

# LOCAL PLAN SUB-COMMITTEE AGENDA

**Thursday, 04 February 2021 at 6.00pm**

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.

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**Members of the Local Plan Sub-Committee are requested to attend this meeting to transact the business set out in the Agenda.**

**Membership:-**

Councillor J Abbott	Councillor T Everard
Councillor D Bebb (Vice Chairman)	Councillor P Horner
Councillor K Bowers	Councillor D Hume
Councillor G Butland	Councillor Mrs G Spray (Chairman)
Councillor J Coleridge	Councillor Mrs J Sandum
Councillor T Cunningham	Councillor J Wrench

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](mailto:governance@braintree.gov.uk) by 3pm on the day of the meeting.

A WRIGHT  
Chief Executive

## **INFORMATION FOR MEMBERS – DECLARATIONS OF MEMBERS' INTERESTS**

### **Declaration of Disclosable Pecuniary Interests (DPI), Other Pecuniary Interests (OPI) or Non-Pecuniary Interests (NPI).**

Any Member with a DPI, OPI or NPI 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 DPI or OPI 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.

### **Public Question Time – Registration and Speaking:**

In response to the Coronavirus the Council has implemented procedures for Public Question Time for its virtual meetings which are hosted via Zoom.

The Agenda allows for a period of up to 30 minutes for Public Question Time.

Participation will be via the submission of a written question or statement which will be read out by an Officer or the Registered Speaker during the meeting. All written questions or statements should be concise and should be able to be read **within 3 minutes** allotted for each question/statement.

Members of the public wishing to participate are requested to register by contacting the Governance and Members Team on 01376 552525 or email [governance@braintree.gov.uk](mailto: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 for Public Question Time if they are received after the registration deadline.

Upon registration members of the public may indicate whether they wish to read their question/statement or to request an Officer to read their question/statement on their behalf during the virtual meeting. Members of the public who wish to read their question/statement will be provided with a link to attend the meeting to participate at the appropriate part of the Agenda.

All registered speakers are required to submit their written questions/statements to the Council by no later than 9am on the day of the meeting by emailing them to [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk). In the event that a registered speaker is unable to connect to the virtual meeting their question/statement will be read by an Officer.

Questions/statements received by the Council will be published on the Council's website. The Council reserves the right to remove any defamatory comment in the submitted questions/statements.

The Chairman of the Committee has discretion to extend the time allocated for public question time and to amend the order in which questions/statements are presented to the Committee.

**Documents:** Agendas, Reports, Minutes and Public Question Time questions and statements can be accessed via [www.braintree.gov.uk](http://www.braintree.gov.uk)

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We welcome comments 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 to [governance@braintree.gov.uk](mailto:governance@braintree.gov.uk)

## **PUBLIC SESSION**

## **Page**

- 1 Apologies for Absence**
- 2 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.
- 3 Minutes of the Previous Meeting**  
To approve as a correct record the Minutes of the meeting of the Local Plan Sub-Committee held on 14th December 2020 (copy previously circulated).
- 4 Public Question Time**  
(See paragraph above)
- 5 Section 1 Local Plan - Inspector's Final Report and Process for Adoption** **5 - 226**
- 6 Statement of Community Involvement - Update** **227 - 274**
- 7 Neighbourhood Plan Update** **275 - 281**
- 8 Urgent Business - Public Session**  
To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.  
  
**Exclusion of the Public and Press**  
To agree the exclusion of the public and press for the consideration of any Items for the reasons set out in Part 1 of Schedule 12(A) of the Local Government Act 1972.

## **PRIVATE SESSION**

## **Page**

- 9 Urgent Business - Private Session**  
To consider any matter which, in the opinion of the Chairman, should be considered in private by reason of special circumstances (to be specified) as a matter of urgency.

<b>Section 1 Local Plan: Planning Inspector's final report and process for adoption</b>		<b>Agenda No: 5</b>
<b>Portfolio</b>	<b>Planning</b>	
<b>Corporate Outcome:</b>	<b>Connecting People and Places</b>	
<b>Report presented by:</b>	<b>Emma Goodings – Head of Planning and Economic Growth</b>	
<b>Report prepared by:</b>	<b>Emma Goodings – Head of Planning and Economic Growth</b>	
<b>Background Papers:</b>		<b>Public Report: Yes</b>
<ul style="list-style-type: none"> <li><b>Submission Draft Local Plan</b></li> <li><b>Documents and correspondence set out on the examination website</b></li> </ul>		<b>Key Decision: No</b>
<b>Executive Summary:</b>		
<p>Planning Inspector Roger Clews has issued his final report on the soundness and legal compliance of Section 1 of the Local Plan for North Essex, having considered the consultation responses on his recommended Main Modifications and the latest government household projections.</p> <p>With the incorporation of the Inspector's final, slightly adjusted, set of recommended Main Modifications (which include the removal of the Colchester Braintree Borders and West of Braintree Garden Communities), the Section 1 Local Plan is sound and legally compliant.</p> <p>The modified version of the Section 1 Local Plan attached as <b>Appendix 3</b> to this report includes the main modifications recommended by the Inspector and minor modifications agreed by officers of the three authorities to reflect those main modifications in the supporting text. It therefore meets the requirements to proceed to formal adoption and the Sub-Committee is invited to recommend this to Full Council.</p>		
<b>Recommended Decision:</b>		
<p>That the Local Plan Sub-Committee:</p> <p>a) notes the findings of the Planning Inspector's 'Report on the Examination of the North Essex Authorities' Shared Strategic Section 1 Plan received on 10th December 2020 (attached as Appendix 1 to this report) and his final 'Schedule of Recommended Main Modifications' (attached as Appendix 2);</p>		

- b) recommends, to Full Council, the formal adoption of the 'Modified North Essex Authorities' Shared Strategic Section 1 Plan' (attached as Appendix 3 to this report) i.e. the new Section 1 Local Plan incorporating the Inspector's recommended main modifications in accordance with Section 23(3) of the Planning and Compulsory Purchase Act 2004.

**Purpose of Decision:**

- a) To report the Local Plan Inspector's final conclusions on the legal compliance and 'soundness' of the Section 1 Local Plan for North Essex following consultation on his recommended 'Main Modifications' and the subsequent receipt of his final report on 10th December 2020;
- b) To report that, by incorporating the Inspector's recommended Main Modifications, the Section 1 Local Plan meets the tests for legal compliance and soundness - as required for a plan to proceed to formal adoption; and
- c) To seek the Local Plan Sub-Committee's agreement that the modified Section 1 Local Plan be recommended to Full Council for formal adoption.

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

<b>Financial:</b>	The costs of the Local Plan are met from existing budgets.
<b>Legal:</b>	There is a risk of legal challenge following the adoption of the Section 1 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. However any party has the right to apply for a legal challenge if they so wish. There are no obvious grounds that would justify such a challenge.
<b>Safeguarding:</b>	No matters arising out of this report
<b>Equalities/Diversity:</b>	The Local Plan has been subject to an equalities impact assessment.
<b>Customer Impact:</b>	The Local Plan impacts on the whole District.
<b>Environment and Climate Change:</b>	The Local Plan has been subject to detailed environmental assessments which have been considered by the Planning Inspector.
<b>Consultation/Community Engagement:</b>	Section 1 of the Local Plan has now progressed through all of the necessary stages of public consultation and engagement and the Inspector's final recommended Main

	Modifications can be endorsed by the Councils without the need to carry out further consultation. The Inspector's amendments to the Modifications are not significant enough to warrant further consultation.
<b>Risks:</b>	Section 1 of the Local Plan was individually submitted by the North Essex Authorities but applies equally to all three Councils, therefore it is important that all three Councils take a consistent course of action and agree to formally adopt the plan. Should either Tendring District or Colchester Borough Councils make an alternative decision, Members at Braintree will need to consider their position.
<b>Officer Contact:</b>	Emma Goodings
<b>Designation:</b>	Head of Planning and Economic Growth
<b>Ext. No:</b>	2511
<b>E-mail:</b>	<a href="mailto:Emma.goodings@braintree.gov.uk">Emma.goodings@braintree.gov.uk</a>

## **1 Background**

- 1.1 Section 1 of the emerging Local Plan ('the Section 1 Plan') was designed to 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 plan originally included proposals for three new cross-boundary 'Garden Communities' along the A120 corridor. In contrast, 'the Section 2 Plan' for each of the three authorities contained more specific local policies and proposals relevant only to their individual area. Following the necessary stages of consultation, the Local Plans were submitted to the Secretary of State in 2017 to begin the process of independent examination.
- 1.2 The Secretary of State appointed an experienced Planning Inspector, Mr. Roger Clews, to undertake the examination for Section 1 of the Plan. The purpose of the examination was for the Inspector to ensure the Councils had followed relevant legal and procedural requirements and to test the plan for its 'soundness' - including its consistency with national planning policy.
- 1.3 Following the original examination hearings that took place in 2018, the Inspector wrote to the Councils to say that the evidence provided to support the Garden Communities was lacking and provided the authorities with options for how to progress a Local Plan towards adoption. The Councils selected the option of producing additional evidence and these were subsequently published for consultation in the summer of 2019 to allow residents and stakeholders the opportunity to consider the additional evidence and make any comments. Further examination hearings took place in January 2020 which focussed on the additional documentation.
- 1.4 On 15 May 2020, the NEAs received the Inspector's letter setting out his further post-examination conclusions. The main conclusion was that two of the three proposed Garden Communities i.e. the West of Braintree and Braintree Colchester Borders Garden Community were neither viable nor deliverable and, as a consequence, the Section 1 Local Plan did not meet the tests of soundness set out in the National Planning Policy Framework (NPPF). However the Inspector concluded that the Tendring Colchester Borders Garden Community was deliverable and that there could be a way of progressing the Local Plan towards adoption and he offered the authorities two options for how to proceed; i.e. to either propose and consult on main modifications to remove the Colchester Braintree Borders and West of Braintree Garden Community proposals from the Plan; or to withdraw the Plan from examination.
- 1.5 The authorities agreed to consult on the Inspector's recommended main modifications. This took place between 28<sup>th</sup> August and 9th October 2020. A



total of 382 consultation responses were received from across North Essex to the main modifications, from 117 individuals or groups. This included local residents and Parish/Town Councils, land owners and agents and statutory consultees such as Historic England and Natural England. 66 of the comments were made to the modifications in general (and not necessarily commenting on any particular modification) and Policies SP7 Garden Communities and SP8 Tendring Colchester Borders Garden Community (policies not being proposed for removal by the Inspector) were the areas which attracted the most number of comments. A further 6 comments were received in respect of the amended Habitats Regulation Assessment and 15 comments were received to the amended Sustainability Appraisal. The comments were collected by the NEAs and forwarded on to the Inspector for consideration. They can be viewed on the examination website following this link: [Braintree District Council - Section 1 Proposed Main Modifications \(objective.co.uk\)](https://www.objective.co.uk/braintree-district-council-section-1-proposed-main-modifications)

- 1.6 The inspector also invited participants in the examination to comment on the very latest 2018-based household projections that had been published by the Office for National Statistics in 2020 to help determine whether or not they represented a meaningful change that might justify alterations to the housing targets in Policy SP3 of the Local Plan (including the Braintree figure of 716 dwellings per annum). 59 comments were received which can be viewed on the examination website following this link: [Responses to Consultation on 2018- based Household Projections – Section 1 examination – Braintree District Council](https://www.objective.co.uk/braintree-district-council-section-1-examination-2018-based-household-projections)

## **2 Inspector's Final Report**

- 2.1 Following the Inspector's consideration of all the comments received, the NEAs on 10th December 2020 received his final report entitled 'Report on the Examination of the North Essex Authorities' Shared Strategic Section 1 Plan' which is attached, in full, as **Appendix 1** to this report.

- 2.2 The non-technical summary from the Inspector's report provides a clear overview of his conclusions and is quoted below:

*"This report concludes that the North Essex Authorities' [NEAs] Shared Strategic Section 1 Plan provides an appropriate basis for the planning of the NEAs' area, provided that a number of main modifications [MMs] are made to it. The NEAs have specifically requested that I recommend any MMs necessary to enable the Plan to be adopted".*

- 2.3 Essentially the Inspector has concluded that, subject to the incorporation of his final set of Main Modifications (which are attached as **Appendix 2** to this report), the Section 1 Local Plan will meet the required tests which enable it to

proceed to formal adoption. The recommended Main Modifications are mostly unchanged from those published for consultation with the exception of a number of minor 'adjustments' which are explained in his report.

#### Legal compliance

- 2.4 The main body of the report reiterates the Inspector's conclusion that the plan meets with the various legal and procedural requirements including the Equalities Act, the legal Duty to Cooperate, Sustainability Appraisal, Habitats Regulation Assessment, Climate Change obligations and compliance with the Statements of Community Involvement.

#### Soundness

- 2.5 The report then contains the Inspector's detailed conclusions on the soundness of the plan, focusing on five main issues:

*Main issue 1 – Are the housing requirement figures set out in Plan policy SP3 soundly based, and does the Plan effectively set out how its housing requirements are to be met, in accordance with national policy?*

*Main Issue 2 – Are the employment land requirement figures set out in policy SP4 soundly based, and does the policy effectively set out how those requirements are to be met?*

*Main Issue 3 – Are the Plan's proposals for the development of three garden communities in North Essex justified and deliverable, and does the Plan provide a justified and effective policy framework for their development, in accordance with national policy?*

*Main Issue 4 – Are the Plan's Vision, strategic objectives and spatial strategy justified, effective and consistent with national policy, and is the Plan period appropriately and correctly identified?*

*Main Issue 5 – Are the Plan's policies on the presumption in favour of sustainable development (SP1), on infrastructure and connectivity (SP5), and on place-shaping principles (SP6), sound?*

- 2.6 In respect of main issue 1 and the housing requirements, the Inspector has confirmed his earlier conclusions on the soundness of each of the three authorities' housing requirements, even having considered the implications of the 2018-based household projections. This confirms the housing figures of 716 dwellings per annum (dpa) for Braintree, 920dpa for Colchester and 550dpa for Tendring as being soundly based. The examination of the three authorities' individual Section 2 Local Plans will determine whether or not sufficient land has been identified to meet those requirements.

- 2.7 For issue 2 on employment land, the Inspector has recommended some adjustments to his original main modifications to reflect government's recent changes to the Use Classes Order which incorporate the old B1 'business' class into a new class 'E' that now includes other commercial uses including retail. To ensure Policy SP4 responds to this change, the adjusted modifications spell out the type of employment use that employment land will be identified for, rather than relying on the use class codes (such as 'B1' which no longer exists). The main conclusion however is that the modified employment land requirements set out in the Inspector's original modifications are confirmed as sound including the requirement of between 20.9 and 43.3 hectares of employment land in Braintree up to 2033.
- 2.8 For issue 3 on Garden Communities, the Inspector has confirmed his earlier conclusion that two of the three Garden Communities need to be removed from the Local Plan for it to be sound. The Inspector's recommended modifications to the plan deal with the removal of the Colchester Braintree Borders and West of Braintree Garden Communities and improvements to the policies specifically relating to the single remaining Garden Community on the Tendring Colchester border.
- 2.9 For issue 4 on the plan's vision, strategic objectives and spatial strategy, again the Inspector has confirmed his earlier conclusions that, subject to the recommended modifications, the strategy set out in the plan is sound. Furthermore, the Inspector has concluded that there is no need to extend the timeframe of the plan beyond 2033 so that it covers a full 15-year period post adoption (as preferred by the guidance in the NPPF) as it would unnecessarily delay the progress of the plan and, in any event, a review of the plan within five years would be required which could bring forward additional sites, as necessary, to meet development needs in the longer-term,
- 2.10 For issue 5 on policies on the presumption of sustainable development, infrastructure and connectivity and place-shaping principles, the Inspector has confirmed his earlier conclusions that modifications to the wording are required to make the plan sound.
- 2.11 Paragraph 127 and 28 set out the Inspector's overall conclusion and recommendation and these are replicated as follows:

*"The Section 1 Plan has a number of deficiencies in respect of soundness and legal compliance for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explained in the main issues set out above.*

*The North Essex Authorities requested that I recommend main modifications to make the Section 1 Plan sound and legally*

*compliant, and thus capable of adoption. I conclude that the duty to cooperate has been met and that, with the recommended main modifications set out in the Appendix, the North Essex Authorities' Shared Strategic Section 1 Plan satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.*"

### Recommended Main Modifications

- 2.12 The Inspector's recommended Main Modifications to the Section 1 Local Plan are set out in full in **Appendix 2** to this report and are, in the majority, unchanged from those published for consultation. The Inspector has however made a number of minor 'adjustments' to some of the modifications in response to comments received and changes in national policy – namely the change to the Use Classes Order in respect of B1 business use (as explained above). The adjustments are all minor in nature and do not require any further consultation.
- 2.13 The 'modified' version of the Section 1 Plan attached as Appendix 3 to this report and incorporates the Inspector's final Main Modifications and other minor consequential modifications that the Officers of the three authorities have agreed to make to supporting paragraphs to ensure the wording of the plan overall is consistent and properly reflects the more significant changes to the policies.

## **3 Adoption**

- 3.1 The authorities now have the confirmation from the Inspector that the modified version of the Section 1 Plan is sound and can therefore proceed to adoption. The choice of whether it is adopted independently of the three Councils' Section 2 Local Plans or adopted as three whole plans following the completion of the Section 2 examinations lies with the Councils. The Inspector's advice, contained within paragraph 9 of his report is *"Following their receipt of this report, in accordance with section 23 of the 2004 Act it will be for each of the NEAs to decide whether and when to adopt the Section 1 Plan, including whether or not to adopt it in advance of their Section 2 Plan."*
- 3.2 Officers have taken advice on this point and barristers have advised that without good reason not to adopt the Local Plan, the Council could be at risk of High Court challenge and intervention by the Secretary of State to require the authority to adopt the Plan.
- 3.3 On adoption, in accordance with Regulations 26 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012, the Councils will be required to give notice of adoption through the publication of an 'Adoption Statement' that would be published on the website. In addition, the adopted plan itself, the Sustainability Appraisal and details of where the plan is available for inspection have to be published. A copy of the Adoption

Statement has to be sent to everyone on the Councils' databases who had been asked to be notified of adoption and a copy has to be sent to the Secretary of State.

## **Recommendations**

That the Local Plan Sub-Committee:

a) notes the findings of the Planning Inspector's 'Report on the Examination of the North Essex Authorities' Shared Strategic Section 1 Plan received on 10th December 2020 (attached as Appendix 1 to this report) and his final 'Schedule of Recommended Main Modifications' (attached as Appendix 2);

b) recommends, to Full Council, the formal adoption of the 'Modified North Essex Authorities' Shared Strategic Section 1 Plan' (attached as Appendix 3 to this report) i.e. the new Section 1 Local Plan incorporating the Inspector's recommended main modifications in accordance with Section 23(3) of the Planning and Compulsory Purchase Act 2004 .



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# **Report to Braintree District Council, Colchester Borough Council and Tendring District Council**

**by Roger Clews BA MSc DipEd DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Date: 10 December 2020**

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Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

## **Report on the Examination of the North Essex Authorities' Shared Strategic Section 1 Plan**

The Plan was submitted for examination on 9 October 2017

The examination hearings were held between 16 & 25 January 2018, on 9 May 2018, and between 14 & 30 January 2020.

File Ref: PINS/A1530/429/9

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### Attachments

Inspector's post-hearings letter, 8 June 2018 [IED/011]  
Inspector's supplementary post-hearings letter, 27 June 2018 [IED/012]  
Inspector's post-hearings letter, 15 May 2020 [IED/022]

### Appendix

Schedule of Recommended Main Modifications

## Abbreviations used in this report

The 2004 Act	The <i>Planning and Compulsory Purchase Act 2004</i> (as amended)
dpa	Dwellings per annum
DPD	Development Plan Document
GC	Garden community
HRA	Habitats Regulations Assessment
LPA	Local Planning Authority
MM	Main modification
NEAs	North Essex Authorities
NPPF	National Planning Policy Framework
ONS	The Office for National Statistics
The Plan	The North Essex Authorities' Shared Strategic Section 1 Plan
PPG	Planning Practice Guidance
The Regulations	The <i>Town and Country Planning (Local Planning) (England) Regulations 2012</i> (as amended)
SA	Sustainability appraisal
The Section 1 Plan	The North Essex Authorities' Shared Strategic Section 1 Plan
UPC	Unattributable population change



## Non-Technical Summary

This report concludes that the North Essex Authorities' [NEAs] Shared Strategic Section 1 Plan provides an appropriate basis for the planning of the NEAs' area, provided that a number of main modifications [MMs] are made to it. The NEAs have specifically requested that I recommend any MMs necessary to enable the Plan to be adopted.

Following the hearings, the NEAs prepared schedules of the proposed MMs, carried out sustainability appraisal [SA] of them, and updated the Habitats Regulations Assessment [HRA] to take account of them. The MMs were subject to public consultation over a six-week period. In some cases I have adjusted their detailed wording and made consequential adjustments where necessary. I have recommended their inclusion in the Plan after considering the sustainability appraisal and Habitats Regulations Assessment and all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- Deletion from the Plan of the proposed Colchester / Braintree Borders garden community and the proposed West of Braintree garden community;
- Modifications to the policies for the Tendring / Colchester Borders garden community, to ensure that the Plan provides a justified and effective policy framework for its development;
- Modifications to the policy on housing requirements to ensure that the Plan effectively sets out how those requirements are to be met;
- Modifications to the policy for employment land to ensure that its requirements are soundly based and that it sets out effectively how they will be met; and
- Modifications to ensure that the Plan's Vision, strategic objectives and spatial strategy, and its policies on the presumption in favour of sustainable development, infrastructure and connectivity, and place-shaping principles, are justified, effective and consistent with national policy.

## Introduction

1. This report contains my assessment of the North Essex Authorities'<sup>1</sup> Shared Strategic Section 1 Plan in terms of Section 20(5) of the *Planning and Compulsory Purchase Act 2004* (as amended) [the 2004 Act]. It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is compliant with the legal requirements and whether it is sound. At paragraph 182, the National Planning Policy Framework [NPPF], published in March 2012, makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. A revised version of the NPPF was published in July 2018 and was further revised in February 2019. It includes a transitional arrangement in paragraph 214 which indicates that, for the purpose of examining this Plan, the policies in the 2012 NPPF apply. Similarly, where the national Planning Practice Guidance [PPG] has been updated to reflect the revised NPPF, the previous versions of the PPG apply for the purposes of this examination under the transitional arrangement. Therefore, unless stated otherwise, references in this report are to the 2012 NPPF and the versions of the PPG which were extant prior to the publication of the 2018 NPPF.
3. The starting point for the examination is the assumption that the North Essex Authorities [NEAs] have submitted what they consider to be a sound plan. The Publication Draft of the NEAs' Shared Strategic Section 1 Plan, submitted for examination in October 2017, is the basis for my examination. It is the same document as was published for representations in June 2017.

## Main Modifications

4. In accordance with section 20(7C) of the 2004 Act the NEAs requested that I should recommend any main modifications [MMs] necessary to rectify matters that make the Plan unsound and legally non-compliant, and thus incapable of being adopted. My report explains why the recommended MMs are necessary. The MMs are referenced in bold in the form **MM1**, **MM2**, etc when they first appear in the report, and are set out in full in the Appendix.
5. Following the examination hearings, the NEAs prepared a schedule of proposed MMs, carried out sustainability appraisal [SA] of them, and updated the Habitats Regulations Assessment [HRA] to take account of them. The schedule of proposed MMs and the accompanying SA and HRA reports were subject to public consultation for six weeks. I have taken account of the consultation responses in coming to my conclusions in this report, and in this light I have made some adjustments to the detailed wording of the MMs. None of those adjustments significantly alters the content of the MMs as published for consultation, or undermines the participatory processes, the SA or the HRA that have been undertaken. Where necessary, I explain the adjustments in the report.

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<sup>1</sup> The North Essex Authorities are: Braintree District Council, Colchester Borough Council, and Tendring District Council.

## Policies Map

6. Local planning authorities [LPAs] must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, LPAs are required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. For Braintree District Council, the submission policies map consists of all the "Proposal Maps" following page 209 in their submitted Publication Draft Local Plan, and for Colchester Borough Council, it comprises the separately-bound set of "Policies Maps" which accompanied their submitted Publication Draft Local Plan.
7. The submission policies maps for Braintree and Colchester include geographic illustrations of the broad locations of the proposed Colchester / Braintree Borders and West of Braintree garden communities [GCs], which are the subject of submitted Plan policies SP7, SP9 and SP10. However, I am recommending MMs which remove those two proposed GCs from the Plan<sup>2</sup>. Consequently, when the Plan is adopted, the geographic illustrations of those two proposed GCs on Braintree's and Colchester's submission policies maps should not be carried forward to their adopted policies maps.
8. The Plan proposes a third GC, the Tendring / Colchester Borders GC, which is the subject of policies SP7 and SP8. I am not recommending the removal of this GC from the Plan. Accordingly, the geographic illustrations of its broad location on Colchester's and Tendring's submission policies maps will need to be carried forward to their adopted policies maps.

## Context of the Plan

9. The NEAs' shared strategic Section 1 Plan [hereafter referred to as "the Section 1 Plan" or "the Plan"] was produced collaboratively by Braintree District Council, Colchester Borough Council and Tendring District Council in order to address strategic planning matters across their areas. The Section 1 Plan, which is the subject of this report, forms an identical part of each of the three NEAs' submitted local plans. Also as part of their local plans, each of the NEAs has submitted a Section 2 Plan, which is different for each authority. The Section 2 Plans are being examined separately. Following their receipt of this report, in accordance with section 23 of the 2004 Act it will be for each of the NEAs to decide whether and when to adopt the Section 1 Plan, including whether or not to adopt it in advance of their Section 2 Plan.
10. At an early stage in the examination, in a letter to the NEAs [IED/001]<sup>3</sup>, I identified the role of the Section 1 Plan, as submitted, as being to:
  - Set out how the NEAs will apply the presumption in favour of sustainable development (policy SP1);
  - Define the spatial strategy for North Essex (policy SP2);

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<sup>2</sup> See main issue 3 in the Assessment of Soundness below.

<sup>3</sup> All references in this report in the format [XYZ/123] are to documents which are available on the Section 1 Plan examination website, hosted by Braintree District Council.

- Set the housing and employment land requirements for North Essex as a whole and for each of the three LPA areas in North Essex (policies SP3 & SP4);
  - Identify strategic infrastructure priorities and place-shaping principles for North Essex as a whole (policies SP5 & SP6);
  - Allocate strategic areas for the development of three new garden communities, and set out policy requirements for the development and delivery of those communities, to be elaborated in future Strategic Growth Development Plan Documents (policies SP7, SP8, SP9 & SP10).
11. In this report I consider whether the Section 1 Plan's policies, and the Section 1 Plan as a whole, are sound and legally compliant. Consequently, my report does not deal with matters which are the province of the NEAs' Section 2 Plans. It does not consider, for example, whether the housing and employment land requirements for each authority are likely to be met over the plan period, or whether each authority is able to demonstrate a five-year supply of housing land, because most of the site allocations intended to meet those requirements are made in the three Section 2 Plans.
12. As part of the examination, I held hearing sessions in January and May 2018, after which I wrote a post-hearings letter [IED/011] and a supplementary post-hearings letter to the NEAs [IED/012]. Following further correspondence with the NEAs, the examination was paused to allow the NEAs to carry out further work on the evidence base and the Sustainability Appraisal. After consultation on that further work had taken place, I held further hearing sessions in January 2020. I then wrote a further post-hearings letter to the NEAs [IED/022].
13. My three post-hearings letters, IED/011, IED/012 and IED/022 are attached to this report. They set out my detailed findings on many aspects of the Plan's soundness and legal compliance. To avoid unnecessary repetition, sections of those letters are to be read as integral parts of this report. In the sections below dealing with the duty to co-operate, other aspects of legal compliance, and the soundness of the Plan, I indicate which specific paragraphs of those letters form integral parts of this report.

## **Public Sector Equality Duty**

14. I have had due regard to the aims expressed in S149(1) of the *Equality Act 2010*, including when considering the Plan's provisions to achieve inclusive access (policy SP5) and to meet the accommodation needs of older people and of gypsies and travellers (policy SP7).

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

15. Section 20(5)(c) of the 2004 Act requires that I consider whether the NEAs complied with any duty imposed on them by section 33A in respect of the Plan's preparation. I consider this matter in IED/011, and conclude that each of the NEAs met the duty to co-operate in the preparation of the Section 1 Plan. Paragraphs 7 to 16 inclusive of IED/011 (attached below), which form an integral part of this report, set out my reasons for reaching that conclusion.

16. There has been no subsequent evidence that leads me to alter the conclusion I reached in IED/011. Accordingly, I am satisfied that where necessary the NEAs engaged constructively, actively and on an on-going basis in the preparation of the Plan, and that the duty to co-operate has therefore been met.

## Assessment of Other Aspects of Legal Compliance

### *Sustainability appraisal*

17. The NEAs carried out a sustainability appraisal [SA] of the Plan, prepared a report of its findings, and published the report [SD/001] along with the Plan and other submission documents, in accordance with Regulation 19 of the *Town and Country Planning (Local Planning) (England) Regulations 2012* [the 2012 Regulations]. In IED/011 I identified a number of shortcomings in SD/001, and in response the NEAs prepared and published an additional SA report [SD/001b], which was also the subject of public consultation.
18. I consider that the additional SA report rectifies the shortcomings I identified in the original report. Paragraphs 60-110 inclusive of IED/022 (attached below), which form an integral part of this report, set out my reasons for taking that view, and there has been no subsequent evidence which alters that view. In particular, I consider that in EXD/094 the NEAs provide an effective response to the argument made in EXD/091 that the SA fails to take adequate account of the 2015 Paris Agreement on climate change or the *Climate Change Act 2008*.
19. SA of the Plan as modified by the proposed MMs was subsequently carried out and the report [SD/001c] was published for public consultation. In assessing the soundness of the Plan below, I have taken account of the findings of the SA reports, the responses to public consultation on them, and the comments of the NEAs' consultants on the responses to SD/001c [NEA/021a].

### *Habitats Regulations Assessment*

20. An updated Habitats Regulations Assessment [HRA] report (July 2019) [EB/083] was prepared for the Plan by the NEAs' consultants, following comments I made in IED/011 on the original HRA report. The screening stage of EB/083 finds a number of likely significant effects on European sites. Following appropriate assessment, EB/083 concludes that provided its key recommendations and mitigation requirements are adopted and implemented, the Plan will not result in adverse effects on the integrity of any European site, either alone or in combination. In paragraphs 48 to 59 inclusive of IED/022 (attached below), which form an integral part of this report, I explain why I consider that conclusion is justified.
21. **MM5, MM6, MM15, MM17, MM22, MM36 and MM39**, which set out measures to protect water quality and to mitigate the effects of increased recreational disturbance and any loss of off-site habitat, are needed to ensure that all EB/083's key recommendations and mitigation requirements are incorporated into the Plan. I have adjusted the wording of MM22 and MM36 to remove the references to "associated sewer connections" in the versions published for consultation, as those references would unnecessarily duplicate

other legislative requirements. Subject to this adjustment, the MMs reflect statements of common ground between the NEAs, Natural England, the Environment Agency and Anglian Water. Proposed **MM37**, as published for consultation, is, however, unnecessary for soundness as it merely duplicates the wording of MM36, and I have therefore excluded it from the schedule of recommended MMs.

22. A further update of the HRA report [EB/083a] assesses the submitted version of the Section 1 Local Plan as proposed to be amended by the MMs, and confirms the conclusions of EB/083. Having considered the responses to consultation on EB/083a, and the comments of the NEAs' consultants on the responses [NEA/021b], I am satisfied that those conclusions are well-founded. Subject to the MMs, the Plan is therefore capable of being adopted in compliance with the *Conservation of Habitats and Species Regulations 2017*.

#### *Climate change*

23. Policies in the Plan provide for growth to be focussed principally on existing settlements, and seek to achieve changes in travel behaviour by improving, and increasing opportunities for, sustainable modes of transport. They also seek to ensure that residents of the Tendring / Colchester Borders garden community can meet most of their day-to-day needs on site; that a package of measures, including a rapid transit system, is introduced to encourage their use of sustainable transport; and that measures are taken to promote water efficiency and re-use and to manage flood risk. Policies in the NEAs' submitted Section 2 Plans set out the approach to coastal flood risk, energy conservation and renewable energy schemes.
24. Each of the NEAs' development plans, taken as a whole, therefore, includes policies designed to secure that the development and use of land in the LPA's area contribute to the mitigation of, and adaptation to, climate change, as section 19(1A) of the 2004 Act requires. The Plan does not need to make specific reference to the Paris Agreement or the *Climate Change Act 2008* in order for that requirement to be met.

#### *Other legal compliance matters*

25. The Plan has been prepared in accordance with the NEAs' Local Development Schemes.
26. Consultation on the Plan and the MMs was carried out in compliance with the NEAs' Statements of Community Involvement. In paragraphs 17 to 25 inclusive of IED/011 (attached below), which form an integral part of this report, I consider the NEAs' failure to register the representations submitted by five respondents at Regulation 19 stage, and the steps that were taken to overcome its consequences. I conclude there that effective arrangements were put in place to minimise the effects of that failure, and that no substantial prejudice to any party resulted from it. There has been no subsequent evidence which leads me to a different conclusion.
27. Each of the NEAs' development plans, taken as a whole, includes policies to address the strategic priorities for the development and use of land in the local planning authority's area.

