vision to Plan used the midpoint between the lower and higher bounds. The corrected table in the NEAs' post-hearing note [EXD/082] indicates that, for the higher-investment scenario, those midpoint costs are comparable with the £4.6M/km out-turn costs for the Bristol Metrobus scheme, but significantly lower than the £5.5M/km out-turn costs for the Leigh-Salford busway.
138. This benchmarking exercise does not present the full picture, however, because Vision to Plan's out-turn costs for the comparator schemes do not allow for inflation since those schemes were completed, meaning that they do not provide a like-for-like comparison at current cost levels. Credible figures based on an assumed civil engineering inflation figure of 3.5% per annum produce inflation-adjusted out-turn costs of £5.3M/km for Bristol and £6.6M/km for Leigh-Salford, both substantially higher than the midpoint costs of the North Essex higher-investment scenario.
139. In hearing statements reference was made by way of comparison to other RTS schemes, including Fastrack in Kent, Fastway in Sussex and the Belfast Glider system. In some cases these indicate higher per-km costs than for the comparator schemes in Vision to Plan, and other cases lower costs. Taken as whole, these references indicate that the inflation-adjusted out-turn costs of the comparator schemes used in Vision to Plan provide a reasonable sense-check for the RTS cost estimates.
140. Moreover, the costs given for the RTS schemes do not include the cost of structures such as a bridge over the railway at the Colchester / Braintree Borders GC, or the cost of any necessary land acquisition.

141. All these points lead me to the view that the capital costs given for the RTS in Vision to Plan need to be treated with caution. At the very least, the upper-bound costs for the higher-investment scenario should be used in carrying out viability assessment. Those upper-bound costs, rather than the mid-point costs, represent a realistic comparison with the inflation-adjusted costs of the comparator schemes used in Vision to Plan²⁸. Even then, it may well be that for Routes 2 and 3 they underestimate the likely capital cost of the RTS, given that they exclude the costs of structures and land acquisition, and I have no clear evidence on what proportions of the comparator scheme out-turn costs relate to structures and land acquisition.
142. Somewhat different considerations apply to Route 1, since the capital costs for that route were subject to further refinement during the preparation of ECC's HIF bid. As a result, I have a reasonable degree of confidence that the upper bound of the higher-investment scenario is likely to reflect the full capital cost of Route 1.
143. As regards **timing of provision**, Vision to Plan envisages that the RTS routes will be developed on a phased basis. That is a realistic approach, given the scale of the project and the fact that the timing of expected development varies at each GC.
144. However, although Table 5-6 in Vision to Plan indicates that RTS Route 4 will be developed between 2034 and 2051, no capital funding for Route 4 is identified in the NEAs' viability appraisals, and there is no specific evidence that it is available from other sources. Consequently, it has not been shown that Route 4 is deliverable.
145. **Commercial viability** is considered in sections 5.2 to 5.4 of Vision to Plan. Section 5.3 makes generally reasonable assumptions about operating costs, including service frequencies and leasing costs for high-quality vehicles to operate the services.
146. Section 5.2 derives revenue estimates for each route, based on demand forecasts which in turn are based on the outputs from a multi-modal transport model. It is likely that a more refined model using more up-to-date survey data would have produced more accurate results. Nonetheless, I consider that the method used has produced demand forecasts that are adequate for the purposes of demonstrating commercial viability at this stage of planning for the RTS.

²⁸ Per-km upper-bound costs for the higher-investment scenario are given in EXD/082, Table 2.

147. However, I have concerns about the assumptions on the level of investment in the RTS which inform the revenue estimates. As the NEAs' response to my clarification question 3 in EXD/075 makes clear, in section 5.2 the "higher-investment" revenue forecasts for 2033 are based on an "aspirational" level of capital spending: only the "lower-investment" forecasts reflect the expected level of investment by 2033.
148. The NEAs go on to say in EXD/075 that "the extent of investment in Routes 1, 2 and 3 is likely to lie between those two levels". But no clear evidence is given to support that statement. It would be imprudent to rely, for example, on the prospect of Government grant funding without specific evidence that it is likely to be forthcoming.
149. Of greater concern is that the revenue forecasts for Route 3 are based on the assumption that a significant proportion of demand will come from proposed developments in the former emerging Uttlesford Local Plan: the Easton Park GC and the part of West of Braintree GC in Uttlesford district²⁹. For the reasons given in paragraphs 18-20 above, this is not a reliable assumption. As a result, I can have no confidence that Route 3 is deliverable.
150. In section 5.4.1, Vision to Plan makes it clear that an element of "pump-priming" should be assumed to be necessary, both to support the RTS services when they are first introduced, and to subsidise traditional bus services at the very early stage of GC development. Although a modest annual allowance is made for "investment in early phase public transport" in the NEAs' viability appraisals for each of the GCs, I have seen no clear evidence that it is sufficient to meet those purposes.
151. Drawing all these points together, I find that there is sufficient evidence to demonstrate that construction of the RTS is physically feasible. However, it has not been demonstrated that Routes 3 and 4 are deliverable in financial terms. It may well be that even the upper-bound estimates in Vision to Plan's higher-investment scenario underestimate the likely capital costs of Routes 2, 3 and 4, and there is some uncertainty over the revenue forecasts for Routes 1 and 2. There is no clear evidence to show that the NEAs' viability appraisals make adequate provision for "pump-priming".
152. I consider the consequences of these findings in the section on viability below.

²⁹ See EXD/089.

Marks Tey station

153. The NEAs have investigated the possibility of relocating Marks Tey railway station to a more central position in the proposed Colchester / Braintree Borders GC. However, Network Rail advised them in July 2019 that, in view of the very high costs that would be involved in relocating the station, enhanced access and improvements to the existing station should be explored and developed. An appropriate allowance for this purpose has been made in the viability appraisal for the GC.

Water supply and waste water infrastructure

154. The North Essex Integrated Water Management Strategy follows a staged approach to planning for water supply and waste water treatment for the proposed GCs. The existing Stage 1 identifies a series of options, which would then be refined in Stage 2 to determine specific solutions for each GC. This is a conventional approach and I see no reason to consider that it is inappropriate here.

155. In a statement of common ground, the NEAs, Anglian Water and the Environment Agency agree that modifications to Plan policies are needed to require the necessary water supply and waste water treatment capacity to be provided before any dwellings are occupied at the proposed GCs. However, in order to show that the proposed GCs are deliverable, it is also necessary to establish whether or not that provision is capable of being funded.

156. There are statutory responsibilities on the water supply companies (Anglian Water and Affinity Water) to plan to meet future growth in demand, and on Anglian Water to provide waste water treatment capacity. Allocations are made in the NEAs' viability assessment to fund connecting infrastructure at each of the proposed GCs. However, those allocations are inevitably subject to a degree of uncertainty given that specific solutions have yet to be identified. I consider the consequences of this in the section on viability below.

Deliverability of the proposed GCs

Housing build-out rates

157. In IED/011 I reviewed the evidence then before me on housing build-out rates and concluded that, while it is not impossible that one or more of the GCs could deliver at rates of around 300 dwellings per annum [dpa], it

would be more prudent to plan, and carry out viability appraisal, on the basis of an annual average of 250dpa.

158. The NEAs subsequently prepared the topic paper *Build out rates in the Garden Communities*, July 2019 [EB/082], which concludes that adopting that 250dpa figure would be overly cautious based on the evidence available and the context and attributes of the Garden Communities themselves. In the NEAs' view, what they regard as an achievable, albeit conservative, build-out rate of 300dpa is appropriate for the purposes of modelling, although they consider that this figure could be substantially increased over time.
159. From the literature review of other reports on build-out rates, EB/082 identifies a number of factors which promote higher delivery rates. These include the size of the development (bigger sites tend to achieve higher delivery rates), the ability to diversify the type, size and tenure of the dwellings provided, and the strength of the local housing market. I agree that all these factors would tend to promote higher delivery rates at the proposed GCs.
160. An important section of EB/082 focusses on the NLP report *Start to Finish* (November 2016), which I considered in IED/011. *Start to Finish* is the most comprehensive study of actual, achieved build-out rates available to me. It found that the 10 greenfield sites providing more than 2,000 dwellings that were studied delivered around 170dpa on average, with substantial variation around that mean figure.
161. EB/082 points out that the delivery periods for most of the sites studied in *Start to Finish* include the period of deep economic recession which began in 2007/08. The recession led to a steep decline in housebuilding nationally from which it took several years for significant recovery to begin. It is reasonable to infer that the average build-out rates identified in *Start to Finish* might have been affected by these events, which went well beyond the normal fluctuations of the business cycle.
162. However, NLP have carried out further analysis of build-out rates excluding the five years from 2008 to 2013, thereby effectively excluding the effects of the recession. (It is reasonable to regard fluctuations outside this exceptional period as typical of the normal business cycle.) NLP's analysis showed that the average build-out rate on the same 10 greenfield sites of 2,000 dwellings or more was 184dpa. That is still well below the 250dpa rate which I recommended in IED/011 as a prudent basis for planning, let alone the 300dpa rate which the NEAs now regard as a conservative figure.

163. NLP also analysed the pre-recession period. Only two greenfield sites of more than 2,000 dwellings were available to inform that analysis: too small a sample from which to draw any reliable conclusions. For all sites of 500 dwellings or more, however, the average pre-recession delivery rate was 116dpa, compared with 109dpa for the whole period including the recession and post-recession.
164. NLP's further analysis, therefore, demonstrates that while the recession and its aftermath had some effect on build-out rates, the effect was not that great. Average build-out rates on comparable sites increase only a little if the effects of the recession are excluded.
165. The Homes & Communities Agency [HCA] *Notes on Build out rates from Strategic Sites*, which is also referenced in EB/082, claims that "forecast trajectories for the very largest sites (say 4,000 units+) may be in the range of 300-500[dpa]". However, the evidential basis for this claim is unclear, despite the fact that the report is based on actual build-out rates. Only one of the four developments of 4,000 dwellings or more for which average figures are given achieved an average delivery rate of more than 300dpa (in fact, 321dpa), with the other three ranging between 205dpa and 281dpa.
166. The HCA report also gives average actual build-out figures for eight developments of between 2,000 and 4,000 dwellings. According to those figures, only one of the eight achieved an average delivery rate of more than 300dpa. The next highest figure was 234dpa, while at the other end of the scale, four delivered less than 100dpa on average. Taking all this into account, I consider that the findings of the HCA report do not contradict those of the more recent NLP analysis, nor do they support an average delivery rate of 300dpa at the proposed GCs.
167. EB/082 also includes a table taken from the Letwin *Independent Review of Build Out* (June / October 2018), showing average build-out rates on 15 sites ranging between 572 and 86 dpa. However, unlike *Start to Finish*, these averages combine actual and forecast delivery rates. Examination of the detailed annual delivery figures for 12 of those 15 sites³⁰ shows that there are more than twice as many years for which forecast rates are given, than years for which actual build-out rates are given.
168. Three of those 12 sites are high-density brownfield developments in London, very different in character from the proposed GCs. On the other nine, there were more than twice as many years in which actual delivery

³⁰ The Letwin *Independent Review of Build Out Rates, Draft Analysis* (June 2018), pp AX38-AX49. Letwin does not provide annual delivery figures for the other three sites.

levels fell below 250dpa, than years in which they exceeded 300dpa. Even after allowing for some inaccuracy in the Letwin figures, for example at the Great Kneighton site, they show that, for the relevant sites studied, build-out rates of 250dpa or less have been achieved considerably less often than rates of 300dpa or more.

169. EB/082 suggests that the three sites on the Bicester ring road which were assessed by Letwin should be viewed as phases of a single, larger development for the purposes of calculating build-out rates. But only two of those sites are close to one another: the other is on the opposite side of the town. Moreover, I have no clear evidence on the extent to which the three sites have delivered housing simultaneously, and the only one for which actual delivery figures are given by Letwin has achieved an average rate of only about 140dpa.
170. The two adjacent sites in Colchester referenced in EB/082 have delivered some 260-270dpa, but over a period of only two years. Examples of other developments given by other participants, including at Chelmsford, Aylesbury and Didcot, provide no clear evidence that average delivery rates of more than 250dpa can be sustained over a long period. Nor is there any robust evidence before me to demonstrate that the use of modern methods of construction significantly boosts delivery rates.
171. EB/082 draws on examples of build-out rates at other strategic-scale developments in Milton Keynes, at Otterpool Park in Kent and at Harlow and Gilston Garden Town. Most of these are expected to achieve build-out rates of 300dpa or more, and in some cases considerably more. However, almost all those figures are future projections rather than actual build-out rates. The Milton Keynes projections, which were endorsed by the Local Plan Inspector, extend only over the next 10 years, in contrast to the much longer timescales of the proposed GCs.
172. This is not to suggest that projected delivery figures on sites elsewhere should be disregarded when assessing the likely rate of delivery at the proposed GCs. But in my view they carry considerably less weight than evidence of actual achieved delivery, when considering the GCs' delivery prospects and their financial viability. It would be unwise to embark on these very long-term projects on the basis of delivery assumptions that have not been shown to be achievable in practice.
173. EB/082 draws attention to the significantly higher average housing delivery rate in Milton Keynes achieved by the Development Corporation [MKDC] from 1971 to 1992, compared with the average rate since its dissolution. But, given the very different social, economic and institutional arrangements prevailing at that time, it would be misleading to assume

that the past achievements of MKDC and other development corporations would be replicated at the proposed GCs. Nor is there yet any clear evidence that the Ebbsfleet Development Corporation, established by the government in 2015, will be successful in achieving the high delivery rates projected for it.

174. In conclusion, evidence shows that some large housing sites are capable of delivering 300 dwellings or more in a single year, and in some cases for a number of years in succession. But I find that there is no evidence to support the view that the proposed GC sites are capable of delivering at that annual level consistently, throughout the normal peaks and troughs of the business cycle, over the decades that it will take to build them. Over that timescale, the best evidence on likely delivery rates at the proposed GCs remains *Start to Finish's* annual average figure (adjusted to exclude the effects of the 2007/08 recession) of under 200dpa for greenfield sites of more than 2,000 dwellings.
175. It is appropriate to adjust that figure upwards to 250dpa to take account of the fact that the GCs meet most of the factors identified in EB/082 which promote higher delivery rates. But it would be imprudent to base the Plan's housing trajectory, or the viability appraisal of the proposed GCs, on any higher figure.

Lead-in times

176. None of the evidence I have seen or heard since June 2018 leads me to alter my view, set out with reasons in IED/011, that, in general terms, it is reasonable to assume that the planning approval process would allow housing delivery at any GC to start within four or five years from the adoption date of the plan (or plan revision) which establishes the GC in principle. The NEAs' latest housing trajectory [EXD/070], which shows housing delivery at the Tendring / Colchester Borders and West of Braintree GCs beginning in 2024, is broadly consistent with this finding, albeit that the trajectory will need to be kept under review.
177. However, I advised in IED/011 that the four- to five-year timescale could alter depending on how long it takes to put the necessary infrastructure in place. In this context the NEAs' trajectory now anticipates that delivery of housing at the Colchester / Braintree Borders GC will start in 2029, after completion of the A12 widening and A120 dualling schemes (assuming the latter is included in RIS3).

Employment provision

178. Policy SP7(vi) requires that each proposed GC should provide and promote opportunities for employment within each new community and within sustainable commuting distance of it. In that context I observed in IED/011 that it is surprising that the GC policies contain no specific figures for the amount of employment land or floorspace to be provided at each of the GCs. I acknowledged the difficulty of predicting requirements for employment land and floorspace at this early stage of planning, but advised that indicative requirement figures could be set which could then be reviewed each time the Plan itself is reviewed.
179. In response, the NEAs commissioned Cebr to produce the report *Employment provision for the North Essex Garden Communities* [EB/081]. It sets out estimates of employment floorspace and employment land requirements for each GC. At my request, Cebr subsequently provided adjusted requirement figures for the West of Braintree GC that are commensurate with the GC land within Braintree district only³¹.
180. EB/081 forecasts employment numbers at each GC for three future dates – 2033, 2050 and at completion of construction, estimates the breakdown of those numbers by employment sector, and then follows HCA guidance on employment densities to convert them into floorspace and finally employment land requirements. In principle this is a sound methodology, as long as the forecasts of employment numbers and the sectoral breakdown estimates are themselves sound.
181. The employment number forecasts are based on two scenarios, which produce almost identical results. In the “reference case” scenario, total employment at each GC is assumed to be exactly equal to the number of completed dwellings at each forecast date. This is a highly ambitious assumption, which exceeds both the requirements of policy SP7(ii) and the more demanding goal of the NEGC Charter’s Principle 3 to provide access to one job per household within each new GC or within a short distance by public transport.
182. The “investment case” scenario draws on work in an earlier report by Cebr, *Economic Vision and Strategy for the North Essex Sub-Region* (August 2018), commissioned by NEGC Ltd. In this scenario, the employment-to-population ratio in North Essex as a whole (including at each GC) gradually increases so that by 2036 it converges on the ratio for a set of comparator areas, and remains constant thereafter.