28. Regulation 8(3) of the 2012 Regulations requires that where a local plan contains a policy that is intended to supersede another policy in the adopted development plan, it must state that fact and identify the superseded policy. As submitted, the Plan fails to comply with this requirement, but the failure is rectified by **MM3 and MM46**.
29. The Plan complies with all other relevant legal requirements, including those in the 2004 Act and the 2012 Regulations.

## **Assessment of Soundness**

### **Main Issues**

30. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified five main issues upon which the soundness of the Plan depends. This report deals with those main issues. It does not respond to every point or issue raised by representors.

### **Main issue 1 – Are the housing requirement figures set out in Plan policy SP3 soundly based, and does the Plan effectively set out how its housing requirements are to be met, in accordance with national policy?**

31. Submitted Plan policy SP3 sets out housing requirement figures for the Plan period (2013-2033) for each of the NEAs. The principal evidence base document supporting those figures is the *Objectively Assessed Housing Need Study*, November 2016 Update [EB/018].
32. In IED/012 (written in June 2018) I conclude that those requirement figures are soundly based. In IED/022 (written in May 2020) I conclude that there has been no meaningful change in the housing situation that I considered in IED/012, and that the requirement figures remain soundly based. Paragraphs 4 to 33 inclusive and 35 to 37 inclusive of IED/012, and paragraphs 33 to 47 inclusive of IED/022 (both attached below), which form an integral part of this report, set out my reasons for reaching those conclusions.
33. In June 2020, the Office for National Statistics [ONS] published their 2018-based household projections. I invited representations on whether or not this represented a meaningful change in the housing situation from the situation that existed when I produced IED/012, and if so, what the implications would be for the soundness of the housing requirement figures in the submitted Plan.
34. Many individuals and organisations submitted representations in response, and the NEAs submitted two letters [NEA/018 & NEA/020] on the topic, together with a report from their consultants, Stantec [NEA/018a], and a note on the methodology used to produce the alternative household projection referenced in that report [NEA/020a]. I have taken all this submitted material into account.
35. By virtue of the transitional arrangement set out in paragraph 214 of the 2019 NPPF, the guidance on determining housing need in the 2019 NPPF does not apply to the Plan: instead the relevant guidance is contained in the 2012 NPPF and the corresponding PPG on Housing and economic needs assessment. The PPG advises that:

*The government's official population and household projections are generally updated every 2 years to take account of the latest demographic trends. [...]*

*Wherever possible, local needs assessments should be informed by the latest available information. The National Planning Policy Framework is clear that Local Plans should be kept up-to-date. A meaningful change in the housing situation should be considered in this context, but this does not automatically mean that housing assessments are rendered outdated every time new projections are issued<sup>4</sup>.*

36. In the paragraphs below, I consider whether or not the housing requirement figures in the submitted Plan remain sound, in the light of the 2018-based household projections, and of any other changes in the housing situation that are not already considered in IED/012 or IED/022. I also explain the reasons for the MMs I am recommending to submitted policies SP3 and SP8, taking account of responses to consultation on the proposed MMs.

*Do the Plan's submitted housing requirement figures remain sound?*

37. Paragraph 015 of the relevant PPG<sup>5</sup> advises that official household projections should provide the starting-point estimate of overall housing need. Accordingly, the latest official projections then available, the 2014-based projections, were used as the starting-point for the housing needs assessment which underpins the housing requirements in submitted policy SP3. The 2014-based projections show household growth between 2013 and 2037<sup>6</sup> of around 14,500 in Braintree, 19,900 in Colchester, and 15,000 in Tendring. The corresponding household growth figures in the 2018-based projections are around 8,600 in Braintree, 20,400 in Colchester, and 16,700 in Tendring.
38. It is clear that the biggest change is in projected household growth in **Braintree**: a fall of around 40% between the two sets of projections. In NEA/018a Stantec investigated the factors that caused this change. They found that changes in household formation rates do not appear to be responsible: there is only a marginal difference between the household formation rates for Braintree that were used in the 2014-based and 2018-based projections.
39. Instead, the fall in Braintree's projected household growth is explained by lower projected population growth, in which the two main factors are lower internal migration rates (that is, reduced net in-migration from the rest of the UK), and lower life expectancy leading to increased mortality rates. Other factors have only a marginal influence on the difference between the 2014-based and 2018-based household projections.
40. In assessing the significance of the changes in internal migration rates, account needs to be taken of the base periods used to calculate them. In the 2014-based projections, a five-year base period was used (2009-2014). But in the 2018-based projections, the base period was only two years (2016-2018). As Figure 3.4 in NEA/018a shows, net internal migration is subject to

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<sup>4</sup> PPG Reference ID: 2a-016-20150227

<sup>5</sup> PPG Reference ID: 2a-015-20140306

<sup>6</sup> 2013 to 2037 is the study period that was used to calculate the demographic starting-point for assessing housing need in North Essex: see EB/018, para 1.1.



substantial fluctuation from one year to the next, such that a two-year base period is unlikely to give an accurate picture of longer-term migration trends.

41. Moreover, Figure 3.4 shows that the annual net internal in-migration figures for Braintree between 2009 and 2018 were consistently and substantially lower than those in the preceding six years (2003 to 2008). A very similar pattern is reflected in the figures for new housebuilding in Braintree, set out in Figure 2.1 in NEA/018a. Indeed, in the first five years of the Plan period (2013 to 2018), on average 379 new dwellings were built each year: only a little over half the submitted Plan's requirement figure of 716 dwellings a year.
42. On this basis, Stantec conclude that the main reason for the fall in projected household growth in Braintree between the 2014- and 2018-based projections is that since the base date of the submitted Plan (2013), housing need has not been met. Not enough new homes have been built to meet the housing requirement, with the result that fewer people have been able to move into the district. As a result, in-migration trend figures have reduced, and have fed through into lower population and household projections.
43. I agree with that analysis. In my view it would be both contrary to the evidence, and inconsistent with the NPPF's guidance that assessed housing needs should be met in full, to accept that the under-supply of housing in Braintree in recent years should lead to a reduction in the district's future housing requirements.
44. For all these reasons, therefore, I consider that the 2018-based household projections do not provide a reliable basis for assessing Braintree's housing requirements. I consider that the alternative NMSS projection for Braintree, included in the Stantec report, should not be relied upon either, because it too is based on recent migration trends. Although it uses a more stable five-year trend period (2014-19) than the two years used in the official projections, in-migration over that five-year period has also been affected by the under-supply of housing in the district.
45. Turning to higher mortality rates, Stantec show that these account for an annual average of 92 fewer additional households<sup>7</sup> in the 2018-based projections for Braintree, compared with the 2014-based projections. They are a considerably smaller factor in the overall reduction in projected households than internal migration rates, discussed above, which account for 178 fewer additional households annually.
46. Moreover, in considering their significance, it is necessary to take account of the wider context of the plan-making process. The Plan has been in examination for over three years. On submission its policy SP3 housing requirements were based on the latest available official household projections, as national policy and guidance require. The transitional arrangement in the 2019 NPPF allowed the Plan to continue to be examined against the policies of the 2012 NPPF and the corresponding PPG. In this way it helped to overcome the delay to plan-making that would have arisen if the Plan's housing

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<sup>7</sup> Stantec's annual average figures are also based on the period 2013 to 2037: see footnote 6.

requirement had had to be recalculated based on the 2019 NPPF's standard method for assessing housing need.

47. But if the housing requirement for Braintree were now to be reviewed and altered, the result would be considerable further delay not only to this examination, but very likely to the examination of Braintree's Section 2 Plan as well. That would conflict with the advice in the NPPF that planning should be genuinely plan-led and that plans should be kept up to date.
48. Against that background, the figure of 92 fewer additional households per annum represents between one-sixth and one-seventh of the 606 additional households per annum forecast for Braintree in the 2014-based household projections. In my judgment, such a reduction would not lead to an excessive or unreasonable disparity between the submitted housing requirement and the future need for housing in Braintree. I do not regard it as a sufficiently meaningful change to justify the considerable delay to plan-making that would occur if the housing requirement were to be reviewed.
49. There is evidence that the affordability of housing in Braintree has worsened during the period in which the Plan has been in examination. But as with the increase in mortality rates, I do not consider that this would justify delaying the Plan in order to review the housing requirement, given that the requirement already includes a substantial affordability uplift of 15% on top of the demographic starting-point figure<sup>8</sup>.
50. For **Colchester**, the Stantec report shows that the 2018-based household projections forecast an increase of 849 households per annum, only 18 households per annum more than the 2014-based projections. I do not regard that change, of around 2%, as sufficiently meaningful to justify reviewing the policy SP3 requirement for Colchester. Nor have I seen any locally-specific evidence to demonstrate that the household formation rates used in the 2018-based projections have caused Colchester's housing needs to be underestimated.
51. Compared with national trends, there may be some evidence of worsening affordability and suppressed household formation in Colchester since the start of the Plan period. But compensation for such effects will be provided by the uplift of around 6% on the demographic starting-point figure that is included in Colchester's housing requirement in order to cater for expected employment growth.
52. The policy SP3 housing requirement for **Tendring** is not derived from the official household projections, due to the distorting effect on those projections of errors that gave rise to exceptionally large unattributable population change [UPC] in the district between the 2001 and 2011 Censuses. Consequently, the change between the 2014-based and 2018-based household projections for Tendring has no material effect on the way the requirement is calculated. In IED/012 and IED/022 I set out my reasons for endorsing the alternative approach used to derive the demographic starting-point for Tendring, which in turn underpins the housing requirement figure.

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<sup>8</sup> The demographic starting-point figure, as calculated in EB/018, is the projected annual average increase in households, plus an adjustment figure for vacant dwellings.

53. That starting-point figure was originally arrived at by taking an annual average of the highest number of dwellings delivered in Tendring over a five-year period. However, as I explain in IED/011, it was subsequently corroborated by a detailed analysis of the inaccuracies in migration flow data which were a major contributing factor to UPC. In the light of that corroborating analysis, I see no justification for reviewing Tendring's demographic starting-point figure on the basis of more recent housing delivery figures.
54. As with Colchester, there may be some evidence of worsening affordability in Tendring, relative to national trends, since the start of the Plan period. To counter this, the housing requirement for Tendring includes a substantial 15% affordability uplift to the demographic starting-point figure with the explicit purpose of improving affordability.
55. It is true that, over the past six and four years respectively, housing delivery in both Colchester and Tendring has exceeded their respective housing requirement figures in policy SP3. But I have seen no evidence to support the view that a discernible improvement in affordability should have occurred as a result over that relatively short period, particularly when one takes into account that in preceding years housing delivery in both districts was significantly below the policy SP3 requirement figures<sup>9</sup>. Adoption of the NEAs' local plans will provide the basis for a sustained period of delivery at or above the requirement rates, and will allow the effect of that level of provision on affordability to be fully assessed.
56. Taking all these points into account, I find that there has been no sufficiently meaningful change in the housing situation in Colchester or Tendring to justify delaying the Section 1 Plan further in order to review the policy SP3 housing requirement for either district.
57. Based on forecasts prepared by the Greater London Authority in 2013, I found in IED/012 that any increase in net migration from London to the NEAs would be very limited. There has been no subsequent evidence which leads me to a different view. The new London Plan has yet to be published in its final form, and no request has been made for the NEAs to accommodate any of London's unmet housing need. Consequently, I see no basis for altering the housing requirements in policy SP3 to take account of in-migration from London.
58. For the foregoing reasons, therefore, I conclude that the housing requirement figures set out in Plan policy SP3 are soundly based.

*Does the Plan effectively set out how its housing requirements are to be met, in accordance with national policy?*

59. The NEAs' Section 2 Plans will identify the vast majority of the housing land supply needed to meet their housing requirements<sup>10</sup>. Accordingly, one of the purposes of policy SP3 in the Section 1 Plan is to provide the framework for this. The NPPF advises at paragraph 47 that local planning authorities should meet their housing needs by identifying specific deliverable sites for a five-year period (plus an appropriate buffer brought forward from later in the plan

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<sup>9</sup> See EB/018, Figures 5.23 & 5.27, and EB/095, Table 6.

<sup>10</sup> Apart from the housing that is planned at the Tendring / Colchester Borders Garden Community: see main issue 3 below.

period), together with specific developable sites or broad locations for subsequent years. To ensure that the first two sentences of policy SP3 are consistent with this advice, the omission from the submitted policy of references to developable sites and to the buffer needs to be corrected.

60. In order for housing delivery to be maintained in the NEAs' area, as national policy requires, there needs to be sufficient flexibility in the supply of land in the event that some sites may not come forward as expected. Policy SP3 therefore needs to make it clear that additional provision will be made in order to ensure flexibility, choice and competition. It also needs to make it clear that the housing needs of the wider area will be taken into account, in accordance with national policy, when the requirement figures are reviewed.
61. The table in policy SP3 sets out the housing requirements for all three NEAs, both as total figures for the Plan period and as annual average figures. To avoid any future misunderstandings when the policy is used in applications and appeals, it is necessary to specify that the annual average figure for each authority will form the basis for assessing its five-year housing land supply, subject to adjustment to take account of any under-supply since the start of the Plan period<sup>11</sup>. It is also necessary to clarify the terminology used in the policy and the table, to ensure that it is consistent and unambiguous, and thereby effective.
62. **MM8** makes all these necessary changes to policy SP3. As published for consultation, MM8 also proposed to delete the word "minimum" from the heading to the column in the table which gives the total housing requirement for each NEA over the Plan period. But having considered the responses to the consultation, I agree that the deletion is unnecessary for soundness, and could be seen as conflicting with the reference in MM8 to additional provision to ensure flexibility, choice and competition. Other changes introduced by MM8 and summarised above will provide clear guidance on how the policy is to be used when assessing five-year housing land supply.
63. However, the submitted Plan does not provide sufficient clarity on how housing delivery at the cross-boundary Tendring / Colchester Borders GC will be allocated to the two LPAs for monitoring purposes and for assessing five-year housing land supply. The arrangements set out in submitted paragraph 8.15 are both unduly complex and incomplete, relying on future discussions to resolve certain issues. As a result the Plan is ineffective, as it fails to provide clear guidance for future decision-makers.
64. These shortcomings are overcome by **MM30**, which clarifies the submitted Plan's intentions by amending policy SP8 so as to specify that housing delivery from the GC over the Plan period will be distributed equally between Colchester Borough Council and Tendring District Council, irrespective of its actual location within the GC. This is a straightforward and effective policy provision which reflects the commitment of the NEAs to a shared strategic plan which addresses development needs on a cross-boundary basis. There is nothing in legislation or national policy to prevent such an arrangement being made.

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<sup>11</sup> In accordance with paragraph 73 of the 2019 NPPF and the PPG on Housing supply and delivery.

65. To guard against double-counting, MM30 also provides the necessary clarification that neither LPA may use the other's share of housing delivery at the GC to make up a shortfall in delivery against its own housing requirement. It would not be appropriate, however, for this Plan to seek to determine how housing delivery from the GC should be allocated after the end of the Plan period.
66. Legislation and national policy include clear requirements for and guidance on reviewing local plans, including in circumstances where local housing need has changed, or is expected to change, significantly. Accordingly, I see no need for a modification requiring policy SP3 or the Plan as a whole to be reviewed within a specified period.
67. With the changes made by MM8 and MM30, therefore, I conclude that the Plan effectively sets out how its housing requirements are to be met, in accordance with national policy.

**Main Issue 2 – Are the employment land requirement figures set out in policy SP4 soundly based, and does the policy effectively set out how those requirements are to be met?**

68. Submitted Plan policy SP4 sets out employment land requirement figures for the Plan period for each of the NEAs. In IED/011 I consider these and find that the baseline requirement figure for Braintree needs to be corrected for an arithmetical error; that the higher-growth scenario requirement figure for Colchester is unrealistically high and needs to be replaced by a lower figure of about 30ha derived from the *Colchester Employment Land Needs Assessment*; and that for Tendring both the baseline and higher-growth scenario requirement figures need to be replaced, the former by a credible figure based on the Experian economic forecasting model, and the latter to correct a misinterpretation of the relevant study. Subject to these amendments, I conclude that the requirement figures reflect the supporting evidence.
69. Paragraphs 135 to 141 inclusive of IED/011 (attached below), which form an integral part of this report, set out my reasons for reaching those conclusions. There has been no subsequent evidence which leads me to alter them. In particular, it is too soon to judge what long-term implications the coronavirus pandemic may have for employment patterns and the need for employment land. In any event, the fact that the employment land requirements are expressed as a range will provide an appropriate degree of flexibility in applying the policy. Accordingly, **MM9** makes the amendments to the requirement figures that are necessary to reflect the supporting evidence, in order to ensure that the requirements are justified.
70. As submitted, most of the text of policy SP4 is explanatory in nature and, contrary to national policy, provides no clear indication of how a decision maker should react to a development proposal. MM9 therefore removes the explanatory text from the policy. MM9 also introduces a new sentence to clarify how the policy's requirements will be met, principally through land allocations in Section 2 of each NEA's local plan<sup>12</sup>. For consistency, MM9 also deletes the words "and Retail" from the title of policy SP4 (since the policy

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<sup>12</sup> Some employment land will also be allocated at the Tendring / Colchester Borders GC: see main issue 3 below.

does not deal with retail floorspace requirements), and amends the reference to "Councils" to "local planning authorities". These changes are needed to make the policy effective.

71. Both policy SP4, as submitted, and MM9, as published for consultation, refer to employment land as being required for "B" class employment uses. This shorthand terminology reflects the supporting evidence, which assessed the need for land for office, research and development, industrial, and storage and distribution development in the NEAs' area. Until recently, all those uses were comprised in use classes B1, B2 and B8 of the *Town and Country Planning (Use Classes) Order 1987*, as amended.
72. Since MM9 was published for consultation, however, amendments to the Use Classes Order have come into effect<sup>13</sup>. One of those amendments has the effect of absorbing into new use class E those employment uses that previously fell within use class B1. This means that the shorthand references in submitted policy SP4 and published MM9 to "B" class uses are no longer justified or effective, as they would exclude the former B1 uses.
73. I have therefore adjusted those references so that they set out in full the types of use for which employment land is required by the policy. For the same reasons, I have made corresponding adjustments to **MM32**, which is also discussed under main issue 3 below. In each case the adjusted wording continues to reflect the supporting evidence, as it simply replaces the shorthand reference to the "B" class uses with a list of the employment uses that were formerly covered by that term. Accordingly, I consider that no prejudice will be caused by these adjustments.
74. With the changes made by recommended MM9, I conclude that the employment land requirement figures set out in policy SP4 are soundly based, and that the policy effectively sets out how those requirements are to be met.

**Main Issue 3 – Are the Plan's proposals for the development of three garden communities in North Essex justified and deliverable, and does the Plan provide a justified and effective policy framework for their development, in accordance with national policy?**

75. Plan policies SP7, SP8, SP9 and SP10, as submitted, propose the development of three garden communities [GCs] in North Essex. In IED/022 I consider the soundness of those proposals in detail and find that development of the proposed Tendring / Colchester Borders GC would enable the delivery of sustainable development in accordance with the NPPF's policies, but that the proposed Colchester / Braintree Borders and West of Braintree GCs are not justified or deliverable.
76. Paragraphs 10 to 20 inclusive, 23 to 31 inclusive, and 60 to 266 inclusive of IED/022 (attached below) form an integral part of this report. They set out my reasons for reaching those findings. In the following paragraphs I provide further reasoning that is needed to take account of responses to consultation on the proposed MMs, and to explain the MMs I am recommending to

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<sup>13</sup> The *Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020*.

submitted policies SP7, SP8, SP9 and SP10, including the deletion of SP9 and SP10.

*The proposed Colchester / Braintree Borders and West of Braintree GCs*

77. As part of my assessment of the GCs' financial viability, in IED/022 I consider all the available evidence on housing delivery rates, including a topic paper produced by the NEAs, reports by consultants Lichfields and by the Homes and Communities Agency, and the Letwin *Independent Review of Build-Out Rates*. Based on that evidence I conclude that it would be imprudent to base viability appraisal of the proposed GCs on an average delivery rate of more than 250 dwellings per annum.
78. In reaching that view, I acknowledge in IED/022 that some large housing sites are capable of delivering at higher rates in individual years, and in some cases for a number of years in succession. Examples were provided as part of the evidence I consider in IED/022 and in some of the responses to the main modifications consultation. But equally, the evidence contains examples of large housing sites delivering at lower annual rates. In IED/022 I give full reasons for concluding that the evidence does not support the view that the proposed GC sites would be capable of delivering more than 250pa consistently throughout the peaks and troughs of the business cycle, over the many decades it would take to build them. There has been no later evidence which leads me to alter that conclusion.
79. One of the viability assessments I consider in IED/022 [EXD/085] was submitted by the promoters of the Colchester / Braintree Borders GC and is said to be based on a 17,000-dwelling scheme at an average delivery rate of 250dpa. As I point out in IED/022, at an average rate of 250dpa, a 17,000-dwelling development should take about 68 years to build out, whereas the spreadsheets in EXD/085 appear to show the build programme completed in under 57 years. I appreciate that within an average delivery rate, actual delivery rates will fluctuate from year to year. Nonetheless, 17,000 dwellings over 57 years would represent an average annual delivery rate of almost 300dpa, not 250dpa.
80. In addition, in IED/022 I find no evidence to support the assumption in EXD/085 that a reduction in the annual delivery rate from 354dpa to 250dpa would lead to a 5% increase in sales values due to a reduction in the supply of homes to the market. For these reasons, I remain of the view that EXD/085 does not provide a reliable indication of the viability of the Colchester / Braintree Borders GC, whether or not there is scope to reassign some of its assumed profit or land costs to offset an increase in the contingency allowance to 40%.
81. Responses to the main modifications consultation queried other specific aspects of my findings on viability. I acknowledge that viability assessment involves an element of professional judgment, and that different views may legitimately be taken when exercising that judgment. Accordingly, in IED/022 I give full reasons for the view I take on each aspect of viability, including on those aspects where my view differs from other participants'. Those reasons lead to my finding that neither the proposed Colchester / Braintree Borders GC nor the proposed West of Braintree GC is deliverable, because the former

would not achieve a viable land price and the latter is below, or at best is at the very margin of, financial viability.

82. In IED/022 I also find, for separate reasons, that neither Route 3 nor Route 4 of the proposed rapid transit system for North Essex has been shown to be deliverable. Because of this, it has not been shown that the necessary public transport connections are capable of being provided from either the proposed West of Braintree GC (which would depend on Route 3 for public transport links to destinations outside the GC, and on Route 4 for links to places east of Braintree), or from the proposed Colchester / Braintree Borders GC (which would depend on Route 4 for public transport links westwards to Braintree). The lack of necessary public transport connections would directly conflict with the NPPF's advice that the transport system needs to be balanced in favour of sustainable transport modes. Nothing in the main modifications responses leads me to reconsider these findings.
83. For the reasons given in paragraphs 10 to 20 inclusive, 23 to 31 inclusive, and 60 to 266 inclusive of IED/022 and in paragraphs 77 to 82 above, therefore, I conclude that the proposed Colchester / Braintree Borders and West of Braintree GCs are not justified or deliverable, and that as a result they are unsound. Consequently, it is necessary for the proposals for these two GCs to be removed from the Plan. This is achieved by **MM41 and MM42**, which delete the whole of policies SP9 and SP10, by **MM18 and MM24**, which delete references to the two GCs from policy SP7, and by **MM43, MM44 and MM45**, which delete the two GCs from the Key Diagram<sup>14</sup>. Necessary consequential changes to delete references to the two GCs from other policies are provided by other MMs. Consequential changes to the reasoned justification may be made by the NEAs as additional modifications.

*The proposed Tendring / Colchester Borders GC*

84. There has been no subsequent evidence to alter the view I reached in IED/022, that development of the proposed Tendring / Colchester Borders GC would enable the delivery of sustainable development in accordance with the NPPF's policies. However, the submitted Plan requires modification in order to provide a justified and effective policy framework for the development of the GC.
85. The NEAs' intention, set out in Colchester's and Tendring's Local Development Schemes, is that a Development Plan Document [DPD] will be prepared to provide more specific policies on the development of the GC, and that masterplans and other documents will provide further detailed guidance on layout and design. In view of the large scale of the GC, the long-term nature of the build programme, and the justifiably high aspirations of the NEAs for the quality of development, this is an appropriate approach to ensure that the GC delivers sustainable development in accordance with national policy.
86. Accordingly, the role of policies SP7 and SP8, as part of the strategic Section 1 Plan, is to set out the broad location and overall scale of development at the GC, and the principles and key policy requirements which will govern its development, and to define the role to be played by the DPD. As submitted,

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<sup>14</sup> I am able to recommend MMs to the Key Diagram as it is part of the Plan, and not part of the policies map.



however, policies SP7 and SP8 would be ineffective in playing that role, for the following reasons:

- They do not clearly define the broad location of the GC;
- They do not provide guidance on the scale of provision for employment development at the GC;
- They do not define sufficiently clearly the purpose of the DPD, its relationship with the Plan, and the role of each in governing development at the GC;
- They do not make sufficiently clear the status of the principles and policy requirements which they contain; and
- To some extent they duplicate one other.

87. These shortcomings are rectified by **MM18, MM27, MM28, MM29 and MM32**, together with **MM43, MM44 and MM45**. These modifications restructure the opening and closing paragraphs of SP7 and the opening paragraph of SP8 in order to eliminate duplication; ensure that Section 1 of each NEA's adopted local plan contains an accurate map of the GC's broad location; define the amount of employment development provision<sup>15</sup>, provide a clear definition of the purpose of the DPD; and make it clear that phased delivery of the GC will be planned on a comprehensive basis. I have adjusted the wording of MM32, as it was originally published for consultation, for the reasons given in paragraphs 71 to 73 above.
88. MM18 further clarifies that the policies of the DPD, and development at the GC, will accord with the principles set out in policy SP7, and that planning permission for development of the GC will not be granted until the DPD has been adopted. This is necessary because the DPD will provide detailed policies to govern development at the GC. MM29 also makes it clear that the requirements of policy SP8 also form part of the policy framework for the GC's development.
89. MM29 further specifies that adoption of the DPD will be contingent on the completion of a Heritage Impact Assessment, which will inform the appropriate extent and capacity of development at the GC and establish any necessary mitigation measures. This change, based on advice from Historic England, is necessary for the reasons given in paragraphs 96 to 102 of IED/022 (attached below), which form an integral part of this report. In summary, while I found it appropriate for the SA of the Plan to assess heritage impacts using a proximity-based approach, in order to comply with national policy a detailed assessment in accordance with Historic England guidance will be needed to inform the development proposals in the DPD. The change also necessitates the insertion of the word "expected" in MM18, to reflect that the Heritage Impact Assessment will help to determine the overall amount of development to be accommodated at the GC.

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<sup>15</sup> Paragraphs 178-186 inclusive of IED/022 (attached below), which form an integral part of this report, explain the evidential justification for the employment land requirement figures in MM18 and MM32.

90. **MM38 and MM39** are necessary to ensure that the approach to heritage and biodiversity assets set out in policy SP8 is consistent with national policy, and that appropriate account is taken of heritage assets and biodiversity assets, both within and near the GC<sup>16</sup>.
91. As submitted, policies SP7 and SP8 include differently-worded requirements for masterplans and other design documents to guide development at the GC, rendering those requirements confusing and ineffective. **MM21 and MM31** overcome this problem by deleting the requirement from SP7 and making the requirement in SP8 more precise. The requirements in SP7 and SP8, as submitted, for planning applications at the GC to be consistent with the DPD, masterplans and design guidance, are unjustified, as those documents have not been prepared, examined or adopted. The requirements are therefore deleted by MM21 and MM31.
92. As submitted, policy SP7 expects 2,500 dwellings to be delivered at the GC in the Plan period, but in order to reflect the latest available evidence in EXD/070 and my findings on delivery rates in paragraphs 157 to 175 of IED/022 (attached below), which form an integral part of this report, MM18 amends this figure to a range from 2,200 to 2,500 dwellings in order to ensure that the policy is justified. The requirement for provision for Gypsies and Travellers at the GC contained in MM18 and MM32 is not a new requirement<sup>17</sup>: it is simply moved from submitted policy SP8 to policy SP7 as part of the restructuring of those policies described above.
93. In order to secure sustainable development in accordance with national policy, it is necessary for the Plan to set clear strategic guidance on infrastructure requirements for the GC and on the timing and funding of their provision. As submitted, the Plan provides insufficient guidance on these matters and is therefore ineffective. Accordingly, **MM11** inserts a new section A into policy SP5, setting out the means by which the DPD's policies, in combination with the policies in the Plan, will ensure provision of the necessary infrastructure at the right time to meet the needs of the GC.
94. Because of the central importance of transport infrastructure to the sustainability of the GC, **MM11 and MM33** also make it clear that planning permission for development will not be granted until planning consent and funding approval have been secured for the new A120-A133 link road and the rapid transit system serving the GC, and that sustainable transport measures will be provided from first occupation of the GC. While choices have yet to be made from the options for some sections of the rapid transit system's route, MM11 defines the route's parameters with sufficient precision at this stage of planning.
95. To ensure that the policy is effective, MM33 also clarifies the requirements of policy SP8 for other necessary transport infrastructure, and removes an inappropriately specific requirement for public transport priority measures; **MM20** makes it clear that where appropriate, as part of the process of

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<sup>16</sup> As the NPPF's Glossary makes clear, the term "heritage assets" includes both designated and non-designated assets. Similarly, the term "biodiversity assets" in policy SP8 encompasses internationally-, nationally- and locally-designated sites.

<sup>17</sup> The evidence to support the requirement is set out in the *Essex Gypsy and Traveller and Travelling Showpeople Accommodation Assessment* [EB/021].

securing the necessary infrastructure provision, developer contributions will be sought towards infrastructure, including the new link road, that is also supported by public funds; and **MM34** sets out the process by which other necessary road improvements will be secured through the DPD and masterplanning process.

96. A series of further changes to policies SP7 and SP8, for which I give reasons below, are necessary to ensure that the policies are justified, effective and consistent with national policy.
97. The participation of the local community in planning, designing and delivering the GC will be important if it is to meet the principles of the North Essex Garden Communities Charter. **MM19** therefore amends policy SP7 so that it requires such participation (rather than the inaccurate term "empowerment") from the outset, while MM29 amends policy SP8 to include a requirement for the DPD to be produced in consultation with the local community. The detailed means by which participation and consultation are arranged is, however, a matter to be resolved by the NEAs and the local community, not by the Plan.
98. The deletion by **MM20** of the reference in policy SP7 to "sharing risk and reward" is necessary for the reasons given in paragraph 91 of IED/011 (attached below), which forms an integral part of this report. The requirement in submitted policy SP7 for "new models of delivery" to be deployed as a matter of principle is unjustified, as there is no evidence to show that they are necessary to achieve the policy's objectives. MM20 therefore qualifies the requirement by inserting the words "where appropriate". This will enable planning judgments to be made, as proposals come forward, on the most appropriate means of delivering the GC. **MM1** makes corresponding amendments to the Plan's Vision.
99. The inclusion by **MM23** of a reference in principle (v) of policy SP7 to provision for Gypsies and Travellers (see paragraph 92 above) is necessary to ensure that all accommodation needs are taken into account in planning the GC. **MM25**, based on advice from Historic England, makes it clear that comprehensive assessments of the surrounding environment will be required in order to support policy SP7's aspiration for development which celebrates the natural and historic environment.
100. **MM26 and MM36**, which reflect a statement of common ground between the NEAs, Anglian Water and the Environment Agency, are needed to ensure that, in accordance with national policy, effective measures to safeguard against flood risk and to promote the efficient use of water will be taken when planning and developing the GC. **MM35**, which reflects a statement of common ground between the NEAs and local NHS healthcare providers and commissioners, is necessary to ensure that policy SP8 is realistically flexible in the way it requires healthcare provision for the GC to be made.
101. In paragraph 263 of IED/022 (attached below), which forms an integral part of this report, I identify access to employment opportunities at the adjacent University of Essex and its associated Knowledge Gateway as one of the factors contributing to the ability of the GC to deliver sustainable development. Moreover, national policy encourages LPAs to plan positively for

the expansion of knowledge-based business and employment. But while provision for expansion is made in the adopted Colchester Site Allocations DPD, it is not reflected in the Plan. **MM40**, based on a statement of common ground between the NEAs and the University, is therefore required to rectify this omission and ensure that the Plan makes the necessary provision.

102. Many of the responses to consultation on the MMs asked for the Plan to give more specific guidance on various aspects of the Tendring / Colchester Borders GC. For example, to define the areas where different types of development will take place and the areas to be reserved as landscape buffers, to define the required tenure split for the affordable housing, or to define transport modal share targets to be achieved within a given timescale. But in my view this would go beyond what it is necessary, or indeed possible, for the Plan to do at this stage.
103. As modified, policies SP7 and SP8 will achieve the Plan's purpose of allocating a strategic area for the development of the GC, and setting out policy requirements for its development and delivery. More detailed planning for the GC will be necessary, including on matters such as those identified in the previous paragraph, but the Plan makes provision for this by requiring that the DPD is prepared, in consultation with the local community and stakeholders, and adopted before any planning permission for the GC is granted. The DPD is the appropriate means by which detailed planning of the GC will take place.
104. Subject to all the MMs described above, therefore, I conclude that the Plan will provide a justified and effective policy framework for the development of the Tendring / Colchester Borders GC, enabling the delivery of sustainable development in accordance with national policy.

**Main Issue 4 – Are the Plan's Vision, strategic objectives and spatial strategy justified, effective and consistent with national policy, and is the Plan period appropriately and correctly identified?**

105. Plan policy SP2, which sets out the Plan's spatial strategy, makes it clear that existing settlements will be the principal focus for growth in North Essex during the Plan period. As submitted, however, the Plan's Vision places greater emphasis on its GC proposals and says comparatively little about existing settlements. This unjustified imbalance is rectified by **MM1**, which expands on and clarifies the NEAs' vision for the future of their existing settlements, including that development should conserve and enhance the natural and historic environment, the undeveloped countryside and settlement character, and should enable healthy and active lifestyles. As this is a broad vision for the future of the area, it is appropriate that it should reflect the thrust of national policy rather than its specific requirements.
106. **MM1** also reflects the deletion by **MM41** and **MM42** of two of the proposed GCs from the Plan, and amends the Vision in respect of the Tendring / Colchester Borders GC to align it with recommended MMs to policies SP5, SP7 and SP8. In order to avoid appearing to place unjustified constraints on the design of houses at the GC, **MM1** deletes the word "contemporary" from the relevant sentence of the Vision.
107. **MM2**, which I have adjusted in the light of the consultation response from Historic England, amends the Plan's strategic objectives to make it clear that

not all new development, at any scale, is capable of promoting sustainable transport opportunities, and to ensure that the objectives adequately reflect national policy towards the historic environment and the significance of heritage assets. These changes are needed to ensure that the strategic objectives provide a justified and effective basis for the Plan's policies.

108. **MM7** amends policy SP2 so that it accurately defines the spatial coverage of the Plan, provides greater clarity on how the distinctive character of existing settlements will be maintained, and makes it clear that it is in their Section 2 Plans that each of the NEAs will define their spatial hierarchies. It also makes amendments to reflect the deletion of two of the proposed GCs, to ensure that the policy correctly identifies the broad location of the Tendring / Colchester Borders GC, and to eliminate potentially confusing duplication of the requirements of other policies.
109. With those amendments, I consider that policy SP2 provides a sound and effective spatial strategy for the development that will come forward through the NEAs' Section 2 plans, as well as at the Tendring / Colchester Borders GC. The policy makes it clear that existing settlements will be the principal focus for development, and requires development to be accommodated at those settlements according to their scale, sustainability and existing role. It is then for each of the NEAs, in their Section 2 Plans, to identify a hierarchy of settlements and to allocate development to them in accordance with those principles. Apart from the proposed GCs, it is not part of the Section 1 Plan's identified role to identify land for development, whether or not any additional land may be needed to make up for the development that would have taken place at the two deleted GCs.
110. The Tendring / Colchester Borders GC is expected to provide up to 2,500 (around 6%) of the 43,700 dwellings required by the Plan in the period to 2033, and 7ha (some 8% to 13%) of the 55ha to 93ha of employment land. I see no real danger that this will unbalance the pattern of development in such a way as to disrupt the principal focus on existing settlements sought by policy SP2.
111. It is true that, while substantial development is planned beyond the Plan period at the Tendring / Colchester Borders GC, it will be considerably less than that which would have occurred at all three GCs proposed in the submitted Plan. But if this examination were to seek to replace the deleted GCs with alternative proposals, whether on new sites or on parts of the original sites, this would entail a long delay while evidence on the merits of different potential sites was evaluated and compared, including through further SA and HRA. Replacement sites could not simply be slotted in without going through such a process of evaluation and comparison.
112. Accordingly, to introduce substantial further delay into an examination that has already lasted more than three years, in order to provide for development which will meet needs beyond the Plan period, would in my view be a disproportionate and harmful response to the deletion of two of the proposed GCs. The objectives of the plan-led system would be better served by allowing the NEAs to bring forward development proposals to meet future needs in future reviews of their plans.

113. At paragraph 157 the NPPF advises that local plans should be drawn up over an appropriate timescale. While it gives 15 years as the preferred period, this is not mandatory. It is likely that when the Plan is adopted its end date of 2033 will be around 12 years away. Taking into account the statutory requirement for local plans to be reviewed every five years, in my view such a timeframe will provide sufficient certainty about the requirements and strategy for development in the NEAs' area. By contrast, seeking to extend the Plan's end date at this late stage would delay the Plan's adoption and lead to a longer period of uncertainty.
114. **MM47** is necessary to correct an error in the dates on the front cover of the submitted Publication Draft of the Colchester Borough Local Plan, so that they are consistent with the plan period identified in policy SP3.
115. Subject to the MMs described above, therefore, I conclude that the Plan's Vision, strategic objectives and spatial strategy are justified, effective and consistent with national policy, and that the Plan period is appropriately and correctly identified.

**Main Issue 5 – Are the Plan's policies on the presumption in favour of sustainable development (SP1), on infrastructure and connectivity (SP5), and on place-shaping principles (SP6), sound?**

116. As submitted, parts of the first two paragraphs of policy SP1 are not fully consistent with the policy on the presumption in favour of sustainable development and the guidance on decision-taking in both the 2012 NPPF and 2019 NPPF, while the rest of the policy summarises national policy in a way that could lead to misunderstandings. Accordingly, **MM4** deletes those parts of the policy which are inconsistent with national policy or are potentially misleading. The deletions do not weaken the Plan's contribution to the achievement of sustainable development, which the NPPF identifies as the purpose of the planning system, because sustainable development principles are embedded in the Plan's Vision and strategic objectives, and in each of its policies.
117. My reasons for recommending MM11, which inserts new section A into policy SP5, are set out under main issue 3 above. That section of SP5 applies to the Tendring / Colchester Borders GC only, whereas the rest of the policy applies to the NEAs' area as a whole. **MM10** is necessary to make this clear, and also to clarify the wording of the policy's introductory sentence, so that the policy is effective.
118. As submitted, the Transport section of policy SP5 is ineffective, as it fails to distinguish between its objectives and the means of achieving those objectives, and because its list of requirements is not clearly structured and is somewhat repetitive. **MM12** substantially restructures the section, while retaining all its original objectives, so as to overcome these deficiencies. As the A120-A133 link road is a requirement of new section A in policy SP5, there is no need to reiterate the requirement in this section.
119. **MM13** changes the title of the submitted Education section of policy SP5 to "Social Infrastructure", to reflect the fact that this section also includes infrastructure requirements necessary to support health and well-being. It

inserts a new introductory sentence into the policy, and rewords its bullet points, in order to clarify how the objectives of the policy will be achieved.

120. MM13 also clarifies that education and childcare provision will be phased with new development, and adds a bullet point setting out requirements for laying out new development in such a way as to create the conditions for a healthy community. Without these changes, the policy would be ineffective in achieving its aims.
121. Since this part of policy SP5 is intended to cover developments of all scales and types, it is not possible or necessary for it to set "trigger" points at which the provision of new schools will be required, or to specify where new school places will be provided. Those are matters to be considered at a more detailed stage of planning.
122. **MM14** is needed to bring the submitted section of policy SP5 on digital connectivity up to date, in terms of both its requirements and its terminology, and thus to make it effective. **MM15** introduces a new section E to the policy, setting out requirements for water and waste water infrastructure provision. This new section, which is based on a statement of common ground between the NEAs, Anglian Water and the Environment Agency, is necessary to rectify an omission in the submitted policy, which would have made it ineffective and inconsistent with national policy.
123. As submitted, the requirement in policy SP6 for all new development to meet the "highest" standards of design is unreasonable and therefore unjustified: **MM16** accordingly replaces "highest" with "high". MM16 also inserts the words "where applicable" to make it clear that not all the place-shaping principles identified in the policy will apply to every development; and it clarifies the circumstances in which policy SP6 requires development frameworks, masterplans, design codes and other design guidance documents to be prepared. These changes are necessary to make the policy effective.
124. Changes also need to be made by MM16 to the list of place-shaping principles in submitted policy SP6 to ensure that the requirements of the policy are justified and will be effective. In the first bullet point, replacement of "communities" with "places" is necessary to clarify the policy requirement to preserve and enhance quality. The new fourth bullet point, and amendments to the penultimate and antepenultimate bullet points, are needed to bring the policy into line with the national policy requirement to minimise impacts on biodiversity and provide net gains in biodiversity where possible. These changes reflect statements of common ground between the NEAs, Historic England, the Environment Agency, and Anglian Water.
125. Finally, MM16 inserts the word "overbearing" into the last bullet point of policy SP6, to ensure that the policy provides effective protection for residential amenity.
126. Subject to the MMs outlined above, I conclude that the Plan's policies on the presumption in favour of sustainable development, on infrastructure and connectivity, and on place-shaping principles, are sound.

## **Overall Conclusion and Recommendation**

127. The Section 1 Plan has a number of deficiencies in respect of soundness and legal compliance for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explained in the main issues set out above.
128. The North Essex Authorities requested that I recommend main modifications to make the Section 1 Plan sound and legally compliant, and thus capable of adoption. I conclude that the duty to cooperate has been met and that, with the recommended main modifications set out in the Appendix, the North Essex Authorities' Shared Strategic Section 1 Plan satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.

*Roger Clews*

Inspector

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

Attached below are the following documents:

Inspector's post-hearings letter, 8 June 2018 [IED/011]

Inspector's supplementary post-hearings letter, 27 June 2018 [IED/012]

Inspector's post-hearings letter, 15 May 2020 [IED/022]

Certain paragraphs of these attached documents form integral parts of the Inspector's report. They are identified in the main body of the report above.



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

**Inspector:** Mr Roger Clews

**Programme Officer:** Andrea Copsey

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To:

Emma Goodings, Head of Planning Policy & Economic Development, Braintree District Council

Karen Syrett, Place Strategy Manager, Colchester Borough Council

Gary Guiver, Planning Manager, Tendring District Council

8 June 2018

Dear Ms Goodings, Ms Syrett and Mr Guiver

### **EXAMINATION OF THE STRATEGIC SECTION 1 PLAN ADVICE ON THE NEXT STEPS IN THE EXAMINATION**

1. Now that the hearing sessions have concluded I am able to advise you about the further steps that I consider are necessary in order for the Section 1 Plan to be made sound and legally-compliant. I shall also deal, as far as I can, with your question as to whether the Section 1 Plan [hereafter, "the Plan"] could be adopted by each of the three North Essex Authorities [NEAs]<sup>18</sup>, separately from and in advance of their Section 2 Plans.
2. My letter focusses on those aspects of the Plan and its evidence base which I consider require significant further work on the part of the NEAs. It also advises on specific changes that are needed to some of the Plan's policies. More detailed matters, and aspects of the Plan that do not require significant further work at this stage, are not dealt with here but may be considered in the report I will produce at the end of the examination.
3. At this point my letter does not deal with chapter 4 and policy SP3, which cover the Plan's housing requirements. I will write separately about this topic once I have considered any implications the recently-published 2016-based sub-national population projections may have for the issue of Unattributable Population Change [UPC] in Tendring.
4. In document SD002a<sup>19</sup>, the NEAs have suggested modifications to address some of the issues of soundness that have been identified during the examination. However, it will be clear from this letter that further main modifications will need to be made in order for the Plan to be capable of adoption. All the main modifications that are eventually proposed will of

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<sup>18</sup> The three NEAs in the context of this letter are Braintree District Council [BDC], Colchester Borough Council [CBC], and Tendring District Council [TDC]

<sup>19</sup> *Suggested Modifications to the Publication Draft Braintree, Colchester and Tendring Local Plans: Section One* (Feb 2018)

course be subject to full public consultation, and I will consider all the consultation responses before I produce my report.

5. I should make it clear that the views expressed in this letter are based on the evidence currently before me. I reserve the right to modify these views in the light of any further evidence that may come forward before the examination ends.
6. My letter deals first with legal compliance matters, then with Plan chapter 8 on the proposed Garden Communities [GCs], followed by chapters 5 and 6 dealing with employment and infrastructure provision, and then more briefly with the rest of the Plan.

### **Legal compliance, including compliance with the duty to co-operate**

#### *Duty to co-operate*

7. Each of the NEAs has published a Duty to Co-operate [DtC] Statement setting out the steps taken to fulfil the duty in the preparation of the Plan. The DtC Statements are supported by Statements of Common Ground with neighbouring LPAs, infrastructure providers, statutory consultees and others.
8. It is apparent from the DtC Statements that substantial and effective co-operation took place, both between the NEAs themselves and with neighbouring authorities and other prescribed bodies, during the preparation of the Plan. This co-operation involved meetings, memoranda of co-operation and joint evidence preparation. The strategic, cross-boundary matters addressed included assessments of need for housing, gypsy and traveller accommodation and employment land; strategic infrastructure, including improvements to the trunk and local road networks and the railway network, education, healthcare and broadband provision; and the environmental and other cross-boundary impacts of the Plan's proposals.
9. Given the distance between the administrative area of Basildon Council and those of the NEAs, it would be unrealistic to expect the latter to play any significant role in accommodating unmet need for gypsy and traveller sites in Basildon. I find no failure of the DtC in this respect.
10. Failure of the DtC was also alleged over the NEAs', and more specifically BDC's, handling of the proposals by Lightwood Strategic for a GC at Pattiswick, to be known as "Monks Wood". It seems that the first proposal for this site, in the context of the Plan, was made to BDC by Swords on 9 March 2016. I have no reason to disbelieve the NEAs' account that it was made known to CBC, TDC and Essex County Council [ECC] the following day. BDC then responded to Swords on 11 March 2016 advising that an earlier call for sites period was closed but that the Pattiswick site could be considered as an objection to the Preferred Options Plan, consultation on which was due to begin in June 2016.

11. Given the stage of preparation that the Preferred Options Plan had reached by March 2016, I consider that was a reasonable position for BDC to take. The alternative would have been to assess the new site in the same way as the other proposed GC sites had already been assessed, before publishing the Preferred Options Plan. But that would have delayed the Plan preparation process, with no guarantee that other sites would not then have come forward, creating further delays. Cut-off dates have to be set if the planning process is to move forward.
12. In August 2016 Lightwood Strategic made representations on the Preferred Options Plan, enclosing a site submission form for the Monks Wood site along with supporting material. In due course, Concept Feasibility Studies for Colchester Metro Town<sup>20</sup> (April 2017) and Monks Wood (May 2017) were prepared by the NEAs' consultants, AECOM, along similar lines to those already published in June 2016 for other potential GC sites. The latter included another rejected alternative at North Colchester as well as the three allocated sites.
13. North Colchester, the Metro Town proposals and the Monks Wood site were also assessed as alternatives to the allocated GCs in the Sustainability Appraisal [SA] for the Publication Draft Plan, published in June 2017. (I consider the SA separately below.) All this is evidence of effective co-operation between the NEAs in the assessment of alternative sites for GCs, including Monks Wood.
14. I see no great significance in the fact that the BDC Local Plan Sub-Committee resolved on 31 October 2016 to agree a Vision for its Local Plan that included GCs west of Braintree and west of Colchester, but not at Monks Wood. The relevant recommendation contained a clear caveat to the effect that any subsequent changes to the spatial strategy would be reflected in the Vision. That reflected the fact that consideration by the NEAs of the spatial strategy – of which the GCs are a major component – was still continuing. No final decisions on the Section 1 Plan, its spatial strategy and the GCs allocated in it were taken until the NEAs formally approved the Publication Draft Plan for consultation beginning in June 2017, and then resolved to submit the Plan for examination in October 2017.
15. I see nothing in legislation or national guidance to indicate that the DtC requires local planning authorities to co-operate with prescribed bodies over the potential cross-boundary impacts of sites that are considered, but rejected, for inclusion in a plan. Consequently, I see no reason to conclude that the DtC required co-operation between BDC (or the NEAs) and other external bodies in respect of Monks Wood and the other rejected GC sites. That is also the view of the NEAs and of Chelmsford Borough and Uttlesford

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<sup>20</sup> Prepared by CAUSE in 2015 as a potential alternative strategy for growth in North Essex

District Councils, which adjoin the BDC area. The cross-boundary impacts of the Plan as a whole were the subject of effective co-operation, as paragraph 8 above makes clear.

16. None of the evidence I heard and read pointed to a failure in any other respect on the part of the NEAs to co-operate with each other or with prescribed bodies on any strategic matter. I find that each of the NEAs met the duty to co-operate in the preparation of the Section 1 Plan.

*Failure to register representations*

17. Through an unfortunate error, the NEAs failed to register the representations submitted by five respondents at Regulation 19 stage. The representations from one of those respondents, Lightwood Strategic, also contained a request to appear before and be heard by the Inspector under section 20(6) of the 2004 Act. Document IED008 sets out, at question 7(a), the elements of legislation that were breached as a result of that failure.
18. The failure to register the five sets of representations did not come to my or the NEAs' attention until Thursday 18 January 2018, the third day of the originally-scheduled hearing sessions. The missing representations were provided to me and published on the consultation portal the next day. Arrangements were made for Lightwood to submit statements to and appear at the fourth, fifth and sixth hearing days, dealing with Matters 6, 7 and 8, the following week.
19. Lightwood would also have been entitled to appear at the Matter 1 hearing session, which had already taken place when their representations came to light. Consequently an additional hearing session for Matter 1 was held on Wednesday 9 May 2018. Lightwood were invited to submit statements to and attend that additional session, together with all the invitees to the original Matter 1 hearing session, and representatives of parish councils and community organisations in the area affected by Lightwood's proposals for a GC at Pattiswick.
20. Lightwood consider that, notwithstanding the steps that were taken to overcome the consequences of the NEAs' failure to register their representations, they and others are subject to prejudice in the following respects:
  - They had only a few days to prepare for the Matters 6, 7 & 8 sessions, placing them at a material disadvantage compared to the other participants;
  - Their not attending the original Matter 1 hearing session meant that I heard contributions without Lightwood being able to respond to, rebut or reinforce those comments, and without them being supported by others in their own submissions;

- The NEAs' failure to submit an accurate statement of representations and to submit all representations to the SoS led to the examination proceeding and being framed and formulated by myself without reference to or benefitting from Lightwood's case and evidence;
  - The failure to make all representations publicly available prevented fellow objectors from formulating their cases and representations with reference to or benefitting from Lightwood's case and evidence.
21. Lightwood maintain that a failure to comply with Regulation 22 cannot be cured subsequently. It is not possible after the event, they say, to gauge how the examination, evidence and representations would have altered as a result of their representations being available or how parties would have conducted themselves. Lightwood contend that the Plan should therefore return to the stage before the breach.
22. Evidently the NEAs' failure to register the five sets of representations was a regrettable error, for which they have apologised. The question for me is whether Lightwood's interests, or those of any other party, have been prejudiced as a result.
23. In this regard, steps were taken to ensure that Lightwood were able to appear and be heard before me on all the Matters to which their representations related. Those steps included arranging an additional hearing session for Matter 1, as explained above. While it is true that Lightwood had only a short time to prepare for the Matters 6, 7 and 8 hearing sessions, it was they who originally suggested that they should attend those hearings<sup>21</sup>. Their suggestion, which I accepted, was extremely helpful in minimising delay to the examination. Lightwood were able to prepare brief hearing statements for Matters 6, 7 and 8, and I and the other participants had the opportunity to read and consider all their representations in advance of the hearing sessions.
24. As a result of all the steps taken, my view is that Lightwood and the other participants were provided with adequate opportunities to appear before and be heard by the Inspector, as the legislation requires. I consider it unlikely that any significant additional matters, issues and questions would have been discussed at the hearings had Lightwood's representations, and the other unregistered representations, been before me at the outset of the examination. Taking all this into account, I am satisfied that the hearing sessions enabled me gain a full understanding of the views of all participants, including on Matters 1, 6, 7 & 8.
25. Overall, therefore, I find that that effective arrangements were put in place to minimise the effects of the failure to register certain representations at the right time, and that no substantial prejudice to any party resulted from that failure.

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<sup>21</sup> Email from Richard Walker of Lightwood to the Programme Officer, 18 January 2018

### *Habitats Regulations Assessment [HRA]*

26. On 12 April 2018 the Court of Justice of the European Union [CJEU] issued a judgment<sup>22</sup> which ruled that Article 6(3) of the Habitats Directive must be interpreted as meaning that mitigation measures (referred to in the judgment as measures which are intended to avoid or reduce effects) should be assessed within the framework of an appropriate assessment [AA], and that it is not permissible to take account of measures intended to avoid or reduce the harmful effects of the plan or project on a European site at the screening stage.
27. The HRA report on the pre-submission Plan contained both a screening stage assessment and an AA. The NEAs will need to ensure that the screening stage assessment of that report, and any future HRA reports, is compatible with the CJEU's judgment.

### *Other legal issues*

28. I find no evidence that the NEAs failed to consult on the Plan in accordance with their Statements of Community Involvement, as required by section 19(3) of the 2004 Act. I shall consider any relevant implications of the legislation on state aid and compulsory purchase in the next section dealing with the GCs.

### **Cross-Boundary Garden Communities (chapter 8)**

29. Three proposed GCs, providing between 29,000 and 43,000 homes in total, are a central element in the Plan's spatial strategy for North Essex. I have no doubt that the NEAs are sincere in their aspirations for three high-quality, sustainable communities, based on the principles outlined in their *Garden Communities Charter* [the NEGC Charter]. Their proposed approach is innovative and ambitious, and if carried out successfully it has the potential to provide for housing and employment needs not just in the current Plan period but well beyond it.
30. The GCs are identified as broad locations on the submission policies map. But it is clear from the content of policies SP7, 8, 9, & 10 [hereafter: "the GC policies"] that the submitted Section 1 Plan, if adopted, would establish both the in-principle acceptability of, and many of the specific requirements for, the proposed GC developments. Follow-on plans<sup>23</sup> are intended to set out the principles of design, development and phasing for each GC, but it is this examination which must determine whether or not the GC proposals are properly justified and realistically developable. This is of more than usual importance given the large scale and long-term nature of the GC proposals,

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<sup>22</sup> *People over Wind, Peter Sweetman v Coillte Teoranta* [CJEU Case C-323/17]

<sup>23</sup> Referred to in the Plan as Development Plan Documents or DPDs

two of which will take around 30 years to complete and the other at least 40 years.

31. In my view the evidence provided to support the GC policies in the submitted Plan is lacking in a number of respects. I consider the main shortcomings in turn below. References to the individual GCs are as follows: CBBGC: Colchester/Braintree Borders GC; TCBGC: Tendring/Colchester Borders GC; WoBGC: West of Braintree GC.

### ***Transport infrastructure***

#### ***Trunk road improvements***

32. Policy SP5 includes two major trunk road schemes in its list of strategic infrastructure priorities: the A12 Chelmsford to A120 widening scheme which is included as a committed scheme in Highways England's RIS1 programme, and the A120 Braintree to A12 dualling scheme which is currently under consideration for inclusion in RIS2. Both schemes are intended to relieve existing congestion problems and support economic growth in North Essex.
33. In this context, the scale of the GC proposals means that they could not be developed in full without the additional strategic road capacity provided by these schemes. In particular, WoBGC would be reliant on the A120 for eastward strategic road connections to Colchester and beyond, and both the A120 and A12 (which currently meet at Marks Tey) would provide essential strategic highway links for CBBGC.
34. I understand that decisions on what is included in the RIS2 programme are due to be made in 2019. No firm view on the feasibility of either WoBGC or CBBGC can be taken until it is known whether or not the A120 dualling scheme is included in that programme (or can be otherwise fully funded). While the GCs would contribute to the cost of the scheme, I have seen no evidence that it could be fully funded if it is not included in RIS2. It may be possible to devise interim solutions to accommodate a proportion of the generated traffic, and thereby enable early phases of one or both GCs to proceed, but that would not justify an in-principle endorsement of the GC proposals as a whole.
35. Moreover, the two alternative alignments currently under consideration for the widened A12 in the Marks Tey area are not compatible with the proposed layout of CBBGC as set out in the Concept Framework. In order to avoid having an unacceptable severance effect, the improved A12 would need to take a line some distance to the south-east of those existing alternatives. The NEAs have made a bid to Government for funds to facilitate that further alternative alignment, but the outcome is not yet known.

36. In addition, a decision has yet to be made on the alignment for the dualled A120. The alternative alignments still being considered have quite different implications for the A120's relationship with CBBGC.
37. I appreciate that the NEAs, ECC and Highways England are working together constructively to resolve these issues. Nonetheless, 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.

### *Rapid transit system*

38. A rapid transit system [RTS] for North Essex is an integral part of the GC proposals. Policy SP7 requires the new communities to be planned around a "step change" in integrated and sustainable transport systems. The Concept Frameworks for each GC all include a RTS as a key element of the movement and access framework. And the Jacobs *Movement and Access Study* [MAS] sets a target for 30% of all journeys to, from and within the GCs to be made by rapid transit, rising to 38% for journeys with an external origin or destination.
39. It is unlikely that those extremely ambitious targets would be achieved or even approached unless rapid transit services to key destinations are available early on in the lifetime of the GCs. That is evident from section 1.3 of the MAS, which advises that the priority is to provide high-quality infrastructure for active modes and rapid transit that is integrated with immediate and future land use. It must have a directness, journey time and convenience benefit over the private car from the very beginning to realise this potential.
40. However, planning of the proposed RTS has reached only a very early stage. The *North Essex Rapid Transit Study* [NERTS] is a high-level assessment of the costs and benefits of a RTS. It assesses demand, and outlines route options and a range of costs, for an extensive network linking the three GCs to Colchester, Braintree and Stansted. But it is not a feasibility study which investigates whether such a network could actually be delivered on the ground. Nor does it recommend which of the modal options (bus, guided bus, tram, etc) should be taken forward, or identify a timescale for delivery.
41. The cost of the RTS, even in broad terms, cannot be determined until these decisions have been made. While the Technical Note on bus rapid transport prepared by Icen Projects provides alternative indicative costings it does not resolve these points. Further work is needed before it can be shown in both practical and financial terms that a RTS could be delivered.
42. In order to demonstrate that the RTS is deliverable at the time it is needed, further work needs to be done:



- to determine which modal option is to be used and its capital cost implications;
  - to establish the feasibility and capital cost of its route(s) on the ground, including its alignment outside the GCs themselves;
  - to refine passenger and revenue forecasts; and
  - to establish a timescale for its delivery in stages.
43. On the basis of this work, both a realistic range of costs for the RTS, and the sources from which those costs will be met, need to be identified. Discussions also need to be held with potential operators so that they are involved in the process of developing the proposals.

#### *Marks Tey station*

44. The existing Marks Tey railway station, on the Great Eastern Main Line [GEML] between London and Norwich, is within, but close to the eastern edge of, the indicative boundary of CBBGC. In principle, the station would be a considerable asset for CBBGC. However, its current peripheral position would integrate poorly with the structure of the GC. The CBBGC Concept Framework proposes its relocation some 2km to the south-west, where it would form part of a transport interchange in the new town centre.
45. Discussions with the railway infrastructure providers on this proposal are at an early stage, and no firm commitments to it have been made. Moreover, at present there are no clear proposals on how to maintain interchange between the GEML and the Sudbury branch line, which currently occurs at Marks Tey. Adequate interchange arrangements would be essential to the acceptability of the relocation scheme.
46. Both the Concept Framework and policy SP9 make it clear that they do not see the relocation of Marks Tey station as essential to the success of the GC. Nonetheless it would be a significant missed opportunity, in my view, if a GC on the scale currently proposed in this area were to proceed with the station on its periphery. As the Concept Framework points out, a station in a town centre generates a focus of activity, supporting higher density development and helping to create an active and vibrant centre.
47. The Hyas viability appraisal for CBBGC allows £50M towards the cost of relocating the station. While work will need to be done to refine that figure and to identify other sources of funding, it is a reasonable allowance to make at this stage. However, it appears in the spreadsheet in 2057/58, 30 years into the proposed build period. That is far too late to enable the station to be integrated into the planning of the new town centre, and for it to have the beneficial effects envisaged by the Concept Framework. If the relocation of Marks Tey station is to form part of a proposed GC, the allocation of funding for it must be made much earlier in the build period.

***Delivery of market and affordable housing***

48. The NEAs' own publications<sup>24</sup> envisage each of the three proposed GCs starting to deliver housing in 2023/24. WoBGC is expected to deliver 250 dwellings in that first year and in each subsequent year to the end of the Plan period (2033). The other two GCs would build up more gradually to rates of 300 dwellings per annum [dpa] for TCBGC from 2027/28 onwards and 350dpa for CBBGC from 2031/32 onwards. The Hyas appraisal envisages slightly different delivery rates.
49. Credible research by NLP<sup>25</sup> indicates that sites over 2,000 dwellings take an average of around seven years from the submission of the first planning application to the delivery of the first dwellings on site. However, it also shows that planning approval for greenfield sites tends to take somewhat less time than for brownfield. Moreover, the work already done by the NEAs and others to develop concept frameworks and masterplans for each GC would help shorten that time further.
50. On this basis I consider it reasonable to assume that the planning approval process would allow housing delivery at any GC(s) to start within four or five years from the adoption date of the plan (or plan revision) which establishes the GC(s) in principle. However, that timescale could alter depending on how long it takes to put the necessary infrastructure in place, as discussed above.
51. The NLP research found that greenfield sites providing more than 2,000 dwellings deliver around 170dpa on average, with substantial variation around that mean figure. Factors supporting a higher delivery rate include the market strength of the area, the size of the site, public sector involvement in infrastructure provision, and the proportion of affordable housing.
52. All these factors suggest that GCs in North Essex could achieve build-out rates higher than the NLP average. Nonetheless, out of the 13 sites in this category NLP identified only one large site which achieved average delivery of more than 300dpa, and the data for that site cover a period of only three years. Moreover, their analysis of the few sites for which data is available over 10 years or more revealed pronounced peaks and troughs in the annual delivery figures.
53. All this leads me to the view that, while it is not impossible that one or more of the GCs could deliver at rates of around 300dpa, it would be more prudent to plan, and carry out viability appraisal, on the basis of an annual average of 250dpa.
54. The way in which the numbers of dwellings delivered at the GCs would be allocated to the individual NEAs for monitoring purposes is set out in Plan

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<sup>24</sup> See document EB/065 for references

<sup>25</sup> *Start to Finish – How Quickly do Large-scale Housing Sites Deliver?* (Nov 2016)

paragraph 8.15. I find nothing to indicate any in-principle conflicts between the proposed approach and national policy or guidance. However, the Plan also needs to make it clear how the allocation would be carried out in the event of a shortfall in planned delivery – the current approach of deferring that question to a future memorandum of understanding is not an effective one.

55. The GC policies seek 30% affordable housing as part of the overall housing provision in each GC. Achieving that proportion is necessary both to meet the demonstrated need for affordable housing in the Plan area and to achieve the NEGC Charter's goal of creating mixed and balanced communities. Because of the shortcomings in the Hyas viability assessment outlined below, its conclusions over the deliverability of affordable housing at each of the three allocated GCs cannot be relied upon. The further viability work that needs to be undertaken to correct those shortcomings will, therefore, also need to demonstrate that 30% affordable housing can be delivered at any GC that may be proposed.

### ***Employment provision***

56. The NEGC Charter's Principle 3 seeks to provide access to one job per household within each new GC or within a short distance by public transport. It states that the employment function will be a key component of creating character and identity and sustainable communities. Policy SP7 describes the GCs as incorporating a range of homes, employment and other facilities, thereby reducing the need for outward commuting.
57. In this context, 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. Instead there are only general requirements to provide and promote opportunities for employment and a wide range of jobs, skills and training opportunities, and suggested locations for different types of employment use. This is in contrast to the figures (expressed as a range) in each policy setting out the expected level of housing development.
58. I recognise that setting employment land requirements for different uses and allocating land to meet them is a complex process, involving forecasts of market demand across different employment sectors. If the sites provided do not match the demands of the market, the jobs will not come. To that extent I agree with the NEAs that it is not possible to predict accurately the exact mix of employment space that will be required this far in advance of development. But that would not preclude setting indicative requirements for the overall amount of employment land or floorspace at each GC.
59. It would be inappropriate to delegate this role to the individual DPDs, as the NEAs suggest. The role of the DPDs is to take forward the design, development and phasing of the GCs based on the principles established in

this Plan. It is difficult to see how they could perform that role without an indication of the amount of employment the GCs are expected to provide. Setting indicative requirements in this Plan would not prevent them changing in future: indeed they should be reviewed each time the Plan itself is reviewed, to ensure that they continue to reflect economic realities.

60. Section 5 of the report *North Essex GCs Employment & Demographic Studies* [E&DS] sets a range of future employment estimates and associated floorspace requirements for each GC. These are derived from a series of demographic and employment projections based on analysis of existing local conditions and potential future scenarios.
61. However, both the Hyas report and the Concept Frameworks that have been developed for each GC include alternative employment land and floorspace allocations which are apparently more ambitious than those based on the E&DS scenarios. If the NEAs wish to set indicative requirements for the GCs at those levels, they would need to be supported by evidence at least as robust as that provided in the ED&S.

### ***Viability***

62. The most recent assessment of the GCs' financial viability before me is the April 2017 Viability Assessment by Hyas ["the Hyas report"]<sup>26</sup>. The assessment was conducted at a strategic level, appropriate to the relatively early stage of evolution of the GC proposals. It follows the residual valuation method, in which all the costs of undertaking the development – apart from the land cost – are subtracted from the development's total sale value. The resulting figure is the residual value. If the residual value is at least equal to the cost of acquiring the land needed for the development, then the development can be said to be viable.
63. For reliance to be placed on the outcome of the assessment, well-founded assumptions need to have been made about both the likely costs and value of the development, and about the cost of acquiring the land.
64. In terms of costs and value, the Hyas report makes generally reasonable assumptions about development mix and value, and about land preparation, construction and utilities costs, and developer profit. However, as explained below it does not deal adequately with transport infrastructure costs, land purchase and interest, or contingency allowances.