³¹ For the reasons given in paras 18 to 20 above

183. The comparator areas are all located in what Cebr describe as an “arc of prosperity” to the north, west and south-west of London. Both employment-to-population ratio and GVA per capita in North Essex are currently well below the average for the comparator areas. Cebr’s investment case scenario therefore essentially depends on the success of an ambitious economic development programme to raise North Essex’s economic performance to match that of the comparator areas.
184. Cebr’s projected employment figures for the GCs are similar to, and indeed in some cases somewhat lower than, those in the upper end of the range estimated in a report by Cambridge Econometrics and SQW: *North Essex Garden Communities Employment & Demographic Studies* [EB/009], published in April 2017. Having said that, EB/009’s upper-end estimates are based on similarly ambitious assumptions as regards economic development, and I was shown no evidence of any development programmes that have achieved that degree of improvement in economic performance.
185. Economic forecasting is notoriously difficult, and especially so over the long development timescales of the proposed GCs. The ambitions for economic growth that inform the Cebr forecasts may or may not be realised in practice. But in my view it would be wrong, particularly at this early planning stage, to constrain the potential for achieving that level of growth by limiting the availability of employment land. Consequently, I consider that it would be appropriate to use the figures in EB/081³² as the basis for setting employment land requirements for the GCs in the Plan, with the proviso that the requirements for all the GCs are reviewed each time the Plan and/or the Strategic Growth DPDs are reviewed, to ensure that they continue to reflect up-to-date evidence.
186. In reaching that view I have had regard to the representations about the way in which Cebr arrived at their sectoral breakdown of the employment numbers for each GC. While in most cases the sectoral shares at the GCs reflect those for the comparator areas, there are a few apparent anomalies, most notably the 30% share for information and communication activities forecast for the Tendring / Colchester Borders GC. But any such anomalies have only a small effect on the calculation of the overall employment land requirements for each GC.

³² Subject to the West of Braintree adjustment discussed above.

Delivery mechanisms

187. The NEAs' intention is that the Plan should be "delivery model-blind": that is to say, it should make no specific requirements about whether development of the proposed GCs is led by the public sector, the private sector, or a partnership between the two. In principle that is a sound position which allows for appropriate flexibility at this early stage of planning the GCs.
188. In IED/011 I advised that submitted Plan policy SP7 should be modified to remove the reference to "sharing risk and reward". That does not mean that I consider it would be unlawful for the public and private sectors voluntarily to enter into an arrangement in which they would share the risks and rewards of development. However, for the reasons I gave in IED/011, it would be inappropriate and potentially unlawful to make that a policy requirement.
189. The *North Essex Garden Communities Charter* envisages that Local Delivery Vehicle(s) [LDVs], accountable to the NEAs with both private and public sector representation, will be responsible for leading the delivery of the proposed GCs. Three LDVs, together with a holding company known as NEGC Ltd, have been incorporated in readiness to perform this role. Subsequently, in response to consultation on the *New Towns Act 1981 [Local Authority Oversight] Regulations*, the NEAs indicated an interest in the formation of a locally-led new town development corporation, overseen by the NEAs, to perform the lead role.
190. At the hearings the NEAs explained that the LDVs (or a future locally-led development corporation) are in effect being held in reserve to lead the delivery of the GCs, should it become apparent through the planning application process that the private sector is unable to do so in accordance with the Plan's policies.
191. The role of the Plan is to set out policies and criteria to guide the further planning of the proposed GCs, and to provide part of the framework against which planning applications to develop the GCs would be assessed. Provided that there is evidence that the GC proposals are justified and are capable of being delivered, it is not necessary for the Plan to specify that any particular delivery model must be followed.

Viability

National policy and guidance

192. At paragraph 173 the 2012 NPPF advises that, to ensure viability, the costs of any requirements likely to be applied to development should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing landowner and willing developer. It also cautions that the sites and scale of development in the plan should not be subject to such a scale of policy obligations and policy burdens that their ability to be developed viably is threatened.
193. The PPG on viability makes it clear that understanding Local Plan viability is critical to the overall assessment of deliverability. The plan's vision for the area should be presented in the context of local economic conditions and market realities. This should not undermine ambition for high-quality design and wider social and environmental benefit, but such ambition should be tested against the realistic likelihood of delivery. Viability assessment should not compromise the quality of development but should ensure that the vision and policies are realistic and provide high-level assurance that plan policies are viable³³.
194. As has been seen in the foregoing sections, the GC proposals in the Plan are predicated on their meeting policy requirements which reflect garden city principles. In this way the Plan seeks to achieve sustainable development in accordance with national planning policy³⁴. The ASA – which provides the principal justification for the inclusion of the GCs in the Plan's spatial strategy – is based on the assumption that the Plan's policy requirements for the facilities and infrastructure needed to support them will be met. Demonstrating that the GCs can be viably delivered in accordance with the Plan's policies is, therefore, critical to establishing their overall deliverability.
195. The PPG also advises that there is no single approach for assessing viability, and sets out a number of principles that viability assessments should follow, including evidence-based judgment, collaboration, transparency and consistency. Plan-makers should not plan to the margin of viability, but instead should allow for a buffer to respond to changing markets and to avoid the need for frequent plan updating³⁵.

³³ PPG Ref ID 10-001-20140306 & 10-005-20140306

³⁴ See paras 12-13 above.

³⁵ PPG Ref ID 10-002-20140306, 10-004-20140306 & 10-008-20140306

Viability assessments produced for the examination

196. When I conducted the 2018 examination hearings the most recent assessment of the GCs' financial viability before me was the April 2017 Viability Assessment by Hyas ["the 2017 Report"]. In IED/011 I found that it had not demonstrated that the GCs proposed in the submitted Plan were financially viable, and I made a number of points about how any future viability assessment should be carried out.

197. The NEAs commissioned Hyas to carry out further viability work on the GCs, which is reported in the Viability Assessment Update (June 2019, EB/086) ["the 2019 Update"]. This report drew on further work by AECOM and Gleeds [EB/087 & EB/088] to define, and provide phasing and costs for, the infrastructure needed to support the GCs.

198. At my request, Hyas then carried out additional work to take account of two factors:

- Unlike the 2017 Report, the 2019 Update assessed the West of Braintree GC as a cross-boundary site, including land in Uttlesford district. For the reasons given in paragraphs 18-20 above, however, it cannot be assumed that the Uttlesford land would form part of the GC. It was therefore necessary for Hyas to revise their assessment of the West of Braintree GC to exclude the land in Uttlesford district.
- Despite my findings on build-out rates in IED/011, the 2019 Update assessed all three GCs on the basis that they would deliver 300 dwellings a year [dpa] on average. I therefore asked for further appraisals of all three GCs assuming average delivery of 250dpa.

Hyas's additional work forms Supplementary Information to their 2019 Update (November 2019, EXD/058) ["the 2019 Supplementary Information"].

199. The NEAs now rely principally on the 2019 Update and Supplementary Information to demonstrate the viability of the proposed GCs. Separate viability assessments were submitted by NEGC Ltd, and by promoters of the Colchester / Braintree Borders and West of Braintree GCs. Below I consider, first, the 2019 Update and Supplementary Information, and then the other viability appraisals.

200. In considering the appraisals, I am mindful of the PPG's advice that evidence should be proportionate and should demonstrate viability in a

broad sense³⁶. While the PPG also calls for greater detail when assessing strategic sites (such as the GCs) which require high infrastructure investment, at this early stage of planning many costs and values cannot be known exactly. What is important is not that the appraisals achieve an unrealistically high degree of precision or certainty, but that they provide a robust indication that the proposed GCs are capable of being viably delivered.

Competitive return to a willing landowner

201. The PPG advises that a competitive return for the landowner is the price at which a reasonable landowner would be willing to sell their land for the development. The price will need to provide an incentive for the landowner to sell in comparison with the other options available, which may include its current use value or its value for a realistic alternative use³⁷. Most of the land in each proposed GC's area is currently in agricultural use, with a current use value of around £10,000/acre.
202. Many participants suggested that a price of around £100,000/acre is the minimum needed to provide a competitive return. They included promoters of two of the three GC sites and others with knowledge of the local land market. While there is only limited evidence to support that figure, it appears likely that it is indicative of current market expectations. Care needs to be taken not to base viability assessment on a land price which is too far below such expectations, if landowners are to be persuaded to sell.
203. On the other hand, as a RICS research document³⁸ points out, basing land values on comparable evidence without adjustment to reflect policy requirements can lead to developers overpaying for land. This may in turn compromise the achievement of the policy requirements, if the developer then seeks to recover the overpayment by seeking a reduction in their planning obligations.
204. Taking these points and the other relevant evidence into account, there seems little doubt that a land price of around £100,000/acre on any of the proposed GC sites would provide sufficient incentive for a landowner to sell. In my view, it is also reasonable to assume that a price below £100,000/acre could be capable of providing a competitive return to a willing landowner, when account is taken of the necessarily substantial requirements of the Plan's policies.

³⁶ PPG ID Ref 10-005-20140306

³⁷ PPG ID Ref 10-015-20140306

³⁸ RICS, *Financial Viability Appraisal in Planning Decisions: Theory and Practice*, April 2015

205. In the absence of clear local evidence, it is difficult to estimate the minimum land price that would constitute a competitive return. The price achieved for development land in other places and in other circumstances is unlikely to provide a reliable guide. In my judgment, however, it is extremely doubtful that, for the proposed GCs, a land price below £50,000/acre – half the figure that appears likely to reflect current market expectations – would provide a sufficient incentive to a landowner. The margin of viability is therefore likely to lie somewhere between a price of £50,000 and £100,000 per acre.

Hyas's 2019 Update and Supplementary Information

206. Like Hyas's 2017 Report, the 2019 Update follows the residual valuation method. Its methodology is similar to that of the 2017 Report, but with a number of changes to the inputs and assumptions. It presents summaries and cashflows for three different scenarios:

- Reference scenario (no grant, no inflation) – all three GCs;
- Grant scenario (including HIF grant) – Colchester / Braintree Borders and Tendring / Colchester Borders GCs;
- Inflation scenario – all three GCs.

207. Each of these scenarios was subject to sensitivity testing of contingency allowances at 10%, 20% and 40% on certain infrastructure items. The Supplementary Information is presented for the same ranges of scenarios and contingency allowances as the 2019 Update.

Land purchase

208. The 2019 Update and Supplementary Information make appropriate allowances for the cost of interest on land purchase. These were omitted from the 2017 Report.

209. The assumption is made that the land for the GCs is purchased in tranches throughout the development period, each tranche being purchased two years before it is required for development. This is a necessarily simplified assumption for the purposes of viability appraisal, and it may well be that the actual pattern of land purchases is more irregular than this. Nonetheless, the assumption is justified by the evidence that phased draw-down of land is common practice in large-scale development schemes.

210. Accordingly, it is appropriate for the 2019 Update and Supplementary Information to assume that land payments are staged throughout the development period. In the Reference and Grant scenarios those payments

are set at current values, consistent with the approach taken to all other costs and returns. I consider the Inflation scenarios separately below.

Infrastructure costs

211. I consider that the base infrastructure costs (exclusive of contingency allowances) that are used in the 2019 Update and Supplementary Information are generally appropriate, except in the case of the RTS.
212. For the reasons given above in my consideration of the RTS, I consider that at the very least the upper-bound costs of the higher-investment scenario in the RTS Vision to Plan document should be used for the purposes of viability assessment. Even those upper-bound costs may well underestimate the likely capital cost of RTS Routes 2, 3 and 4. However, the 2019 Update and Supplementary Information take the lower-bound costs of the higher-investment scenario as the base costs for the RTS, to which contingency allowances of 10%, 20% or 40% are applied, as discussed below.
213. The upper-bound costs for the RTS in Vision to Plan are 44% higher than the lower-bound costs. Consequently, the base costs allowed for the RTS in the 2019 Update and Supplementary Information fall a long way short of the minimum that I consider appropriate, even after taking account of the fact that the costs in Vision to Plan include a 10% allowance for professional fees.

Contingency allowances

214. In the 2019 Update and Supplementary Information's 10% contingency scenarios, a 10% contingency allowance applies to all infrastructure items. In the 20% and 40% contingency scenarios, the higher contingency allowance is applied only to the base costs of those infrastructure items in the Scheme Wide Other Itemised category (transport and utilities), with the contingency allowance on the other items remaining at 10%. This approach appropriately reflects the fact that it is the items in that category which are most likely to be subject to unknown additional costs.
215. In considering what is an appropriate level of contingency allowance, it is necessary to recognise that the Section 1 Plan represents the initial stage of planning for the proposed GCs, setting out broad parameters and high-level infrastructure requirements for them. The exact amount of development that each GC will contain, and the precise nature and scale of its infrastructure requirements, will be established through Strategic Growth DPDs and masterplans which have yet to be drawn up.

216. In general terms, the level of contingency allowance that is appropriate varies according to the stage of planning that a development project has reached. Costs are likely to be underestimated (a phenomenon known as “optimism bias”) if an adequate allowance for contingencies is not made at each stage. In the early stages, when the project is less well-defined and there is greater uncertainty over the factors influencing the eventual outturn costs, a higher level of contingency allowance is usually appropriate. As planning progresses and uncertainties reduce, the level of contingency allowance may be reduced accordingly.
217. The Treasury’s *Supplementary Green Book Guidance* on optimism bias (April 2013) advises that an upper-bound optimism bias allowance of 44% for capital expenditure on standard civil engineering projects provides a first starting point and reasonable benchmark. It reflects the average historic optimism bias which research found to occur at the outline business case stage.
218. While the Green Book guidance specifically applies to public-sector commissions, in my view similar considerations apply at the stage of planning that the GCs have reached. At this early stage, and particularly when account is taken of their large scale and very long build periods, it is inevitable that many uncertainties remain over the infrastructure requirements of the proposed GCs. As discussed above³⁹, for example, decisions have yet to be made on which of the options for water supply and waste water treatment will be pursued at each GC. Nor has there been any significant analysis of the risks to infrastructure delivery.
219. Moreover, as I have set out above, the base costs allowed for the RTS in the 2019 Update and Supplementary Information fall well below the minimum figure I consider necessary. Adding a 40% contingency allowance to the base costs for the RTS would only bring it up to around that minimum figure, with no significant margin for any additional costs that may well arise, such as for structures or land acquisition. The RTS costs represent a substantial proportion of the costs in the Scheme Wide Other Itemised Infrastructure category.
220. For all these reasons, I consider that at this stage of planning it would be reasonable to expect a contingency allowance of at least 40% to be applied to the items in the Scheme Wide Other Itemised category. Any lower figure would, in my view, provide insufficient reassurance that all the necessary infrastructure requirements of the proposed GCs would be met.

³⁹ At paras 106 and 154-156

Rate of housing delivery

221. In the light of my conclusions on build-out rates in paragraphs 157-175 above, I consider that viability appraisal of the proposed GCs should be carried out on the basis of an average annual housing delivery rate of 250dpa. Basing the appraisal on a higher average rate would not provide a reliable indication of viability.

Interest on strategic investment borrowing

222. As in 2017, the 2019 Update and Supplementary Information assume that all borrowing for land purchase and infrastructure provision is funded at an interest rate of 6%. In my experience this is a fairly common assumption in local plan viability assessments. Having had regard to all the relevant submissions and evidence, I consider there is a good prospect that a master-developer for the proposed GCs would be able to obtain finance at that rate. The NEAs are confident that this would not give rise to any issue of state aid compliance. The state aid complaint that was submitted to the European Commission in February 2020 concerns other aspects of Government funding for the GCs and its outcome is not yet known.

Grant scenarios

223. The Grant scenarios in the 2019 Update and Supplementary Information assume that HIF grants are available to fund transport infrastructure for two of the three proposed GCs: the A120/A133 link road and RTS Route 1 for Tendring / Colchester Borders GC, and the A12 realignment between junctions 24 and 25 for the Colchester / Braintree Borders GC. Both HIF grants have now been confirmed.

Inflation scenarios

224. The 2017 Hyas Report made no allowance for inflation in its modelling, and in IED/011 I endorsed that approach. However, the 2019 Update and Supplementary Information include Inflation scenarios for all three GCs.

225. The assumptions made by Hyas in modelling the Inflation scenarios are that building costs and property sale values increase at an annual rate of 4%, while strategic infrastructure costs increase at 3.5% annually. This produces a small additional margin year-on-year, but over the GCs' long development periods it results in dramatic increases in residual land values [RLVs], up to 10 or even 20 times the RLVs in the corresponding non-inflation scenarios.

226. The PPG advises that current costs and values should be considered when assessing the viability of plan policy. Policies should be deliverable and should not be based on an expectation of future rises in values for at least the first five years of the plan period. This will help to ensure realism and avoid complicating the assessment with uncertain judgments about the future⁴⁰.
227. The Harman Report *Viability Testing Local Plans*⁴¹, while not Government policy, also provides helpful advice on this topic. It says that the most straightforward way to assess plan policies for the first five years is to work on the basis of current costs and values, and that
- for the period beyond the first five years (ie. the 6-15 year period) a more flexible approach may be taken, recognising the impact of economic cycles and policy changes over time. Forecasting things like house prices or costs is notoriously difficult over the shorter term, and subject to wider inaccuracies over the medium and longer term. The best a council can realistically seek to do is to make some very cautious and transparent assumptions with sensitivity testing of the robustness of those assumptions.
228. Neither the PPG nor the Harman Report consider the approach to assessing viability beyond 15 years. But the latter's advice about the uncertainty and difficulty of forecasting in the 6- to 15-year period applies with even greater force to attempts to forecast price and cost changes over the much longer timeframes of the proposed GC developments. Hyas themselves acknowledge in the Update that there are difficulties inherent in forecasting, especially over such long timeframes, and that there are no potential references or market projections published over such long-term periods.
229. Even if the average annual growth in house prices over the last 20 years is significantly greater than the 4% rate assumed in the Inflation scenarios, that is no guarantee that an average 4% growth rate will be sustained throughout the decades that it would take to build the proposed GCs. Similar uncertainty applies to changes in building and infrastructure costs. Notwithstanding these substantial uncertainties, Hyas did not carry out sensitivity testing of different potential inflation rates as recommended by Harman.
230. For all these reasons, I consider that the Inflation scenarios do not provide a reliable indication of the viability of the proposed GCs.

⁴⁰ PPG Ref ID 10-008-20140306

⁴¹ Produced by the Local Housing Delivery Group, June 2012

Conclusions on the 2019 Update and Supplementary Information

231. For the above reasons, I consider that the Inflation scenarios, the scenarios based on average housing delivery of 300dpa, and the scenarios for the proposed West of Braintree GC including land in Uttlesford district do not provide a reliable indication of the viability of the proposed GCs. It is appropriate to consider the viability of the proposed Tendring / Colchester Borders and Colchester / Braintree Borders GCs based on the Grant scenarios, since their associated HIF grants have been confirmed. The Reference scenario is the appropriate basis for considering the proposed West of Braintree GC. Based on my findings above on contingency allowances, in each of these scenarios a contingency allowance of at least 40% needs to be applied to all the items in the Scheme Wide Other Itemised category
232. As noted above, the 2019 Update and Supplementary Information follows the residual valuation method, in which all the costs of development are subtracted from the value of the development in order to arrive at a residual land value. The costs of development include the infrastructure requirements for the GCs, which (in accordance with national policy) appropriately reflect the garden city principles that underpin them. In order to demonstrate the viability of each proposed GC, the residual land value produced by the appropriate assessment scenario must achieve a competitive return to a willing landowner that is above the margin of viability⁴². Should this not be achieved, the viability of the GC will not have been demonstrated.
233. For the proposed Tendring / Colchester Borders GC, the Grant scenario assessment in the 2019 Supplementary Information, based on average delivery of 250dpa with a 40% contingency allowance, gives a residual land value of over £175,000/acre. That is well above the figure that I consider would constitute a competitive return to a willing landowner. This would allow sufficient financial headroom to overcome any concerns about the contingency allowance for the A120/A133 link road, or any additional costs associated with the link road or with RTS Route 1. I therefore consider that the viability of the Tendring / Colchester Borders GC has been demonstrated.
234. For the Colchester / Braintree Borders GC, on the other hand, the Grant scenario assessment, based on average delivery of 250dpa with a 40% contingency allowance, gives a residual land value of only around

⁴² PPG ID Ref 10-015-20140306 & 10-008-20140306

£24,500/acre. That is well below what I consider to be a competitive return to a willing landowner.

235. For the West of Braintree GC, the Reference scenario, based on delivery of 250dpa with a 40% contingency allowance, produces a residual land value of around £52,000/acre. I consider that this would place the development below or, at best, at the margin of viability.

The NEGC viability assessment

236. The viability appraisal submitted by NEGC Ltd covers all three GCs. Unlike the Hyas assessments and those carried out by site promoters, it is not a residual valuation. Instead the price of land at each GC is an input to the appraisal, and the output is a figure for the rate of return on capital invested. In each case the land price was calculated on the assumption that the land and rights required are to be compulsorily acquired.

237. The per-acre land values used in the appraisal are around £24,000 for the West of Braintree GC, £26,000 for the Colchester / Braintree Borders GC, and £39,000 for the Tendring / Colchester Borders GC. In each case this is well below what I consider to be a competitive return to a willing landowner and accordingly it appears unlikely that land could be purchased by agreement at that price.

238. Compulsory purchase order [CPO] powers are available to the NEAs as local planning authorities, and would also be available to a locally-led new town development corporation, should the NEAs establish one. In either case, one of the matters which the Secretary of State is required to take into account when deciding whether to confirm a CPO is whether the purpose for which the land is being acquired could be achieved by any other means. This may include considering the appropriateness of any alternative development proposals put forward by the owners of the land, or any other persons⁴³.

239. In a situation where there are landowners and developers prepared to develop each of the GC sites, it appears likely that any proposed CPO would be contested, with the potential for considerable delay and uncertainty, and with no guarantee as to the outcome.

240. In the NEGC appraisal, interest rates are assumed to be 2.5% for land purchase and 3.5% for infrastructure borrowing, well below the 6% rate assumed by Hyas. A statement from Homes England indicates that in

⁴³ MHCLG, *Guidance on Compulsory purchase process and The Crichel Down Rules* (July 2019), paras 106 & 143

recent years they have made £2,500M worth of infrastructure loans at similar rates to developers in order to unlock or accelerate the delivery of large-scale housing projects. However, the loan rate is dependent on the potential borrower satisfying certain defined criteria for creditworthiness and collateralisation. I have no clear evidence that those criteria are capable of being satisfied in such a way as to justify a loan rate of 3.5% for each of the GCs.

241. Even if the issues of land purchase and interest rates could be resolved, the NEGC viability appraisals also assume average housing delivery at each of the proposed GCs at rates of 300dpa and 500dpa. I consider these to be unsound assumptions, for the reasons set out above.
242. Moreover, while the NEGC appraisals use infrastructure base costs derived from the same source as Hyas (EB/087), they apply a 44% optimism bias allowance to some transport and utility items, but only 10% to others. For the West of Braintree GC nine items⁴⁴ receive a 44% allowance, for Colchester / Braintree Borders GC three items, and for Tendring / Colchester Borders one item. No explicit rationale for these distinctions is provided, and it is at odds with my finding that it a 40% contingency allowance should be applied to all the items in the Scheme Wide Other Infrastructure category.
243. In the light of these points, I consider that the NEGC appraisals do not provide a reliable indication of the viability of each of the proposed GCs.

The viability assessments submitted by the GC site promoters

244. Some of the assessments submitted by promoters of the GC sites assume average housing delivery rates of 300dpa or above throughout the GCs' development period. For the reasons given above, I consider that reliance cannot be placed on viability assessment based on that assumption.
245. Two viability assessments were, however, provided for average delivery rates of 250dpa. The assessment for the Andrewsfield New Settlement Consortium [ANSC] is for a development including some 8,300 dwellings on land in Braintree district within the broad location of the proposed West of Braintree GC. It includes infrastructure costs based on a per-dwelling figure of around £53,200. There is no detailed explanation of how that figure was arrived at. But when explaining the £51,000 per-dwelling figure used in their earlier appraisal (based on average delivery of 300dpa), the authors of the assessment say that they consider the Hyas infrastructure

⁴⁴ Counting the various phases of the RTS off-site network as one item.

allowance of £53,000 per dwelling, informed by the Gleeds costs estimates [EB/087] to be reasonable.

246. The Hyas allowance of £53,000 per dwelling was for a 12,500-dwelling scheme including land in Uttlesford district. When assessing a 10,000-dwelling scheme wholly within Braintree district as proposed in the Plan, Hyas used a figure of £57,000 per dwelling, significantly higher than the circa £53,000 figure in the ANSC assessment. Since the Hyas scheme is also some 1,700 dwellings larger, this means that its total infrastructure allowance, excluding contingencies, is £570M, as against around £442M for the ANSC scheme.
247. While some of this discrepancy can be explained by infrastructure costs (such as education and community facilities) which vary on a per-dwelling basis, there are also substantial fixed costs, including for transport infrastructure such as the RTS. Without a breakdown of how the ANSC infrastructure allowance was arrived at, it seems likely that it is an underestimate.
248. Of even greater concern is that in the ANSC assessment, infrastructure spending is assumed to occur at a constant annual rate throughout the GC's five-decade build programme. That is an unrealistic assumption, at odds with the phasing in EB/087, which more realistically allocates 100% of many of the large transport and utility infrastructure costs to the first one or two phases of the build programme.
249. In addition, the ANSC assessment applies a contingency rate of 10% to all infrastructure costs. In my view that is wholly inadequate for transport and utility infrastructure, for the reasons discussed above.
250. The other viability assessment said to be based on delivery of 250dpa was prepared for the promoters of the larger part of the Colchester / Braintree Borders GC [CBBGC]. It is for a scheme including 17,000 dwellings and includes a per-dwelling infrastructure cost similar that used in the Hyas Grant scenario. (The Grant scenario is the appropriate comparison because it excludes the cost of the A12 realignment, which is unnecessary for the CBBGC promoters' 17,000-dwelling scheme).
251. In the CBBGC assessment the first dwellings are assumed to be delivered in 2023. At an average rate of 250dpa, a 17,000-dwelling scheme should take 68 years to deliver. However, the submitted spreadsheets [EXD/085] appear to show the last dwellings completed in 2079, some 11 or 12 years early. The reason seems to be that, whereas for most of the build period delivery is shown as taking place at the rate of 20 dwellings per month (240dpa), for several years in the middle of the build period a rate of 40

dwellings per month (480dpa) is shown. It is not clear, therefore, that the assessment is in fact based on average delivery of 250dpa as intended.

252. Like the ANSC assessment, the CBBGC appraisal also applies a wholly inadequate 10% contingency rate to transport and utility costs. There is no clear evidence that the 27.5% profit rate which they apply would provide a sufficient safeguard against the substantial uncertainties over those costs at this early stage of planning.
253. The CBBGC appraisal also assumes a housing sale price of £351/sq ft, 5% higher than the price of £334/sq ft (based on their analysis of actual market values) in the earlier CBBGC appraisal based on delivery of 354dpa. This increase is explained by the suggestion that the reduced supply of homes to the market would result in increased sales values. But no substantial evidence was provided to support that suggestion, and I consider it unlikely that a reduction in delivery of around 100dpa at one development would have such an effect, when account is taken of all the other development that is proposed to come forward in the housing market area.
254. In the light of these points, I consider that the assessments submitted by promoters of the GC sites do not provide a reliable indication of the viability of the proposed West of Braintree GC or Colchester / Braintree Borders GC.

Conclusions on soundness

255. The ASA is unable to conclude that any of the spatial strategy options, to the west or east of Colchester, is the most sustainable option. It says that the advantage of the strategy in the submitted Section 1 Plan is that it provides clear direction to accommodate strategic development over many decades to come. For the NEAs, the ability of the proposed GCs to provide for long-term strategic growth is one of the key reasons for pursuing the Section 1 Plan strategy in preference to the alternatives, notwithstanding that the ASA finds that some of the alternative options offer opportunities to deliver similar benefits.
256. Consequently, the Plan's spatial strategy, which includes the three proposed GCs, would only be justified as the most appropriate strategy if it can be shown that each GC is deliverable, not just over the Plan period but over the long term. And in order to meet both the NPPF's guidance on infrastructure provision and the Plan's policy requirements, which in accordance with national policy reflect garden city principles, the infrastructure necessary to support the GC's development must also be

shown to be deliverable. An assessment of deliverability is also central to the question of whether or not the Plan is effective.

257. Viability appraisal shows that, with an appropriate 40% contingency allowance on transport and utilities infrastructure, the proposed **Colchester / Braintree Borders GC** would not achieve a viable land price, and that the proposed **West of Braintree GC** is below, or at best is at the very margin of, financial viability, contrary to advice in the PPG. On this basis, neither GC is deliverable.
258. For separate reasons, given in paras 143-151 above, neither RTS Route 3 nor RTS Route 4 has been shown to be deliverable. The proposed West of Braintree GC depends on Route 3 for its public transport links to destinations outside the GC, and on Route 4 for links to places east of Braintree. Without those routes, apart from the few journeys that might be possible on foot or bicycle, the car would be the only realistic choice for travel beyond the GC itself.
259. Housing development at the proposed Colchester / Braintree Borders GC is intended to help meet the housing needs of both Colchester borough and Braintree district, and there is a strong commuting relationship between the two local authority areas. Notwithstanding the links to other destinations offered by RTS Route 2 and by rail services from Marks Tey station, the GC would depend on Route 4 for its public transport links westwards to Braintree.
260. In these circumstances, the fact that RTS Routes 3 and 4 have not been shown to be deliverable is entirely at odds with the Plan's aspirations for integrated and sustainable transport networks. Even if the A120 dualling scheme has a good prospect of being delivered as part of the RIS3 programme, not to provide the necessary public transport connections from these two GCs would directly conflict with the NPPF's advice that the transport system needs to be balanced in favour of sustainable transport modes.
261. For the foregoing reasons, therefore, I find that the proposed Colchester / Braintree Borders and West of Braintree GCs are not justified or deliverable. Consequently, the Plan's spatial strategy, and thus the Plan itself as submitted, are unsound.
262. On the other hand, the financial viability of the proposed **Tendring / Colchester Borders GC** is very strong. With an appropriate 40% contingency allowance on transport and utilities infrastructure, it would enable a competitive land price to be paid, while leaving substantial headroom to meet any additional costs that might arise. This provides

assurance that the necessary infrastructure, including RTS Route 1, the A120/A133 link road and local highway improvements, are deliverable in the time-frame necessary to support the GC's development. The evidence therefore shows that the GC is deliverable over its lifetime.

263. The broad location for the proposed Tendring / Colchester Borders GC is close to Colchester, the largest town in North Essex, to which it would be connected by RTS Route 1. The GC would have access to the wide range of employment, retail, leisure, healthcare and other facilities in Colchester, in addition to those that would be provided within the GC itself, and to employment opportunities at the adjacent University of Essex and Knowledge Gateway. Tendring district has a very strong commuting relationship with Colchester, and weaker relationships with Braintree and other destinations to the west of Colchester. As a result, the accessibility of the proposed GC is not critically dependent on the delivery of the other RTS routes.
264. Based on the NEAs' current housing trajectory, and taking into account my conclusions on the rate of housing delivery, the Tendring / Colchester Borders GC would deliver over 2,000 dwellings during the Plan period. That would make a worthwhile contribution to meeting the Plan's overall housing requirement. Based on the latest housing supply figures⁴⁵, it would represent an over-allocation of approximately 5% against the overall requirement. Whether that level of over-allocation is sufficient, and whether the other sources of housing supply will come forward as the NEAs expect, are matters to be considered in the Section 2 plan examinations.
265. As I have discussed above, the ASA made separate assessments of alternative spatial strategies for the areas to the west and east of Colchester. For the above reasons, I consider that the evidence supports the NEAs' view that the proposed Tendring / Colchester Borders GC is the most appropriate of the alternative spatial strategies for the area to the east of Colchester.
266. I therefore conclude that development of the Tendring / Colchester Borders GC would enable the delivery of sustainable development in accordance with the NPPF's policies. If the unsound Colchester / Braintree Borders and West of Braintree GC proposals are removed from the Plan, the Plan is capable of being made sound.

⁴⁵ See para 84 above.

Advice on the way forward

267. In the light of this conclusion it appears to me that the NEAs have two main options:

- To propose and consult on main modifications to remove the Colchester / Braintree Borders and West of Braintree GC proposals from the Plan; or
- To withdraw the Plan from examination.

268. If the NEAs wish to pursue the first option, they will need to make a formal request under Section 20(7C) of the 2004 Act, asking me to recommend main modifications that would make the Plan sound and legally-compliant. A schedule of proposed main modifications, based on the list of suggested amendments drafted by the NEAs [EB/091B] would then need to be agreed between myself and the NEAs.

269. As well as modifications to remove the two GC proposals from the Plan, the schedule would contain more detailed modifications to other Plan policies that I consider are likely to be necessary in the light of the representations on the Plan and the discussion at the hearing sessions. Some of these have been discussed above. The main modifications would need to be the subject of full public consultation for a minimum of six weeks, and I would need to consider all the responses to the consultation before producing my report and recommendations.

270. Should the NEAs decide to pursue the first option, they will also need to consider whether it is necessary for further SA and/or SEA work to be carried out and consulted upon. The PPG advises:

It is up to the plan-making body to decide whether the sustainability appraisal report should be amended following proposed changes to an emerging plan ... If the plan-making body assesses that necessary changes are significant, and were not previously subject to sustainability appraisal, then further sustainability appraisal may be required and the sustainability report should be updated and amended accordingly⁴⁶.

271. In deciding which option to pursue, the NEAs may wish to bear in mind that it is possible that the responses to public consultation on the main modifications may give rise to the need for further hearing sessions. On this point, the Planning Inspectorate's *Procedure Guide for Local Plan Examinations* advises at paragraph 6.9:

⁴⁶ PPG Ref ID 11-023-20140306

The Inspector will consider all the representations made on the proposed MMs before finalising the examination report and the schedule of recommended MMs. Further hearing sessions will not usually be held, unless the Inspector considers them essential to deal with substantial issues raised in the representations, or to ensure fairness.

272. In addition, if the official 2018-based household projections are published while the examination is still in progress, consideration will need to be given to any implications the projections may have for the soundness of the housing requirement figures in the Plan.
273. For these reasons, at present it is not possible to give a clear indication of when my report and recommendations on the Plan are likely to be produced, should the NEAs decide to pursue the first option.
274. Apart from my request at paragraph 7 above for a response from the NEAs to EXD/091, I am not inviting comments on the contents of this letter. I will, however, assist with any queries the NEAs may have.
275. It would be helpful if you would let me know, as soon as you are able to, which of the options outlined in paragraph 267 above (or any alternative course of action) the NEAs wish to pursue. This will enable a timescale for the remainder of the examination to be developed, should the NEAs wish to pursue the first option. Please contact me through the Programme Officer.