### ***Transport infrastructure costs***

65. The evidence provided to support the Hyas report – including additional information from the AECOM Social Infrastructure Model – shows that costings

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<sup>26</sup> At least one other viability appraisal has been carried out on behalf of GC promoters, but as it was not disclosed to the examination I cannot place reliance upon it.

for most items of infrastructure were arrived at in a consistent and logical manner and are generally reasonable.

66. However, as noted above the proposals for a rapid transit system, the provision of which is essential to the successful development of the GCs, are still at a very early stage. According to the NERTS, the capital costs of the scheme range between £249m and £1,672m (including a prudent 64% optimism bias allowance) depending on which option is eventually chosen. The direct and indirect RTS contributions allowed for in Hyas's baseline appraisals for the three GCs appear unlikely to meet even the lowest of those figures. Nor has any clear evidence been provided to show that the balance of the RTS's capital costs could be funded from other sources.
67. Consequently, it is by no means clear that adequate allowances for the costs of necessary transport infrastructure have been built into the viability assessment. To ensure that the viability assessment reflects the actual cost as closely as possible, the relevant figures should be reviewed when the rapid transit system proposal is further advanced and more accurate information is available on its likely cost.
68. If any additional contributions from the GCs, apart from those already included, are expected towards the A12 widening or the A120 dualling scheme, they would also need to be allowed for in the viability appraisal.

#### *Land purchase and interest*

69. The Hyas report uses a financial model, developed by ATLAS<sup>27</sup>, based on a "master-developer" model of delivery. In this model the master developer acquires the development land and undertakes strategic investment in enabling works and strategic infrastructure, before selling on the serviced plots to individual housebuilders or commercial developers to build them out. Interest on borrowing to fund the strategic investment, and a financial return to the master developer on that investment, are built into Hyas's viability assessment.
70. It is unclear whether the 6% interest figure assumed for strategic investment borrowing is justified, having regard to the legislation on state aid as highlighted in the advice to the NEAs by PwC<sup>28</sup>. Further clarification on this point is necessary.
71. More importantly, however, no allowance is made in the Hyas appraisal for interest on borrowing to fund land purchase by the master developer. The Harman report *Viability Testing Local Plans* (June 2012) specifically warns against overlooking interest costs on land purchase. Given the scale and duration of the GC development programme, those costs will be substantial.

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<sup>27</sup> The Garden Cities and Large Sites Financial Model

<sup>28</sup> PwC, *North Essex Garden Communities Final Report* (14 Dec 2016)

In their response to Government on the *New Towns Act 1981 (Local Authority Oversight) Regulations*, the NEAs themselves refer to "significant land costs which will be largely debt-funded in advance of land receipts".

72. In order to take account of land purchase interest costs, the residual values shown in Hyas's summary tables 5.3.1, 6.3.1 and 7.3.1 would need to be discounted by an appropriate amount. That would require assumptions to be made about the timing of land purchase and disposal. For example, the earlier GC viability work by AECOM assumed that land would be purchased in tranches two years before it was required for development.
73. Until Hyas's residual values have been adjusted to take account of the substantial cost of interest on land purchase, no reliance can be placed on them as an indication of the viability of the proposed GCs.

#### *Contingencies and sensitivity testing*

74. The Hyas report modelled a range of different scenarios for each GC. The variables used were: various proportions of market and affordable housing and starter homes; uplifts of 0%, 5% and 10% on overall infrastructure costs; and uplifts of 0%, 5% and 10% on development value (to reflect a "Garden Community premium").
75. 10% would be an unusually low figure if it was intended to represent the sole contingency allowance on infrastructure costs. The NEAs produced further evidence<sup>29</sup> setting out what they claimed amounted to a total 42% contingency allowance for CBBGC, as an example of the approach taken for all three GCs. Over a third of that amount, however, is the 15% profit allowance intended as an incentive to perform the master-developer role referred to above.
76. A 15% profit allowance is not excessive given that, as the NEAs accept, the Plan needs to be neutral as to whether the master-developer role is played by a public or private sector body<sup>30</sup>. Even if the oversight role is retained in the public sector, it is quite possible that many of the master-developer functions would need to be outsourced. Consequently, the master-developer profit allowance should not be counted as part of the overall contingency allowance.
77. The other additional element which the NEAs identified as part of the total contingency allowance was what they termed "in-built contingency" of around 24% on certain capital sums for infrastructure. Tracing these figures back to their source documents shows that most do indeed represent an uplift of around 20% on the minimum cost identified for each item. However, as was demonstrated at the hearing sessions, 20% or 24% is a low contingency figure for major capital projects. A contingency allowance of at least 40%

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<sup>29</sup> EB/13(2/2a)

<sup>30</sup> See the next section on delivery mechanisms

would align better with the approach taken, for example, by Highways England when costing large-scale infrastructure schemes.

78. I recommend therefore that alongside the generic cost uplift figure of up to 10% used in the Hyas report, sensitivity appraisals are carried out based on additional contingency allowances of 20% and 40% on relevant infrastructure schemes for each GC, such as road improvements, park-and-ride and rapid transit. That would give an adequate range of possible costs to inform the overall viability assessment.
79. On the income side, my comments above on the likely rate of housing delivery at the GCs will need to be taken into account when calculating receipts from development value. It is important also that realistic assumptions are made about the income generated by commercial floorspace. I have commented above on the discrepancies between the employment land and floorspace allocations used in the Hyas report and those identified elsewhere in the evidence base.
80. I recognise that the aim of bringing forward homes rapidly at the GCs may conflict with the ability to achieve a GC premium on house prices. That does not mean that Hyas were unjustified in sensitivity-testing a 5% and 10% premium, in order to appraise a range of possible outcomes. However, it is inconsistent with this approach to regard the £3,000 per unit uplift applied to site preparation and enabling costs as a contingency allowance, as identified in EB/13(2/2a). Given that the avowed purpose of the uplift is to create a high-quality public realm and sense of place, it would seem to be essential if any GC price premium is to be achieved.
81. I share the NEAs' view that it would not be helpful to attempt to include an allowance for inflation in the residual valuation appraisal. Predicting movements in house prices in particular would be difficult over such a long period, and allowing for cost inflation would be meaningless without a corresponding adjustment for development value.

#### *Price of land*

82. There is a difference between the headline value paid for a fully-serviced development site, and the net value which takes account of the costs of enabling works and strategic infrastructure, and of policy requirements such as the provision of affordable housing. The net land value is the appropriate comparator with the residual value that emerges from a valuation model such as that used by Hyas. In other words, it is quite appropriate to take account of up-front enabling and infrastructure costs (which in the Hyas/ATLAS model are incurred by the master developer) and policy requirements, when negotiating to purchase land for development.
83. However, as the Harman report points out, what ultimately matters for housing delivery is whether the value received by the landowner is sufficient

to persuade him or her to sell the land for development. I consider it unlikely that most landowners would sell their land for development without at least a reasonable uplift on its existing use value. This has clear implications for the deliverability of the GCs.

84. That does not necessarily mean that a price of £100k per acre would need to be paid, as is suggested in Volume 3 of the GC Concept Feasibility Study. Ultimately, of course, the actual land price will emerge from negotiations with individual landowners. But in order to demonstrate that the GC proposals can be delivered, the NEAs will need to show through viability assessment that a reasonable uplift on current use values can be achieved.
85. Alternatively, if the NEAs intend to use compulsory purchase or other powers to acquire development land at a lower value than could be achieved through negotiation, clear evidence would need to be provided that such a course of action is capable of achieving that outcome (and is also compatible with human rights legislation). That has not been demonstrated by the evidence currently before me.

#### *Conclusions on viability*

86. For the foregoing reasons, it has not been demonstrated that the GCs proposed in the submitted Plan are financially viable. Further viability assessment, taking account of all the points above, will need to be carried out on any GC proposals that the NEAs bring forward. Because of the GCs' long development timescales, it would be advantageous for the residual valuation appraisal to be supplemented with a discounted cashflow assessment in order to provide a more complete analysis.

#### ***Delivery mechanisms***

87. The NEGC Charter envisages that Local Delivery Vehicle(s) [LDVs], accountable to the NEAs with both private and public sector representation, will be responsible for delivering the GCs. Three LDVs together with a holding company called NEGC Ltd have been incorporated in readiness to perform this role. Subsequently, in response to consultation on the proposed *New Towns Act 1981 [Local Authority Oversight] Regulations*, the NEAs have indicated an interest in the formation of a locally-led development corporation, overseen by the NEAs, to deliver the GCs.
88. The Charter also envisages a private-public sector partnership funding arrangement for the GCs involving the sharing of project risk and reward. Public sector investment in the funding and delivery process, it is said, will help to facilitate the timely and co-ordinated provision of infrastructure and services.
89. The Hyas report envisages that the LDVs will perform the role of master developer for each GC. Similarly, the NEAs' response to consultation on the



draft *Local Authority Oversight Regulations* suggests that the locally-led development corporation would act as master developer. As the Charter makes clear, there are likely to be advantages in terms of public engagement, long-term democratic oversight and access to public financial support if the master developer is a public-sector entity. However, this is not a legal or practical requirement. In principle the role could also be performed by a private-sector body.

90. In its paragraph (ii), policy SP7 seeks to encapsulate the principles that the delivery model for the GCs should follow and the objectives it should seek to achieve. The requirements it places on landowners and promoters to secure high-quality place-making, to fund the infrastructure necessary to address the impacts of development, and to manage and maintain the on-site infrastructure are generally compatible with relevant guidance in the NPPF and PPG. The final sentence of the paragraph defines the tasks the delivery model will need to perform, taking an appropriately neutral stance on who will perform them.
91. However, the specific reference in the first sentence to "sharing risk and reward" between the public and private sector conflicts with the long-established legal principle that revenue or profit may not be appropriated by a public-sector body without explicit Parliamentary sanction<sup>31</sup>. The reference may have been intended by the NEAs as a statement of aspiration, but its inclusion in SP7 as one of the principles with which the GCs "will conform" makes it an unlawful policy requirement. It is therefore necessary to remove it from the policy, as the NEAs now propose.
92. In the same sentence, it is also necessary for soundness to remove the reference to "deploying new models of delivery" as a policy requirement. It may be a legitimate aspiration of the NEAs but there is no substantial evidence to show that only (unspecified) new models of delivery are capable of achieving the policy's objectives.

### ***Sustainability Appraisal***

93. SA of the Section 1 Plan was carried out by ECC's Place Services at both the Preferred Options and the Draft Publication stage. The resulting reports were published for consultation alongside the Plan in June 2016 and June 2017 respectively.
94. The 2016 SA report contains an assessment of the preferred spatial strategy and four alternatives to it, and an assessment of eleven GC options, of which three were selected for inclusion in the Preferred Options version of the Plan. By comparison, the 2017 report assesses six alternatives to the chosen spatial strategy, and thirteen GC options. In the later report there is also an

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<sup>31</sup> See, for example, *Attorney-General v Wilts United Dairies Ltd* [1921] 37 TLR 884, and *Congreve v Home Secretary* [1977] 2 WLR 291

appraisal of three different approaches to strategic growth, and an assessment of the cumulative impacts of the three allocated GCs and of nine alternative combinations. The significantly wider scope and content of the 2017 report is evidence that account was taken of the responses to consultation in 2016.

95. It may be that the NEAs had decided, before the 2016 report was complete, which GCs they wished to include in the Preferred Options version of the Plan. That in itself is not unlawful, provided that the SA is approached with an open mind, and that its results and the consultation responses on it are taken into account in the ongoing preparation of the Plan. Similarly, the fact that the spatial strategy and the three allocated GCs remained essentially unchanged between the Preferred Options and the submitted versions of the Plan is not necessarily evidence of a closed-minded approach to plan preparation. The important question is whether the SA and the related plan preparation processes were carried out lawfully and with due regard to national policy and guidance.
96. In my view there are three principal shortcomings in these respects concerning, first, the objectivity of the assessment of the chosen spatial strategy and the alternatives to it, secondly, the clarity of the descriptions of those alternatives and of the reasons for selecting them, and thirdly, the selection of alternative GCs and combinations of GCs for assessment. I shall consider each in turn.

#### *Objectivity of assessment*

97. As noted above, four alternatives to the chosen spatial strategy were assessed in the 2016 report, and six alternatives in the 2017 report. In both reports the short- and medium-term results are identical for the chosen spatial strategy (which includes the three allocated GCs) and all the alternatives. That is to be expected, since there would be no substantial development at the GCs until later in the Plan period. The key comparison is of the long-term results, which are intended to show effects in the latter stages of the Plan period and, where relevant, beyond.
98. In the long term the chosen spatial strategy is assessed in the 2017 report as having a strong prospect of significant positive impacts on six sustainability objectives relating to: housing, health, vitality and viability of centres, the economy, sustainable travel behaviour, and accessibility and infrastructure provision. By contrast, Alternative 4, which involves growth at existing settlements without the allocation of any GCs, is assessed as having strong or minor negative effects on all those objectives except for sustainable travel behaviour, where its effects are said to be uncertain.
99. Taking into account my findings above on the GC proposals, it is not possible to see the objective basis for many of the widely divergent assessments of

these two scenarios. Without more evidence to show that the necessary transport infrastructure for the GCs could be provided viably and in a timely fashion, the strong positive scores for the chosen strategy in respect of sustainable travel behaviour and accessibility are unwarranted. The lack of any quantitative employment land or floorspace requirements for the GCs undermines the strong positive score given to its economic benefits. There is no substantial evidence to show that the chosen spatial strategy would have strong benefits in terms of health and the vitality and viability of centres, or that Alternative 4 would detract from these objectives.

100. The narrative on page 83 of the 2017 report explains the reasons for rejecting Alternative 4. It says that if no GCs were to be allocated, existing settlements would have to respond to the need for growth by allowing higher densities and the development of more marginal peripheral land. This could lead to the over-expansion of some settlements and would not offer a sustainable distribution across the wider area. While this goes some way towards explaining the negative score given to Alternative 4 in terms of its landscape impact, it does not account for the strong negative impact it is seen as having on the objective of housing provision.
101. Similar comments apply to the analysis at pages 171-184 of the 2017 report, where the GC approach to strategic scale growth is compared with what are described as "New Towns" and "Traditional Approaches". Traditional Approaches appear from their description to correspond quite closely to Alternative 4 as described above.
102. In this analysis, Traditional Approaches receive negative scores for their ability to provide well designed and sustainable housing, for their effects on designated nature conservation sites, and for their ability to provide for adequate school places, recreational facilities and open space, without any clear evidential basis for these judgments. GCs again receive positive scores for sustainable transport provision, employment opportunities, and the viability of existing centres, which I regard as unwarranted for the reasons given above.
103. As a result, I consider that in assessing the chosen spatial strategy against alternatives that do not include GCs, the authors of the SA report have generally made optimistic assumptions about the benefits of GCs, and correspondingly negative assumptions about the alternatives, without evidence to support many of those assumptions. As a result these assessments lack the necessary degree of objectivity and are therefore unreliable.

*Clarity of descriptions of alternatives and reasons for selection*

104. Two of the alternatives to the chosen spatial strategy are described in the 2017 SA report as follows: *A focus on allocating all of the explored Garden*

*Community options proposed in the Strategic Area at smaller individual scales, and A focus on stimulating infrastructure and investment opportunities across the Strategic Area.* In response to my questions at the 9 May hearing session, the NEAs explained that the first of these involved the allocation of five GC options for 2,500 dwellings each within the Plan period, and that the second involved the allocation of three GCs in areas where there was an evidenced need for regeneration.

105. However, it would have been difficult to understand from the descriptions given in the report that this is what they involved. Indeed, the reference to "smaller individual scales" in the first option is actually misleading, since the three GCs in the chosen spatial strategy are also intended to deliver 2,500 dwellings each within the Plan period. And the lack of reference to GCs in the second option obscures the fact that it involves allocating three of them.
106. There is a similar lack of clarity in the reasons given for selecting the alternatives for assessment. The paragraphs on pages 79-80 of the 2017 SA report which introduce the alternatives do little more than provide descriptions of them. There is no substantial account of the rationale for choosing those particular alternatives.
107. I appreciate that a somewhat fuller description is given of the "New Towns" and "Traditional Approaches" which are assessed as alternatives to GCs on pages 171-184 of the 2017 SA report, and of the reasons for their selection. But that is a different level of analysis, assessing the relative benefits of GCs in general terms. It is the analysis at pages 76-84 which is intended to appraise the particular spatial strategy proposed in the Plan and reasonable alternatives to it, as the legislation requires.
108. Reasons are given on page 82 of the SA report for rejecting Alternatives 2 and 3, involving the allocation of one or two GCs only. It is apparent from the reasons given that the assessment was conducted on the basis that, in each of these alternatives, the GC(s) were assumed to provide all the 7,500 dwellings within the Plan period that would be provided by the three GCs in the chosen spatial strategy. But that is not explained clearly in the description of Alternatives 2 and 3. Nor is it explained why these alternatives could not also have been assessed on the more reasonable basis that each GC would provide 2,500 dwellings in the Plan period, with the rest of the 7,500 dwellings provided at or around existing settlements in a similar fashion to Alternative 4.
109. I consider that the lack of clarity I have identified in the descriptions of some of the alternatives to the chosen spatial strategy, and in the reasons for selecting them, is likely to breach the legal requirements for the SA report to provide an outline of the reasons for selecting the alternatives dealt with, and for the public to be given an effective opportunity to express their opinion on the report before the plan is adopted.

*Selection of GCs and combinations for assessment*

110. The thirteen GC options assessed in Appendix 1 of the 2017 SA report include the original eleven from the 2016 report plus the Colchester Metro Plan proposed by CAUSE and Lightwood's proposed Monks Wood site.
111. There is some confusion over the basis on which Monks Wood was assessed as a GC option. On pages 188-199 of the 2017 SA report it is stated that it was assessed as providing up to 15,000 dwellings, including 5,151 in the Plan period. That figure of 15,000 is at odds with the published AECOM evaluation of Monks Wood (May 2017) which on page 32 refers to its development capacity as 5,151 dwellings in total.
112. The source for the 15,000 dwellings figure used in the SA report appears to be a March 2017 draft of the AECOM assessment. It is unclear how that figure was derived, but it is not reflected in any of the material submitted by Sworders or Lightwood in support of their proposals for Monks Wood. Lightwood did assess options providing up to 13,600 dwellings in a study provided to BDC on 31 March 2017. However, their position now is that its maximum capacity is 7,000 dwellings.
113. No blame necessarily attaches to the authors of the SA report for assessing Monks Wood on the basis of 15,000 dwellings, as it seems they were working with the figure given to them by AECOM at the time. That is consistent with the approach they took to the other alternative GC sites. However, as there is no clear evidence to support that figure, the assessment cannot be relied upon. I do not accept that it would have made no difference if Monks Wood had been assessed on the basis of 7,000 or 5,000 dwellings rather than 15,000. It is clear from the assessments of the other GC options that there are some variations in scoring that can only be explained by similar differences in scale.
114. The assessment of alternative combinations of GC sites is at pages 226-244 of the 2017 SA report. The NEAs' explanation that the results of the assessment of Option 5 (WoBGC, Monks Wood & CBBGC) also justify rejection of a combination of Monks Wood, CBBGC & TCBGC is unconvincing given the very different relationships between the three locations in each of those scenarios. It is difficult to see the logic of assessing Monks Wood as an alternative to CBBGC and to TCBGC, but not to WoBGC, when appraising combinations of three GCs. Moreover, the Option 5 assessment is likely to have been influenced by an inaccurate understanding of the scale of the Monks Wood scheme, as already discussed.
115. In order to demonstrate that all the alternatives had been assessed on an equivalent basis, Monks Wood would need to have been assessed as a GC option at a scale of around 5,000 dwellings corresponding to the published AECOM evaluation, and an additional three-GC combination of Monks Wood,

CBBGC & TCBGC would need to have been assessed. The absence of such assessments is a further shortcoming of the SA.

#### *Other SA points*

116. On page 185 the SA makes it clear that a minimum threshold of 5,000 dwellings was set when selecting GC options for assessment. That is substantially higher than the minimum size of 1,500 dwellings set by the Government for garden village proposals. It is also higher than the thresholds of 3,000 houses or 4,000 dwellings (houses and flats) requiring a new secondary school, according to ECC's *Developers Guide to Infrastructure Contributions* (2016). However, the latter thresholds would support only a four-form entry secondary school, the minimum size that ECC regard as financially viable.
117. In setting the GC threshold it was legitimate, in my view, for the NEAs to take account of the increased financial viability, curriculum choice and range of facilities that a larger secondary school could provide. It was logical also to take into account the greater range of employment opportunities, healthcare and other community facilities that could be supported by a GC of 5,000 dwellings compared with a smaller settlement.
118. It is not feasible to test every possible option through SA. Reasonable planning judgments have to be made on what to include. That is recognised in the legal requirement for reasons to be given for the selection of alternatives for assessment. In my view the SA report provides adequate reasons for setting a threshold of 5,000 dwellings for the GC options.

#### *Conclusions on SA*

119. I have considered the SA at length as it is the principal evidence document that seeks to justify the NEAs' choice of a spatial strategy involving three GCs, and their choice of the three allocated GCs themselves. Because of the shortcomings I have identified, I consider that the SA fails to justify those choices. As a result, it has not been demonstrated that the chosen spatial strategy is the most appropriate one when considered against the reasonable alternatives, as the tests of soundness require.
120. It may be helpful for me to set out some suggestions as to how the shortcomings in the SA might be rectified. I stress that these are suggestions only, and are intended to provide no more than an outline of the further work required. I would be happy to consider any alternative SA proposals the NEAs might wish to make, provided they address the shortcomings I have identified. In either case it would be advisable if I were to agree the proposals before the SA work is begun.
121. In making these suggestions I rely on the principle that deficiencies in SA may be rectified, or "cured", by later SA work, established in the *Cogent Land* case

and restated by the Court of Appeal in *No Adastral New Town Ltd*<sup>32</sup>. I do not agree that the other caselaw drawn to my attention indicates that the scale of the GC proposals would preclude such an approach here. My suggestions also assume that the NEAs will wish to continue to include GCs among the options in any future SA work.

122. Before embarking on further SA work the NEAs will need to re-examine the evidence base for any GC proposals they wish to assess, especially with regard to viability, the provision of transport infrastructure and employment opportunities, in order to ensure that they have a sound basis on which to score them against the SA objectives.
123. The first stage in the further SA work should then be an objective comparison of individual GC site options at a range of different sizes. My comments above on the way that GC sites were selected for assessment in the 2017 SA report should be taken into account at this stage. In particular, if Monks Wood is included as an option it would be sensible – unless further evidence to the contrary emerges – to assess it on the basis of both 7,000 dwellings, as now favoured by Lightwood, and 5,000 dwellings as in the published AECOM report. If WoBGC is included, account should be taken of the effects on it of overflying aircraft to and from Stansted airport, and of its impact on the Andrewsfield airfield, in order to address legitimate concerns raised at the Matter 8 hearing.
124. Adequate reasons will need to be given for taking forward or rejecting each of the GC options assessed. Assessing the GC options first, with the benefit of an updated evidence base and before the spatial strategy options, should help to ensure that the assessment of the latter is appropriately realistic.
125. The second stage of the further work should be an assessment of alternative spatial strategies for the Plan area. The alternatives considered, and the reasons for selecting them, will need to be set out more clearly than the alternatives on pages 79-80 of the 2017 SA report. I suggest that the alternatives should include, as a minimum, the following:
- Proportionate growth at and around existing settlements
  - CAUSE's Metro Town proposal
  - One, two or more GCs (depending on the outcomes of the first-stage assessment)
126. Explicit assumptions should be made about the amount of development each option would involve, both at GCs and elsewhere, and the broad locations for that development. For the options involving GCs, each of the individual site options that survives the first-stage assessment, and each feasible combination of those surviving site options, should be assessed. To address

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<sup>32</sup> *Cogent Land LLP v Rochford DC* [2012] EWHC 2542 (Admin) and *No Adastral New Town Ltd v Suffolk Coastal DC & SSCLG* [2015] EWCA Civ 88

my point above on Alternatives 2 and 3, options including one or two GCs should also include appropriate corresponding levels of proportionate growth at existing settlements. There should be liaison with CAUSE to ensure that their Metro Town proposal is fully understood and assessed appropriately, and similar liaison with the promoters of the GC site options where necessary.

127. Provided that the alternative spatial strategies are assessed objectively and with due regard to the evidence base, the second stage assessment should provide a sound basis for the selection of a preferred spatial strategy for the Plan (which may or may not include GCs).
128. While it is for the NEAs to decide who should carry out the further SA work, it might be advisable to consider appointing different consultants from those who conducted the 2016 and 2017 SA reports. This would help ensure that the further work is free from any earlier influence and is therefore fully objective.
129. The NEAs will also need to give consideration to the relationship between SA of their Section 1 and Section 2 Plans, to ensure that between them they provide an adequate basis for the SA adoption statement that will be required for each of their Local Plans.

### ***Conclusions on Cross-Boundary Garden Communities***

130. It will be evident from the foregoing discussion that I consider that the Garden Community proposals contained in the Plan are not adequately justified and have not been shown to have a reasonable prospect of being viably developed. As submitted, they are therefore unsound. I consider the resulting implications for the examination of the Section 1 and Section 2 Plans towards the end of this letter.
131. However, this is not to say that GCs may not have a role to play in meeting development needs in North Essex. I recognise that substantial time, effort and resources have already been invested in developing the GC proposals, not only by the NEAs but also by the Government, landowners, potential developers, infrastructure providers and others. It is possible that when the necessary additional work I have outlined is completed, it will provide justification for proceeding with one or more GC proposals – although any such justification would of course be subject to further testing at examination.
132. Having said that, on the basis of the evidence I have considered so far I would advise that simultaneously bringing forward three GCs on the scale proposed in the submitted Plan is likely to be difficult to justify. This is mainly because of the difficulty of co-ordinating the provision of infrastructure, particularly large-scale transport infrastructure, with the development of the GCs. In particular it is very unlikely, in my view, that the whole of the rapid transit system as proposed in the NERTS could be provided quickly enough to support commencement of development at all three GCs in the timescale



envisaged in the submitted Plan. A more workable way of proceeding would be to lay out the rapid transit system in discrete stages, with the development of any proposed GC(s) taking place sequentially alongside it.

133. On this point I would endorse the advice in the *North Essex Garden Communities Peer Review*, led by Lord Kerslake [the Kerslake Review], that the NEAs should be prepared to differentiate their delivery strategy and timetable for each of the proposed GC locations, and need to be clear on the phasing of the infrastructure necessary to unlock the development potential at each location. When they have carried out the additional work outlined above, the NEAs should be in a position to set out a clear strategy and timetable for delivering any GCs that are proposed, in step with the major road and public transport infrastructure that is needed to support them.
134. My view that any GC proposals must be clearly shown to be financially viable also reflects advice in the Kerslake Review. The NEAs have, quite rightly, set high aspirations for the quality of their GC proposals and for the provision of affordable housing, open space, and social and community facilities in them. Clarity is needed at the outset over the affordability and deliverability of those aspirations, to ensure that they are not compromised during the development process because of unclear or conflicting expectations.

### **Providing for Employment (chapter 5)**

135. Drawing on studies carried out for each council area, policy SP4 sets out employment land requirements for the Plan period. These are expressed as a range between a baseline figure and a higher-growth scenario figure. That is an appropriate approach, reflecting the inherent uncertainty in economic forecasting and the consequent need for flexibility.
136. For Braintree, the requirements are derived from the East of England economic forecasting model [EEFM], with adjustments made for local factors and drivers of economic change. The resulting figures in submitted policy SP4 reasonably reflect likely future economic conditions in the district, subject to the modification proposed in SD002a which corrects an arithmetical error in the baseline figure.
137. I saw no clear explanation for the baseline figure for Tendring set out in the submitted policy. However, a credible baseline figure has now been derived based on the Experian economic forecasting model, and is proposed in SD002a as a modification to the policy. The submitted higher-growth scenario figure was based on a misinterpretation of the relevant study, and a further modification is suggested to correct it. Provided that the modified figures in SD002a are adopted, policy SP4 will reflect the evidence on likely future demand for employment land in Tendring.
138. As submitted, the range of requirements for Colchester is derived from the *Colchester Employment Land Needs Assessment* [ELNA]. That study

developed four scenarios for employment growth based respectively on EEFM forecasts, past completion rates between 2006 and 2011 (actual and adjusted), and labour supply based on population projections. The labour supply scenario provides an appropriate baseline figure for policy SP4.

139. Actual past completion rates are assessed by ELNA as a negative figure, largely due to the relocation of a single firm which resulted in the loss of 120k sqm of industrial floorspace. It seems clear that this single event skewed the completion figures, and that this effect was especially strong in view of the relatively short trend period over which they were assessed. However, ELNA's compensatory adjustment has the effect of transforming a net annual loss of some 10,500sqm of industrial floorspace into a net gain of around 6,500sqm. That is an unusually big adjustment and it results in an industrial land requirement which is nearly four times that of the EEFM-based scenario, and some seven times greater than the scenario based on labour supply. Such a level of industrial demand is also much greater than anything revealed in the studies for Braintree and Tendring.
140. ELNA itself advises that its scenarios based on past completion rates provide a less robust basis for understanding need than its other two scenarios. It is surprising, therefore, that the adjusted "higher past completion rate" scenario provides the basis for the policy SP4 higher-growth scenario requirement figure for Colchester. In my view the latter is unrealistically high and needs to be replaced.
141. I advise replacing it with the requirement figure of about 30ha derived from ELNA's EEFM-based scenario. In my view the latter is a robustly-justified figure which would allow adequate headroom for future economic growth. According to ELNA, it would imply growth of 341 jobs per annum in Colchester over the Plan period, an increase of around 25% on both the annual average growth rate from 1991-2014 and on the rate implied by the policy SP4 baseline figure.
142. Alternatively, the NEAs may wish to undertake further work to derive a robust higher-growth scenario for Colchester, which would require further testing at examination.

### **Infrastructure and Connectivity (chapter 6)**

143. Policy SP5 lists what are said to be strategic priorities for infrastructure in North Essex. As submitted, however, the list contains only a small number of specific infrastructure schemes. Most of the items in it read as policy objectives or statements of intent, rather than as identifiable projects. Modifications proposed by the NEAs go a little way towards addressing this shortcoming, by identifying that particular major road improvements and a rapid transit scheme are required for the GCs. However, the reference to the

rapid transit scheme is still couched in general terms, no doubt reflecting the early stage of development that the scheme has reached.

144. The further work outlined above on transport infrastructure provision, particularly of the rapid transport scheme, should make it possible to refine policy SP5 and the related provisions of the GC policies in order to provide a clear strategy for delivering any GCs that are proposed in step with the necessary supporting infrastructure.

### **Remainder of the Plan: chapters 1, 2, 3, 7 & 9**

145. The modifications proposed by the NEAs to these chapters of the Plan and the policies they contain largely address the issues of unsoundness that had previously been identified. However, it is likely that further modifications to some of them will need to be made in the light of my conclusions on the GC policies. This applies especially to policy SP2 (Spatial Strategy).

### **Adoption of the Section 1 Plan in advance of Section 2?**

146. The Section 1 Plan was not prepared as a joint local development document under section 28 of the 2004 Act. Instead, each of the NEAs submitted a separate Local Plan, containing a Section 1 and a Section 2, for examination – albeit that the content of Section 1 is identical in each Local Plan.
147. I can see nothing in the relevant legislation that would allow part of a submitted Local Plan to be adopted separately from the rest of it. However, I am not qualified to give a legal opinion on the point, and moreover section 23 of the 2004 Act makes it clear that the decision whether or not to adopt a Local Plan is one that the LPAs must make themselves. I would therefore recommend that the NEAs seek their own legal advice on this question.
148. Nonetheless, it may be helpful for me to set out the options available to the NEAs, as I see them, on the assumption that Section 1 cannot be adopted in advance of Section 2. In deciding how to proceed the NEAs will evidently need to take into account my views, as set out above, on the scope of the main modifications and further work that are needed to make the Section 1 Plan sound and legally-compliant. Essentially it seems to me that they have three main options.
149. **Option 1** would be for the NEAs to agree to remove the GC proposals from the Section 1 Plan at this stage, and commit to submitting a partial revision of Section 1 for examination by a defined time, for example within two or three years. This would involve drawing up main modifications to remove the current GC proposals and address the other soundness issues identified above. The NEAs would also need to amend their Local Development Schemes [LDS] to include the proposed partial revision to Section 1.