Yours sincerely

Roger Clews

Inspector



Proposed Main Modifications to the Publication Draft Braintree, Colchester and Tendring Local Plans Section One

July 2020

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
MM1	Vision for North Essex	<p>Bold text indicates a proposed addition to the text of the publication draft plan Struck-through text indicates a proposed deletion from the text of the publication draft plan <i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <p>North Essex will be an area of significant growth over the period to 2033 and beyond, embracing positively the need to build well-designed new homes, create jobs and improve and develop infrastructure for the benefit of existing and new communities.</p> <p>It will continue to be an attractive and vibrant area in which to live and work, making the most of its rich heritage, town centres, natural environment, coastal resorts, excellent educational facilities and strategic transport links which provide access to the ports, Stansted Airport, London and beyond. Rural and urban communities will be encouraged to thrive and prosper and will be supported by adequate community infrastructure. (Mod A)</p> <p>Sustainable development principles will be at the core of the strategic area's response to its growth needs, balancing social, economic and environmental issues. Green and blue infrastructure and new and expanded education and healthcare facilities enabling healthy and active lifestyles (Mod B) will be planned and provided along with other facilities to support the development of substantial new growth; while the undeveloped countryside (Mod C) and heritage assets the natural and historic environment will be protected conserved and enhanced. (Mod D) Key to delivering sustainable development is that new development will address the requirement to protect and enhance be informed by an understanding of the historic environment and settlement character. (Mod E)</p> <p>At the heart of our strategic vision for North Essex are is a new garden communities, to be sensitively integrated within the existing historic built and natural environment, the delivery of which is and based on Garden City principles covered by policy SP7. (Mod F)</p> <p>The garden communities provides an opportunity to create the right balance of jobs, housing and infrastructure in the right location and (Mod G) will attract</p>	<p>Positively-prepared, Justified, Effective</p> <p>Mod A – Highlight the strategic issues relevant to Section 1.</p> <p>Mod B – Include high level strategic objective on the need to support healthy and active lifestyles.</p> <p>Mod C – To clarify definition of countryside to be protected.</p> <p>Mod D – Include high level strategic objective on the need to preserve and enhance the natural and historic environment.</p> <p>Mod E – Include high level strategic objective on the need to</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan Struck-through text indicates a proposed deletion from the text of the publication draft plan <i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <p>residents and businesses who value innovation, community cohesion and a high-quality environment, and who will be provided with opportunities to take an active role in managing the garden community to ensure its continuing success.</p> <p>Residents will live in high quality, innovatively designed, contemporary-homes, (Mod H) accommodating a variety of needs and aspirations, located in well-designed neighbourhoods where they can meet their day-to-day needs. There will be a network of tree-lined streets and green spaces, incorporating and enhancing existing landscape features and also accommodating safe and attractive routes and space for sustainable drainage solutions; and leisure and recreation opportunities for both residents and visitors of the garden communities.</p> <p>Suitable models for the long term stewardship of community assets will be established and funded to provide long term management and governance of assets. All Garden City principles as specified in the North Essex Garden Communities Charter will be positively embraced including, where appropriate, new approaches to delivery and partnership working and sharing of risk and reward for the benefit of the new communities. Central to this will be the comprehensive planning and development of the garden community, and the aligned delivery of homes and supporting infrastructure. (Mod I)</p>	<p>preserve and enhance the historic environment.</p> <p>Mod F – To clarify that in addition to Garden City principles, the garden community will have regard to integration with the existing environment.</p> <p>Mod G – To clarify the role of the garden community in meeting planning objectives.</p> <p>Mod H – Requirement for homes to be ‘contemporary’ is not justified by evidence.</p> <p>Mod I – To clarify the approach to planning the garden community.</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
MM2	Para 1.31, Strategic Objectives	<p>Bold text indicates a proposed addition to the text of the publication draft plan Struck-through text indicates a proposed deletion from the text of the publication draft plan <i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <p>Providing New and Improved Transport & Communication Infrastructure – to make efficient use of existing transport infrastructure and to ensure sustainable transport opportunities are promoted in all new development to support new and existing communities. (Mod A) Where additional capacity is required in the form of new or upgraded transport infrastructure to support new development, ensuring that this is delivered in a phased & timely way to minimise the impact of new development. To ensure that enabled communication is provided as part of new developments as enabled communication is essential for modern living, and broadband infrastructure and related services will be essential for business, education and residential properties.</p> <p>Ensuring High Quality Outcomes – to promote greater ambition in planning and delivering high-quality sustainable new communities. Overall, new development must secure high standards of urban design and green infrastructure which create attractive and sustainable places where people want to live and spend time. New development needs to be informed by an understanding of the historic environment resource gained through the preparation of Historic Impact Assessments, and to conserve and enhance the significance of the heritage assets and their settings. (Mod B)</p>	<p>Justified, Effective</p> <p>Mod A – To clarify that new transport infrastructure will benefit both new and existing communities</p> <p>Mod B – To clarify requirement to conserve and enhance the historic environment.</p>
MM3	Para 1.32	<p>This section includes the Councils' response to the opportunities and challenges facing the wider area, in the form of strategic policies that will help to deliver the vision and objectives. These policies only cover those matters that are of strategic relevance to all three authorities. Policies that address local matters are included in the following section of the Plan. The Plan as a whole, including both Sections 1 and 2, will supersede previous Local Plan policies and allocations upon its adoption. A list of the policies superseded by Section 1 and Section 2 of the Plan respectively is included as an appendix to each section.</p>	<p>Effective, Legally-compliant</p> <p>To identify which previous plan policies are superseded.</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
MM4	Policy SP1	<p>Policy SP1 – Presumption in Favour of Sustainable Development</p> <p>When considering development proposals the Local Planning Authorities will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. They will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.</p> <p>Sustainable development in North Essex will demonstrably contribute to the strategic and local vision and objectives and will accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans).</p> <p>Development that complies with the Plan in this regard will be approved without delay, unless material considerations indicate otherwise.</p> <p>Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:</p> <ul style="list-style-type: none"> any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the National Planning Policy Framework taken as a whole or specific policies in that Framework or the Plan that indicate that development should be restricted. 	<p>Effective, Consistent with national policy</p> <p>To clarify the policy and avoid conflict with or duplication of national policy.</p>
MM5	New paras 2.2-2.7	<p>Recreational disturbance Avoidance and Mitigation Strategy (RAMS)</p> <p>2.2 A Habitats Regulations Assessment (HRA) was completed for Section 1 of the Plan. The loss of off-site habitat, water quality and increased recreational disturbance were identified as issues with the potential to result</p>	<p>Effective, Legally-compliant</p> <p>To reflect the completion of the</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan Struek-through-text indicates a proposed deletion from the text of the publication draft plan <i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <p>in likely significant effects on European Sites, without mitigation to address the effects.</p> <p>2.3 The Appropriate Assessment (AA) identified a number of avoidance and mitigation measures to be implemented, to ensure that development proposals in the Plan will not result in adverse effects on the integrity of any Special Area of Conservation, Special Protection Area or Ramsar site, and are HRA compliant.</p> <p>2.4 To mitigate for the loss of off-site habitat, the AA identified the need for wintering bird surveys for the Tendring/Colchester Borders Garden Community as part of any project level development proposals and masterplanning (see also paragraph 8.4 and Policy SP8 paragraph F.21 below).</p> <p>2.5 To protect water quality, the AA recommended the inclusion of policy safeguards to ensure that adequate water and waste water treatment capacity or infrastructure upgrades are in place prior to development proceeding.</p> <p>2.6 Recreation activities can potentially harm Habitats Sites. The AA identified disturbance of water birds from people and dogs, and impacts from water sports/watercraft as the key recreational threats to Habitats Sites.</p> <p>2.7 To mitigate for any increases in recreational disturbance at Habitats Sites, the AA identified the need for a mitigation strategy. Natural England's West Anglian Team identified the Essex coast as a priority for a strategic and proactive planning approach as it is rich and diverse ecologically, and many of the coastal habitats are designated as Habitats Sites. Consequently, 12 local planning authorities in Essex have prepared an Essex Coast</p>	<p>Essex Coast RAMS Strategy Document and to ensure that the requirements of the Habitats Regulations are met.</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan Struck-through-text indicates a proposed deletion from the text of the publication draft plan <i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <p>Recreational disturbance Avoidance and Mitigation Strategy (RAMS).</p> <p>2.8 The Essex Coast RAMS sets out specific avoidance and mitigation measures by which disturbance from increased recreation can be avoided and mitigated thus enabling the delivery of growth without adversely affecting Habitats sites. These measures are deliverable, realistic, underpinned by robust up to date evidence, precautionary and provide certainty for developers around deliverability and contributions. The Essex Coast RAMS Strategy Document was completed in 2019 and will be supported by a SPD.</p>	
MM6	New Policy SP1A to follow after SP1	<p>Policy SP1A – Recreational disturbance Avoidance and Mitigation Strategy (RAMS)</p> <p>Contributions will be secured from development towards mitigation measures in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy 2018-2038 (RAMS).</p>	<p>Justified, Effective, Legally-compliant</p> <p>New policy required in order to ensure that the requirements of the Habitats Regulations are met.</p>
MM7	Policy SP2	<p>Policy SP2 – Spatial Strategy for North Essex</p> <p>Existing settlements will be the principal focus for additional growth across the North Essex Authorities area within the Local Plan period. (Mod A) Development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area.</p> <p>Future growth will be planned to ensure existing settlements maintain their</p>	<p>Mod A – Effective</p> <p>To clarify the geographical scope of the plan.</p> <p>Mod B – Effective</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan Struck-through text indicates a proposed deletion from the text of the publication draft plan <i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <p>distinctive character and role, to avoid coalescence between them and to conserve their setting. (Mod B) Re-use of previously-developed land within settlements is an important objective, although this will be assessed within the broader context of sustainable development principles, particularly to ensure that development locations are accessible by a choice of means of travel.</p> <p>In Section 2 of its Local Plan, Eeach local planning authority will identify a hierarchy of settlements where new development will be accommodated according to the role of the settlement, sustainability, its physical capacity and local needs. (Mod C)</p> <p>Beyond the main settlements the authorities will support diversification of the rural economy and conservation and enhancement of the natural environment.</p> <p>Three new As part of the sustainable strategy for growth, the Tendring / Colchester Borders gGarden eCommunities will be developed and delivered as part of the sustainable strategy for growth, at the broad locations shown on Map 3-3 10.2 below and on the Colchester and Tendring Local Plans Policies Maps. These new communities will provide a strategic locations for at least 7,500 additional homes and employment within the Plan period in North Essex. Employment development will also be progressed with tThe expectation is that substantial additional housing and employment development will be delivered in each the Garden eCommunity beyond the current Local Plan periods. They will be planned and developed drawing on Garden City principles, with necessary infrastructure and facilities provided and a high quality of place-making and urban design (Mod D).</p>	<p>To clarify the approach to existing settlements.</p> <p>Mod C – Effective To clarify the respective roles of Sections 1 and 2.</p> <p>Mod D – Justified, Effective To reflect the deletion of Policies SP9 & SP10, give appropriate emphasis to employment development and avoid duplicating the requirements of other policies.</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
MM8	Policy SP3	<p>Policy SP3 – Meeting Housing Needs</p> <p>The local planning authorities will identify sufficient deliverable sites, developable sites and/or broad locations for their respective plan period, against to meet the housing requirements in the table below, and will incorporate additional provision to ensure flexibility and choice and competition for land. (Mod A)</p> <p>Each authority will maintain a sufficient supply of deliverable sites to provide for at least five years' worth of housing, plus an appropriate buffer in accordance with national policy, and will work proactively with applicants to bring forward sites that accord with the overall spatial strategy and relevant policies in the plan. 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. (Mod B)</p> <p>The authorities will review their housing requirements regularly in accordance with national policy requirements, and in doing so will have regard to the housing needs of the wider area. (Mod C)</p>	<p>Mod A – Positively prepared To include reference to additional provision to ensure that housing needs can be met.</p> <p>Mod B – Consistent with national policy, Effective To reflect the national policy requirement for a buffer and to clarify the role of Section 2 in addressing housing supply issues to ensure objectively assessed development needs are met.</p> <p>Mod C – Consistent with national policy To address the</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification															
		<p>Bold text indicates a proposed addition to the text of the publication draft plan</p> <p>Struck-through text indicates a proposed deletion from the text of the publication draft plan</p> <p><i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <table border="1" data-bbox="528 533 847 1688"> <thead> <tr> <th>Local Authority</th> <th>Objectively Assessed Need for Housing requirement per annum</th> <th>Total minimum housing supply in requirement for the plan period (2013 – 2033) (Mod D)</th> </tr> </thead> <tbody> <tr> <td>Braintree</td> <td>716</td> <td>14,320</td> </tr> <tr> <td>Colchester</td> <td>920</td> <td>18,400</td> </tr> <tr> <td>Tendring</td> <td>550</td> <td>11,000</td> </tr> <tr> <td>Total</td> <td>2,186</td> <td>43,720</td> </tr> </tbody> </table>	Local Authority	Objectively Assessed Need for Housing requirement per annum	Total minimum housing supply in requirement for the plan period (2013 – 2033) (Mod D)	Braintree	716	14,320	Colchester	920	18,400	Tendring	550	11,000	Total	2,186	43,720	<p>national policy requirement to have regard to unmet needs in adjacent authorities.</p> <p>Mod D – Effective To clarify terminology so as to avoid ambiguity.</p>
Local Authority	Objectively Assessed Need for Housing requirement per annum	Total minimum housing supply in requirement for the plan period (2013 – 2033) (Mod D)																
Braintree	716	14,320																
Colchester	920	18,400																
Tendring	550	11,000																
Total	2,186	43,720																
MM9	Policy SP4	<p>Policy SP4 – Providing for Employment and Retail (Mod A)</p> <p>A strong, sustainable and diverse economy will be promoted across North Essex with the Councils local planning authorities (Mod B) pursuing a flexible approach to economic sectors showing growth potential across the Plan period.</p> <p>Employment forecasts have been developed using two standard models (East of England Forecasting Model (EEFM) and Experian 2016) which forecast total job growth for each of the local authorities based on past trends. Each local authority has been advised on the most appropriate modelling figure to use in the context of reconciling job and housing demand. These figures are set out for the housing market as follows for the period 2013-2037:</p> <p>Annual Job Forecast:</p>	<p>Mod A – Effective To clarify the scope of the policy.</p> <p>Mod B – Effective To make the Plan's terminology consistent.</p>															

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification						
		<p>Bold text indicates a proposed addition to the text of the publication draft plan Struck-through text indicates a proposed deletion from the text of the publication draft plan <i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <table border="1" data-bbox="392 1016 509 1697"> <tr> <td>Braintree (EEFM)</td> <td>490</td> </tr> <tr> <td>Colechester (EEFM)</td> <td>928</td> </tr> <tr> <td>Tendring (Experian)</td> <td>490</td> </tr> </table> <p>In terms of specific B use land provision, each local authority has undertaken work to establish what quantum of employment land would be required within the Plan period to meet the demand identified below for additional B use employment land. These B use employment areas are distributed between each local authority area and based on achieving a sustainable balance between jobs and the available labour force through population growth. As noted above, calculations of employment land required are affected by a range of issues that lead to different employment land portfolios for each local authority area, resulting in a proportionately greater quantum of new floorspace per job in Braintree and Tendring than in Colchester. This is a function of the prominence of higher density office requirements in Colchester and lower density logistics and industrial uses in Braintree and Tendring. The table below sets out the three authorities' employment land requirements for the period 2016 – 33 for two plausible scenarios, baseline and higher growth. These two bookends provide flexibility to allow for each authority's supply trajectory to reflect their differing requirements. (Mod C)</p> <p>In order to meet the requirements for B class employment uses and to maintain appropriate flexibility in provision to meet the needs of different sectors, Section 2 of each plan will allocate employment land to ensure</p>	Braintree (EEFM)	490	Colechester (EEFM)	928	Tendring (Experian)	490	<p>Mod C – Effective To provide a more clearly-focussed policy, leaving explanatory detail to the supporting text.</p> <p>Mod D – Positively Prepared, Effective To make it clear that site allocations will be included in Section 2 to</p>
Braintree (EEFM)	490								
Colechester (EEFM)	928								
Tendring (Experian)	490								

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification															
		<p>Bold text indicates a proposed addition to the text of the publication draft plan Struck-through text indicates a proposed deletion from the text of the publication draft plan <i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <p>that provision is made within the ranges set out in the table below. (Mod D)</p> <p>Hectares of B use employment land required:</p> <table border="1" data-bbox="735 528 994 1688"> <thead> <tr> <th></th> <th>Baseline (2012 Based SNPP)</th> <th>Higher Growth Scenario</th> </tr> </thead> <tbody> <tr> <td>Braintree</td> <td>23 20.9</td> <td>43.3</td> </tr> <tr> <td>Colchester</td> <td>22.0</td> <td>55.8 30.0</td> </tr> <tr> <td>Tendring</td> <td>20 12.0</td> <td>38 20.0</td> </tr> <tr> <td>North Essex</td> <td>65 54.9</td> <td>137.4 93.3</td> </tr> </tbody> </table> <p style="text-align: right;">(Mod E)</p>		Baseline (2012 Based SNPP)	Higher Growth Scenario	Braintree	23 20.9	43.3	Colchester	22.0	55.8 30.0	Tendring	20 12.0	38 20.0	North Essex	65 54.9	137.4 93.3	<p>ensure that the requirements in policy SP4 are met.</p> <p>Mod E – Justified To ensure that the employment land requirement figures for each authority reflect the evidence</p>
	Baseline (2012 Based SNPP)	Higher Growth Scenario																
Braintree	23 20.9	43.3																
Colchester	22.0	55.8 30.0																
Tendring	20 12.0	38 20.0																
North Essex	65 54.9	137.4 93.3																
MM10	Policy SP5 First para	<p>Policy SP5 – Infrastructure and Connectivity</p> <p>All development must be supported by the provision of the infrastructure, services and facilities that are required to serve the needs arising from new the development.</p> <p>The requirements in section A of this policy apply only to the Tendring / Colchester Borders Garden Community, whilst the remaining sections B, C, D and E apply to all allocations and development proposals in the North Essex Authorities area.</p> <p>The following are strategic priorities for infrastructure provision or improvements</p>	<p>Positively Prepared, Effective</p> <p>To ensure the plan addresses infrastructure requirements and to clarify the scope of policy requirements for the Garden</p>															

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan</p> <p>Struck-through text indicates a proposed deletion from the text of the publication draft plan</p> <p><i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <p><i>within the strategic area</i></p>	Community.
MM11	Policy SP5 New para A	<p>A Tendring / Colchester Borders Garden Community</p> <p>1 The Development Plan Document (DPD) for the Tendring / Colchester Borders Garden Community will include:</p> <p>a) An infrastructure delivery strategy and phasing plan that sets out how infrastructure, services and facilities will be provided. Infrastructure delivery will align with each development phase and be supported by suitable mechanisms to deliver the infrastructure both on and off-site;</p> <p>b) Details of the design and delivery of Route 1 of the rapid transit system, and a programme for the integration of the garden community into the system. The route will be designed to accommodate future route enhancements and technology improvements; and</p> <p>c) Target modal shares for each transport mode and details of sustainable transport measures to support their achievement.</p> <p>2 Before any planning approval is granted for development forming part of the Tendring / Colchester Borders Garden Community, the following strategic transport infrastructure must have secured planning consent and funding approval:</p> <p>a) A120–A133 link road; and</p>	<p>Positively-prepared, Effective</p> <p>To clarify essential infrastructure requirements for the Garden Community.</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan Struck-through text indicates a proposed deletion from the text of the publication draft plan <i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <p>b) Route 1 of the rapid transit system as defined in the North Essex Rapid Transit System: From Vision to Plan document (July 2019).</p> <p>3. Sustainable transport measures will be provided from first occupation at the Tendring / Colchester Borders Garden Community to support the achievement of the target modal shares as defined in the DPD for the garden community.</p> <p>4. Other strategic infrastructure requirements for the Tendring / Colchester Borders Garden Community are set out in sections D, E and F of Policy SP8, and will be further defined in the DPD for the garden community.</p>	
MM12	Policy SP5, Para B	<p>B. Transportation and Travel</p> <p>The local planning authorities will work with government departments, Highways England, Essex County Council, Network Rail, rail and bus operators, developers and other partners to deliver the following:</p> <ul style="list-style-type: none"> • Changes in travel behaviour by applying the modal hierarchy and increasing opportunities for sustainable modes of transport that can compete effectively with private vehicles; • A comprehensive network of segregated walking and cycling routes linking key centres of activity; • New and improved infrastructure required to support economic growth, strategic and site-specific priorities outlined in the second part of each Local Plan • Substantially improved connectivity by promoting more sustainable travel patterns, introducing urban transport packages to increase transport choice, providing better public transport infrastructure and services, and enhanced 	<p>Effective</p> <p>To clarify and avoid duplication of transport infrastructure requirements.</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan Struck-through text indicates a proposed deletion from the text of the publication draft plan <i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <ul style="list-style-type: none"> • inter-urban transport corridors; • Increased rail capacity, reliability and punctuality; and reduced overall journey times by rail • Support changes in travel behaviour by applying the modal hierarchy and increasing opportunities for sustainable modes of transport that can compete effectively with private vehicles • Prioritise Improved urban and inter-urban Ppublic transport, particularly in the urban areas, including, and new and innovative ways of providing public transport, including: <ul style="list-style-type: none"> ○ high quality rapid transit networks and connections in and around urban areas with links to the new garden community; ○ maximising the use of the local rail network to serve existing communities and locations for large-scale growth; ○ a bus network providing a high-frequency, reliable and efficient service, that is high quality, reliable, simple to use, integrated with other transport modes servng and offers flexibility to serve areas of new demand; ○ promoting wider use of community transport schemes; • Increased rail capacity, reliability and punctuality, and reduced overall journey times by rail; • New and 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 business, widen employment opportunities and support growth, specifically: <ul style="list-style-type: none"> ○ Improved access to and capacity of junctions on the A12 and other main roads to reduce congestion and address safety; ○ A dualled A120 between the A12 and from Braintree to the A12. ○ A comprehensive network of segregated walking and cycling routes linking key centres of activity contributing to an attractive, safe, legible and prioritized walking/cycling environment 	

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan</p> <p>Struck-through text indicates a proposed deletion from the text of the publication draft plan</p> <p><i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <ul style="list-style-type: none"> Develop innovative strategies for the management of private car use and parking including the promotion of car clubs and car sharing, and provision of support for electric car charging points. 	
MM13	Policy SP5, Para C	<p>C. Social Infrastructure</p> <p>The local planning authorities will work with relevant providers and developers to facilitate the delivery of a wide range of social infrastructure required for healthy, active and inclusive communities, minimising negative health and social impacts, both in avoidance and mitigation, as far as is practicable.</p> <p>Education</p> <ul style="list-style-type: none"> Provide sufficient school places will be provided in the form of expanded or new primary and secondary schools together with early years and childcare facilities that are phased with new development, with larger developments setting aside land and/or contributing to the cost of delivering land for new schools where required. Facilitate and support provision of practical vocational training, apprenticeships, and further and higher education will be provided and supported. <p>Health and Wellbeing</p> <ul style="list-style-type: none"> Ensure that essential healthcare infrastructure will be is provided as part of new developments of appropriate scale in the form of expanded or new healthcare facilities including primary and acute care; pharmacies; dental surgeries; opticians; supporting community services including hospices, treatment and counselling centres. Require new development to maximise its positive contribution in creating healthy communities and minimise its negative health impacts, both in avoidance and mitigation, as far as is practicable. 	<p>Effective</p> <p>To clarify policy wording and links between provision of different types of social infrastructure and new development</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan</p> <p>Struck-through text indicates a proposed deletion from the text of the publication draft plan</p> <p><i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <ul style="list-style-type: none"> • The conditions for a healthy community will be provided through the pattern of development, good urban design, access to local services and facilities; green open space and safe places for active play and food growing, and which are all accessible by walking, cycling and public transport. 	
MM14	Policy SP5, Para D	<p>D. Digital Connectivity</p> <p>Comprehensive digital access to support business and community activity will be delivered through the roll-out of superfast ultrafast broadband across North Essex to secure the earliest availability for of full fibre connections universal broadband coverage and fastest connection speeds for all existing and new developments (residential and non-residential), where .aAll new properties will allow for the provision for superultrafast broadband in order to allow connection to that network as and when it is made available.</p>	<p>Effective</p> <p>To reflect latest terminology, and remove duplicated text.</p>
MM15	Policy SP5 – New Para E	<p>E. Water & Waste water</p> <p>The local planning authorities will work with Anglian Water, Affinity Water, the Environment Agency and developers to ensure that there is sufficient capacity in the water supply and waste water infrastructure to serve new development. Where necessary, improvements to water infrastructure, waste water treatment and off-site drainage should be made ahead of the occupation of dwellings to ensure compliance with environmental legislation.</p>	<p>Effective</p> <p>To ensure that the necessary infrastructure requirements are reflected in the policy.</p>
MM16	Policy SP6	<p>Policy SP6 – Place-shaping Principles</p> <p>All new development must meet the highest high (Mod A) standards of urban and architectural design. The local authorities encourage the use of development frameworks, masterplans, design codes, and other design guidance documents and will be prepared in consultation with stakeholders where they are needed</p>	<p>Mod A – Consistent with national policy</p> <p>Modified to align with NPPF guidance and to indicate a proportionate design</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan Struck-through text indicates a proposed deletion from the text of the publication draft plan <i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <p>to support this objective.use design codes where appropriate for strategic-scale development. (Mod B).</p> <p>All new development should reflect the following place-shaping principles, where applicable (Mod C):</p> <ul style="list-style-type: none"> Respond positively to local character and context to preserve and enhance the quality of existing communities places (Mod D) and their environs. Provide buildings that exhibit individual architectural quality within well-considered public and private realms; Protect and enhance assets of historical or natural value; Incorporate biodiversity creation and enhancement measures (Mod E); Create well-connected places that prioritise the needs of pedestrians, cyclists and public transport services above use of the private car; Where possible, provide a mix of land uses, services and densities with well-defined public and private spaces to create sustainable well-designed neighbourhoods; Enhance the public realm through additional landscaping, street furniture and other distinctive features that help to create a sense of place; Provide streets and spaces that are overlooked and active and promote inclusive access; Include parking facilities that are well integrated as part of the overall design and are adaptable if levels of private car ownership fall; Provide an integrated and connected network of multi-functional biodiverse public open space and green and blue infrastructure that connects with 	<p>response. Mod B – Effective To clarify the role of design guidance documents. Mod C – Effective To clarify that not all the principles are applicable to some developments. Mod D – Effective Provides a more appropriate definition of areas covered by the requirement to preserve and enhance. Mod E – Consistent with national policy To ensure that development considers environmental enhancement consistent with 2012 NPPF paragraph 109. Mod F – Consistent with national policy To ensure that new</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan Struck-through text indicates a proposed deletion from the text of the publication draft plan <i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <ul style="list-style-type: none"> existing green infrastructure where possible, thereby helping to alleviate recreational pressure on designated sites (Mod F); Include measures to promote environmental sustainability including addressing energy and water efficiency, and provision of appropriate water and wastewater and flood mitigation measures including the use of open space to provide flora and fauna rich sustainable drainage solutions (Mod G); and Protect the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking (Mod H). 	<p>development incorporates biodiversity creation and enhancement and to recognise its role in helping to alleviate recreational pressure on designated sites Mod G – Consistent with national policy To highlight potential for sustainable water management solutions Mod H – Effective To ensure principle is comprehensive.</p>
MM17	Para 8.4	<p>Loss of off-site habitat – To mitigate for the loss of offsite habitat, the Appropriate Assessment identified the need for wintering bird surveys for the Tending / Colchester Borders Garden Community as part of any project-level development proposals and masterplanning, to determine the sites of individual importance for golden plover and lapwing and inform mitigation proposals. and a commitment to mitigation and funding of Tending / Colchester Borders Garden Community is required within the Section 1 Strategic Plan dependent on the findings of bird surveys. Depending on the findings of the wintering bird surveys, development may need to be phased to take into account the cumulative numbers of SPA birds. In the unlikely but possible event that cumulative numbers of SPA birds affected are likely to exceed the threshold of</p>	<p>Legally-compliant To ensure that the requirements of the Habitats Regulations are met.</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan Struck-through text indicates a proposed deletion from the text of the publication draft plan <i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <p>significance (i.e >1% of the associated European Site), appropriate mitigation in the form of habitat creation and management in perpetuity, either on-site or through provision of strategic sites for these species elsewhere, will be required. Where that mitigation requires the creation and management of suitably located habitat, feeding productivity for these SPA species should be maximised, and such mitigatory habitat would need to be provided and fully functional prior to development which would affect significant numbers of SPA birds.</p>	
MM18	Policy SP7, First Section	<p>Policy SP7 – Development and Delivery of a New Garden Communities-in North Essex</p> <p>The following three new garden communities is are proposed in North-Essex at the broad location shown on Map 10.2. (Mod A)</p> <p>Tendring/Colchester Borders, a new garden community which will deliver between 2,200 and 2,500 homes, 7 hectares of employment land and provision for Gypsies and Travellers within the Plan period (as part of an overall total of between 7,000 and 9,000 homes and 25 hectares of employment land to be delivered beyond 2033). (Mod B)</p> <p>Colchester/Braintree Borders, a new garden community will deliver 2,500 homes within the Plan period (as part of an overall total of between 15,000–24,000 homes to be delivered beyond 2033). (Mod C)</p> <p>West of Braintree in Braintree DC, a new garden community will deliver 2,500 homes within the Plan period (as part of an overall total of between 7,000–10,000 homes to be delivered beyond 2033). (Mod D)</p>	<p>Mod A – Justified, Effective See Inspector's letter of 15 May 2020 [IED/022].</p> <p>Mod B – Justified, Effective To properly reflect the role of the garden community in providing for housing and employment growth and for Gypsies and Travellers</p> <p>Mods C & D – Justified See Inspector's letter</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan Struck-through text indicates a proposed deletion from the text of the publication draft plan <i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <p>Each of these planned new community with a distinct identity that responds directly to its context and is of sufficient scale to incorporate a range of homes, employment, education & community facilities, green space and other uses to enable residents to meet the majority of their day-to-day needs, reducing the need for outward commuting. It will be comprehensively planned from the outset, with Ddelivery of each new community will be phased to achieve the whole development, and will be underpinned by a comprehensive package of infrastructure. (Mod E)</p> <p>A Development Plan Document (DPD) will be prepared for the garden community, containing policies setting out how the new community will be designed, developed and delivered in phases, in accordance with the principles in paragraphs i-xiv below. No planning consent for development forming part of the garden community will be granted until the DPD has been adopted. All development forming part of the garden community will comply with these principles. (Mod F)</p> <p>The Councils will need to be confident, before any consent is granted, that the following requirements have been secured either in the form of appropriate public ownership, planning agreements and obligations and, if necessary a local infrastructure tariff.</p> <p>The design, development and phased delivery of each new garden community will conform with the following principles (Mod G)</p>	<p>of 15 May 2020 [IED/022]</p> <p>Mod E – Effective To clarify the intention of the policy.</p> <p>Mod F – Positively prepared, effective To clarify the role of the DPD in governing the development of the new garden community.</p> <p>Mod G – Effective To clarify the policy and avoid duplication.</p>
MM19	Policy SP7, principle (i)	Community and stakeholder empowerment participation in the design and delivery of each the garden community from the outset and a long-term community engagement and activation strategy.	Effective Wording amended to