150. These steps should enable the Section 2 examinations to proceed, and subject to the findings of those examinations and to consultation on the main modifications to Section 1 and (potentially) to Section 2, each Local Plan should then be able to proceed to adoption. In preparing for the Section 2 examinations the NEAs would, of course, need to consider any implications of the removal of the current GC proposals – and any implications of my forthcoming findings on policy SP3 – for housing land supply in each NEA in the years before the partial revision comes forward.
151. Following the Section 2 examinations, under Option 1 the NEAs would then carry out further work on the evidence base and Sustainability Appraisal, as outlined in my comments above on the GC proposals. That further work would provide the basis for revised strategic proposals to be brought forward for examination as a partial revision to the Section 1 Plan, within the timescale identified in the revised LDS. The revised strategic proposals could in principle include one or more GC(s), if justified by the further evidence and SA work.
152. **Option 2** would involve the NEAs carrying out the necessary further work on the evidence base and Sustainability Appraisal, and bringing forward any resulting revised strategic proposals, before the commencement of the Section 2 examinations. Due to the considerable length of time this is likely to take, it would be necessary to suspend the examination of Section 1 while the work is carried out and consultation on the SA and any revised strategic proposals takes place. Following the suspension, further Section 1 hearings would need to be held to consider the revised strategic proposals.
153. It seems to me that in this option the Section 2 examinations could not sensibly proceed before the additional Section 1 hearings had taken place and the Inspector's initial views on the revised proposals were known, as any significant revisions to Section 1 would have consequences for the examination of Section 2.
154. It is also possible under Option 2 that other parts of the evidence base for both Section 1 and Section 2 might become out of date or overtaken by changes in national policy. Should this occur, there would be a risk of additional delay to the examination of both parts of the Plan while the relevant evidence is updated and any necessary modifications are brought forward.
155. All this means that even in the most favourable circumstances the adoption of the NEAs' Local Plans would be substantially delayed under Option 2, compared with Option 1. In turn this could give rise to continuity problems for all participants in the examinations of the plans.
156. **Option 3** would be to withdraw the Section 1 and Section 2 Plans from examination and to resubmit them with any necessary revisions, after

carrying out the required further work on the evidence base and SA, and the relevant consultation and other procedures required by legislation.

### **Concluding remarks**

157. I expect that this letter will come as a disappointment to the NEAs after all the hard work and resources they have committed to bringing the Section 1 Plan forward for examination. Nonetheless, I hope it will be appreciated that my findings do not necessarily represent a rejection of their commendable ambitions for high-quality, strategic-scale development in North Essex. Equally, however, the scale of those ambitions, and the long timescale over which any GC proposals would come forward, require that adequate time and care are taken now to ensure that any proposals are realistic and robust.
158. I am not inviting comments on the contents of this letter. But I will assist the NEAs with any queries, and with any further advice they may need on taking forward the necessary further work and changes to the Plan I have identified. I would appreciate it if you would let me know, as soon as you are able to, which of the options outlined in paragraphs 148 to 156 above, or any alternative course of action, the NEAs wish to pursue. This will enable an outline timescale for the remainder of the examination to be devised. Please contact me through the Programme Officer, with a copy to the PINS case officer.

Yours sincerely

*Roger Clews*

Inspector

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

**Inspector:** Mr Roger Clews

**Programme Officer:** Andrea Copsey

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To:

Emma Goodings, Head of Planning Policy & Economic Development, Braintree District Council

Karen Syrett, Place Strategy Manager, Colchester Borough Council

Gary Guiver, Planning Manager, Tendring District Council

27 June 2018

Dear Ms Goodings, Ms Syrett and Mr Guiver

### **EXAMINATION OF THE STRATEGIC SECTION 1 PLAN Meeting the Need for New Homes (Plan chapter 4)**

1. As indicated in my letter of 8 June 2018 (*Advice on the Next Steps in the Examination*), I am now writing to give my views on chapter 4 and policy SP3 of the Section 1 Plan ["the Plan"], which cover the Plan's housing requirements. I am not inviting comments on this letter, but please contact me via the Programme Officer if you have any queries on it.
2. This letter should be read in conjunction with my letter of 8 June. The views expressed in it are based on the evidence currently before me. I reserve the right to modify these views in the light of any further evidence that may come forward before the examination ends.
3. As noted in my letter of 8 June, in document SD002a<sup>33</sup> the NEAs have suggested modifications to address some of the issues of soundness that have been identified during the examination. These include modifications to policy SP3 and its reasoned justification. Accordingly, the main purpose of this letter is to consider whether the housing requirement figures contained in submitted policy SP3 are soundly based.

### ***Housing need in North Essex***

4. Submitted policy SP3 sets out housing requirement figures for the Plan period for each of the NEAs<sup>34</sup>. They equate to the objectively-assessed housing need [OAHN] for each NEA as calculated by the *Objectively Assessed Housing Need Study, November 2016 Update* [the OAHN Study]. The OAHN Study covers a housing market area [HMA] that includes the three NEAs plus Chelmsford.

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<sup>33</sup> *Suggested Modifications to the Publication Draft Braintree, Colchester and Tendring Local Plans: Section One* (Feb 2018)

<sup>34</sup> The three NEAs in the context of this letter are Braintree District Council, Colchester Borough Council, and Tendring District Council.

While consideration of a HMA also including Maldon would have been valid too, the exclusion of Maldon makes no practical difference to the conclusions of the study for the NEAs.

5. The Government intend to introduce a new standard method for calculating housing need. However, it has not yet been introduced and the current national guidance on assessing housing need is contained in national *Planning Practice Guidance* [PPG].
6. PPG recommends using the latest official national household projections as the starting-point for assessing housing need. For Braintree and Colchester the OAHN Study takes the latest 2014-based projections as its starting-point. Having considered the thorough analysis contained in the study, and the other relevant evidence presented, I am satisfied that there are no local demographic factors or evidence of suppressed household formation rates that might require adjustments to those projections.
7. For Tendring, however, the OAHN Study takes a different approach to the starting-point figure in order to correct what it sees as an inaccuracy in the official projections originally manifested in Unattributable Population Change [UPC].

### ***UPC in Tendring***

*Should account be taken of the factors giving rise to UPC?*

8. UPC is the term given to the discrepancy between population change between 2001 and 2011 as measured by the Censuses for those years, and population change over the same period as calculated in official Mid-Year Estimates [MYEs]. At a national level the discrepancy is relatively small but locally it can be substantial. Tendring's UPC is a positive figure of around 10,500 and is one of the biggest of any LPA in England.
9. UPC is the result of inaccuracies in the Census, or the MYEs, or both. To the extent that it is due to inaccuracies in the MYEs, those inaccuracies are likely to relate to the way in which migration trends are calculated, since the other components of MYEs – records of births and deaths – are highly reliable. Any inaccuracies in the calculation of migration trends, if uncorrected, may in turn affect the accuracy of the official population and household projections for future years.
10. PPG does not explicitly refer to UPC but it does acknowledge that local changes to the official household projections may be justified by local circumstances if they are supported by robust evidence. Such local circumstances might include factors affecting migration trends such as changes in employment growth, a large employer moving in or out of the area, or a large urban extension in the last five years.

11. Notwithstanding the general position on UPC taken by the Office for National Statistics [ONS] and the Local Plans Expert Group, I see nothing in national planning policy or guidance to prevent local changes to official household projections also being made to take account of the factors that gave rise to UPC. To justify such changes for Tendring would, however, require robust evidence that those factors continue to have a substantial distorting effect on the migration trend rates used in the official population and household projections for the district.

*Evidence on the factors giving rise to UPC*

12. Evidence on the factors that gave rise to UPC has evolved over time. Consequently it would no longer be appropriate to view the 2016 OAHN Study as providing the principal justification for the NEAs' view that 480 dwellings per annum [dpa] should be taken the demographic starting-point for assessing housing need in Tendring, rather than the officially-projected growth figure of around 670dpa<sup>35</sup>. It is necessary to engage with more recent evidence that is before the examination, including evidence produced originally for two planning inquiries in 2017<sup>36</sup>, and papers dealing with the implications of the 2016-based sub-national population projections [SNPP]<sup>37</sup>.
13. In July 2017, inquiry evidence by consultant Neil McDonald concluded that adjusting the latest (2014-based) household projections to correct for the inaccuracies in the migration flow data suggested a demographic housing need of between 420dpa and 540dpa. Those figures correspond to a range of between 60% and 40% of UPC in Tendring being attributable to inaccuracies in estimating migration. Advice from ONS indicates that some 47%-57% of the UPC figure for Tendring is attributable to inaccuracies in migration trend rates. Mr McDonald's evidence demonstrates that the NEAs' starting-point figure of 480dpa – which lies at the middle of his range – is consistent with the ONS advice.
14. In reaching his conclusions Mr McDonald considered a suggestion that the errors in migration flow estimates were likely to have been concentrated in the early part of the decade 2001-11, and therefore to have had little or no effect on the latest household projections<sup>38</sup>. However, he demonstrated convincingly, both through a detailed analysis of migration flows between 2001 and 2016, and subsequently by comparing household growth as indicated by MYEs with the actual number of dwellings added to the housing stock, that in Tendring's case that suggestion is not borne out.

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<sup>35</sup> The 2014-based household projections give a figure of 625 households per annum, which translates to almost 670dpa with an allowance for vacancies and second homes.

<sup>36</sup> PINS references APP/P1560/W/17/3169220 and APP/P1560/W/17/3183678, 3183626 & 3183695

<sup>37</sup> EXD/037 & EXD/038

<sup>38</sup> Since ONS's migration trend rates are based on the previous five years (for migration within the UK) or six years (for international migration).



15. ONS introduced improvements to estimates of international migration and foreign armed forces dependants when preparing the base data for the 2016-based SNPP. But those factors make a much smaller contribution to population and household change in Tendring than internal (within-UK) migration, estimates of which are not affected by the ONS improvements. Having considered all the conflicting evidence on this point, I consider it is highly likely that errors in migration trend rates continue to affect the official household projections for Tendring in the way that Mr McDonald indicates. As the 2016-based SNPP will also have been affected by those errors, they provide no basis for taking a different view.
16. Indeed, later evidence from Mr McDonald suggests that errors in migration flow estimates may have an even greater distorting effect on household projections, and that when taken together with adjustments to mortality rates made by ONS, they mean that Tendring's demographic starting-point should be within a range from 380dpa to 460dpa. However, the NEAs prudently propose no change to their original figure of 480dpa.
17. Rebasing the household projections to reflect the 2016 MYEs, as was also suggested, would be inappropriate as it would ignore the persuasive evidence that the errors that gave rise to UPC continue to distort migration trend rates for Tendring. Nor do I agree that household formation rates should be adjusted from those used in the latest official household projections, notwithstanding that this has been done in other plan examinations. A number of cogent studies now indicate that household formation rates lower than those experienced before 2008 are not a temporary phenomenon but reflect longer-term changes in economic and social circumstances<sup>39</sup>. There is no substantial evidence to show that Tendring is an exception to those changes.

### *Conclusions on the factors giving rise to UPC*

18. Drawing all these points together, I find that the evidence before me supports the NEAs' position that 480dpa is the appropriate demographic starting-point for assessing housing need in Tendring. A departure from the official projections is justified in this case by both the scale of the difference between this figure and the figure derived from the official household projections, and the robustness of the evidence that the difference is due to the continuing effect of factors that gave rise to UPC.
19. UPC in Chelmsford and Braintree was very small: less than one-tenth of that experienced in Tendring, on a percentage basis. It was more significant in Colchester (though still much lower than in Tendring), but as in Tendring it was negative, making it highly unlikely that UPC involved misallocating part of

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<sup>39</sup> See, for example, Simpson, *Whither Household Projections?* in *Town and Country Planning* Dec 2014, and McDonald & Whitehead, *New Estimates of Housing Requirements in England 2012 to 2037*, TCPA, Nov 2015..

Colchester's population to Tendring. I therefore see no cause for concern that adjusting for factors that gave rise to UPC in Tendring only would increase housing need in other parts of the HMA.

### ***Employment trends***

20. The OAHN Study compares two economic forecasts of job growth and associated dwelling requirements for Braintree and Colchester. In each case the higher of the two dwelling requirement forecasts (from the East of England Forecasting Model) indicates that an increase in the starting-point figure for housing need is required if labour supply and economic growth are not to be constrained. The respective increased figures are 702dpa for Braintree (against a starting-point of 623dpa) and 920dpa for Colchester (starting-point 866dpa). Sense-checks indicate that trends implied by the model for factors such as unemployment, economic activity rates, double-jobbing and commuting are realistic.
21. For Tendring the OAHN Study takes the view that a standard economic forecast would not be reliable because of the distortions introduced by UPC, as discussed above. A bespoke forecast commissioned from Experian, however, indicates that housing provision of 550dpa would meet future labour demand in full. Moreover, Experian's forecast growth figure of 490 jobs per annum is significantly higher than past trends would suggest. While scenarios drawn up on a different basis suggest that higher levels of housing provision would be needed to sustain lower rates of job growth, I find nothing to indicate that they are more robust than the Experian forecast.
22. The evidence before me therefore gives no cause for concern that economic growth in North Essex will be hampered by lack of housing. Having said that, the interrelationship between housing and job growth is complex and I would recommend that the NEAs monitor it carefully during the Plan period, not just in Tendring but in all three districts.

### ***Market signals***

23. As advised by PPG, the OAHN Study analyses trends in housing delivery, house prices and rents, and affordability for each of the NEAs. While it focusses on absolute levels when considering those indicators, an alternative analysis of rates of change does not reveal any marked differences in their relationship to national and regional trends. In broad terms, affordability issues are greatest in Braintree, while Tendring shows evidence of significant past under-delivery. In Colchester, on the other hand, affordability indicators are generally below the regional average, and past delivery has generally met plan targets.
24. On that basis the OAHN Study recommends an upwards market signals adjustment of 15% to the starting-point figures for housing need in Braintree and Tendring. No market signals adjustment is recommended for Colchester.

The recommended uplifts for Braintree and Tendring are substantial in both percentage and absolute terms, and in my view can be reasonably expected to improve affordability and housing delivery in those two areas. A suggested alternative approach, using uplift factors derived from national studies on the need for housing growth, does not reflect PPG's emphasis on how market signals adjustments will affect the local housing market.

### ***Need arising in London and elsewhere***

25. The analysis in the OAHN Study indicates that any increase in net migration to the NEAs based on forecasts prepared by the Greater London Authority [GLA] in 2013 would be very limited. The other evidence before me does not justify any additional adjustment to the housing need figures for North Essex to account for need arising in London, and no such adjustment has been requested by the GLA. No meaningful conclusions can be drawn from the evidence being prepared for the forthcoming examination of the new London Plan until that examination has concluded. There is no evidence of any unmet need arising elsewhere that ought to be met in North Essex.

### ***Affordable housing need***

26. Affordable housing need in North Essex is calculated in accordance with PPG in the *Strategic Housing Market Assessment Update* December 2015 [SHMA]. The resulting figures are 212dpa for Braintree, 267dpa for Colchester and 151dpa for Tendring. These figures represent, respectively, around 30%, 29% and 27% of the overall housing requirement for each district as recommended in the OAHN Study.
27. The SHMA assumes that households are not regarded as needing affordable housing unless the cost to them of renting (or buying) in the private market would exceed 35% of gross household income. That 35% threshold reflects the existing situation in the housing market area, as demonstrated by evidence from household surveys and letting agents. However, it is relatively high in a national context, as evidence from other examinations shows. Thresholds of 25% to 30% are more common unless there is local evidence to show that a higher threshold is appropriate.
28. An appropriate measure is to compare the residual income available to lower-quartile income households when different thresholds are applied. Income levels in Braintree and Colchester are significantly higher than the national average. On the 2015 figures shown in Figure 2.9 of the SHMA, lower-quartile income households spending 35% of their gross household income on rent would be left with a residual income of £11,825 in Braintree and £11,017 in Colchester. At a national (England and Wales) level, those levels of residual income would equate, respectively, to expenditure of 24% and 29% of gross household income on rent. Against that national comparison, I consider that the local evidence supports a 35% threshold in Braintree and Colchester.

29. By contrast, income levels in Tendring are significantly lower than the national average. On the same 2015 figures, spending 35% of their gross household income on rent here would leave a lower-quartile income household with a residual income of only £8,582, some £1,500 below the corresponding figure for England and Wales. I consider that this discrepancy justifies use of a lower threshold of 30%, consistent with national benchmarks, for market housing affordability in Tendring. In view of existing local market conditions it would be unrealistic to set a lower threshold. This adjustment has the effect of increasing affordable housing need in Tendring to 278dpa<sup>40</sup>.
30. Policies in the Section 1 and Section 2 plans set affordable housing requirements of 30%-40% in Braintree, and 30% in Colchester, Tendring and at the proposed GCs. Some additional affordable housing is likely to come forward on exception sites, or directly from affordable housing providers. On this basis there is a good prospect that affordable housing need will be met over the Plan period in Braintree and Colchester if their overall housing requirements are met in full, even after allowing for the fact that a proportion of sites will be exempt from the policy requirements.
31. In Tendring, however, affordable housing need of 278dpa represents around half the objectively-assessed need figure of 550dpa. Even after allowing for other sources of provision, that will not be delivered by an affordable housing requirement of 30%, and there is no evidence to show that a higher percentage requirement would be viable. In these circumstances PPG advises that an increase in the overall housing requirement should be considered where it could help deliver the required number of affordable homes.
32. However, Tendring's OAHN of 550dpa already requires annual housing delivery to more than double from the annual delivery rates experienced between 2010 and 2016. The need to make up the large shortfall in provision since the start of the Plan period will produce a substantial further increase in the required annual delivery rate, at least in the early years of the Plan period. Meeting that higher delivery rate will itself increase affordable housing provision significantly above that which would be derived from the OAHN alone. Moreover, given the scale of the uplift in delivery already required, it seems very unlikely that there would be effective demand for an even higher level of overall housing provision.
33. In these circumstances I consider that increasing the housing requirement for Tendring above 550dpa would be both unnecessary and ineffective in securing additional affordable housing provision in the foreseeable future. However, the need for such an increase should be considered again at the Plan's next review, based on up-to-date evidence of affordable need and an analysis of market and affordable housing delivery in the early years of the Plan period.

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<sup>40</sup> SHMA, Table A7.1d

***Review and recovery mechanisms***

34. In view of my conclusions on the proposed GCs, it would be premature to reach any conclusions at this stage on whether review and recovery mechanisms need to be built into the Plan to deal with any future delays or shortfall in housing delivery.

***Conclusions on housing need and requirements***

35. The OAHN Study concludes that housing need for Braintree and Colchester is 716dpa and 920dpa respectively. For Braintree, 716dpa represents a 15% market signals uplift on its starting-point figure. As this exceeds the housing need figure of 702dpa derived from the EEFM, the OAHN Study assumes, correctly, that no additional adjustment is needed. The market signals uplift will itself provide enough dwellings to meet future labour demand. For Colchester, 920dpa is the figure derived from the EEFM economic model, with no further market signals adjustment required. I endorse those figures as representing the objectively-assessed housing need for Braintree and Colchester.
36. I have concluded above that 480dpa should be taken as the starting-point for assessing Tendring's housing need. Applying the 15% market signals adjustment recommended in the OAHN Study produces a round figure of 550dpa, which I conclude is the objectively-assessed housing need for Tendring. For the reasons given above I find no need to increase that figure to meet future labour demand or help deliver a higher proportion of the affordable housing need, although the need for such an increase should be reconsidered when the Plan is reviewed.
37. The housing requirement figures for each of the NEAs set out in submitted policy SP3 are the same as the figures which I have concluded represent their respective objectively-assessed housing needs. Accordingly, submitted policy SP3's housing requirements are soundly based.

Yours sincerely

*Roger Clews*

Inspector

**NORTH ESSEX AUTHORITIES  
Shared Strategic (Section 1) Plan****Inspector:** Mr Roger Clews**Programme Officer:** Mrs Andrea Copsey

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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]<sup>41</sup> 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 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

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<sup>41</sup> The three NEAs in the context of this letter are Braintree District Council, Colchester Borough Council, and Tendring District Council.

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 area<sup>42</sup>. 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 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"<sup>43</sup>.
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

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<sup>42</sup> See the Section 1 Plan, para 1.13.

<sup>43</sup> Submitted Plan policy SP7



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 [DPDs] 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 sound<sup>44</sup>. 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 provisions<sup>45</sup>.) If I find that the Plan is not legally-compliant or 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 principles<sup>46</sup>, 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

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<sup>44</sup> The 2004 Act, section 20(5)

<sup>45</sup> 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.

<sup>46</sup> 2012 NPPF, para 52

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 Communities<sup>47</sup>, and thus the overall spatial strategy, have been justified. We therefore cannot conclude that these fundamental aspects of the plan are sound.

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.

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<sup>47</sup> Three GCs were proposed in the former emerging Uttlesford Local Plan, namely West of Braintree, Easton Park, and North Uttlesford.

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 preferred<sup>48</sup>. 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

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<sup>48</sup> 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.

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 them<sup>49</sup>. 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.
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 need<sup>50</sup> in North Essex, which would justify a reconsideration of the Plan's housing requirements.

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<sup>49</sup> See paras 12-13 above.

<sup>50</sup> See PPG ID Ref 2a-016-20150227

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, Tendring has one of the highest rates of Unattributable Population Change [UPC]<sup>51</sup> 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

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<sup>51</sup> 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.

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 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]<sup>52</sup> 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.

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<sup>52</sup> *People over Wind, Peter Sweetman v Coillte Teoranta* [CJEU Case C-323/17]

49. The NEAs consider that the Habitats Regulations<sup>53</sup> 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 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 habitat<sup>54</sup> 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

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<sup>53</sup> *The Conservation of Habitats and Species Regulations 2017*

<sup>54</sup> "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.



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 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 alternatives<sup>55</sup>.

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;

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<sup>55</sup> PPG ID Ref 11-001-20140306

- 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 purpose<sup>56</sup>, 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

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<sup>56</sup> See the Introduction to the Plan, in particular para 1.13, and section 3, Spatial Strategy.

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 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 dwellings<sup>57</sup>, 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.

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<sup>57</sup> See ASA Appendix 6, Table 1. The reduction is apparently due mainly to grants of planning permission on unallocated sites.

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 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 period<sup>58</sup>. 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 relationships<sup>59</sup> 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

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<sup>58</sup> 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.

<sup>59</sup> See EB/018, pp9-11.

west of Colchester than to the east, broadly reflecting the residual requirements which applied in July 2019.

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 CAUSE<sup>60</sup>. 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.

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<sup>60</sup> 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 advice<sup>61</sup>.
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 development which the Plan attributes to them, without unacceptable

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<sup>61</sup> In *The Historic Environment and Site Allocations in Local Plans* – Historic England Advice Note 3

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 SA<sup>62</sup>. 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 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.

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<sup>62</sup> See PPG Ref ID 11-009-20140306

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 GC<sup>63</sup>. 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 widening scheme, including one of the alternative route options between

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<sup>63</sup> 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.

junctions 24 and 25, and of the A120 dualling scheme are needed to support the full build-out of 21,000 dwellings at the GC<sup>64</sup>.

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 Colchester<sup>65</sup>. 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 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,

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<sup>64</sup> 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.

<sup>65</sup> The HIF funding also includes £35M for Route 1 of the RTS: see below.



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 travel<sup>66</sup>. 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 report<sup>67</sup> 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 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.

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<sup>66</sup> 2012 NPPF, para 29

<sup>67</sup> The *North Essex Rapid Transit Study* [EB/066]

- 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 mid-point 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 Plan<sup>68</sup>. 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.
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.

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<sup>68</sup> Per-km upper-bound costs for the higher-investment scenario are given in EXD/082, Table 2.

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 district<sup>69</sup>. 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.

#### *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.

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<sup>69</sup> See EXD/089.

### *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 sites<sup>70</sup> 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 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.

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<sup>70</sup> 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.



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 only<sup>71</sup>.

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<sup>71</sup> For the reasons given in paras 18 to 20 above

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.
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/081<sup>72</sup> 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.

### ***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

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<sup>72</sup> Subject to the West of Braintree adjustment discussed above.

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 viable<sup>73</sup>.
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 policy<sup>74</sup>. The ASA – which provides the principal justification for the inclusion of the GCs in the

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<sup>73</sup> PPG Ref ID 10-001-20140306 & 10-005-20140306

<sup>74</sup> See paras 12-13 above.

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 updating<sup>75</sup>.

*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.

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<sup>75</sup> PPG Ref ID 10-002-20140306, 10-004-20140306 & 10-008-20140306

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 sense<sup>76</sup>. 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 use<sup>77</sup>. 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 document<sup>78</sup> 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

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<sup>76</sup> PPG ID Ref 10-005-20140306

<sup>77</sup> PPG ID Ref 10-015-20140306

<sup>78</sup> RICS, *Financial Viability Appraisal in Planning Decisions: Theory and Practice*, April 2015

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.

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 above<sup>79</sup>, 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

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<sup>79</sup> At paras 106 and 154-156

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.

#### *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 future<sup>80</sup>.
227. The Harman Report *Viability Testing Local Plans*<sup>81</sup>, 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.

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<sup>80</sup> PPG Ref ID 10-008-20140306

<sup>81</sup> Produced by the Local Housing Delivery Group, June 2012

230. For all these reasons, I consider that the Inflation scenarios do not provide a reliable indication of the viability of the proposed GCs.

*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 viability<sup>82</sup>. 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

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<sup>82</sup> 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 persons<sup>83</sup>.
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 recent years they have made £2,500M worth of infrastructure loans at

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<sup>83</sup> MHCLG, *Guidance on Compulsory purchase process and The Crichel Down Rules* (July 2019), paras 106 & 143

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 items<sup>84</sup> 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 allowance of £53,000 per dwelling, informed by the Gleeds costs estimates [EB/087] to be reasonable.

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<sup>84</sup> Counting the various phases of the RTS off-site network as one item.

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 figures<sup>85</sup>, 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.

### **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

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<sup>85</sup> See para 84 above.

- 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 accordingly<sup>86</sup>.

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:

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.

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<sup>86</sup> PPG Ref ID 11-023-20140306

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

# **North Essex Authorities'**

## Shared Strategic Section 1 Plan

### Schedule of Recommended Main Modifications

The modifications set out in this schedule are expressed as follows:

- Bold text indicates an addition to the text of the publication draft plan
- ~~Struck-through text~~ indicates a deletion from the text of the publication draft plan
- *Italic text* gives other instructions for modifications to the publication draft plan

The page numbers and paragraph numbering in the schedule refer to the pre-submission version of the plan, and do not take account of the deletion or addition of text.

Please note that there is no MM37 in this schedule of recommended main modifications. A main modification numbered MM37 appeared in the schedule of proposed main modifications which was published for consultation, but the Inspector is not recommending it as a main modification for the reason given in paragraph 21 of his report. To avoid confusion, the subsequent main modifications (MM38 to MM47) have not been renumbered.

Ref N°	Policy / Para N°	Main modification
<b>MM1</b>	Vision for North Essex	<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><b>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.</b></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 <b>enabling healthy and active lifestyles</b> will be planned and provided along with other facilities to support the development of substantial new growth; while the <b>undeveloped</b> countryside and <del>heritage assets</del> <b>the natural and historic environment</b> will be protected <b>conserved</b> and enhanced. <b>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.</b></p> <p>At the heart of our strategic vision for North Essex <del>are</del> <b>is a new garden communityies, 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.</b></p> <p>The garden communityies <b>provides an opportunity to create the right balance of jobs, housing and Infrastructure in the right location and</b> will attract 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, <del>contemporary</del> homes, 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</p>

Ref N°	Policy / Para N°	Main modification
		<p>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, <b>where appropriate</b>, new approaches to delivery and partnership working and sharing of risk and reward for the benefit of the new communities. <b>Central to this will be the comprehensive planning and development of the garden community, and the aligned delivery of homes and supporting infrastructure.</b></p>
MM2	Para 1.31, Strategic Objectives	<p>Providing New and Improved Transport &amp; Communication Infrastructure – to make efficient use of existing transport infrastructure and to ensure sustainable transport opportunities are promoted in all new development <b>to support new and existing communities</b>. 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 &amp; 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. <b>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 heritage assets, including any contribution to their significance made by their settings.</b></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. <b>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</b></p>



Ref N°	Policy / Para N°	Main modification
		<b>policies superseded by Section 1 and Section 2 of the Plan respectively is included as an appendix to each section.</b>
<b>MM4</b>	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><del>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).</del></p> <p>Development that complies with the Plan in this regard will be approved without delay, unless material considerations indicate otherwise.</p> <p><del>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:</del></p> <ul style="list-style-type: none"> <li><del>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.</del></li> </ul>
<b>MM5</b>	New paras 2.2-2.7	<p><b>Recreational disturbance Avoidance and Mitigation Strategy (RAMS)</b></p> <p><b>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 in likely significant effects on European Sites, without mitigation to address the effects.</b></p>

Ref N°	Policy / Para N°	Main modification
		<p><b>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.</b></p> <p><b>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).</b></p> <p><b>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.</b></p> <p><b>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.</b></p> <p><b>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 Recreational disturbance Avoidance and Mitigation Strategy (RAMS).</b></p> <p><b>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.</b></p>

Ref N°	Policy / Para N°	Main modification
MM6	New Policy SP1A to follow after SP1	<p><b>Policy SP1A – Recreational disturbance Avoidance and Mitigation Strategy (RAMS)</b></p> <p><b>Contributions will be secured from development towards mitigation measures in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy 2018-2038 (RAMS).</b></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 <b>the North Essex Authorities' area</b> within the Local Plan period. 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 <b>existing</b> settlements maintain their distinctive character and role, <b>to avoid coalescence between them and to conserve their setting</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><b>In Section 2 of its Local Plan, Each</b> 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.</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><del>Three new</del> <b>As part of the sustainable strategy for growth, the Tendring / Colchester Borders</b> <del>Garden e</del> <b>Communities</b> will be developed and delivered as part of the sustainable strategy for growth, at the <b>broad</b> locations shown on Map 3.3 <b>10.2</b> below <b>and on the Colchester and Tendring Local Plans Policies Maps</b>. <del>These new communities</del> <b>These</b> new communities will provide a strategic locations for at least 7,500 additional homes <b>and employment</b> within the Plan period in North Essex. <del>Employment development will also be progressed with t</del> <b>The expectation is</b> that substantial additional housing and employment development will</p>

Ref N°	Policy / Para N°	Main modification															
		be delivered in <del>each</del> <b>the Garden eCommunity</b> beyond the current Local Plan periods. <del>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.</del>															
<b>MM8</b>	Policy SP3	<p>Policy SP3 – Meeting Housing Needs</p> <p>The local planning authorities will identify sufficient deliverable sites, <b>developable sites and/or</b> broad locations for their respective plan period, <del>against to meet</del> <b>the housing requirements</b> in the table below, <b>and will incorporate additional provision to ensure flexibility and choice and competition for land.</b></p> <p>Each authority will maintain a sufficient supply of deliverable sites to provide for at least five years' worth of housing, <b>plus an appropriate buffer in accordance with national policy</b>, and will work proactively with applicants to bring forward sites that accord with the overall spatial strategy and relevant policies in the plan. <b>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.</b></p> <p><b>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.</b></p> <table border="1"> <thead> <tr> <th>Local Authority</th><th>Objectively Assessed Need for Housing requirement per annum</th><th>Total minimum housing supply in <b>requirement</b> for the plan period (2013 – 2033)</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><b>Total</b></td><td><b>2,186</b></td><td><b>43,720</b></td></tr> </tbody> </table>	Local Authority	Objectively Assessed Need for Housing requirement per annum	Total minimum housing supply in <b>requirement</b> for the plan period (2013 – 2033)	Braintree	716	14,320	Colchester	920	18,400	Tendring	550	11,000	<b>Total</b>	<b>2,186</b>	<b>43,720</b>
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Ref N°	Policy / Para N°	Main modification						
MM9	Policy SP4	<p>Policy SP4 – Providing for Employment and Retail</p> <p>A strong, sustainable and diverse economy will be promoted across North Essex with the Councils <b>local planning authorities</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> <table><tr><td>Braintree (EEFM)</td><td>490</td></tr><tr><td>Colchester (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'</p>	Braintree (EEFM)	490	Colchester (EEFM)	928	Tendring (Experian)	490
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Ref N°	Policy / Para N°	Main modification															
		<p><del>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.</del></p> <p><b>In order to meet the requirements for office, research &amp; development, industrial, storage and distribution 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 that provision is made within the ranges set out in the table below.</b></p> <p><b>Hectares of B-use employment land required for office, research &amp; development, industrial, storage and distribution uses:</b></p> <table> <tr> <th></th><th>Baseline (2012 Based SNPP)</th><th>Higher Growth Scenario</th></tr> <tr> <td>Braintree</td><td><del>23</del> <b>20.9</b></td><td>43.3</td></tr> <tr> <td>Colchester</td><td>22.0</td><td><del>55.8</del> <b>30.0</b></td></tr> <tr> <td>Tendring</td><td><del>20</del> <b>12.0</b></td><td><del>38</del> <b>20.0</b></td></tr> <tr> <td><b>North Essex</b></td><td><del>65</del> <b>54.9</b></td><td><del>137.4</del> <b>93.3</b></td></tr> </table>		Baseline (2012 Based SNPP)	Higher Growth Scenario	Braintree	<del>23</del> <b>20.9</b>	43.3	Colchester	22.0	<del>55.8</del> <b>30.0</b>	Tendring	<del>20</del> <b>12.0</b>	<del>38</del> <b>20.0</b>	<b>North Essex</b>	<del>65</del> <b>54.9</b>	<del>137.4</del> <b>93.3</b>
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<b>MM10</b>	Policy SP5 First para	<p>Policy SP5 – Infrastructure and Connectivity</p> <p><del>All D</del>development must be supported by <b>the</b> provision of <b>the</b> infrastructure, services and facilities that are required to serve the needs arising from <del>new</del> <b>the</b> development.</p> <p><b>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.</b></p> <p><del>The following are strategic priorities for infrastructure provision or improvements within the strategic area</del></p>															