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan</p> <p>Struck-through text indicates a proposed deletion from the text of the publication draft plan</p> <p><i>Italic text</i> indicates other proposed modifications to the publication draft plan</p>	clarify the policy intention.
MM20	Policy SP7, principle (ii)	<p>The public sector working pro-actively and collaboratively with the private sector to design, and bring forward these garden communities, deploying new models of delivery where appropriate sharing risk and reward and ensuring that the cost of achieving the following is borne by landowners and those promoting the developments: (a) securing a high quality of place-making, (b) ensuring the timely delivery of both on-site and off-site infrastructure required to address the impact of these new communities, and (c) providing and funding a mechanism for future stewardship, management, maintenance and renewal of community infrastructure and assets. Where appropriate, developers will be expected to contribute towards publicly-funded infrastructure, including a contribution towards the A120-A133 link road. Given the scale of and time period for development of these new garden communities, the appropriate model of delivery will need to secure a comprehensive approach to the delivery of each new community in order to achieve the outcomes outlined in points (a) – (c) in this paragraph above, avoid a piecemeal approach to development, provide the funding and phasing of both development and infrastructure, and be sustainable and accountable in the long term.</p>	<p>Justified</p> <p>To clarify the policy approach to delivery models and developer contributions.</p>
MM21	Policy SP7, principle (iii)	<p>Promotion and execution of the highest quality of planning, design and management of the built and public realm so that the garden communities are is characterised as a distinctive places that capitalises on local assets, respects its context, and establishes an environments that promotes health, happiness and well-being. This will involve developing a cascade of design guidance based on a robust assessment of historic and natural environmental constraints and opportunities for enhancement. Guidance which may include concept frameworks, detailed masterplans and design codes and other guidance will be put in place to inform and guide development proposals and planning applications. Planning applications and any local development orders or other consenting</p>	<p>Effective</p> <p>To avoid duplicating the requirements of policy SP8.</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
MM22	Policy SP7, principle (iv)	<p>Bold text indicates a proposed addition to the text of the publication draft plan</p> <p>Struck-through text indicates a proposed deletion from the text of the publication draft plan</p> <p><i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <p>mechanisms for the garden communities will be expected to be consistent with approved design guidance.</p> <p>Sequencing of development and infrastructure provision (both on-site and off-site) to ensure that the latter is provided ahead of or in tandem with the development it supports to address the impacts of the new garden communities, meet the needs of its residents and establish sustainable travel patterns. To ensure new development does not have an adverse effect on any European Protected or nationally important site and complies with environmental legislation (notably the Water Framework Directive and the Habitats Directive), the required waste water treatment capacity including any associated sewer connections must be available ahead of the occupation of dwellings.</p>	<p>Effective</p> <p>To provide a policy safeguard to ensure that phasing of development does not exceed capacity.</p>
MM23	Policy SP7, principle (v)	<p>Development that provides for a truly balanced and inclusive community and meets the housing needs of local people including a mix of dwelling sizes, tenures and types, including provision for self- and custom-built homes, and provision for the aging population, and provision for Gypsies and Travellers; and that meets the requirements of those most in need including the provision of 30% affordable housing in each the garden community.</p>	<p>Justified, Effective</p> <p>To ensure that the policy reflects all housing needs.</p>
MM24	Policy SP7, principles (vi), (vii), (viii) & (xiv)	<p>Change references to 'garden communities' (plural) to 'garden community' (singular).</p>	<p>Justified</p> <p>See Inspector's letter of 15 May 2020 [IED/022].</p>
MM25	Policy SP7, principle (x)	<p>Create distinctive environments which are based on comprehensive assessments of relate to the surrounding environment and which celebrate natural and historic environments and systems, utilise a multi-functional green-grid to create significant networks of new green infrastructure including a new country parks at each the</p>	<p>Effective</p> <p>To clarify the requirement to provide</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan</p> <p>Struck-through text indicates a proposed deletion from the text of the publication draft plan</p> <p><i>Italic text</i> indicates other proposed modifications to the publication draft plan</p>	<p>a robust evidence base on historic and natural environment issues.</p>
MM26	Policy SP7, principle (xi)	<p>Secure a smart and sustainable approach that fosters climate resilience and a 21st century environment in the design and construction of each the garden community to secure net gains in local biodiversity, highest standards of energy efficiency and innovation in technology to reduce the impact of climate change, the incorporation of innovative water efficiency/re-use measures (with the aim of being water neutral in identified areas of serious water stress), and sustainable waste and mineral management.</p> <p>These principles are elaborated upon in the North Essex Garden Community Charter.</p> <p>A Development Plan Document will be developed for each of the garden communities to set out the principles of their design, development and phasing as well as a mechanism to appropriately distribute housing completions to the three Councils and this will be agreed through a Memorandum of Understanding.</p>	<p>Effective</p> <p>To clarify these infrastructure requirements.</p>
MM27	Policy SP7, final paragraph	<p>Policy SP8 – Tendring / Colchester Borders Garden Community</p> <p>The adopted policies map identifies the broad location for the development of a new garden community of which the details and final number of homes will be set out in a Strategic Growth Development Plan Document (DPD) to be prepared jointly between Colchester BC and Tendring DC, and which will incorporate around 2,500 dwellings and within the Plan period (as part of an overall total of between 7,000–9,000 homes) and provision for Gypsy and Travellers.</p>	<p>Effective</p> <p>Policy re-ordered to provide clarity on the role of the DPD.</p>
MM28	Policy SP8, First para	<p>The Strategic Growth Development Plan Document (DPD) required for the</p>	<p>Justified, Effective</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
	Second para	<p>Bold text indicates a proposed addition to the text of the publication draft plan Struck-through text indicates a proposed deletion from the text of the publication draft plan <i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <p>Tending / Colchester Borders Garden Community by Policy SP7 will define the will set out the nature, form and boundary of the garden community and the amount of development it will contain. The adoption of the DPD will be contingent on the completion of a Heritage Impact Assessment carried out in accordance with Historic England guidance. The Heritage Impact Assessment will assess the impact of proposed allocations upon the historic environment, inform the appropriate extent and capacity of the development and establish any mitigation measures necessary. The document DPD will be produced in consultation with the local community and stakeholders and will include a concept plan showing the disposition and quantity of future land-uses, and give a three-dimensional indication of the urban design and landscape parameters which will be incorporated into any future planning applications; together with a phasing and implementation strategy which sets out how the rate of development will be linked to the provision of the necessary social, physical and environmental infrastructure to ensure that the respective phases of the development do not come forward until the necessary infrastructure has been secured. The DPD will provide the framework for the subsequent development of more detailed masterplans and other design and planning guidance for the Tending / Colchester Borders Garden Community. The DPD and any application for planning permission for development forming part of the garden community must be consistent with the requirements set out in this policy.</p>	To provide more detail on the role of the DPD and to make it clear that the DPD will be informed by a Heritage Impact Assessment.
MM30	Policy SP8, New third paragraph	<p>For the Plan period up to 2033, housing delivery from the garden community, irrespective of its actual location, will be distributed equally between Colchester Borough Council and Tending District Council. If, after taking into account its share of delivery from the garden community, either of those authorities has a shortfall in delivery against the housing requirement for its area, it will need to make up the shortfall within its own area. It may not use the other authority's share of delivery from the garden community to make up the shortfall.</p>	<p>Positively planned, Effective</p> <p>To clarify how the housing at the garden community will be distributed, and the process for addressing</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan</p> <p>Struck-through text indicates a proposed deletion from the text of the publication draft plan</p> <p><i>Italic text</i> indicates other proposed modifications to the publication draft plan</p>	unmet need.
MM31	Policy SP8, Para A.2.	<p>Detailed masterplans and design guidance, based on a robust assessment of historic and natural environmental constraints and opportunities for enhancement, will be adopted put in place to inform and guide development proposals and planning applications for the garden community. Planning applications for this garden community will be expected to be consistent with approved DPDs and subsequent masterplans and design and planning guidance.</p>	<p>Justified</p> <p>To ensure that masterplans and design guidance are based on appropriate evidence.</p>
MM32	Policy SP8, Para C.5.	<p>The garden community will make provision for a wide range of jobs, skills and training opportunities will be created in the garden community. The DPD will allocate about 25 hectares of B use employment land within the garden community. This may include provision for B1 and/or non B class employment generating uses towards the south of the site in proximity to the existing University of Essex and Knowledge Gateway, and provision for B1, B2 and B8 businesses to the north of the site close to the A120.</p>	<p>Positively prepared</p> <p>To clarify the process for determining employment land allocations.</p>
MM33	Policy SP8, Para D.7	<p>A package of measures will be introduced to encourage smarter transport choices to meet the needs of the new community and to maximise the opportunities for sustainable travel. Policy SP5 requires planning consent and full funding approval for the A120-A133 link road and Route 1 of the rapid transit system to have been secured before planning approval is granted for any development at the garden community.</p> <p>Additional transport priorities include the provision of a network of footpaths, cycleways and bridleways to enhance permeability within the site and to access the</p>	<p>Positively prepared, Effective</p> <p>To clarify the transport infrastructure requirements for the garden community.</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan Struck-through text indicates a proposed deletion from the text of the publication draft plan <i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <p>adjoining areas, development of a public rapid transit system connecting the garden community to Essex University and Colchester town centre park and ride facilities, and other effective integrated measures to mitigate the transport impacts of the proposed development on the strategic and local road network. Longer term transport interventions will need to be carefully designed to minimise the impacts on the strategic and local road transport network and fully mitigate any environmental or traffic impacts arising from the development. These shall include bus (or other public transit provisions) priority measures between the site, University of Essex, Hythe station and Colchester Town Centre;</p>	
MM34	Policy SP8, Para D.9	Primary vehicular access to the site will be provided off the A120 and A133. Any other road improvements required to meet needs arising from the garden community will be set out in the DPD and further defined as part of the masterplanning process.	<p>Positively prepared, Effective</p> <p>To clarify the transport infrastructure requirements for the garden community.</p>
MM35	Policy SP8, Para E.13	Increased primary healthcare facilities capacity will be provided to serve the new development as appropriate. This may be by means of new infrastructure or improvement, reconfiguration, extension or relocation of existing medical facilities.	<p>Positively prepared, Effective</p> <p>To clarify the healthcare requirements for the garden community.</p>
MM36	Policy SP8, Para F.17	The delivery of smart, innovative and sustainable water efficiency/re-use solutions that fosters climate resilience and a 21st century approach towards water supply, water and waste water treatment and flood risk management.	<p>Positively prepared, Effective</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan Struek-through-text indicates a proposed deletion from the text of the publication draft plan <i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <p>Taking a strategic approach to flood risk through the use of Strategic Flood Risk Assessments and the updated Climate Projections 2019 and identifying opportunities for Natural Flood Risk Management. Provision of improvements to waste water treatment plant including an upgrade to the Colchester Waste Water Treatment Plan and off-site drainage improvements aligned with the phasing of the development within the plan period and that proposed post 2033. To ensure new development does not have an adverse effect on any European Protected or nationally important site and complies with environmental legislation (notably the Water Framework Directive and the Habitats Directive), the required waste water treatment capacity including any associated sewer connections must be available ahead of the occupation of dwellings.</p>	<p>To clarify the requirements for water supply and waste water infrastructure and to comply with the requirements of the Habitats Regulations.</p>
MM37	Policy SP8, Para F18	<p>Provision, management and on-going maintenance of sustainable surface water drainage measures to manage and mitigate the risk of flooding on site and which will reduce the risk of flooding to areas downstream or upstream of the development. To ensure new development does not have an adverse effect on any European Protected or nationally important sites and complies with environmental legislation (notably the Water Framework Directive and the Habitats Directive), the required waste water treatment capacity including any associated sewer connections must be available ahead of the occupation of dwellings.</p>	<p>Effective</p> <p>To ensure that phasing of development does not exceed the capacity of waste water infrastructure.</p>
MM38	Policy SP8, New Para F.20 (<i>Renumber subsequent paragraphs accordingly</i>)	<p>Conserve, and where appropriate enhance, the significance of heritage assets (including any contribution made by their settings) both within and surrounding the site. Designated heritage assets within the garden community area include the Grade II listed Allen’s Farmhouse, Ivy Cottage, Lamberts, and three buildings at Hill Farmhouse. Designated heritage assets nearby include the Grade I listed Church of St Anne and St Lawrence, Elmstead, the Grade II* listed Wivenhoe House, Elmstead Hall and Spring Valley Mill and numerous Grade II listed buildings as well as the Grade II listed Wivenhoe Registered Park and Garden. Harm to the significance of a designated heritage asset should be avoided in the first</p>	<p>Consistent with national policy</p> <p>To ensure that the policy gives appropriate protection to the historic environment.</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan Struck-through text indicates a proposed deletion from the text of the publication draft plan <i>Italic text</i> indicates other proposed modifications to the publication draft plan</p> <p>instance.</p>	
MM39	Policy SP8, Para F.21 (previously F.20)	<p>Avoidance, Protection and/or enhancement of heritage and biodiversity assets within and surrounding the site; including Bullock Wood SSSI, Ardleigh Gravel Pits SSSI, Wivenhoe Pits SSSI and Upper Colne Marshes SSSI and relevant European protected sites. Contributions will be secured towards mitigation measures in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy. Wintering bird surveys will be undertaken at the appropriate time of year as part of the DPD preparation to identify any offsite functional habitat. Should any be identified, development must firstly avoid impacts. Where this is not possible, development must be phased to deliver habitat creation and management either on- or off-site to mitigate any significant impacts. Any such habitat must be provided and fully functional before any development takes place which would affect significant numbers of SPA birds.</p>	<p>Legally compliant, Effective</p> <p>To ensure that the requirements of the Habitats Regulations are met.</p>
MM40	Policy SP8 New Para F. 26 (final paragraph)	<p>Allocation of additional land within the garden community, to accommodate University expansion, which is at least equivalent in size to the allocation in the Colchester Local Development Framework Site Allocations document October 2010.</p>	<p>Justified, Effective</p> <p>To ensure that adequate land is allocated to meet the needs of the University.</p>
MM41	Policy SP9	<p>Delete the whole of Policy SP9.</p>	<p>Justified</p> <p>See Inspector's letter of 15 May 2020 [IED/022]</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
MM42	Policy SP10	Delete the whole of Policy SP10.	Justified See Inspector's letter of 15 May 2020 [IED/022]
MM43	Braintree Section 1 Local Plan Chapter 10	<p><u>In the Braintree Section 1 Local Plan Chapter 10 (Appendices & Maps):</u></p> <p>Delete the West of Braintree and Colchester / Braintree Borders Garden Community designations from Map 10.1, change the title of the map to 'Key Diagram', and change the legend for 'Garden Communities' to read 'Garden Community'.</p> <p>Delete Maps 10.2A and 10.3B.</p> <p>Replace Maps 10.4C & 10.5D with new Map 10.2 below entitled 'Tendring Colchester Borders Garden Community – Broad Location'.</p>	Effective To reflect the deletion of policies SP9 & SP10 and to show the broad location of the Tendring / Colchester Borders Garden Community accurately
MM44	Colchester Section 1 Plan Chapter 10	<p><u>In the Colchester Section 1 Local Plan Chapter 10 (Section One Maps):</u></p> <p>Delete the West of Braintree and Colchester / Braintree Borders Garden Community designations from Map 10.1, and change the legend for 'Garden Communities' to read 'Garden Community'.</p> <p>Following Map 10.1, insert new Map 10.2 below entitled 'Tendring Colchester Borders Garden Community – Broad Location'.</p>	Effective To reflect the deletion of policies SP9 & SP10 and to show the broad location of the Tendring / Colchester Borders Garden Community accurately

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
MM45	Tendring Section 1 Plan Maps	<p>In the Tendring Section 1 Local Plan:</p> <p>Delete the West of Braintree and Colchester / Braintree Borders Garden Community designations from Map 1.</p> <p>Delete the West of Braintree and Colchester / Braintree Borders Garden Community designations from Map 2, and change the legend for 'Garden Communities' to read 'Garden Community'. Retitle the map '10.1 Key Diagram', and move it to the end of the Section 1 Plan.</p> <p>Following Map 10.1, insert new Map 10.2 below entitled 'Tendring Colchester Borders Garden Community – Broad Location'.</p> <p>Delete Local Map B.7 Tendring Colchester Borders Garden Community</p>	<p>Effective</p> <p>To reflect the deletion of policies SP9 & SP10 and to show the broad location of the Tendring / Colchester Borders Garden Community accurately</p>
MM46	At end of Section 1 Plan	<p>Insert Appendix A below entitled 'List of policies superseded by Section 1 of the Plan'</p>	<p>Legally compliant</p> <p>To comply with relevant legislation.</p>
MM47	Colchester Local Plan Front Cover	<p>The Publication Draft stage of the Colchester Borough Local Plan 2013-2017-2033</p>	<p>Justified, Effective</p> <p>To ensure that the cover of the plan shows the correct plan period.</p>

Ref	Policy / Para N°	Proposed main modification	Indicative reason(s) for proposed main modification
		<p>Bold text indicates a proposed addition to the text of the publication draft plan</p> <p>Struek-through-text indicates a proposed deletion from the text of the publication draft plan</p> <p><i>Italic text</i> indicates other proposed modifications to the publication draft plan</p>	

TO BE ADDED TO THE SCHEDULE

- Map 10.2 (based on EXD/080A) entitled '*Tendring Colchester Borders Garden Community – Broad Location*'
- Appendix A, entitled '*List of policies superseded by Section 1 of the Plan*'

Progress report on the work undertaken so far by the Climate Change Working Group and a revised schedule for production of the strategy	Agenda No: 9
------------------------------------------------------------------------------------------------------------------------------------------------	---------------------

Portfolio Corporate Outcome:	Environment and Place A sustainable environment and a great place to live, work and play
Report presented by:	Councillor Mrs W Schmitt, Portfolio Holder for Environment and Place
Report prepared by:	Cherie Root, Corporate Director

Background Papers:	Public Report
Minute of Council 22nd July 2019 Minutes of Cabinet 9th September 2019 Cabinet 13th July 2020	Key Decision: No

Executive Summary

At the Council meeting on 22nd July 2019, Braintree District Council declared a Climate Emergency and agreed to establish a Climate Change working group to develop an action plan to ensure all Council activities are, as far as practical, carbon neutral by 2030.

At the Cabinet meeting held on 9th September 2019 Cabinet members approved the creation of the group and set the deadline of September 2020 for the production of a new Strategy and Action Plan and with a progress report being provided mid-year.

The objectives of the group are:

1. To support the development of the next Climate Change Strategy for the District
2. To support the development of a plan to make Braintree District Council's activities as far as practical carbon neutral by 2030
3. To report back to Council by September 2020

The purpose of this report is to provide the mid-year update summarising the work undertaken by the group so far and highlighting its future areas of work and also sets out a revised schedule for the delivery of the draft Strategy and Action plan following the effects of Coronavirus Pandemic on its production and the potential new opportunities that have arisen as a result of the pandemic.

Membership

The group was formed in October 2019 and consists of the following members:

Cllr Wendy Schmitt (Chair)	Portfolio Holder for Environment & Place
Cllr Nick Unsworth	District Councillor
Cllr Diana Garrod	District Councillor
John Parish	Braintree District Council Green Heart Champion
Nick Shuttleworth	Executive Director, Rural Community Council of Essex
Richard Gormley	Executive Director, Greenfields Community Housing Ltd
Lily March	Notley Sixth Form student
Dr Lauren Crabb	Coventry University
Cherry McKean	Plastic Free Colnes and Halstead
Archie Ruggles Brise	Rural Green Business Entrepreneur

This Group is supported by a group of officers and specialist advisors from each subject area as required.

Areas of focus set by the Group

The group decided that the subject matter of Climate Change was so broad that it would need to concentrate its time looking at those areas where the Council could make a significant difference or have the largest influence.