Ref N°	Policy / Para N°	Main modification
<b>MM11</b>	Policy SP5 New Section A	<p><b>A Tendring / Colchester Borders Garden Community</b></p> <p><b>1 The Development Plan Document (DPD) for the Tendring / Colchester Borders Garden Community will include:</b></p> <p><b>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;</b></p> <p><b>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</b></p> <p><b>c) Target modal shares for each transport mode and details of sustainable transport measures to support their achievement.</b></p> <p><b>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:</b></p> <p><b>a) A120–A133 link road; and</b></p> <p><b>b) Route 1 of the rapid transit system as defined in the North Essex Rapid Transit System: From Vision to Plan document (July 2019).</b></p> <p><b>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.</b></p>

Ref N°	Policy / Para N°	Main modification
		<b>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.</b>
<b>MM12</b>	Policy SP5, Section B	<p><b>B. Transportation and Travel</b></p> <p><b>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:</b></p> <ul style="list-style-type: none"> <li>• <b>Changes in travel behaviour by applying the modal hierarchy and increasing opportunities for sustainable modes of transport that can compete effectively with private vehicles;</b></li> <li>• <b>A comprehensive network of segregated walking and cycling routes linking key centres of activity;</b></li> <li>• <del>New and improved infrastructure required to support economic growth, strategic and site-specific priorities outlined in the second part of each Local Plan</del></li> <li>• <del>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 inter-urban transport corridors;</del></li> <li>• <del>— Increased rail capacity, reliability and punctuality; and reduced overall journey times by rail</del></li> <li>• <del>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</del></li> <li>• <del>Prioritise</del> <b>Improved urban and inter-urban P</b>ublic transport, particularly in the urban areas, including, <b>and</b> new and innovative ways of providing public transport, including: <ul style="list-style-type: none"> <li>○ high quality rapid transit networks and connections in and around urban areas with links to the new garden community;</li> <li>○ maximising the use of the local rail network to serve existing communities and locations for large-scale growth;</li> </ul> </li> </ul>



Ref N°	Policy / Para N°	Main modification
		<ul style="list-style-type: none"> <li>○ a bus network <b>providing a high-frequency, reliable and efficient service</b>, <del>that is high quality, reliable, simple to use,</del> integrated with other <b>transport</b> modes <b>serving</b> and <del>offers flexibility to serve</del> areas of new demand;</li> <li>○ promoting wider use of community transport schemes;</li> <li>● <b>Increased rail capacity, reliability and punctuality, and reduced overall journey times by rail;</b></li> <li>● <b>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:</b> <ul style="list-style-type: none"> <li>○ Improved <b>access to and capacity of</b> junctions on the A12 and other main roads <del>to reduce congestion and address safety;</del></li> <li>○ A dualled A120 <del>between the A12 and</del> <b>from Braintree to the A12.</b></li> <li>○ <del>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</del></li> </ul> </li> <li>● <del>Develop</del> innovative strategies for the management of private car use and parking including <b>the promotion of car clubs and car sharing, and provision of support</b> for electric car charging points.</li> </ul>
MM13	Policy SP5, Section C	<p><b>C. Social Infrastructure</b></p> <p><b>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.</b></p> <p>Education</p> <ul style="list-style-type: none"> <li>● <del>Provide</del> <b>Sufficient school places will be provided</b> in the form of expanded or new primary and secondary schools together with early years and childcare facilities <b>that are phased with new development</b>, with larger developments setting aside land and/or contributing to the cost of delivering land for new schools where required.</li> </ul>

Ref N°	Policy / Para N°	Main modification
		<ul style="list-style-type: none"> <li>Facilitate and support provision of practical vocational training, apprenticeships, and further and higher education <b>will be provided and supported.</b></li> </ul> <p><b>Health and Wellbeing</b></p> <ul style="list-style-type: none"> <li>Ensure that essential healthcare infrastructure <b>will be</b> 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.</li> <li>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.</li> <li><b>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.</b></li> </ul>
MM14	Policy SP5, Section D	<p><b>D. Digital Connectivity</b></p> <p><b>Comprehensive digital access to support business and community activity will be delivered through the</b> Roll-out of superfast-ultrafast broadband across North Essex to secure the earliest availability for <b>of full fibre connections</b> universal broadband coverage and fastest connection speeds for all existing and new developments (residential and non-residential), <del>where a</del> <b>All new properties will</b> allow for the provision for superultrafast broadband in order to allow connection to that network as and when it is made available.</p>
MM15	Policy SP5 – New Section E	<p><b>E. Water &amp; Waste water</b></p> <p><b>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</b></p>

Ref N°	Policy / Para N°	Main modification
		<b>infrastructure, waste water treatment and off-site drainage should be made ahead of the occupation of dwellings to ensure compliance with environmental legislation.</b>
<b>MM16</b>	Policy SP6	<p>Policy SP6 – Place-shaping Principles</p> <p>All new development must meet the highest <b>high</b> standards of urban and architectural design. <del>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 to support this objective.</del> <b>use design codes where appropriate for strategic scale development.</b></p> <p>All new development should reflect the following <b>place-shaping</b> principles, <b>where applicable</b>:</p> <ul style="list-style-type: none"> <li>• Respond positively to local character and context to preserve and enhance the quality of existing <del>communities</del> <b>places</b> and their environs.</li> <li>• Provide buildings that exhibit individual architectural quality within well- considered public and private realms;</li> <li>• Protect and enhance assets of historical or natural value;</li> <li>• <b>Incorporate biodiversity creation and enhancement measures;</b></li> <li>• Create well-connected places that prioritise the needs of pedestrians, cyclists and public transport services above use of the private car;</li> <li>• <del>Where possible, provide</del> <b>Provide</b> a mix of land uses, services and densities with well-defined public and private spaces to create sustainable well-designed neighbourhoods;</li> <li>• Enhance the public realm through additional landscaping, street furniture and other distinctive features that help to create a sense of place;</li> <li>• Provide streets and spaces that are overlooked and active and promote inclusive access;</li> <li>• Include parking facilities that are well integrated as part of the overall design and are adaptable if levels of private car ownership fall;</li> </ul>

Ref N°	Policy / Para N°	Main modification
		<ul style="list-style-type: none"> <li>• Provide an integrated <b>and connected</b> network of <del>multi-functional</del> <b>biodiverse</b> public open space and green and blue infrastructure <del>that connects with existing green infrastructure where possible,</del> <b>thereby helping to alleviate recreational pressure on designated sites;</b></li> <li>• Include measures to promote environmental sustainability including addressing energy and water efficiency, and provision of appropriate <b>water and</b> wastewater and flood mitigation measures <b>including the use of open space to provide flora and fauna rich sustainable drainage solutions;</b> and</li> <li>• Protect the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, <b>overbearing</b> and overlooking.</li> </ul>
<b>MM17</b>	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 Tendring / 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. <del>and a commitment to mitigation and funding of Tendring / Colchester Borders Garden Community is required within the Section 1 Strategic Plan dependent on the findings of bird surveys.</del> <b>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 significance (i.e &gt;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.</b></p>
<b>MM18</b>	Policy SP7, First Section	<p>Policy SP7 – Development and Delivery of <del>a New Garden Communities</del> in North Essex</p> <p>The following <del>three new garden communities</del> <b>is</b> are proposed in <del>North Essex</del> <b>at the broad location shown on Map 10.2.</b></p>

Ref N°	Policy / Para N°	Main modification
		<p>Tendring/Colchester Borders, a new garden community <b>which</b> will deliver <b>between 2,200 and 2,500</b> homes, <b>7 hectares of employment land and provision for Gypsies and Travellers</b> within the Plan period (as part of an <b>expected</b> overall total of between 7,000 and 9,000 homes <b>and 25 hectares of employment land</b> to be delivered beyond 2033).</p> <p><del>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).</del></p> <p><del>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).</del></p> <p><del>Each of these</del> <b>The garden community</b> will be an holistically and comprehensively planned <del>new community</del> with a distinct identity that responds directly to its context and is of sufficient scale to incorporate a range of homes, employment, education &amp; 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. <b>It will be comprehensively planned from the outset, with D</b>delivery of each <del>new community</del> <b>will be phased to achieve the whole development,</b> and <b>will be</b> underpinned by a comprehensive package of infrastructure.</p> <p><b>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.</b></p> <p><del>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.</del></p>

Ref N°	Policy / Para N°	Main modification
		<del>The design, development and phased delivery of each new garden community will conform with the following principles</del>
<b>MM19</b>	Policy SP7, principle (i)	Community and stakeholder <del>empowerment</del> <b>participation</b> in the design and delivery of <del>each</del> <b>the</b> garden community from the outset and a long-term community engagement and activation strategy.
<b>MM20</b>	Policy SP7, principle (ii)	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 <b>where appropriate</b> <del>sharing risk and reward</del> 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. <b>Where appropriate, developers will be expected to contribute towards publicly-funded infrastructure, including a contribution towards the A120-A133 link road.</b> Given the scale of and time period for development of these new garden communities, the appropriate model of delivery will <b>need to</b> secure a comprehensive approach to the delivery of <del>each new community</del> in order to achieve the outcomes outlined <b>in points (a) – (c) in this paragraph</b> 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.
<b>MM21</b>	Policy SP7, principle (iii)	Promotion and execution of the highest quality of planning, design and management of the built and public realm so that the garden communities <del>are</del> <b>is</b> characterised as <b>a</b> distinctive places that capitalises on local assets, <b>respects its context</b> , and establishes <b>an</b> environments that promotes health, happiness and well-being. <del>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 mechanisms for the garden communities will be expected to be consistent with approved design guidance.</del>

Ref N°	Policy / Para N°	Main modification
<b>MM22</b>	Policy SP7, principle (iv)	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 <b>its</b> residents and establish sustainable travel patterns. <b>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 must be available ahead of the occupation of dwellings.</b>
<b>MM23</b>	Policy SP7, principle (v)	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, <del>including</del> provision for self- and custom-built homes, <del>and</del> provision for the aging population, <b>and provision for Gypsies and Travellers; and that</b> meets the requirements of those most in need including <b>the provision of 30%</b> affordable housing in <del>each</del> <b>the</b> garden community.
<b>MM24</b>	Policy SP7, principles (vi), (vii), (viii) & (xiv)	<b>Change</b> references to 'garden communities' (plural) to 'garden community' (singular).
<b>MM25</b>	Policy SP7, principle (x)	Create distinctive environments which <b>are based on comprehensive assessments of</b> <del>relate to</del> 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 <b>a</b> new country parks at <del>each</del> <b>the</b> garden community, and provide a high degree of connectivity to existing corridors and networks and enhance biodiversity.
<b>MM26</b>	Policy SP7, principle (xi)	Secure a smart and sustainable approach that fosters climate resilience and a 21st century environment in the design and construction of <del>each</del> <b>the</b> garden community to secure net gains in local biodiversity, highest standards of energy efficiency and innovation in technology to reduce <b>the</b> impact of climate change, <b>the incorporation of innovative</b> water efficiency/ <b>re-use measures</b> (with

Ref N°	Policy / Para N°	Main modification
		the aim of being water neutral in identified areas of serious water stress), and sustainable waste and mineral management.
<b>MM27</b>	Policy SP7, final paragraph	<del>These principles are elaborated upon in the North Essex Garden Community Charter.</del>  <del>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.</del>
<b>MM28</b>	Policy SP8, First para	Policy SP8 – Tendring / Colchester Borders Garden Community  <del>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.</del>
<b>MM29</b>	Policy SP8, Second para	<del>The Strategic Growth</del> <b>Development Plan Document (DPD) required for the Tendring / Colchester Borders Garden Community by Policy SP7 will define the</b> <del>will set out the nature, form and boundary of the garden community</del> <b>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.</b> <del>The document</del> <b>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</b>



Ref N°	Policy / Para N°	Main modification
		been secured. <del>The DPD will provide the framework for the subsequent development of more detailed masterplans and other design and planning guidance for the Tendring / 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.</del>
MM30	Policy SP8, New third paragraph	<b>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 Tendring 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.</b>
MM31	Policy SP8, Para A.2.	<del>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.</del>
MM32	Policy SP8, Para C.5.	<b>The garden community will make P</b> <del>provision</del> <b> 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.</b> This may include <b>provision for B4 and/or non-B class office, research &amp; development, light industrial and/or other</b> employment generating uses towards the south of the site in proximity to the existing University of Essex and Knowledge Gateway, and provision for <b>B1, B2 and B8 businesses office, research &amp; development, industrial, storage and distribution uses</b> towards the north of the site close to the A120.
MM33	Policy SP8, Para D.7	A package of measures will be introduced to encourage smarter transport choices to meet the needs of the new community and <b>to</b> maximise the opportunities for sustainable travel. <b>Policy SP5 requires planning consent and full funding approval for the A120-</b>

Ref N°	Policy / Para N°	Main modification
		<p><b>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.</b></p> <p><b>Additional transport priorities</b> including the provision of a network of footpaths, cycleways and bridleways to enhance permeability within the site and to access the adjoining areas, <del>development of of a public rapid transit system connecting the garden community to Essex University and Colchester town centre</del> 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 <b>transport</b> network and fully mitigate any environmental or traffic impacts arising from the development. <del>These shall include bus (or other public transit provisions) priority measures between the site, University of Essex, Hythe station and Colchester Town Centre;</del></p>
<b>MM34</b>	Policy SP8, Para D.9	Primary vehicular access to the site will be provided off the A120 and A133. <b>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.</b>
<b>MM35</b>	Policy SP8, Para E.13	<b>Increased</b> primary healthcare facilities <b>capacity</b> will be provided to serve the new development <b>as appropriate. This may be by means of new infrastructure or improvement, reconfiguration, extension or relocation of existing medical facilities.</b>
<b>MM36</b>	Policy SP8, Para F.17	<b>The delivery of smart, innovative and sustainable water efficiency/re-use solutions that fosters climate resilience and a 21<sup>st</sup> century approach towards water supply, water and waste water treatment and flood risk management. 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.</b> Provision of improvements to waste water treatment plant including an upgrade to the Colchester Waste Water Treatment Plant and off-site drainage improvements <b>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</b>

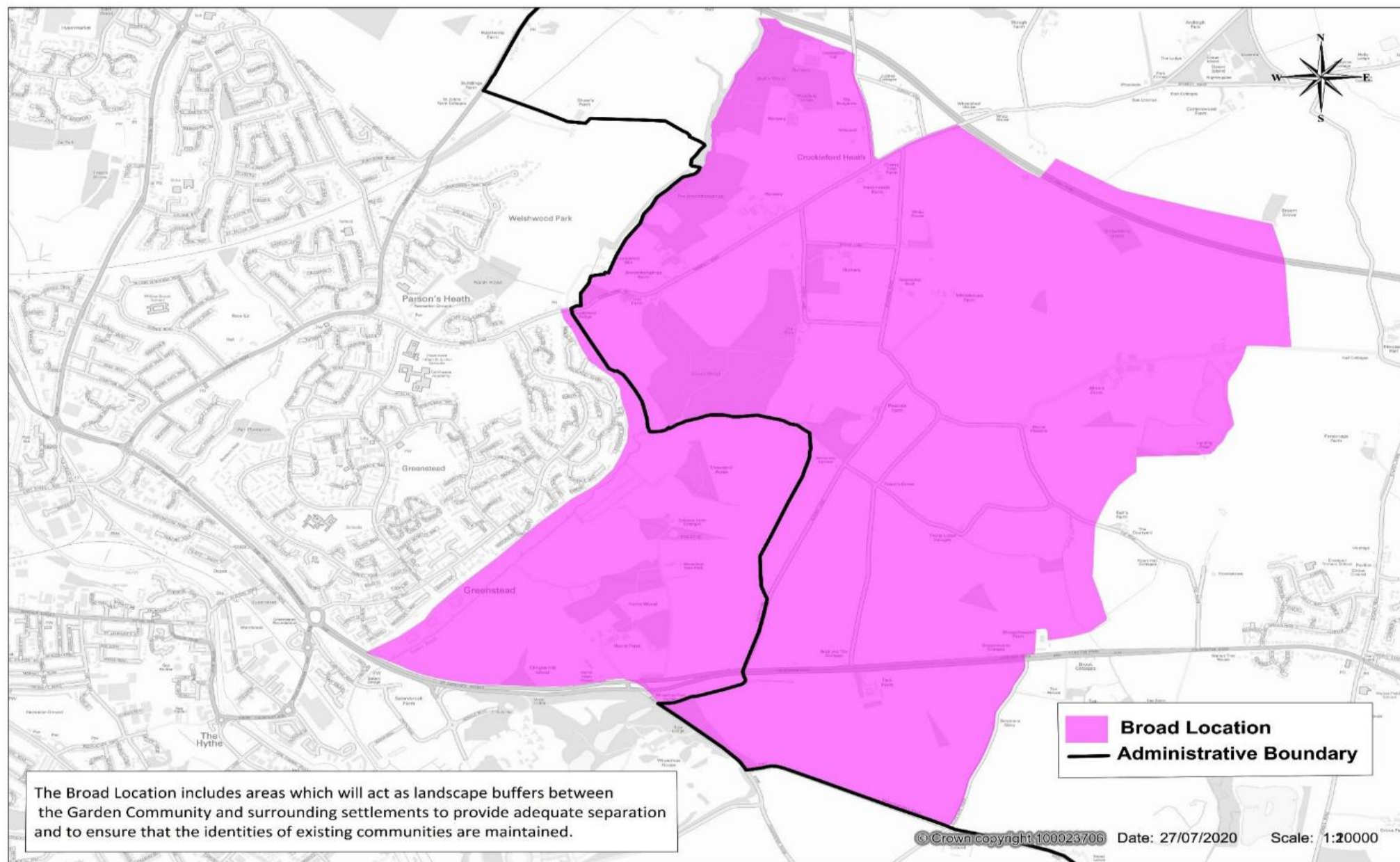
Ref N°	Policy / Para N°	Main modification
		<b>(notably the Water Framework Directive and the Habitats Directive), the required waste water treatment capacity must be available ahead of the occupation of dwellings.</b>
		[Reference number MM37 not used – see page 1 of this Appendix and paragraph 21 of the Inspector's report for explanation.]
<b>MM38</b>	Policy SP8, New Para F.20 <i>(Renumber subsequent paragraphs accordingly)</i>	<b>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 Wivenhoe Registered Park and Garden. Harm to the significance of a designated heritage asset should be avoided in the first instance.</b>
<b>MM39</b>	Policy SP8, Para F.21 (previously F.20)	<b>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.</b>
<b>MM40</b>	Policy SP8 New Para F. 26 (final paragraph)	<b>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.</b>

Ref N°	Policy / Para N°	Main modification
<b>MM41</b>	Policy SP9	<b>Delete</b> the whole of Policy SP9.
<b>MM42</b>	Policy SP10	<b>Delete</b> the whole of Policy SP10.
<b>MM43</b>	Braintree Section 1 Local Plan Chapter 10	<p><b><u>In the Braintree Section 1 Local Plan Chapter 10 (Appendices &amp; Maps):</u></b></p> <p><b>Delete</b> 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><b>Delete</b> Maps 10.2A and 10.3B.</p> <p><b>Replace</b> Maps 10.4C &amp; 10.5D with new Map 10.2 below entitled 'Tendring Colchester Borders Garden Community – Broad Location'.</p>
<b>MM44</b>	Colchester Section 1 Plan Chapter 10	<p><b><u>In the Colchester Section 1 Local Plan Chapter 10 (Section One Maps):</u></b></p> <p><b>Delete</b> 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, <b>insert</b> new Map 10.2 below entitled 'Tendring Colchester Borders Garden Community – Broad Location'.</p>
<b>MM45</b>	Tendring Section 1 Plan Maps	<p><b><u>In the Tendring Section 1 Local Plan:</u></b></p> <p><b>Delete</b> the West of Braintree and Colchester / Braintree Borders Garden Community designations from Map 1.</p>

Ref N°	Policy / Para N°	Main modification
		<p><b>Delete</b> 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, <b>insert</b> new Map 10.2 below entitled 'Tendring Colchester Borders Garden Community – Broad Location'.</p> <p><b>Delete</b> Local Map B.7 Tendring Colchester Borders Garden Community</p>
<b>MM46</b>	At end of Section 1 Plan	Insert Appendix A below entitled 'List of policies superseded by Section 1 of the Plan'.
<b>MM47</b>	Colchester Local Plan Front Cover	The Publication Draft stage of the Colchester Borough Local Plan 2017 <del>2017</del> <b>2013</b> -2033

## **Map 10.2 Tendring / Colchester Borders Garden Community – Broad Location**

[on following page]



**Appendix A****List of Policies Superseded by the Braintree, Colchester and Tendring Section 1 Local Plan**

<b>Section 1 Local Plan Policy</b>		<b>Policies superseded by the Section 1 Local Plan Policy</b>		
<b>Policy number</b>	<b>Policy Title</b>	<b>Braintree District Council 2011 Core Strategy</b>	<b>Colchester Borough Council Adopted Core Strategy 2014 Focused Review</b>	<b>Tendring District Council Adopted 2007 Local Plan</b>
<b>SP1</b>	Presumption in Favour of Sustainable Development	-	-	-
<b>SP1A</b>	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)	-	-	-
<b>SP2</b>	Spatial Strategy for North Essex	CS1	H1	QL1
<b>SP3</b>	Meeting Housing Needs	CS3	H1	HG1
<b>SP4</b>	Providing for Employment	CS4	CE1	QL4
<b>SP5</b>	Infrastructure and Connectivity	CS11	SD2	-
<b>SP6</b>	Place Shaping Principles	CS9	-	QL8 / QL9 / QL10 / QL11 (in part)
<b>SP7</b>	Development and Delivery of New Garden Communities in North Essex	-	-	-
<b>SP8</b>	Tendring / Colchester Borders Garden Community	-	-	-



# Publication Draft Braintree, Colchester and Tendring Local Plan:

(Including Main & Minor Amendments)

## Section One

January 2021





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## Introduction

# Forward

(Await text)

# 1 Introduction

**(Final Introductory text to follow)**

## **Structure of Section 1 -**

Braintree District Council, Colchester Borough Council and Tendring District Council and with the support of Essex County Council, have been working together to plan strategically for growth across the North Essex area.

This work has resulted in a shared Strategic Plan, (Section One) which covers major sub-regional issues and providing a guiding framework in which local policies can then be formed. The document includes 9 policies that start with an 'SP' reference.

The document was submitted to the Planning inspectorate in October 2017. The Plan has been subject to a joint examination by Planning Inspector Mr. Roger Clews (BA MSc DipEd DipTP MRTPI).

Each of the three authorities has also submitted a separate Section Two document which relates to the specific authority only. The examination and this consultation relates only to the shared Section One.

## Shared Strategic Plan

- 1.1** North Essex is a vibrant and attractive place to live and work. It has a rich archaeological, natural and built heritage that continues to influence local character, which is distinguished by its extensive legacy of human habitation from Palaeolithic times onwards. The area has experienced significant population, housing and employment growth in recent years and this is forecast to continue. The local authorities and their partners wish to respond to this opportunity by planning positively for the area as a whole. Working together to address some of the key strategic issues in North Essex will get the best outcomes for current and future communities. In particular, it will deliver sustainable development that respects local environments and provides new jobs and essential infrastructure.
- 1.2** For these reasons Braintree District Council, Colchester Borough Council and Tendring District Council have agreed to work together to address strategic planning matters across their areas. Collectively they are known as the North Essex authorities.
- 1.3** The North Essex local authorities border a large number of other local authorities who will continue to be engaged and involved on an active and ongoing basis on strategic cross border issues. These authorities include Babergh Chelmsford, Maldon Mid Suffolk, St Edmundsbury, South Cambridgeshire, Uttlesford, and Suffolk and Cambridgeshire County Councils.
- 1.4** Essex County Council (ECC) is a key partner in its strategic role for infrastructure and service provision and as the Highway Authority, Lead Local Flood Authority, Local Education Authority and Minerals and Waste Planning Authority.
- 1.5** An initial outcome of this collaboration is this strategic planning chapter, which each of the local planning authorities have included in their Publication Local Plan. The Local Plans together with the Essex Minerals Local Plan and the Essex and Southend-on-Sea Waste Local Plan (prepared by ECC) and any Neighbourhood Plans, form the Development Plan for the respective areas.

## The Need for a Strategic Approach

- 1.6** In Essex, as elsewhere, the influences of population and economic growth do not stop at administrative boundaries. Settlement patterns, migration flows, commuting and strategic infrastructure needs all have significant influences within and between local authority areas.
- 1.7** Local Plans are the main vehicle for conveying an area's growth requirements and how these will be accommodated. However, individual local authority boundaries cannot encapsulate the geographies of issues that transcend those boundaries. Through active and on-going collaboration the authorities can jointly plan, manage and review strategic objectives and requirements for the effective implementation of sustainable development (including minerals and waste) and enhanced environments.
- 1.8** The geographic and functional relationship between the authorities' areas is demonstrated by the fact that, with Chelmsford City Council, they form a single Housing Market Area (HMA) for planning purposes; and they are a major part of the Haven Gateway, an established economic partnership. Within this context, the forecast levels of future population growth together with



the geography of North Essex means that considerations for future growth will include options that have clear cross-boundary implications. These include both the expansion of existing towns and villages as well as possible new communities.

- 1.9** Consequently, Braintree, Colchester and Tendring, together referred to in this plan as the North Essex Authorities, have agreed to come together and prepare a common Section 1 Local Plan because of their shared desire to promote a sustainable growth strategy for the longer term; and the particular need to articulate the strategic priorities within the wider area and how these priorities will be addressed. Central to this is the effective delivery of planned strategic growth, particularly housing and employment development, with the necessary supporting infrastructure.
- 1.10** Uttlesford District Council, Maldon District Council as well as other neighbouring authorities, sit within separate housing market areas. However the authorities are actively and continuously engaged to ensure that cross-boundary and strategic issues are dealt with.
- 1.11** The Localism Act 2011 places a Duty to Co-operate on local planning authorities and other public bodies. This requires them to engage constructively, actively and on an on-going basis in the preparation of plans where this involves strategic matters. The National Planning Policy Framework (NPPF) adds to this statutory duty as it expects local planning authorities to demonstrate evidence of having co-operated effectively to plan for issues with cross-boundary impacts.
- 1.12** This strategic Section 1 of the authorities' Local Plans reflects the Duty to Co-operate as it concerns strategic matters with cross-boundary impacts in North Essex. Section 2 of each plan contains policies and allocations addressing authority-specific issues.
- 1.13** Against this background, the main purposes of this strategic chapter of the Local Plan are to:
- Articulate a spatial portrait of the area, including its main settlements and strategic infrastructure, as a framework for accommodating future planned growth;
  - Provide a strategic vision for how planned growth in North Essex will be realised; set strategic objectives and policies for key growth topics;
  - Set out the numbers of additional homes and jobs across the area that will be needed covering the period to 2033. The choices made, particularly in relation to the location of garden communities, will also set the framework for development well beyond the plan period; and
  - Highlight the key strategic growth locations across the area and the necessary new or upgraded infrastructure to support this growth.

## Spatial Portrait

- 1.14** Braintree, Colchester and Tendring districts are located to the north of Essex between the east coast ports and London Stansted airport. The principal towns are Braintree, Colchester and Clacton-on-Sea and a number of secondary settlements: Witham, Halstead, Wivenhoe, Tiptree, Brightlingsea, Manningtree, Harwich, Walton and Frinton. Map 10.1 identifies the settlements that link with the main road and/or rail infrastructure.
- 1.15** Beyond these settlements much of the area has a rural character.
- 1.16** The area covered by this strategic planning approach comprises a large part of the Haven Gateway, an established partnership area which is identified in a range of existing strategy and investment documents. The Haven Gateway includes the Essex administrative areas of Braintree, Colchester, Maldon and Tendring Councils and extends northwards into parts of Suffolk.
- 1.17** The area's strategic road and rail network is heavily used, particularly given the proximity to and connectivity with London. The principal roads are the A12 and A120, while the A130, A131, A133 and A414 also form important parts of the strategic road network.
- 1.18** The Great Eastern Main Line provides rail services between London Liverpool Street and the East of England, including Witham, Chelmsford, Colchester and Clacton-on-Sea. It also carries freight traffic to and from the Haven Ports including Harwich International Port, which handles container ships and freight transport to and from the rest of the UK. Harwich is also one of the major UK ports for ferry and cruise departures.
- 1.19** Crossrail is expected to start operating in the first part of this plan period with services commencing just south of Chelmsford in Shenfield. The opportunities that Crossrail will bring in terms of additional capacity and quicker journeys to a wider choice of destinations will be a contributor to the continued attractiveness of north Essex as a place to live and to do business.
- 1.20** The growing demand for the use of airports, including London Stansted, will create additional associated pressures on road and rail infrastructure. The County Council, along with South East Local Enterprise Partnership, local and national agencies and other organisations, will also need to work collaboratively with the Local Planning Authorities to ensure infrastructure meets demand for enhanced economic growth.
- 1.21** Braintree and Colchester are the major centres of employment within the strategic area. While there are high levels of commuting to London, many residents work and live within the area with significant commuting across borough and district boundaries, reflecting a functional economic geography.
- 1.22** The area has a mixed economy focused on the service sector, including wholesale and retail, business services, tourism, health and education, alongside manufacturing, logistics and construction. Due to the extensive rural area outside urban settlements, agriculture and its related industries play an important part in the overall economy.

- 1.23** This rurality also means that there are large areas of open countryside, including protected natural and historic landscapes. Areas of importance for nature conservation are to be found particularly along the coast and river estuaries, while the villages and towns include many built heritage assets.
- 1.24** A more detailed assessment of the characteristics of each area is provided in the second part of this Local Plan.

## Key Strategic Issues: Opportunities and Challenges

- 1.25** Due to its strong economic base, proximity to London and attractiveness as a place to live and work, North Essex has seen significant growth over recent years. The area is well-placed and connected to key growth points in the wider region including London, Cambridge and Stansted Airport and as a result is likely to continue to be a successful location for growth. In particular Braintree and Colchester have regularly exceeded planned house building targets and this is expected to continue. Planning for and managing future population growth requires an appropriate response from the local authorities to ensure that sufficient homes, employment premises and land, and supporting social and other infrastructure are provided in a sustainable way.
- 1.26** Notwithstanding its strong economic base and steady growth, the North Essex area faces a range of challenges, notably the need to improve economic and social conditions across the area and reduce health inequalities, pockets of deprivation, infrastructure deficits and low skills; the need to ensure that the infrastructure needed to support continued housing and jobs growth is in place at the right time; and the need to ensure that continued growth continues to conserve and where possible enhance the historic and natural environment including landscape and habitat creation, and will also seek net environmental gains, possibly making use of the Defra biodiversity accounting metric 2.0 to account for possible effects.
- 1.27** The education, health and other service needs of a growing population must be addressed, requiring careful planning to assess future needs such as pupil numbers and further adult education needs. The assessed need must in turn be translated into new or expanded education, health and other facilities which are available to meet the needs of new communities at the appropriate time. The ageing profile of residents also requires a proactive response to provide the right type of homes, including independent living and supporting services; as well as sufficient healthcare facilities to support both older residents and the population as a whole.
- 1.28** New development should be located and designed so that day-to-day needs of residents can be met locally and be accessible by sustainable forms of transport, including walking and cycling, and wherever possible reduce the number of car based trips. Growth will create demand for additional road and rail use with the associated need for new and upgraded infrastructure. Future planned growth provides the opportunity to address some of these infrastructure needs, although growth locations and sites need to be considered carefully with regard to the balance of providing necessary infrastructure and the viability and deliverability of development.
- 1.29** The NPPF expects local authorities to set out the strategic priorities for the area in the Local Plan. Of those listed in the Framework and based on the above key issues, this strategic plan chapter addresses:

- the homes and jobs needed in the area
- the provision of infrastructure for transport and telecommunications
- the provision of education, health, and community infrastructure, and
- conservation and enhancement of the natural and historic environment, including landscape

## Vision for the Strategic Area

**1.30** It is important that addressing growth at any spatial scale is founded on a clear vision of how and where change should occur. The vision for North Essex sets this out at a strategic level and provides a context for the more detailed vision for the growth of each individual authority's area. The joint vision set out below should be read in conjunction with the vision for each local authority set out in Part 2 of each Local Plan. The high housing need identified for North Essex, constraints in many existing urban areas and the desire to support a sustainable form of development in the long term, as part of the strategy for the development has led to the Local Plans proposing standalone new settlements that follow the principles of Garden Communities.

### Vision for North Essex

*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.*

*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.*

*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 health care facilities enabling healthy and active lifestyles will be planned and provided along with other facilities to support the development of substantial new growth; while the undeveloped countryside and the natural and historic environment will be conserved and enhanced. Key to delivering sustainable development is that new development will address the requirement to protect and enhance the historic environment and settlement character.*

*At the heart of our strategic vision for North Essex is a new garden community, to be sensitively integrated within the existing historic built and natural environment, and based on Garden City principles.*

*The garden community provides an opportunity to create the right balance of jobs, housing and Infrastructure in the right locations and will attract 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.*

*Residents will live in high quality, innovatively designed, homes, 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 community.*

*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 for the benefit of the new community. Central to this will be the comprehensive planning and development of the garden community, and the aligned delivery of homes and supporting infrastructure.*

## Strategic Objectives

- 1.31** The following strategic objectives are designed to support the vision for the area and provide a basis for the development of strategic topic-based policies that will help in achieving the vision.
- 1.32** Providing Sufficient New Homes – to provide for a level and quality of new homes to meet the needs of a growing and ageing population in North Essex; to achieve this by ensuring the availability of developable land in appropriate locations and that the market delivers a suitable mix of housing types and tenures.
- 1.33** Fostering Economic Development – to strengthen and diversify local economies to provide more jobs; and to achieve a better balance between the location of jobs and housing, which will reduce the need to travel and promote sustainable growth.
- 1.34** Providing New and Improved Transport & Communication Infrastructure – to make efficient use of existing transport infrastructure and to ensure sustainable transport opportunities are promoted to support new and existing communities. 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.
- 1.35** Addressing Education and Healthcare Needs – to provide good quality educational opportunities as part of a sustainable growth strategy, including practical vocational training and apprenticeships linked to local job opportunities. To work with partners in the NHS, Public Health and local health partnerships to ensure adequate provision of healthcare facilities to support new and growing communities.
- 1.36** 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 creates 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 heritage assets including any contribution made to their significance by their settings.