At its first meeting the group acknowledged the excellent work that already had been undertaken by the Council and decided to focus on the following eight areas:-

- **Resources**
 - Reduce waste and conserve resources
- **Energy Use**
 - Reduce consumption and alternative energy sources
- **Planning and Development**
 - Future proofing future development
- **Transport**
 - Reduce car travel and promote alternative transport methods
- **Council Assets and Operations**
 - Minimising emissions and impact
- **Natural Environment**
 - Habitat protection and creation
- **Adapting to Climate Change**
 - Minimising the risk to the Council and our Residents
- **Education, engagement and behaviour change**

Group meeting arrangements

The group meets every six weeks and at each of the meetings focus on one or two of the subject areas highlighted above. Expert speakers on each of the subjects are invited to present to the group to enable it to develop areas of the strategy and, more importantly, develop an action plan to deliver the new strategy.

Meetings that have taken place so far:-

October - First meeting of the group	
Subject matter	Key points
Agreed format for future meetings	<ul style="list-style-type: none"> • Updates from previous meetings • Maximum of three presentations per meeting • Recommendations for quick wins and the action plan • key focus areas for the next meeting (areas that will have the most impact, what members want to hear more about) • Agree guests to attend the next meeting <p>Five further meetings were planned.</p> <ul style="list-style-type: none"> • December – Council Assets and Natural Environment • February – Resources and Energy Use • March – Planning and Development and Transport • May – Adapting to Climate Change • July – draft Strategy
December -Council Assets and Natural Environment	
Subject matter	Key points
Social Media and Communications	<ul style="list-style-type: none"> • Use social media and use real people to share the messages • Messaging around the social norm is stronger messaging • Further messaging is needed about what can and cannot be recycled • Share campaign media, toolkits etc. with Parish Councils
Council Estate and Operations	<ul style="list-style-type: none"> • Consider hardwiring sustainable energy into any new buildings. • Look at where are there green alternatives in the services we provide – replace equipment with more energy efficient alternatives etc.
Council Fleet	<ul style="list-style-type: none"> • Staff engagement and educating drivers is key • Look the EV vehicle purchasing • Future consideration to be given on the different methods of refuse collection to encourage recycling • Green standards applied to procurement process • Geographical issues need to be taken into consideration as Braintree District is one of the largest in the country and there are considerable distances to travel
Natural Environment – habitat and trees	<ul style="list-style-type: none"> • More active management of BDC's 15 woodlands is needed

	<ul style="list-style-type: none"> • New planting will take at least 20 years to have any real impact • Stewardship and regular management of woods is to be encouraged as well as work with local volunteers
Natural Environment - Air Quality	<ul style="list-style-type: none"> • To date the air pollution levels recorded in the District have not exceeded the National Guideline levels • Behavioural change is required to reduce emissions especially from vehicle sources
February - Resources and Energy Use	
Subject matter	Key points
Waste Management and the National Waste and Resources Strategy	<p>The Council has 3 years to begin implementing the Governments new waste strategy which concentrates on:</p> <ul style="list-style-type: none"> • Reforming Producer Responsibility • The introduction of a Plastic Packaging Tax • Deposit return scheme for bottles • Improve Recycling Collection Consistency • All plastic to be recycled by 2025 <p>The new legislation may impact services from 2023 onwards. The Council will need to consider national policy when shaping BDC 10 year waste strategy.</p> <p><u>Presentation by Viridor</u> Viridor currently take BDC recycling to MERF at Gt Blakenham. Recover paper, plastic, glass and metals. The company maintain a robust audit trail for every bale shipped abroad all containers sent overseas are audited and tracked</p>
The Local Energy Opportunity – towards net zero	<p>Greater South East Energy Hub works with authorities to get alternative energy projects delivered and identified to following projects for the Braintree District:</p> <ul style="list-style-type: none"> • Working with local business to reduce energy demand. • Low carbon home heating • Increase electric vehicle uptake and develop local industry to support these vehicles. • Hydrogen – Need to consider different fuel types for different applications. • Local energy investment. • Heat pumps, driven by electricity – There are 64,000 homes in the Braintree District. If all homes insulated and heat pumps supplied the business opportunity would be worth £295 million for the District.
Benchmarking Climate Change Approaches	<p>Some notable key considerations for the production of our strategy when looking other Council’s strategy’s:</p> <ul style="list-style-type: none"> • Engaging to residents and businesses alike.

- | | | |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| | <ul style="list-style-type: none"> • Behavioural change is key – The council must lead by example. • Identify sources, opportunities, funding • Publicity on what we are already doing is key | |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|

Actions Already Implemented

During each of the meetings the group has been able to identify actions which can be implemented in advance of the strategy.

Actions already implemented include:-

1. Campaigns and Communications

Implemented to encourage residents to measures to reduce their carbon footprint:

- Reduce waste campaign
- Love Essex/Hate Plastic
- Increased the variety and use of Social Media platforms to engage younger demographic in climate change debate.
- Use Business Rates and Council Tax booklets to promote messages on Climate Change
- Shared innovative ideas from local businesses. This will continue as we become aware of initiatives

2. Partnership Working

- Encourage positive actions towards environmental issues
- Increase communication with Parish and Town Councils, highlighting actions communities can take
- Work with some Primary Schools, harnessing energy of students as champions of change
- Research and benchmarking what others are doing
- Support for the Essex Forest

3. Council Services

Environment projects including:-

- Installation of electric car charging points
- Reducing fuel usage across BDC estate
- Promote Essex Energy switching scheme
- Promote sustainable/active transport
- Promote resilient communities

The recent Council Motion to Braintree councillors unanimously voted in favour of enhancing cycle routes across the region during a meeting.

Revised Time table for the production of the Strategy & Action Plan

Since March and the onset of the Coronavirus epidemic the remaining planned meeting schedule of the Climate Action Group has been postponed.

Below is a revised schedule of meetings for the group and timeline for the production of the new Climate Strategy to Council.

Officer working Group	Cabinet Member Climate Change Group	Subject for Discussion
Wednesday 30 th June (already in the diary)	Monday 20 th July (already in the diary)	Planning & Development
Wednesday 26 th August	Monday 14 th September	Transport
Wednesday 7 th October	Monday 19 th October	Business mitigation, Adapting to Climate Change
Wednesday 4 th November	Monday 16 th November	Development of the draft strategy
Wednesday 2 nd December	14 th December	Development of the draft strategy
	11 th Jan	Development of the draft strategy
	Report to Governance by 22/01	New Strategy to be presented to Cabinet on 8 th February 2021 and Council on 22 nd February 2021

In light of the current restrictions it is recommended that all meetings of the group for the foreseeable future will be remote meetings.

The plan is that a strategy and action plan will be put before Cabinet and Council in February 2021 for consideration and adoption.

The pandemic has had some positive effects on the environment. At a recent full Council meeting councillors unanimously voted in favour of enhancing cycle routes across the region.

Recommended Decision:

1. To note the progress of the Climate Change Working Group.
2. To note the revised schedule of meetings and approve the new date for the delivery of the new strategy and action plan.

Purpose of Decision:

To support the development of a new Climate Strategy and an action plan for the Council to enable it to become carbon neutral, where practicable, by 2030.

Any Corporate implications in relation to the following should be explained in detail.	
Financial:	This group does not have an initial budget, however it is expected that there will be financial impacts resulting from recommendations made by this group. These are unknown at this time The implications will be managed in accordance with the Councils usual processes for managing financial commitments.
Legal:	During the working life of the group there may be a number of legislative developments and current legislation that will require due consideration in relation to the environment and climate change as well as any legal impacts of recommendations made by the group. These will be considered on a case by case basis.
Safeguarding:	No safeguarding issues have been identified at this time.
Equalities/Diversity:	Recommendations arising from this group will be subject to an equalities impact assessment. This report however sets out an initial enabling framework which does not have any direct implications for any protected characteristics. The appointment of external appointees will be undertaken on merit reflecting the Councils equality commitments and the need to consider protected characteristics.
Customer Impact:	It is expected that any recommendations that the group make will be subject to a customer impact assessment to assess the impacts of proposals and to understand the merits of alternative strategies.
Environment and Climate Change:	The purpose of this group is to make recommendations to support Braintree District Council to make its activities carbon neutral by 2030 as well as developing a climate change strategy for the District.
Consultation/Community Engagement:	<p>The working group will have community representation, and there will also be consultation undertaken on key recommendations and the climate change strategy.</p> <p>Whilst the group is focused on reducing the impact of the Councils activities in respect of carbon emissions, it is recognised that this may change or influence the way services are delivered. Community engagement is essential to the success of the strategy and it will therefore be important to involve the community in its development.</p>
Risks:	There is a risk that the Council does not achieve sufficient engagement from group members or the community. This

	<p>will be mitigated by a strong communications and engagement plan.</p> <p>Risks will be considered as part of the strategy development and for key recommendations.</p>
Officer Contact:	Cherie Root
Designation:	Corporate Director
Ext. No:	2050
E-mail:	Cherie.root@braintree.gov.uk

Independent Person		Agenda No: 10
Portfolio	Finance and Performance	
Corporate Outcome:	A high performing organisation that delivers excellent and value for money services Delivering better outcomes for residents and businesses and reducing costs to taxpayers	
Report presented by:	Councillor David Bebb, Cabinet Member for Finance and Performance Management	
Report prepared by:	Kim Cole, Head of Governance and Monitoring Officer	
Background Papers:	Public Report	
	Key Decision: N/A	
Executive Summary:		
<p>Under section 28(7) of the Localism Act 2011 it is a statutory requirement for Braintree District Council (the Council) to have appointed an Independent Person (IP) to discharge the statutory role in relation to any complaints received by the Council under the Council Code of Conduct (the Code).</p>		
Recommended Decision:		
That Full Council:		
<ol style="list-style-type: none"> 1. Approve the extension of the Independent Person, Tony French, original term until the next Council AGM in 2021 at a rate of £300 per annum. 2. Approve the commencement of a recruitment process no later than January 2021 for one Independent Person and up to two Reserve Independent Persons. 3. Approve the establishment of a Committee comprising of the Chairman and two members from the Corporate Governance Group to deal with the recruitment process of the Independent Person and Reserve Independent Persons, before making a recommendation to Full Council. 4. Delegate authority to the Monitoring Officer, in consultation with the Chairman of the Corporate Governance Group and the Cabinet Meeting for Finance and Performance Management, to determine the remuneration and expenses for the Independent Person and any Reserve Independent Persons as part of the proposed recruitment process. 		

Purpose of Decision:

Ongoing compliance with statutory obligations

Any Corporate implications in relation to the following should be explained in detail.

Financial:	As set out in paragraph 6 of the report.
Legal:	As set out in paragraph 7 of the report.
Safeguarding:	No matters arising out of this report.
Equalities/Diversity:	As set out in paragraph 5 of the report.
Customer Impact:	No matters arising out of this report.
Environment and Climate Change:	No matters arising out of this report.
Consultation/Community Engagement:	As set out in the report.
Risks:	The Council has ongoing obligations to comply with its statutory obligations
Officer Contact:	Kim Cole
Designation:	Head of Governance and Monitoring Officer
Ext. No:	2629
E-mail:	kim.cole@braintree.gov.uk

1. Introduction

- 1.1 Under Section 28(7) of the Localism Act 2011 it is a statutory requirement for Braintree District Council (the Council) to have appointed an Independent Person (IP) to discharge the statutory role in relation to any complaints received by the Council under the Council Code of Conduct (the Code).
- 1.2 The functions of the IP are:
- a) they must be consulted by the Council before it makes a finding as to whether a Member has failed to comply with the Code or decides on action to be taken in respect of that Member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any resolution of the complaint, or on any finding of a breach and on any decision on action as a result of that finding);
 - b) they may be consulted by the Council in respect of a standards complaint at any other stage; and
 - c) they may be consulted by a Member or co-opted member of the Council against whom a complaint has been made.
- 1.3 In practice, the IP provides the Monitoring Officer with the opportunity to discuss a complaint with a third party, and provides a complainant with some reassurance that there is input to any decision from outside the Council.

2. The Independent Person

- 2.1 In October 2012 the Council appointed an IP and two reserve IPs. Their appointment was for a period of 4 years. This term could, were necessary, be extended for up to 3 terms. In April 2016, the Council noted that of the original appointments, only two remained in post, following the resignation of one of the reserve IPs.
- 2.2 Since that time the Council has not been provided with an update, and therefore there is a need to formally confirm that the IP, Tony French, original term is extended until the next Councils AGM in 2021.
- 2.3 In order to ensure that the Council has in place an IP from 2021, the Council will need to commence a recruitment process no later than January 2021. In order to build resilience and flexibility it is recommended that the Council look to appoint one IP and up to two reserve IPs. This arrangement will provide the Council with options in the event that there is a conflict of interest, for example where the Independent Person knows the complainant, absence or illness.
- 2.4 The IP must be appointed through a process of public advertisement and application process. Accordingly the Council will look to advertise the vacancy on its website and via a local newspaper.
- 2.5 The functions of the IP are set out above, and there are restrictions that apply to individuals which would prevent them from being appointed as the Councils IP. These are:

- a) They are, or have been within the last 5 years, an elected or co-opted member or an officer of the Council or of any of the Parish Councils within its area;
- b) They are, or have been within the last 5 years, an elected or co-opted member of any Committee or Sub-Committee of the Council or of any of the Parish Councils within its area; or
- c) They are a relative or close friend of a current elected or co-opted member or officer of the District Council or any Parish Council within its area, or of any elected or co-opted member of any Committee or Sub-Committee of such Council.

2.6 It is recommended that the original annual remuneration continues during the period of the extended term, and that the Monitoring Officer, in consultation with the Chairman of the Corporate Governance Committee and the Cabinet Meeting for Finance and Performance Management, be authorised to set the remuneration and expenses for the IP and any Reserve Independent Persons as part of the proposed recruitment process.

2.7 Following the advertisement of the IP vacancies, a Committee will be established to consider the applications, draw up a short list and interview the candidates, before making a recommendation to Full Council at its AGM in 2021 for the appointments of the IP and reserve IPs. This committee will comprise of the Chairman and two members from the Corporate Governance Group.

3. Relevant Policies

3.1 It is a statutory requirement that the Council must appoint at least one Independent Person, and that such appointment to be approved by full Council.

4. Options Considered

4.1 The Council could consider undertaking a recruitment process now for the appointment of a new IP and reserve IPs. However, in the current climate any recruitment is likely to be difficult and might not attract the right calibre of candidates at this time. Accordingly this is not the recommended option.

5. Equalities and Diversity Implications

5.1 Under the general equality duty as set out in the Equality Act 2010, public authorities are required to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as advancing equality of opportunity and fostering good relations between people who share a protected characteristic and those who do not.

5.2 An open recruitment process was undertaken by the Council at the commencement of the IPs original terms. Subsequently, there is no further consideration for the Council at this stage.

6. Financial Considerations

- 6.1 The original remuneration of £300 per annum plus expenses will continue during the extension period.
- 6.2 The Monitoring Officer, in consultation with the Chairman of the Corporate Governance Committee and the Cabinet Member for Finance and Performance Management, will review the remuneration for the new IPs as part of the recruitment process, having regard to the levels paid by neighbouring authorities.

7. Legal Considerations

- 7.1 The Council has a legal duty to appoint at least one Independent Person under the Localism Act 2011.

8. Recommendations

- 8.1 The Council:
 - 8.1.1 Approve the extension of the Independent Person, Tony French, original term until the next Councils AGM in 2021 at a rate of £300 per annum.
 - 8.1.2 Approve the commencement of a recruitment process no later than January 2021 for one Independent Person and up to two Reserve Independent Persons.
 - 8.1.3 Approve the establishment of a committee comprising of the Chairman and two members from the Corporate Governance Group to deal with the recruitment process of the Independent Person and Reserve Independent Persons, before making a recommendation to Full Council.
 - 8.1.4 Delegate authority to the Monitoring Officer, in consultation with the Chairman of the Corporate Governance Group and the Cabinet Meeting for Finance and Performance Management, to determine the remuneration and expenses for the Independent Person and any Reserve Independent Persons as part of the proposed recruitment process.

1. Introduction

In order to facilitate the transaction of business at this virtual meeting of the Full Council this single report covers the activities of all Cabinet Members. This follows the process used at the last meeting. When we are able to return to normal meetings we will revert to individual reports from Portfolio Holders.

2. Councillor Graham Butland - Leader of the Council

a. Virtual meeting with Professor Cheryl Davenport, EELGA - 2nd June 2020

Professor Cheryl Davenport is the new Managing Director of the East of England Local Government Association (EELGA). Cheryl joins EELGA from being the Director of Health & Care Integration at Leicestershire County Council. The meeting was part of her induction programme.

b. Essex Leaders – 4th June 2020

I attended this virtual meeting of Essex Leaders. The agenda was focussed on COVID-19 Pandemic issues including, Financial Implications for Local Authorities, High Street Management Planning, Test and Trace and Recovery.

c. SELEP Strategic Board Meeting – 12th June 2020

I attended this meeting in my capacity as a Board Director representing Essex District, Borough and City Councils. The Board received papers on the economic impact of COVID-19 and also the impact on the Higher Education Sector.

The minutes of the meeting are available at www.southeastlep.com

d. Strategy Workshop – 12th June 2020

The Cabinet held a Strategy Workshop on the afternoon of Friday 12th June 2020. There were two items on the agenda namely. COVID-19 Recovery and Strategic Investments.

Dealing with post COVID -19 Recovery we discussed the following items:-

- (i) Restoration of Services
- (ii) Organisational Impact
- (iii) Community Impact
- (iv) Economic Impact

- (v) Safer Public Spaces
- (vi) Communications

e. EELGA Assembly of Council Leaders & AGM – 1st July 2020

This meeting, which brings together the 50 Council Leaders and Elected Mayors in the East of England, saw Councillor David Finch complete his two year term as Chairman of EELGA. His successor is Councillor Linda Haysey, Leader of East Hertfordshire District Council and the new Vice-Chairman is Councillor Matthew Hicks, Leader of Suffolk County Council

f. NEGC Board meeting – 6th July 2020

The Board of NEGC Ltd met and following the receipt of the Planning Inspector's deliberations on the Joint Strategic Local Plan submitted by the three North East Essex Councils determined to recommend to its shareholders that the Company should cease trading with effect from 31st August 2020.

A full paper on this was presented to the Council's [Cabinet meeting](#) on Monday 13th July 2020.

3. **Councillor Kevin Bowers – Cabinet Member for Homes**

Properties for rent started being advertised again on the Gateway to Home Choice website on 4th June 2020. The Housing Team have seen a noticeable increase in housing applications to the housing register. At the end of May 2020, there were 1928 households on the Housing Register, compared with 1575 in May 2019.

There remains a strong focus on the issue of rough sleeping. Since the end of March, the Council has accommodated a total of 16 single people in hotel accommodation due to the public health crisis. So far, we have been able to assist 6 of these to move into more settled accommodation. We would like to thank all the housing charities, housing associations and hotels who have worked with us at this most difficult time. The Government has recently announced some new funding to assist rough sleepers and we will be continuing to work with partners to see what more we can do to help prevent rough sleeping.

4. **Councillor David Bebb – Cabinet Member for Finance and Performance**

a. Accounts and Audit

Draft set of Accounts for 2019/20 were signed by Chris Fleetham, Corporate Director and were ready for BDO, our external Auditors to commence the audit on 6th July 2020.

Tax Collection rates at end of May:

- Council Tax – 20.2% with £19.725m collected (compares to 21.32% for the previous year)
- Business Rates – 16.61% with £4.528m collected (compares to 20.5% for the previous year).

b. MHCLG Covid-19 Local Authority financial monitoring return – 19th June

- Estimated shortfall in income for 2020/21 - £3.077m of which 80% is assessed as irrecoverable
- Estimated additional expenditure for 2020/21 - £1.195m
- Total estimated financial impact of £4.272m. Anticipated cost not covered by Emergency Fund allocation (£1.505m) from the Government is £2.767m
- Estimated non-collection for 2020/21 – Business rates - £3.012m and Council Tax £2.988m (of which £1.046m relates to additional local council tax support awarded)
- As at the end of May, £721k of the Council Tax Hardship Fund has been allocated to working age claimants in receipt of local council tax support (£150 per account).

c. Housing Benefits and local Council Tax Support

- 413 new claims received in May – processed on average in 18.52 days
- 3,290 changes in circumstances actioned in May – processed on average in 5.5 days.

d. Customer Services Centre

- Average telephone answering time for May was 22 seconds
- Number of telephone calls received in May was 8,721
- Number of emails received in May was 1,118.

e. 4th Quarter Performance

i. Projects

On the whole, the Council has performed well in the last quarter of the year and by the end of the year, completed a total of 42 projects with a further ten projects on track and progressing well. One project has an amber status due to delays caused by third party staff being furloughed and once the situation improves, the project will be progressed.

ii. Performance Indicators

Ten performance indicators have met or exceeded target and six performance indicators have missed their target. Of the six performance indicators that have missed their target, two have an amber status and were marginally missed and four have a red status missing target by more than 5%. The areas of underperformance are in relation to the recycling rates (>5%), average waiting times for disabled facilities grants (>5%), participation levels at sport centres (>5%), average call answer time in the Customer Service Centre (>5%), collection rates for Council Tax (<5%) and percentage of invoices paid within 30 days of receipt (<5%).

iii. Financial Performance

Full Council approved a net budget of £14.540 million for the 2019/20 financial year. Financing of the budget was to be from a combination of: general government grants (£22,000); business rates (£4.965 million); and Council Tax (£9.553 million).

During the year, individual budgets have been updated in accordance with the Council's Budget and Policy Framework Procedure, and against which performance has been reported. Previously, virements totalling £171,680 were approved between the Development Management and Planning Policy income budgets and the staffing budgets for these service areas. Waste Management budgets were also realigned to reflect changes to the contractual arrangements for transporting and processing of recyclable materials.

iv. Summary Outturn Financial Position

- An overall positive variance for the year of £565,000 (-3.9%) against budget.
- Across all services staffing budgets were underspent by £228,000; and after allowing for the corporate efficiency target of £200,000, this resulted in a net underspend of £28,000.
- Other expenditure was over budget by £40,000.
- Income was overachieved by £577,000 (mostly interest and dividends received on investments).
- The overall variance changed slightly from that reported at Q3, which had projected a positive variance of £530,000. However, within this overall change there were some individually significant changes.
- Additional expenditure amounting to £101,710 was incurred in March relating to COVID-19, mainly on the provision of ICT equipment to staff to facilitate the rapid introduction of homeworking due to restrictions introduced by the UK Government. Most of this expenditure was capitalised and was partially funded by the first tranche of government funding (£61,411).
- General Fund unallocated balances were £6.883 million and earmarked reserves £21.931 million at the end of the year.

5. Councillor Mrs Wendy Schmitt – Cabinet Member for Environment & Place

a. Waste Management

The current 4-weekly garden waste collection service will cease on Friday 10 July 2020 and the normal fortnightly collections will be reinstated on Monday 13 July 2020 being a normal recycling collection week.

The Special Collection Service (Bulky Waste) was reinstated on 1 June 2020 and is currently operating over a 5-day week to deal with the number of requests received. A network of food and beverage 'bring banks' were installed at various locations across the District and the service commenced on 22 June 2020, providing the public with even more facilities to recycle their waste.

The Waste Minimisation & Recycling Team is working with Keep Britain Tidy on a project to identify barriers preventing residents from sorting their waste correctly and what key messages are required to help improve knowledge around recycling to reduce contamination.

Annual deliveries of recycling sacks have commenced and will continue through until end September/early October. Black sacks deliveries will commence thereafter.

b. Car Parking

The upper floors at George Yard Multi-Storey Car Park were re-opened from Monday, 15 June 2020, to support the reopening of the town centres and to provide adequate parking provision for retail workers and shoppers.

c. Parks and Open Spaces

Great Notley Country Park was reopened by Essex County Council. Braintree District Council's own play areas were reopened on Saturday 4 July 2020 and Parents and Guardians are being asked to follow the guidance on the notices about social distancing and hygiene to stay safe when using the facilities.

The installation of summer bedding in our cemeteries and at our formal parks and gardens was completed in June 2020 and the hanging baskets put up in Braintree Town Centre.

The grounds maintenance teams have been trialling the use of battery operated equipment this season including strimmers and hedge cutters as part of our planned approach to use more environmentally friendly and green equipment in our front line services.

d. Highways

The trial in conjunction with Essex County Council of a single cut of some of the rural verges in the District was completed in June and Members and Town and Parish Councils will be consulted after the autumn cut to help inform the future programme from next year.

e. Street Scene Enforcement Teams

This has been a busy time over the past few months with Street Scene Enforcement Teams dealing with a variety of complaints ranging from noise nuisance including dogs barking to bonfires and fly tipping. Some 11 Fixed Penalty Notices and 29 Statutory Notices were issued and some cases are being investigated pending prosecution.

f. Environmental Health (Licensing & Food)

The Environmental Health & Licensing Teams have been working hard on interpreting the Government's new guidance for businesses to be in a position to advise local Restaurants, Pubs, Bars Hotels, other Guest Accommodation, Heritage Assets and Visitor Attractions on how they can open safely on or after 4 July 2020.

The Team have been heavily involved in protecting the residents of our District against local outbreaks of Covid19 by being part of the Government's track and trace effort. In addition, they have dealt with complaints about local business, licence holders, poor housing conditions, noise complaints and rat infestations!

6. Councillor Mrs Gabrielle Spray – Cabinet Member for Planning

This Council was one of the first to start virtual Planning Committees and five meetings have now been successfully held. The Committees have dealt with the applications which were due to go to Committee during lockdown and is now working through its regular programme of applications

The School Road, Rayne, Public Inquiry started on 15th June 2020 and ran for seven days. This is the first such virtual Inquiry in the country and we were delighted to work with PINs to help trial this technology and ensure there was no delay to the Inquiry being held. I attended a number of the sessions and am impressed with how it was managed by the Inspector.

The new Validation Checklist is now live on the Council's website. The interactive checklist has been specifically designed with our customers in mind to assist with information on planning applications; this is innovative and unique. Credit goes to Chris Paggi and the officers in his team who worked hard to develop this system.

7. Councillor Tom Cunningham – Cabinet Member for Economic Development and Infrastructure

a. Pedestrianisation

Physical works to enable the pedestrianisation of Braintree's town centre are largely complete. These have meant that numbers of town centre on-street parking spaces for Blue Badge holders have been maintained at current levels, and a new route for bus traffic has been constructed. The new bus route is necessary to support the ongoing viability of the bus routes when the High Street becomes inaccessible to regular traffic.

A tender exercise for the main High Street works has completed and a recommendation to appoint a contracting firm has been made. Works are likely to commence on the main construction around the end of July 2020, and will proceed in a sequential fashion; completing the construction in a series of segments. This approach is logical in respect to the operation of the town centre and will reduce disruption as far as possible. The works are targeted to complete before Christmas Day 2020.

b. Business Engagement and Support

District businesses are continuously making contact with the Economic Development Team for advice and support, mainly around funding opportunities. Business guidance has been issued to those who are reopening in line with central government guidance on 4th July 2020, including pubs. Officers have been working with Business Rates to validate and process Phase 1 of the discretionary grants, whilst also exploring the feasibility of a Phase 2 of grant funding.

8. Councillor Peter Tattersley - Cabinet Member for Health & Wellbeing

a. Mental Health

The NHS has launched a 111 Option 2 service to support mental health issues. Callers can speak directly to a mental health nurse.

A range of partners have joined together to identify what impact Covid-19 has had on emotional health and wellbeing during lockdown. Anxiety has been highlighted as an initial area of concern in children and young people, parents and those that have been shielding. It is intended to identify what support can be offered as part of the Community Recovery plan.

Contact is being made with schools across the District to discuss what issues they are seeing from the children that have already returned to school; the contact they have with those at home and what they expect to see moving forward. The Health and Wellbeing Board will help to identify what support schools will need and how this can be achieved.

Projects that were cancelled within Livewell Child will be updated to offer more holistic support to schools focussing on physical and emotional wellbeing, helping young people who have had a long period away from familiar school routines and development. These will be planned during the summer ready for schools returning in September/October.

b. Stay at Home, Grow Your Own

The Stay at Home, Grow Your Own scheme was launched last month. This is a project in partnership with Abberton Rural Training, Community360 and Witham Community Hub and provides families or individuals with financial difficulty, those that are shielding and those that are socially isolated the offer of a free planting starter kit containing everything needed to start growing small food items from home. The demand for the scheme has been high and the Partners are looking for other funding sources to meet the interest shown. Those that receive the kits will be encouraged to join a local Facebook page to showcase what they have grown and link in with others across the District.

c. Livewell Child

Through the Livewell child initiative the Council has been working collaboratively with local PT instructors to develop a mobile lifestyle app to maintain the Livewell child projects.

d. Active Braintree Foundation Sports Awards

With the Annual District Volunteer Awards cancelled this year and the upcoming Sports Awards in November unlikely to be staged in the normal way, officers and partner agencies are looking to develop a joint virtual celebration event to thank and give well deserved recognition to all the volunteers that supported communities during the Coronavirus outbreak. This will include those supporting the community shielding programme for the vulnerable, and the organisations, clubs and groups

who offered support in various forms to people during lockdown. This will link to the Council heroes campaign.

e. Leisure facilities

Capital projects earmarked for 2020-21 at our leisure facilities have suffered some considerable delays due to the lockdown of facilities and the furlough of staff at project management companies.

Projects that will need some revised timelines are:-

- Halstead Artificial Pitch
- Braintree Athletic Track
- Braintree AGP Project

f. Fusion Mobilisation

The Council has been working closely with Fusion on a remobilisation plan and the phased approach Fusion will need to take to open up facilities in a safe and timely manner. This will be dependent on government guidelines and will take into account the needs of different groups who may use the centres.

9. **Councillor Frankie Ricci – Cabinet Member for Communities, Culture & Tourism**

a. Community Hub

Officers continue to operate the community hub in response to Covid-19 in supporting and signposting those that are shielding and deemed most vulnerable. The hub has dealt with over 300 referrals for people requiring food and essential shopping, medication collection or befriending/mental health calls. The success of this has largely been due to the response from our communities which has highlighted the resilience and goodwill of large number of local residents who have volunteered their time to assist individuals within their community. Where there have been gaps in support, our community transport team have been taking on this role as well as delivering foodbank parcels to those in need or in the collection and donation of unwanted government food parcels to the foodbank.

The hub has also made contact with over 2000 individuals that were deemed extremely clinically vulnerable or clinically vulnerable to ensure they are safe and well and have the support and assistance they require.

Whilst Members will be aware that as from 1st August 2020 shielding will pause the team are looking at options to continue to provide support to those that need it.

b. Holiday Hunger

Officers are working with partners to discuss the viability of a holiday hunger scheme for this summer. These schemes ensure children who are in receipt of free school meals or attract the pupil premium receive a regular two course hot meal throughout the holiday period. A survey has been distributed via the schools and partners to families to establish whether there is the demand for this. The scheme could also

provide physical activities and arts and crafts for the children to take part in and could also be an opportune time to deal with any emotional health and wellbeing issues that children and parents may be facing around anxiety and may ease transition back into school in September.

c. Councillors Community Grants

Members will be aware of the change in focus for the Councillors Community Grants scheme to support the recovery from Covid19. The scheme has been simplified to ensure that some of those groups who have been helping in the community who are newly formed, or do not have a formal structure in place can access support to help them to continue the work that they are doing.

The objectives of the scheme this year are:-

- To support communities to respond to issues arising from the coronavirus pandemic
- To reduce barriers that prevent groups of volunteers from helping in their communities, whilst ensuring that proportionate safeguards are in place to protect the vulnerable people, the volunteers and public money
- To harness the community spirit and enthusiasm being displayed across the district into long term volunteering opportunities.

d. Town Hall/Museum

The Town Hall is preparing to re-open from 6th July 2020 for some of its community groups to meet again, Officers are working closely with Essex County Council registrar's services on how best to catch up on the wedding ceremonies missed during the lockdown and the existing bookings this summer under the current guidelines.

The Museum Trust Board are developing plans for reopening, and at time of writing, are awaiting further government guidelines to allow them to operate safely, for volunteers, visitors and staff. More information will be sent to Members when available.

e. Tourism

Our Visit Braintree District tourism website and social media are supporting the countywide Visit Essex 'Great adventures, close to home' campaign, to coincide with re-opening of tourism attractions. The campaign is aimed at local residents to get them to discover what is on their doorstep. It will encourage people to all areas and attractions in Essex rather than just the 'honey pot locations' and to get them to find their own adventures rather than follow the crowd.

We will continue to share stories/photos/new opening details of local gardens, animal attractions, heritage sites, villages and retail reinforcing the message to stay local. We have received some beautiful images from residents via our social media campaign #OurBraintreeDistrict.

We have been in contact with all our businesses signed up to the tourism website to inform them of Government updates and safety guidance regarding the safe re-opening of the Visitor Economy.

10. **Councillor John McKee – Cabinet Member for Corporate Transformation**

Strategic Investment

a. Manor Street

The Development continues to make progress, UKPN have returned to site, diverting remaining cables and moving the sub-station. As a result, the sheet piling has now been completed and a tower crane erected in the Town Hall car park. Excavation works are nearing completion and construction will come above ground level in August/September 2020.

The impact on programme and costs is being assessed but is not thought to be significant. Kier has incurred additional costs which are being quantified. The Council plans to adopt a collaborative approach, in considering these, rather than using the letter of the contract to deflect liability. A collaborative approach would be consistent with Government guidance.

b. Horizon 120

Earthworks are continuing and are on programme. The land transaction with the landowner of the land adjoining the current 65 acres under development, has completed and the Council has now secured a call option on a further 26 acres gross.

Commercial negotiations, on the costing and programme for the remaining infrastructure, are nearing conclusion and there is confidence that the contract will be within the budget, approved by Full Council.

Gridserve have recommenced construction and are now working to road access, and opening for business, in mid/late October 2020. Gridserve have informally advised that the electric forecourt will be promoted as Innovate UK's flagship project for 2020.

Despite the pandemic, occupiers are being secured with solicitors instructed by two companies, who will occupy circa 6.5 net developable acres. A third company has agreed terms verbally and is expected to confirm instructions soon. In this event, over 10 net developable acres will be committed.

c. I-Construct

The Strategic Investment Team have reviewed agreement from MHCLG and are now able to finalise the agreement with Haven Gateway Partnership, Essex County Council and MHCLG with signatures expected shortly.

The MHCLG Grant Funding Agreement, Collaboration Agreement and Deed of Covenant have now been prepared and together with the Development Contract will be entered into shortly. The delay into entering the contract agreements will not impact upon the financial risk to the Council.

Councillor Graham Butland
Leader of the Council

Contact:	Councillor Graham Butland
Designation:	Leader of the Council
E-mail:	cllr.gbutland@braintree.gov.uk