## Strategic Issues and Policies

**1.37** 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.

## Presumption in Favour of Sustainable Development



## 2 Presumption in Favour of Sustainable Development

### Presumption in Favour of Sustainable Development

- 2.1** The authorities will apply a presumption in favour of sustainable development in accordance with guidance in the National Planning Policy Framework.

#### Policy SP 1

##### Presumption in Favour of Sustainable Development

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 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.

Development that complies with the Plan will be approved without delay, unless material considerations indicate otherwise.

- 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 in likely significant effects on European Sites, without mitigation to address the effects.
- 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.
- 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).
- 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.
- 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.



- 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 Recreational disturbance Avoidance and Mitigation Strategy (RAMS).
- 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.

## Policy SP 2

### **Recreational disturbance Avoidance and Mitigation Strategy (RAMS)**

Contributions will be secured from development towards mitigation measures in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy 2018-2038 (RAMS).



# Spatial Context

## 3 Spatial Context

- 3.1** Future growth will contribute to maintaining and enhancing a well-connected network of sustainable settlements across 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 a strategic scale new settlement embracing the principles in the North Essex Garden Community Charter. The countryside will be protected and enhanced.
- 3.2** For the majority of settlements these issues are addressed in the second part of the Local Plan dealing with each authority's area. However, it is relevant here to set out the spatial context of the North Essex Area as it relates to the main settlements and strategic-scale new development.
- 3.3** In Braintree District the growth will be mainly addressed via a mixture of urban extensions and new communities. Braintree town, as the largest service centre in the District, will have a number of new urban extensions. Over 4,000 new homes will be allocated in this area. The other main focus for development will be the A12 corridor with the main town of Witham and service villages of Hatfield Peverel, Kelvedon and Feering with allocations of over 2,000 new homes. Other parts of the District, including the town of Halstead, will have smaller allocations to reflect a more local need and make the best use of brownfield sites, recognising that these areas are not as sustainable.
- 3.4** In Colchester Borough, the urban area of Colchester will continue to be a focus for growth due to its pre-eminent role as a centre for jobs, services and transport, with 4,000 new homes expected to be delivered over the Local Plan period. The urban area of Colchester, however, has a limited and diminishing supply of available brownfield sites, so new communities are included in the spatial hierarchy as a sustainable option for further growth of homes and jobs, to the east of Colchester on the borders with Tendring District. Approximately 1,200 new homes will be allocated in the Rural District Centres of Tiptree, West Mersea and Wivenhoe. Smaller sustainable settlements will receive limited allocations proportionate to their role in the spatial hierarchy.
- 3.5** In Tendring District the spatial hierarchy promotes growth in settlements that are the most accessible to the strategic road network, public transport and offer a range of services. Clacton and Harwich with Dovercourt are classified as strategic urban settlements and will accommodate around 5,000 new homes. A new cross-boundary garden community will be located in the west of the district and to the east of Colchester. The smaller urban settlements of Frinton with Walton and Kirby Cross, Manningtree with Lawford and Mistley, Brightlingsea and Weeley will accommodate between 1,500 and 2,500 new homes. The rural service centres and smaller rural settlements will accommodate around 1,500 new homes including a windfall allowance.
- 3.6** The new Garden Community is identified as new a new settlement in Colchester and Tendring Section 2 settlement hierarchies. Over time the Garden Community will grow to influence the area's spatial hierarchy and will be included in the tiers underneath the sub-regional centre role

played by Colchester. Future reviews of the plans will address this point, but the Garden Community will not grow to a size that will affect the spatial hierarchy within the plan period to 2033.

## Policy SP 3

### Spatial Strategy for North Essex

Existing settlements will be the principal focus for additional growth across the North Essex Authorities area within the Local Plan period. 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.

Future growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting. 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.

In Section 2 of its Local Plan each 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.

Beyond the main settlements the authorities will support diversification of the rural economy and conservation and enhancement of the natural environment.

As part of the sustainable strategy for growth, the Tendring / Colchester Borders Garden Community will be developed and delivered at the broad locations shown on Map 10.2 below and on the Colchester and Tendring Local Plans Policies Maps. This new community will provide a strategic location for homes and employment within the Plan period in North Essex. The expectation is that substantial additional housing and employment development will be delivered in the Garden Community beyond the current Local Plan period.



## Meeting the need for New Homes

## 4 Meeting the need for New Homes

- 4.1** Provision of sufficient housing is critical to meet the needs of a growing population and for the effective functioning of local economies.
- 4.2** The North Essex authorities are committed to plan positively for new homes and to significantly boost the supply of housing to meet the needs of the area, including the need to provide a workforce for forecast jobs. To meet the requirements of national policy to establish the number and type of new homes, the authorities commissioned Peter Brett Associates to produce an Objectively Assessed Housing Need Study building on earlier work. This was first published in July 2015 and updated in November 2016. It meets the requirements of the NPPF to prepare a Strategic Housing Market Assessment (SHMA).
- 4.3** Detailed analysis in the report suggests that a Housing Market Area comprising Braintree, Colchester, Chelmsford and Tendring Council areas forms a sound basis for assessing housing need.
- 4.4** Demographic projections are the starting point for assessing how much housing will be required across an area. Based on 2014 national projections covering the period 2013 to 2037, the conclusion reached is that the objectively assessed need across the Housing Market Area is 2,999 new homes a year over the period 2013 – 2037. The total requirement across north Essex, excluding Chelmsford City Council's area, is 2,186 new homes per year.
- 4.5** This figure includes a figure of 550 new homes per year for Tendring. Calculation of housing need in the District is complicated by uncertainty arising from unattributed population change (UPC).
- 4.6** Evidence on overall levels of affordable housing provision elsewhere in the Districts will be set out in more detail within the individual Local Plans and will take account of identified needs. The Tendring Colchester Garden Community needs to be a mixed and balanced community and will be expected to provide 30% affordable housing.
- 4.7** The Garden Community will be expected to provide suitable sites for Gypsies and Travellers. Additional requirements for sites to meet District wide needs will be set out in Section Two of each District/Borough Local Plan.
- 4.8** The North Essex authorities will identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their individual housing requirements set out in Policy SP4 below. Each authority will incorporate an additional buffer as required by national planning policy to ensure choice and competition for land.



## Policy SP 4

### Meeting Housing Needs

The local planning authorities will identify sufficient deliverable sites, developable sites and/or broad locations for their respective plan period, to meet the housing requirements in the table below, and will incorporate additional provision to ensure flexibility and choice and competition for land.

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.

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.

Local Authority	Housing requirement per annum	Total minimum housing requirement for the plan period (2013 – 2033)
Braintree	716	14,320
Colchester	920	18,400
Tendring	550	11,000
<b>Total</b>	<b>2,186</b>	<b>43,720</b>



# Providing for Employment

## 5 Providing for Employment

- 5.1** A key objective for the area is to strengthen and diversify local economies to provide more jobs and to achieve a better balance between the location of jobs and housing, which will reduce the need to travel and promote sustainable growth.
- 5.2** Braintree District's employment is relatively focused on industrial-type sectors, including construction and manufacturing. London Stansted airport, in neighbouring Uttlesford, plays a significant role in employing residents of the District and through the indirect economic benefits associated with proximity to such a large employment hub.
- 5.3** Retail is the second largest sector by employment and plays an important role in sustaining the District's three key town centres. The financial and insurance sector, where Braintree District traditionally has a relatively small proportion of employment, has seen some strong growth in recent years. This may be a growth sector in the future.
- 5.4** Colchester is the dominant urban centre within the Essex Haven Gateway. The Borough has developed a strong economy, linked to its "central place" functions and to the town's historic character, cultural activities and the university. Major retail and leisure services are also located both within and adjacent to Colchester town.
- 5.5** Health, education and retail each provide over 10% of employee jobs and collectively contribute 42% to the Borough's total employment. A further six major Groups each account for between 5 – 10% of total jobs: Manufacturing; Construction; Accommodation and Food Services; Professional, Scientific & Technical; Business Administration & Support Services; and Arts, entertainment, recreation, etc.
- 5.6** Tendring District has a diverse economy with local employment across a range of activities. Health, retail and education are the largest sectors in terms of the number of jobs and together represent 45% of the District's total employment.
- 5.7** Within the western part of Tendring district, the economy and labour market of Manningtree is influenced by its relative proximity to Colchester and good transport links to London. The interior of the District is largely rural and is characterised by a high-quality environment, interspersed with small settlements.
- 5.8** Opportunities have been identified for Tendring to develop potential future strengths in offshore wind and the care and assisted living sector.
- 5.9** As part of the work to assess housing requirements, an analysis of economic forecasts was undertaken together with demographic projections to establish the inter-relationship between population growth, forecasts of new jobs and the number of new homes needed to accommodate these levels of growth. 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. The forecast growth figures for the housing area for the period 2013-2037 are as set

out in Policy SP5. Employment Land Needs Assessments have been carried out by each authority which set out the amount of employment land that is required within the Plan period. 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 in Policy SP5 below sets out the three authorities' employment land (B Class uses) 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. Site specific employment allocations meeting the needs of different sectors in each local authority are set out in Section 2 of their Local Plan.

- 5.10** Braintree, Colchester and Tendring commissioned work to explore the employment opportunities associated with the development of innovative Garden Communities based on the likely demographic profile of these new communities and to develop quantified scenarios for future employment growth. The consultants concluded that assuming political commitment and proactive delivery on the part of local authorities, Garden Communities had the potential to deliver one job per household, in line with the Garden Communities charter, and to support employment growth in surrounding areas. The Tendring Colchester Border Garden Community is considered to perform the best in employment terms given the opportunities provided by its location adjacent to the University Essex.
- 5.11** Employment forecasts for the three authorities accordingly factor in the longer-term aspirations for employment growth arising from the positive spin-offs associated with Garden Communities. It is important to note, however, that while job numbers can be expected to grow at a consistent rate, current trends point to overall lower requirements for additional B1 floorspace. This reflects the growth of home working enabled by enhanced digital connectivity; the continuing decline of manufacturing with its need for large floor areas; and the prevalence of 'hot desking' leading to lower requirements for office floorspace.

## Policy SP 5

### Employment

A strong, sustainable and diverse economy will be promoted across North Essex with the local planning authorities pursuing a flexible approach to economic sectors showing growth potential across the Plan period.

In order to meet the requirements for office, research & development, industrial, storage and distribution 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 that provision is made within the ranges set out in the table below.

**Hectares of employment land required** for office, research & development, industrial, storage and distribution uses:

	<b>Baseline</b>	<b>Higher Growth Scenario</b>
Braintree	20.9	43.3
Colchester	22.0	30
Tendring	12.0	20.0
<b>North Essex</b>	<b>54.9</b>	<b>93.3</b>

# Infrastructure and Connectivity

## 6 Infrastructure and Connectivity

- 6.1** A coordinated and integrated approach to infrastructure planning and delivery is required to implement the vision for North Essex. Provision of appropriate and timely infrastructure to support growth will be central to the area's continuing prosperity, attractiveness and sustainability. Section 1 of the Local Plan highlights strategic and cross-boundary infrastructure, identifying the strategic transport infrastructure projects required to underpin delivery of the planned growth in the area including the proposed Garden Community, and sets priorities for other infrastructure requirements such as education, healthcare, digital connectivity, water supply and wastewater infrastructure and treatment. Section 2 of the Local Plan contains the infrastructure requirements for allocations made in that section of the plan. The Infrastructure Delivery Plan (IDP) provides the phasing and costing of infrastructure requirements for the Garden Communities and the Section 2 allocations required within the plan period. The infrastructure planning process will include the identification of funding sources, and may include using appropriate mechanisms of shared public sector delivery financing mechanisms and the implementation of a strategic infrastructure tariff or other suitable mechanisms to apply across North Essex.

### A Garden Communities

- 6.2** The challenge in the Garden Community will be to create a community in which people move in around in a different way to most of the existing towns in North Essex . Networks need to give priority to people for short everyday trips to link people to work, education, retail, leisure, creating an independent safe environment.
- 6.3** The new garden community will seek to manage travel demand, providing retailing, jobs, services and facilities within the site to help reduce the need to travel, and integrate and connect with the rest of North Essex and beyond through transport infrastructure and measures that promote sustainable travel patterns and reduce adverse impacts on the highway network. The North Essex Garden Communities Charter seeks to ensure that land use planning of the new community maximises the provision and use of sustainable transport internally and connects externally to key urban centres. Given the Charter's commitment to the timely delivery of infrastructure, policies SP8-9 will ensure that key transport projects align with housing and employment delivery.
- 6.4** To maximise the use of public transport new forms of high quality rapid transit networks will be provided to serve existing urban centres such as Colchester and Braintree; key destinations such as the University of Essex; and key transport interchanges in North Essex. To achieve the desired step change in sustainable transport, policy will require that this infrastructure will be funded and its delivery phased to align with the development phases.

### B Transportation and Travel

- 6.5** North Essex is well placed in the context of connections by road, rail, air and sea to the wider region and beyond, and these connections will need to be strengthened as part of developing sustainable transport networks.



- 6.6** The challenge is to provide North Essex with a sustainable transport system that provides good access to jobs and services, to support economic growth. Growth promoted through the new Local Plans, particularly via large scale new developments where delivery will extend beyond the plan period, provides an opportunity to prioritise, facilitate and deliver larger scale transport infrastructure projects that can significantly improve connectivity across and within the area. A focus on sustainable transport in and around urban areas and the Garden Community will positively alter travel patterns and behaviour to reduce reliance on the private car.
- 6.7** The Local Plans seek to improve transport infrastructure to enable the efficient movement of people, goods and ensure that new development is accessible by sustainable forms of transport. Measures designed to encourage people to make sustainable travel choices such as better public transport provision, car clubs, electric vehicle charging points and provision of cycle links and foot ways will also be required to achieve such a change. It will also help to enhance air quality and improve health and well-being.
- 6.8** Braintree, Colchester and Tendring will continue to work closely with government departments, Highways England, Essex County Council, Network Rail, rail and bus operators, developers and other partners to better integrate all forms of transport and improve roads and public transport and to promote cycling and walking. Key projects during the plan period will see improvements to the A12, A120, Great Eastern Main Line including rail services, and provision of rapid transit connections in the Garden Community and the adjacent urban areas. An integrated and sustainable transport system will be delivered that supports economic growth and helps deliver the best quality of life.

### **The Inter-Urban Road Network**

- 6.9** The A12 is set to have major improvements as part of the Government's Roads Investment Strategy (RIS1 and RIS), with the aim of improving capacity and relieving congestion. The A12 is being widened between junction 19 (Chelmsford) and junction 25 (A120 interchange) to increase safety, improve journey time reliability, provide a benefit to the local road network, and in doing so support long term sustainable growth. Highways England (HE) has announced its preferred route between junction 19 and 23 (October 2019) and between junction 23 and 25 in August 2020. The A12 J19 to J25 widening scheme will go ahead as part of the Road Investment Strategy 2 (RIS2) programme, and is now a fully funded scheme. It is expected the route will be open for traffic in 2027 – 2028. RIS2 stated that the A12 scheme will need to take account of the evolving proposals for the A120 Braintree to A12 improvements, and any potential future road link to the improvements for the A120 will be incorporated into the A12 scheme.
- 6.10** The A120 is a key east-west corridor across Essex providing access to London Stansted Airport in the west to the Harwich ports in the east and serving the economies of Braintree, Colchester and Tendring, with links to Chelmsford via the A130.
- 6.11** Consultation on A120 route improvement options between Braintree and the A12 ended in March 2017. ECC has identified a favoured route which has been recommended to Highways England and the Department of Transport for inclusion in Road Investment Strategy 2 (RIS2), which is the next funding period for the strategic road network and will run from 2020 to 2025. In addition a series of short term interventions will be delivered along the route to improve safety and relieve congestion. The A120 from the A12 to Harwich is subject to a Highways England

Route Based Strategy and improvements to this section of road are expected over the plan period. ECC and Highways England have progressed work with regards a new and improved A120 between Braintree and the A12. The new A120 is necessary to help address the volume of existing A120 movements which by far exceeds the current standard of carriageway provision. The route will be instrumental in catering for growth in the corridor and will provide a better route for freight traffic, improve safety and relieve existing communities from a range of externalities such as through traffic, noise, severance and poor air quality. ECC has identified its favoured Route D which would join the A12 south of Kelvedon. In March 2020 the government announced its Road Investment Strategy (RIS2) which included a commitment to progressing further development work on the A120 dualling to prepare the scheme for delivery. The A120 dualling scheme will be considered for inclusion in the RIS3 programme (2025 – 2030), and is now considered a pipeline project to be progressed by Highways England.

## **Rail**

- 6.12** The Anglia Route Study prepared by Network Rail (March 2016) shows that while capacity varies along the Great Eastern Main Line, capacity to accommodate growth is limited and is particularly constrained in peak times from Chelmsford to London. Improvements are required along the line to accommodate growth and provide a faster more competitive service across the region.
- 6.13** The Study identifies a package of improvements necessary to respond to the need for increased capacity, which are seen as priorities to enable growth, improve services and journey reliability.
- 6.14** A franchise was awarded to Greater Anglia for passenger services in the region which commenced in 2018 followed by the replacement of the entire fleet of trains to add capacity.

## **Public Transport, Walking and Cycling**

- 6.15** Alternative forms of transport to the private car (public transport, walking, and cycling) to travel to work and other trips are essential in managing congestion and to accommodate sustainable growth. The levels of growth proposed in the Local Plans will require that the consequent need to travel is managed. Travel planning and smarter choices initiatives will be promoted to ensure that all residents have good access to local jobs, services and facilities, preferably by either walking or cycling. For longer trips and in rural areas where there are fewer local services and employment opportunities, public transport will be promoted.
- 6.16** Essex County Council prioritises passenger transport (bus, minibus, taxi and community transport) according to the 'Getting Around in Essex Strategy'. The County Council will work in partnership with stakeholders to improve bus services and their supporting infrastructure to provide a real alternative to the private car. This will be achieved by identifying opportunities for a better bus network (routes, frequency, community based services); integrating school and commercial bus networks; the implementation of travel planning (work, business, school and health); provision of digital information measures; provision of park and ride; and supporting the growth in key commuter and inter urban routes. Conventional local bus services, and in particular improving existing services, will be an important part of promoting sustainable travel across North Essex, and will complement the new high quality rapid transit network.

- 6.17** Through implementation of the Essex Cycling Strategy (2016), Cycling Action Plans have been prepared in all the NEAs to increase cycle levels; identify safety issues; identify gaps on key routes; identify ways of closing gaps; and create better cycle connectivity to key employment areas, development zones and schools. The provision of continuous cycle routes and a coherent cycle network will encourage people to make short trips by bicycle rather than by car.

### **Policies and Delivery Mechanisms for Sustainable Transport**

- 6.18** Creating development that is accessible by different modes of transport, especially walking and cycling and the use of public transport is essential to promoting sustainable development as it reduces car dependency. An important policy tool to achieve this is a people orientated transport hierarchy i.e. prioritising walking and providing access for people with mobility impairment; cycling; public transport; cars (for occupiers on site and visitors); powered two wheelers; and commercial vehicles). The modal hierarchy will be used to ensure that if not all modes can be satisfactorily accommodated, those towards the top of the hierarchy are considered first and given greater priority.
- 6.19** Sustainable transport management will be based on promoting modes which minimise environmental impact and promote social inclusion. It is important that developments are well located in relation to existing walking, cycling and public transport networks, and where appropriate provide enhanced facilities, as this will ensure that there is the maximum potential to use these modes as attractive alternatives to cars.

## **C Social Infrastructure**

### **Education**

- 6.20** New development must provide for the educational needs of new communities and this is set out in more detail within the Infrastructure Delivery Plan. This will involve the expansion of existing schools where feasible and the construction of new schools, together with provision for special educational needs, early years and childcare places. Education requirements will need to be based on a strong understanding of future pupil numbers, with co-operation between county, district and borough councils. A range of educational opportunities will need to be addressed as part of a sustainable growth strategy, including practical vocational training, apprenticeships, and further and higher education.
- 6.21** New schools are an important place-making component of Garden Communities where early provision is usually critical in providing core social infrastructure to help a new community thrive, improve social integration and support the creation of sustainable travel patterns and a healthy environment.

### **Healthcare**

- 6.22** Local authorities have a role in creating a healthy community. The North Essex authorities will work closely with relevant stakeholders such as the NHS, Public Health and local health partnerships, developers and communities to ensure that future development in North Essex takes into account the need to improve health and wellbeing of local residents (and workers) including access to appropriate health and care infrastructure to support new and growing

communities. Requirements are set out in more detail within the Infrastructure Delivery Plan. This will be particularly important given the ageing profile of existing and future residents. There is already a need for more and better quality health care facilities across North Essex with some areas having relatively poor access to health care facilities. The Garden Community will provide the conditions for a healthy community through the pattern of development, good urban design, good access to local services and facilities; green open space and safe places for active play and food growing, and which is accessible by walking and cycling and public transport. Support will be given to meet cross-boundary need for hospice facilities.

## **D Digital Connectivity**

**6.23** The NPPF indicates how high quality communications infrastructure is essential for economic growth and social well-being. The availability of high speed and reliable broadband, particularly in rural areas, is a key factor in unlocking new development opportunities and ensuring that people can access services online and work from home. The Government is committed to making gigabit-enabling connectivity available to all premises in the UK by 2025 and the Local Plan can contribute towards achieving this goal by requiring developers to ensure such technology is in place.

**6.24** Fast broadband connections and telecommunications are an increasingly important requirement to serve all development. New development should contribute to the creation of a comprehensive and effective network in both urban and rural areas to promote economic competitiveness and to reduce the need to travel. The priority is to secure gigabit-enabling connectivity to all existing and new developments. Developers are encouraged to engage with communication network providers at the earliest opportunity. Where provision is possible preference is indicated for open-access infrastructure, enabling multiple service providers access to end users.

## **E Water Supply and Wastewater**

**6.25** The authorities will need to work with Anglian Water, Affinity Water, Environment Agency and developers to ensure sufficient capacity and provision of an adequate water supply and foul drainage and wastewater treatment to support growing communities as outlined in the Integrated Water Management Strategy and Infrastructure Delivery Plan. This will be particularly important as water supplies continue to be threatened by climate change and pressures from continuing growth and development. Water provisions need to be protected and it is essential for adequate water and wastewater infrastructure to be in place to accommodate the demands of growth and development in accordance with the Water Framework Directive and the Habitats Directive. The new Garden Community has the opportunity to minimise demand and wastewater generation, through exploring opportunities at both the strategic and local level.

## Policy SP 6

### Infrastructure & Connectivity

All development must be supported by the provision of the infrastructure, services and facilities that are identified to serve the needs arising from the development.

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.

#### A. Tendring / Colchester Borders Garden Community

1. The Development Plan Document (DPD) for the Tendring / Colchester Borders Garden Community will include:

- 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;
- 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
- c) Target modal shares for each transport mode and details of sustainable transport measures to support their achievement.

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:

- a) A120-A133 link road: and
- b) Route 1 of the rapid transit system as defined in the North Essex Rapid Transit System: From Vision to Plan document (July 2019).

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.

4. Other strategic infrastructure requirements for the Tendring / Colchester Borders Garden Community are set out in sections D, E and F of Policy SP9, and will be further defined in the DPD for the garden community.

## B. Transportation and Travel

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;

- 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;
- Improved urban and inter-urban public transport, and new and innovative ways of providing public transport, including:
  - 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, integrated with other transport modes serving 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, specifically:
  - Improved access to and capacity of junctions on the A12 and other main roads;
  - A dualled A120 from Braintree to the A12.
- Innovative strategies for the management of private car use and parking including the promotion of car clubs and car sharing, and provision of electric car charging points.

## C. Social Infrastructure

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.

### Education

- 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.
- Practical vocational training, apprenticeships, and further and higher education will be provided and supported.



### **Health and Wellbeing**

- Healthcare infrastructure will be provided as part of new developments of appropriate scale in the form of expanded or new 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.
- 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.

### **D. Digital Connectivity**

Comprehensive digital access to support business and community activity will be delivered through the roll-out of ultrafast broadband across North Essex to secure the earliest availability of full fibre connections for all existing and new developments (residential and non-residential). All new properties will allow for the provision for ultrafast broadband in order to allow connection to that network as and when it is made available.

### **E. Water & Waste water**

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.





## Creating Quality Places

## 7 Creating Quality Places

- 7.1** The North Essex area has a great variety of natural environments, and wonderful towns and villages. It is critical that new development must incorporate high standards of place-making along with urban and architectural design to respect the character of these environments. Major new developments will be planned carefully with the use of masterplans and design codes where appropriate.
- 7.2** Networks of green and blue infrastructure should be provided across new developments, linking new developments within existing networks of open space. These areas can be multi use, providing space for natural species and habitats as well as space for informal recreation, walking, cycling and equestrian links.
- 7.3** This requirement for high design standards will apply across all scales of new development as well as to infrastructure projects. Enhancements to the public realm, landscaping measures and attention to architectural detail will be important features that the authorities will wish to see included in new developments. Strategic scale and more local green infrastructure can make a vital contribution to quality of place, biodiversity gains, alleviating recreational pressure, and health outcomes if properly integrated into the design and delivery of new development. The Defra biodiversity accounting metric 2.0, or future iterations of this, can be used to accurately assess habitat impacts. Sustainable Drainage Systems (SuDS) provide abundant opportunities to introduce wildflower strips and soft landscaping to a development or urban area. This not only brings an attractive feature to the area for people but acts as a wildlife corridor, connecting the rivers, ditches, hedges, verges and gardens, allowing movement of wildlife throughout an area, connecting to the wider environment and therefore greatly enhancing the biodiversity value of the site.

## Policy SP 7

### Place Shaping Principles

All new development must meet high standards of urban and architectural design. Development frameworks, masterplans, design codes, and other design guidance documents will be prepared in consultation with stakeholders where they are needed to support this objective.

All new development should reflect the following place shaping principles, where applicable:

- Respond positively to local character and context to preserve and enhance the quality of existing places 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:
- Create well-connected places that prioritise the needs of pedestrians, cyclists and public transport services above use of the private car;
- 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 biodiverse public open space and green and blue infrastructure, thereby helping to alleviate recreational pressure on designated sites;
- 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; and
- Protect the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking.



## Cross Boundary Garden Communities

## 8 Cross Boundary Garden Communities

- 8.1** A key element of the spatial growth strategy for North Essex is the development of a new sustainable garden community.
- 8.2** Garden communities were amongst a range of options which were considered by the local authorities to deliver their housing and employment needs. A number of sites of sufficient scale to accommodate a garden community were identified through the Call for Sites, the Strategic Land Availability Assessment (SLAA) and wider evidence gathering processes by each of the local authorities. All these options were evaluated and the assessments can be seen as part of the Sustainability Appraisal.
- 8.3** An Appropriate Assessment has also been completed to consider the effects of proposals in Section 1 on the integrity of the European sites either alone or in combination with other plans and projects. At the Screening Stage the likely significant effects on European Sites, either alone or in combination with other plan and projects, were loss of offsite habitat, recreational impacts and water quality. These issues were further considered through the Appropriate Assessment.
- Loss of off-site habitat - To mitigate for the loss of off-site habitat, the Appropriate Assessment identified the need for wintering bird surveys for the Tendring Colchester Borders Garden Community as part of any project level development proposals and masterplanning, to determine the sites individual importance for golden plover and lapwing and inform mitigation proposals. 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 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.
  - Recreational Impacts - To mitigate for any increase in recreational pressures at the European sites, the Appropriate Assessment recommended the production for Recreational Avoidance and Mitigation Strategies (RAMS) for the Colne & Blackwater, Stour and Orwell SPAS/Ramsar sites and Essex Estuaries SAC.
  - Water quality – To ensure that the water quality of the European Sites are not adversely affected by growth proposals in Section 1, the Appropriate Assessment recommended the inclusion of policy safeguards to ensure that adequate water treatment capacity exists prior

to developments proceeding and a commitment that the phasing of development would not exceed water and sewage infrastructure capacity and that the necessary infrastructure upgrades would be in place prior to developments coming forward.

- The three authorities are committed to implementing the recommendations in the Section 1 Appropriate Assessment and these will be further progressed through the Strategic Growth DPDs.

- 8.4** Due to the scale of development proposed across North Essex and the infrastructure constraints which exist in many of the existing main settlements, new garden communities were considered the most deliverable and sustainable option, providing a major long-term supply of new homes if they could be delivered to the right standards at the right time. Locations for three new garden communities were selected based on the evidence gathered and assessments undertaken.
- 8.5** These new communities will accommodate a substantial amount of the housing and employment growth planned for North Essex within the plan period and beyond in a sustainable way that meets the vision and strategic objectives, and provides a quality of development and community that would not occur in the absence of a holistic approach to planning and delivery. In the absence of commitment and a policy framework that secures the principles of garden communities development in the identified locations would not be acceptable. Other options for meeting the growth would have to be considered.
- 8.6** The North Essex Garden Community will be a planned new settlements that respond directly to their regional, local and individual site context and opportunities to create developments underpinned by a series of interrelated principles which are based on the Town and Country Planning Association (TCPA) Garden City Principles, adapted for the specific North Essex context as set out in the North Essex Garden Communities Charter.
- 8.7** The Garden Community is located within a Minerals Safeguarding Area. In line with the Essex Minerals Local Plan, the Mineral Planning Authority requires a Minerals Resource Assessment to be undertaken to assess if the sites contain a minerals resource that would require extraction prior to development. Should the viability of extraction be proven, the mineral shall be worked in accordance with the phased delivery of the non-mineral development.

## Policy SP 8

### Development & Delivery of New Garden Communities in North Essex

The following new garden community is proposed at the broad location shown on Map 10.2.

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 expected overall total of between 7,000 and 9,000 homes and 25 hectares of employment land to be delivered beyond 2033).

The garden community will be holistically and comprehensively planned 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 delivery phased to achieve the whole development, and will be underpinned by a comprehensive package of infrastructure.

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.

- i. Community and stakeholder participation in the design and delivery of the garden community from the outset and a long-term community engagement and activation strategy
- ii. The public sector working pro-actively and collaboratively with the private sector to design, and bring forward the garden community, deploying new models of delivery where appropriate 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 the new community, 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 the new garden community, the appropriate model of delivery will need to secure a comprehensive approach to delivery in order to achieve the outcomes outlined in points (a) - (c) in this paragraph, 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.
- iii. Promotion and execution of the highest quality of planning, design and management of the built and public realm so that the Garden Community is characterised as a distinctive place that capitalises on local assets, respects its context, and establishes an environment that promotes health, happiness and well-being.
- iv. 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 community, 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 sites and complies with environmental legislation (notably the Water Framework Directive and the Habitats Directive), the required waste water treatment capacity must be available ahead of the occupation of dwellings.

- v. 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, provision for self- and custom-built homes, 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 the garden community.
- vi. Provide and promote opportunities for employment within the new community and within sustainable commuting distance of it
- vii. Plan the new community around a step change in integrated and sustainable transport systems for the North Essex area that put walking, cycling and rapid public transit networks and connections at the heart of growth in the area, encouraging and incentivising more sustainable active travel patterns
- viii. Structure the new community to create sociable, vibrant and walkable neighbourhoods with equality of access for all to a range of community services and facilities including health, education, retail, culture, community meeting spaces, multi-functional open space, sports and leisure facilities
- ix. Develop specific garden community parking approaches and standards that help promote the use of sustainable transport and make efficient use of land.
- x. Create distinctive environments which are based on comprehensive assessments of the surrounding environment and that 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 park at the garden community, provide a high degree of connectivity to existing corridors and networks and enhance biodiversity
- xi. Secure a smart and sustainable approach that fosters climate resilience and a 21st century environment in the design and construction of 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 areas of serious water stress), and sustainable waste and mineral management
- xii. Ensure that the costs and benefits of developing a garden community are shared by all landowners, with appropriate measures being put in place to equalise the costs and land contributions
- xiii. Consideration of potential on-site mineral resources through a Minerals Resource Assessment as required by the Minerals Planning Authority.
- xiv. Establishment at an early stage in the development of the garden community, of appropriate and sustainable long-term governance and stewardship arrangements for community assets including green space, public realm areas and community and other relevant facilities; such arrangements to be funded by the development and include community representation to ensure residents have a stake in the long term development, stewardship and management of their community.

## Policy SP 9

### Tendring/Colchester Borders Garden Community

The Development Plan Document (DPD) required for the Tendring / Colchester Borders Garden Community by Policy SP7 will define the boundary of the new 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 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 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.

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 Tendring 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.

The DPD and any planning application will address the following principles and requirements in the design, development and delivery of the new garden community:

#### A. Place-Making and Design Quality

1. The development of a new garden community to high standards of design and layout drawing on its context and the considerable assets within its boundaries such as woodland, streams and changes in topography, as well as the opportunities afforded by the proximity of the University of Essex campus to create a new garden community that is innovative, contemporary and technologically enabled, set within a strong green framework with new neighbourhood centres at its heart. It will be designed and developed to have its own identity and be as self-sustaining as possible recognising its location close to the edge of Colchester. It will secure appropriate integration with Colchester and the nearby University of Essex campus by the provision of suitable walking and cycling links and rapid public transport systems and connections to enable residents of the new community to have convenient access to town centre services and facilities in Colchester as well as Elmstead Market. Clear separation will be maintained between the new garden community and the nearby villages of Elmstead Market and Wivenhoe. Safeguarding the important green edge to Colchester

will be essential with a new country park provided along the Salary Brook corridor and incorporating Churn Wood.

2. Detailed masterplans and design guidance, based on a robust assessment of historic and natural environmental constraints and opportunities for enhancement, will be adopted to inform and guide development proposals and planning applications for the garden community.

## **B. Housing**

3. A mix of housing types and tenures including self- and custom-build and starter homes will be provided on the site, including a minimum of 30% affordable housing. The affordable housing will be phased through the development;
4. New residential development will seek to achieve appropriate densities which reflect both context, place-making aspirations and opportunities for increased levels of development around neighbourhood centres and transport hubs.

## **C. Employment and Jobs**

5. The garden community will make provision for a wide range of jobs, skills and training opportunities. The DPD will allocate about 25 hectares of B use employment land within the garden community. This may include provision for office, research & development, light industrial and/or other employment generating uses towards the south of the site in proximity to the existing University of Essex and Knowledge Gateway and provision for office, research & development, industrial, storage and distribution uses towards the north of the site close to the A120;
6. High speed and reliable broadband will be provided and homes will include specific spaces to enable working from home

## **D. Transportation**

7. 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. Additional transport priorities include the provision of a network of footpaths, cycleways and bridleways to enhance permeability within the site and to access and to access the adjoining areas; 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 transport network and fully mitigate any environmental or traffic impacts arising from the development.
8. Foot and cycle ways shall be provided throughout the development and connecting with the surrounding urban areas and countryside, including seamlessly linking key development areas to the University of Essex, Hythe station and Colchester Town Centre;

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.
10. Other specific transport-related infrastructure requirements identified through the Strategic Growth Development Plan Document and masterplans for this garden community will be delivered in a phased manner.

### **E. Community Infrastructure**

11. District and neighbourhood centres of an appropriate scale will be provided to serve the proposed development. The centres will be located where they will be easily accessible by walking, cycling and public transit to the majority of residents in the garden community.
12. Community meeting places will be provided within the local centres.
13. Increased primary healthcare 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.
14. A secondary school, primary schools and early-years facilities will be provided to serve the new development;
15. A network of multi-functional green infrastructure will be provided within the garden community incorporating key elements of the existing green assets within the site. It will include community parks, allotments, a new country park, the provision of sports areas with associated facilities; and play facilities;
16. Indoor leisure and sports facilities will be provided with the new community, or contributions made to the improvement of off-site leisure facilities to serve the new development

### **F. Other Requirements**

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. 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 Plant 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 must be available ahead of the occupation of dwellings.
18. Landscape buffers between the site and existing development in Colchester, Wivenhoe and Elmstead Market;
19. 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 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, 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 instance.

20. Avoidance, protection and/or enhancement of 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.
21. Provision of appropriate buffers along strategic road and rail infrastructure to protect new development
22. Provision of appropriate design and infrastructure that incorporates the highest standards of innovation in energy efficiency and technology to reduce impact of climate change, water efficiency (with the aim of being water neutral in areas of serious water stress), and sustainable waste / recycling management facilities.
23. Measures to support the development of the new community including provision of community development support workers (or other provision) for a minimum of ten years from initial occupation of the first homes and appropriate community governance structures
24. Establishment at an early stage in the development of the garden community, of appropriate and sustainable long-term governance and stewardship arrangements for community assets including green space, public realm areas and community and other relevant facilities; such arrangements to be funded by the development and include community representation to ensure residents have a stake in the long term development, stewardship and management of their community.
25. 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.



## Delivery, Implementation & Monitoring

## 9 Delivery, Implementation & Monitoring

- 9.1** The North Essex authorities will work together to deliver cross-authority strategic proposals contained in section 1 of their plans, including the garden community. This entails consideration of appropriate models for the governance, funding and comprehensive delivery of these innovative large scale and long term growth projects in line with the principles set out in policy SP7. In view of the scale and long term nature of the proposed garden communities, the authorities intend to have a significant role in how the communities are phased and delivered and to ensure that the infrastructure and other supporting measures to support the residents of the new communities are delivered in advance of or at the same time as new homes. This should also help ensure delivery throughout different economic cycles.
- 9.2** The North Essex authorities will monitor these section 1 policies to ensure that they are effective and delivering the intended outcomes, including their collective implications for the area as a whole. Monitoring of Part 1 objectives and outcomes as outlined in the table below will be assessed regularly by the authorities in their annual Authority Monitoring Reports (AMR), in addition to the monitoring of the individual Part 2 of each Local Plan. It should be noted that where there is an unacceptable delay in delivery of development and/or infrastructure occurs, the local authorities will use mechanisms and powers including establishing locally-led Development Corporations and the use of Compulsory Purchase Orders, to intervene.



### 9.3 Table 1: Monitoring Requirements for Section 1

Part One Objectives	Part One Policies	Targets	Key Indicators in Authority Monitoring Reports
Providing sufficient new homes  Fostering economic development  Providing new and improved infrastructure  Addressing education and healthcare needs  Ensuring high quality outcomes	SP1 Presumption in favour of Sustainable Development	Delivery of new development in accordance with the Development Plan	Record of planning decisions including appeals
	SP2 Recreational Disturbance Avoidance and Mitigation Strategy	Secure contributions from development towards mitigation measures for the loss of off-site habitat	Monitor levels of mitigation contributions received
	SP3 Spatial Strategy for North Essex	Deliver a new Garden Community as the most sustainable options for large scale, long term growth	Local authority agreement and delivery of governance, community involvement, stewardship arrangements and funding arrangements for the new Garden Community
	SP4 Meeting Housing Needs	Deliver new housing in line with spatial strategy and Objectively Assessed Need targets	Market and affordable housing completions per annum (net)
	SP5 Employment	Deliver new employment land in line with spatial strategy and evidence base targets	Amount of floorspace development for employment and leisure by type

Part One Objectives	Part One Policies	Targets	Key Indicators in Authority Monitoring Reports
	SP6 Infrastructure and Connectivity	<p>Delivery of identified infrastructure schemes including transport, education, community, healthcare, green/blue infrastructure and environmental protection</p> <p>Increase modal share of non-motorised transport</p>	<p>Identify and monitor progress of strategic infrastructure projects</p> <p>Monitor modal splits and self-containment via Census and measure traffic levels on key routes</p>
	SP7 Place Shaping Principles	<p>Approved DPDs, masterplans &amp; other planning &amp; design guidance prior to the commencement of development of the new Garden Community. Deliver communities that are sensitively integrated into the existing historic built and natural environment</p>	<p>Monitor availability of DPDs and other planning guidance relative to the submission &amp; determination of planning applications for the development it relates to. Planning permissions granted without objection from relevant statutory consultees and local authority specialist advisors</p>
	SP8 Development and Delivery of a New Garden Community in North Essex	<p>Development and delivery of a new Garden Community</p>	<p>Local authority agreement and delivery of governance, community involvement, stewardship arrangements and funding arrangements for new Garden Community</p>

Part One Objectives	Part One Policies	Targets	Key Indicators in Authority Monitoring Reports
	SP9 Tendring/Colchester Borders Garden Community	Deliver a sustainable new community in accordance with guidance as adopted	Delivery rates of all development including supporting infrastructure as documented in housing trajectories and other monitoring data

### Monitoring Requirements for Section 1



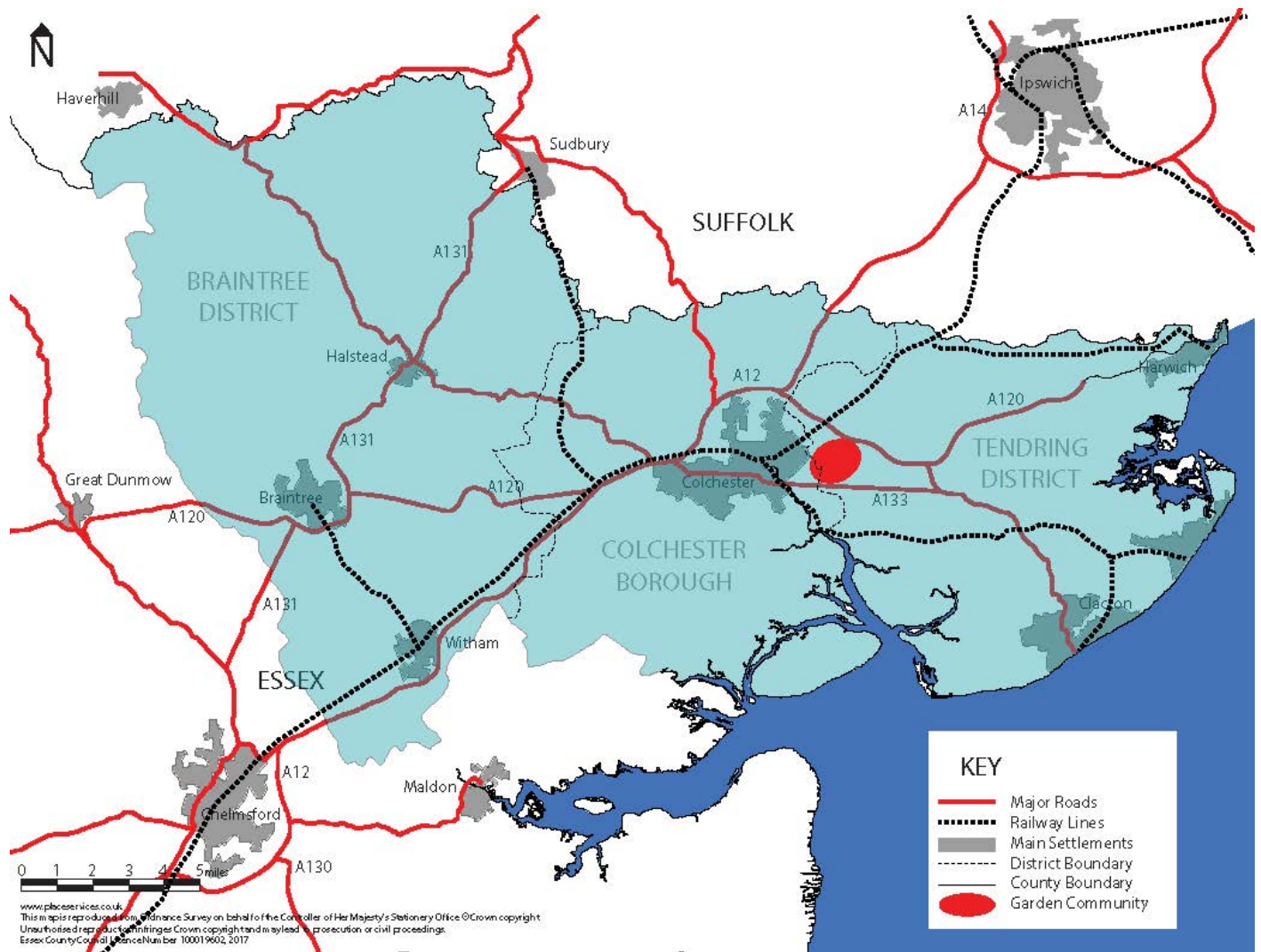
# Appendices & Maps

# 10 Appendices & Maps

## Appendix A: List of policies superseded by Section 1 of the Plan

Section 1 Local Plan Policy		Policies superseded by the Section 1 Local Plan Policy		
Policy Number	Policy Title	Braintree District Council 2011 Core Strategy	Colchester Borough Council Adopted Core Strategy 2014 Focused Review	Tendring District Council Adopted 2007 Local Plan
<b>SP1</b>	Presumption in Favour of Sustainable Development	-	-	-
<b>SP2</b>	Recreational disturbance Avoidance and Mitigation Strategy (RAMS)	-	-	-
<b>SP3</b>	Spatial Strategy for North Essex	CS1	H1	QL1
<b>SP4</b>	Meeting Housing Needs	CS3	H1	HG1
<b>SP5</b>	Providing for Employment	CS4	CE1	QL4
<b>SP6</b>	Infrastructure and Connectivity	CS11	SD2	-
<b>SP7</b>	Place Shaping Principles	CS9	-	QL8 / QL9 / QL10 / QL11 (in part)
<b>SP8</b>	Development and Delivery of New Garden Communities in North Essex	-	-	-
<b>SP9</b>	Tendring / Colchester Borders Garden Community	-	-	-

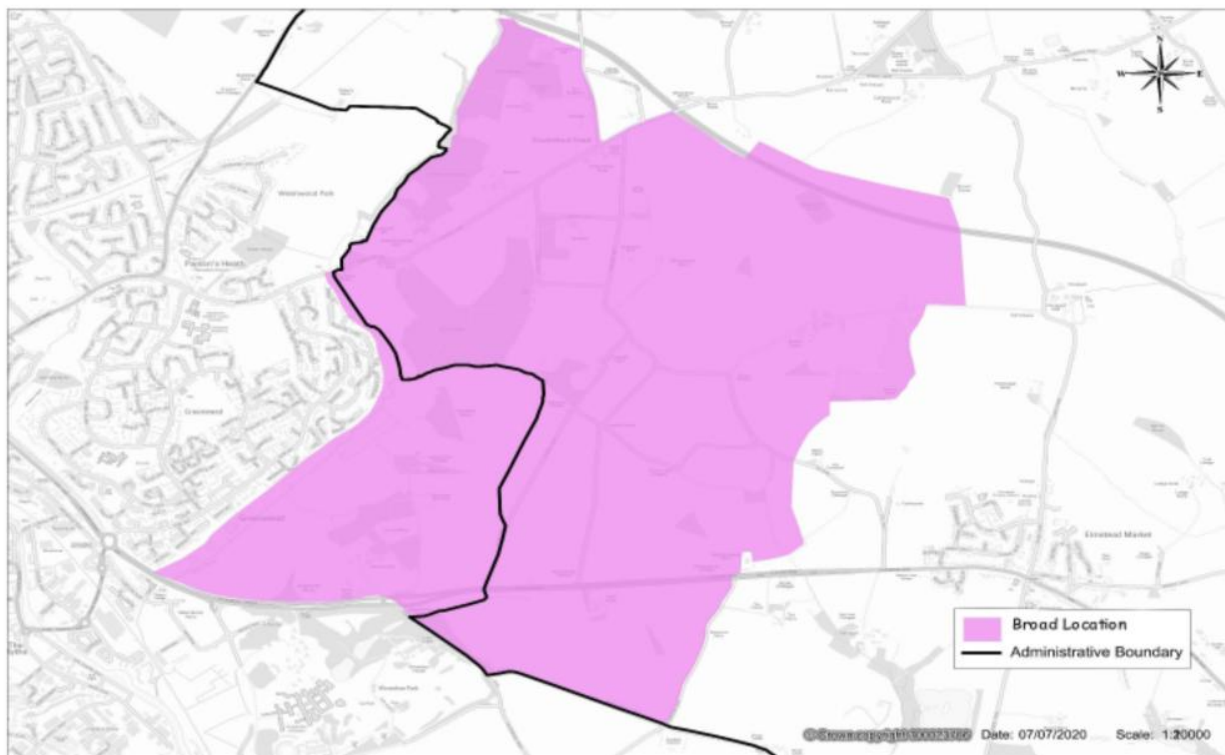
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10.1 Key Diagram



### Tendring Colchester Borders Garden Community – Broad Location



### 10.2 Tendring Colchester Borders Garden Community - Broad Location



<b>Updates to the Statement of Community Involvement</b>		<b>Agenda No: 6</b>
<b>Portfolio</b>	<b>Planning</b>	
<b>Corporate Outcome:</b>	<b>Connecting People and Places</b>	
<b>Report presented by:</b>	<b>Alan Massow – Principal Planning Policy Officer</b>	
<b>Report prepared by:</b>	<b>Alan Massow – Principal Planning Policy Officer</b>	
<b>Background Papers:</b>		<b>Public Report:</b> Yes
<ul style="list-style-type: none"><li>• The Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017</li><li>• Neighbourhood Planning Act 2017</li><li>• Town and Country Planning (Development Management Procedure) Order (2015)</li><li>• General Data Protection Regulations</li><li>• National Planning Policy Framework (2019)</li><li>• National Planning Policy Guidance</li><li>• Coronavirus Act 2020</li><li>• The Town and Country Planning (Local Planning, Development Management Procedure, Listed Buildings etc.) (England) (Coronavirus) (Amendment) Regulations 2020</li><li>• The Town and County Planning (General Permitted Development)(England) Order (2015)</li></ul>		<b>Key Decision:</b> No
<b>Executive Summary:</b>		
<p>An update to the Statement of Community Involvement (SCI) is normally required every 5 years, in order to comply with the Town and Country Planning Regulations 2017. Members may recently recall approving an updated SCI in July of last year.</p> <p>A number of these updates were temporary updates to deal with the ongoing global pandemic and as reported at the committee in July, were due to expire in December 2020. These reforms have now been extended until 31<sup>st</sup> December 2021 under The Town and Country Planning (Local Planning, Development Management Procedures, Listed Buildings etc) (England) (Coronavirus) (Amendment) Regulation 2020.</p> <p>The SCI has also been updated to reflect changes in development management processes from Tables 7.1 to 7.11. This is to update the consultation requirements within those tables in line with the latest government guidance.</p>		

**Recommended Decision:**

That the Statement of Community Involvement 2021 as set out in Appendix 1 to this report is approved.

To note that the changes within the SCI report expire on 31<sup>st</sup> December 2021.

That future changes to tables 7.1 to 7.11 which are required due to updated government legislation are delegated to the Director for Growth in consultation with the Portfolio holder for Planning.

**Purpose of Decision:**

To carry forward the updated Statement of Community Involvement (2021) in accordance with latest government regulations.

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

<b>Financial:</b>	The costs of keeping the SCI updated and meeting the consultation requirements set out within it are met from existing base budgets.
<b>Legal:</b>	The Local Planning Authority has a duty to review its Statement of Community Involvement at least every five years from the date of publication. Temporary changes to the way local authorities can consult on planning matters was brought in on the 13/05/20 and the changes were extended on the 24/12/20, and are now due to expire on the 31 <sup>st</sup> December 2021. Updated process for gaining planning permission has been released for the General Permitted Development Order (2015) as amended and the Planning (Listed Building and Conservation Areas) Act 1990 and the Town and Country Planning Act 1990.
<b>Safeguarding:</b>	No matters arising out of this report.
<b>Equalities/Diversity:</b>	The Statement of Community Involvement has a positive/neutral impact on people with protected characteristics. An Equalities Impact Assessment has been carried out.
<b>Customer Impact:</b>	The Statement of Community Involvement will set out how the Local Planning Authority will undertake public consultations and/or engage with its customers for the Local Plan and for planning applications. For Parish Councils, it will also set out how the Local Planning Authority will support Neighbourhood Plans.
<b>Environment and Climate Change:</b>	No matters arising out of this report

<b>Consultation/Community Engagement:</b>	As these changes are a result of changes to government guidance which must be reflected in the SCI it is not considered necessary to consult on the proposed changes.
<b>Risks:</b>	The Local Planning Authority (LPA) has a legal duty to review its Statement of Community Involvement under the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017.
<b>Officer Contact:</b>	Alan Massow
<b>Designation:</b>	Principal Planning Policy Officer
<b>Ext. No:</b>	2577
<b>E-mail:</b>	<a href="mailto:Alan.massow@braintree.gov.uk">Alan.massow@braintree.gov.uk</a>

## **1 Introduction**

- 1.1 The Statement of Community Involvement (SCI) sets out how the council will consult the residents and stakeholders on planning applications and Local Plan documents. This includes public consultation of the Local Plan, Neighbourhood Plan and Supplementary Planning Documents, making comments on planning applications and how the LPA will assist Neighbourhood Planning areas or forums.
- 1.2 Braintree District Council's SCI has only recently been updated, however an extension to the changes in government guidance have been brought into effect, enabling consultation on planning applications, Local Plans and Neighbourhood Plans to continue under the continued circumstances. There have also been legislation updates under the General Permitted Development Order (2015) (GDPO) as amended and the Planning (Listed Building and Conservation Areas) Act 1990 and the Town and Country Planning Act 1990, these are permanent changes

## **2 Government Changes to Consultation**

- 2.1 The government have made clear in May 2020, that during the current crisis face to face consultation should be replaced with other consultation methods, and that it is acceptable to hold consultations without having physical hard copies of documents available.
- 2.2 Advice was provided on a number of areas including;
- Community Infrastructure Levy
  - New time-limited permitted development rights
  - Validation of applications
  - Determination timescales
  - Publicity and consultation for planning applications
  - Virtual planning committees
  - Local Plans
  - Neighbourhood Plans
  - Compulsory purchase
  - Nationally Significant Infrastructure Projects
- 2.3 The majority of changes in the SCI relate to Local and Neighbourhood planning within the district as well as Development Management procedures for consultation.

## **3 Development Management Procedures**

- 3.1 The following changes have been made to tables 7.1 to 7.11 in response to changes to the General Permitted Development Order (2015) as amended and the Planning (Listed Building and Conservation Areas) Act 1990 and the Town and Country Planning Act 1990. In terms of the change to the listed building applications, there was never a legal requirement to consult so it was incorrect in the previous SCI.
- 3.2 Listed building consent applications

- To remove the legal requirement to consult the Parish/Town Council - as there is no legal requirement
  - Insert LPA SCI requirement to notify the Parish/Town Council
- 3.3 To include the following types of prior approval applications given amendments to the GPDO:
- Householder Prior Approval Applications (Additional Storeys)
  - New dwelling house on a detached blocks of flats
- 3.4 To include reference to Permission in Principle applications
- 3.5 To update Consultation requirements in respect of Prior Approval applications for Agriculture and Forestry – Document now includes proposed consultation for an application which requests Prior Approval and an application where Prior Approval is required to reflect that the determination of such applications can be split.
- 3.6 To update the consultation responses in respect of Electronic Communication given amendments to the GPDO.
- 3.7 To update the LPA SCI Consultation in respect of Tree Works – To notify the Parish/Town Council rather than consult (given limited time to deal with the applications)

#### **4 Neighbourhood Planning**

- 4.1 The neighbourhood plan process involves significant levels of consultation particularly during its drafting stages to enable members of the community to have the opportunity to have their say on the plans. This stage of the consultation (Regulation 14) is run by the parish council's neighbourhood plan group, the Regulation 16 stage is run by the local planning authority. The Local Authority also provides advice to groups (through the Rural Community Council of Essex (RCCE)) on carrying out consultations effectively.
- 4.2 The neighbourhood plan regulation 16 (a) states that the consultation documents should be on the Council's website and in such other manner as they consider is likely to bring the proposal to the attention of people in the neighbourhood area. To do this the Council places a newspaper advert, puts the documents on deposit at the Council office and a local library, and provides public notices to the parish to put up if they want them. This stage of the consultation would not normally require the local authority to hold public exhibitions, as all representations are considered by an independent examiner.
- 4.3 In continuing these temporary amendments to the SCI, whilst the Council will endeavour to provide hard copies of the Neighbourhood Plan available to those without access to the internet, this will be dependent on individual circumstances at the time of the consultation. This could include copies of the Neighbourhood Plan to view at libraries or at Causeway House or Parish Council offices by appointment, or in limited circumstances posting hard copies of plans to individual residents. Whilst no face to face events are proposed during this time, officers will remain available via phone, email and

virtual meeting to discuss any consultation with local residents and interested groups.

## **5 Local Plans**

- 5.1 Local Plans also under go public consultation with all stages of it being undertaken by the Local Planning Authority. The Town and Country Planning (Local Planning)(England) Regulations 2012, require under regulation 35, that a document is considered to be made available when it is available for inspection at their principal office (Causeway House), and other such places within their area which they consider appropriate during normal office hours. It is also necessary to publish the document on the Council's website.
- 5.2 Under normal circumstances the Council would deposit the document in libraries in the district and its main office.
- 5.3 Main consultation such as those held under regulation 18 and 19 of the regulations, would normally include public exhibitions or meetings depending on the type of consultation taking place.
- 5.4 For both Neighbourhood Plan and Local Plan consultation the situation will continue to be monitored and the Council will undertake as much consultation as it is able to do at the time of the consultation, based on government and public health advice.
- 5.5 The full SCI is attached as Appendix 1 to this report. Temporary changes to the SCI which will be in place until December 2021 are set out in red and will expire on the 31<sup>st</sup> December 2021, unless the relevant legislation is extended. The text following in strike out will then replace it. to continue to take into account the revised national planning practice guidance, by making all public consultations and meetings available to attend online, and providing an alternative arrangement where possible for the physical inspection of documents.

## **6 Recommendation**

**That the Statement of Community Involvement 2021 as set out in Appendix 1 to this report is approved.**

**To note that the changes within the SCI report expire on 31<sup>st</sup> December 2021.**

**That future changes to tables 7.1 to 7.11 which are required due to updated government legislation are delegated to the Director for Growth in consultation with the Portfolio holder for Planning.**





| LOCAL  
| PLAN |

# Statement of Community Involvement 2021

(Covid  
19 Amendments  
are set out in red  
and will expire on  
the 31<sup>st</sup> December  
2021. Text in  
crossed through  
black will be then  
reinstated.)



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## 1 Background

- 1.1 This document is an update to reflect the current Covid-19 pandemic, and takes into account revised government guidance on public consultation published on the 13<sup>th</sup> May 2020, ~~an amendment to the Statement of Community Involvement (SCI) September 2013. It is the 5<sup>th</sup> iteration of the SCI.~~ This guidance has since been extended until the 31<sup>st</sup> December 2021.
- 1.2 The first SCI was adopted by the Council in July 2006, following a public consultation and review by an independent Planning Inspector. In September 2009, a supplement was approved due to the Council introducing pre-application charging. A further minor amendment was approved by the Local Development Framework (LDF) Panel in April 2010. Further amendments were made in 2013 reflected changes in legislation, governance and technological change.
- 1.3 A need to review the SCI has arisen due to ~~recent changes in~~ new legislation (The Coronavirus Act 2020) and updated planning guidance which requires a review of the SCI to ensure plan making can continue. ~~The Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017 amended section 10A to include a duty on Local Planning Authorities (LPAs) to review their SCIs every five years. Additionally, the Neighbourhood Planning Act 2017 has introduced a requirement on LPAs to include within their SCIs their policies for giving advice or assistance on making and modifying neighbourhood development plans and on making neighbourhood development orders.~~
- 1.4 An SCI must be subject to public consultation however since 2011, SCIs do not need independent examination.

## 2 Consultation on draft revision of 6<sup>th</sup> iteration of the SCI

- 2.1 ~~This SCI was published for a six week public consultation using methods from both the previous SCI and any additional methods set out in this document. An equalities impact assessment accompanies the SCI to ensure that the needs of people in respect of age, disability, gender, pregnancy & maternity, race, religion or sexual orientation are taken into account.~~ No public consultation has taken place for this version of the SCI, as the changes proposed are temporary until 31<sup>st</sup> December 2021. After that date the SCI will revert to its previous form with the exception of factual or regulatory updates.

### 3 Introduction

- 3.1 The *Planning and Compulsory Purchase Act (2004)* changed the planning system in England by including a requirement for Local Planning Authorities (LPAs) to produce a Statement showing how communities and stakeholders will be consulted. The *Localism Act 2011* places engaging with local communities to shape the places where they want to live, work and play at the heart of the planning system.

#### What is an SCI?

- 3.2 The Statement of Community Involvement (SCI) sets out how and when the LPA will involve local communities in the planning system, together with a description of the consultation methods to be used for each planning activity such as site notices, social media, [online](#) workshops and other methods. This includes community engagement in both policy and development management aspects of the planning system; The Local Plan, neighbourhood and other planning policy documents which sets out the planning policies to guide new development in the District and consultation on planning applications.
- 3.3 The National Planning Policy Framework (NPPF) (recently updated in February 2019) provides the framework for local communities and the local authorities to prepare local and neighbourhood plans that reflect their visions and aspirations through the Local Plan process. The NPPF recognises that early and meaningful engagement and collaboration with neighbourhoods, local organisations and businesses is essential. Paragraph 12-017 of the NPPG (last revised 2014) states:

*“LPAs [are required] to produce a Statement of Community Involvement, which should explain how they will engage local communities and other interested parties in producing their Local Plan and determining planning applications. The Statement of Community Involvement should be published on the local planning authority’s website.”*

- 3.4 The key stages for preparing the Local Plan and Development Plan Documents (DPD) are set out in *Town and Country Planning (Local Planning) (England) Regulations 2012*. In summary these are set out below:

<b>Stage 1</b>	Regulation 18	Public participation in preparation of DPDs.
<b>Stage 2</b>	Regulation 19 + 20	Publication of a DPD and making representations (under regulation 20 consultation is 6 weeks).
<b>Stage 3</b>	Regulation 22	Submission of documents to Secretary of State.

<b>Stage 4</b>	Regulation 23 to 25	Examination process.
<b>Stage 5</b>	Regulation 26	Adoption of DPD.

## 4 The Plan Making Process

- 4.1 The *Planning and Compulsory Purchase Act (2004)* required the preparation of new planning documents to replace the previous 'Local Plan' system. This new suite of documents was called the Local Development Framework (LDF) however, following a change of government in 2010, a new set of *Town and County Planning (Local Planning) (England) Regulations* came into force in 2012 and these revert to the former terminology of a 'Local Plan'.

### Currently adopted Local Plan

- 4.2 Braintree District Council has adopted a Core Strategy (2011) under the Local Development Framework System. Guidance for the District is also set out in the Local Plan Review 2005, and is relevant where it is still an adopted development policy for decision making.
- 4.3 For the purposes of minerals and waste planning, Essex County Council are the responsible authority for producing a Minerals Local Plan and Waste Local Plan. The Essex and Southend-on-Sea Waste Local Plan was adopted in July 2017 and the Essex Minerals Local Plan was adopted in July 2014. When preparing the Braintree Local Plan, regard will need to be given to the strategies and policies contained within the Minerals and Waste Local Plans.
- 4.4 Braintree District Council has submitted for examination a new two part Local Plan with a shared strategic Section 1 which is jointly prepared with the neighbouring authorities of Tendring and Colchester. The Section 2 Local Plan has also been submitted and sets out policies and proposals which relate to Braintree District only.
- 4.5 The new Local Plan will set out how the Council plans for, and make decisions about, the future of towns, villages and countryside in the District. It will set out a strategy for the future development of the District, which is based on a clear and locally distinct vision. This vision should be developed with the involvement of the local community and there should be commitment by all relevant agencies to its delivery.
- 4.6 There are a number of different types of planning documents that can be prepared as set out below.

### Local Development Scheme

- 4.7 The Local Development Scheme (LDS) is a project planning document for the Local Plan. It sets out the documents that the Council intends to produce, their scope and the timetable for their preparation. It is regularly updated to

reflect the Council's priorities for plan making.

### **Local Plans (including CIL, DPDs, policies maps and Sustainability Appraisals)**

- 4.8 Development Plan Documents (DPDs) are planning documents that cover policies, proposals and allocations. They are statutory documents prepared in accordance with set procedures. This includes community involvement throughout the process in accordance with this SCI. The DPDs will be subject to a public examination to assess their soundness, which will be carried out by an independent Planning Inspector.
- 4.9 A policies map (also known as proposals map) often accompanies a DPD to spatially identify land use designations and allocations. The adopted proposals map reflects the most up-to-date spatial plan for the District and is revised when new DPDs are adopted. Inset maps have been prepared at a larger scale than the proposals map to show certain areas in more detail.
- 4.10 The Council will undertake a Sustainability Appraisal (SA) and Strategic Environmental Assessments (SEAs) of DPDs during their preparation. This tests the policies and proposals against sustainability objectives and enable them to be modified where appropriate to mitigate potential adverse effects. The Sustainability Appraisal will be published for public consultation alongside the DPDs where appropriate.

### **Supplementary Planning Documents (including Area Action Plans)**

- 4.11 A Supplementary Planning Document (SPD) provides further information in respect to DPD policies. SPDs must be consulted on (regulations 18 - 20) and can be adopted without an independent examination.
- 4.12 To guide the application of policies in the Local Plan, the Council has adopted a number of SPDs. The SPDs cover a range of issues, specific subjects, or individual sites. They are intended to explain, or provide further detail about policies or site allocations in the Development Plan Document. SPDs must have public consultations carried out in accordance with this SCI.
- 4.13 An Area Action Plan (AAP) is a SPD which is focused on a specific location and set out additional policies and/or land use designations. This typically involves new policies for the implementation and delivery of development of an appropriate scale, mix and quality. There are currently no plans for the production of new AAPs, as Masterplans, rather than AAPs, will be produced for allocated strategic growth locations to guide planning applications for these areas where appropriate.

## Neighbourhood Plans

- 4.14 The *Localism Act 2011* introduced reforms to the planning system that enables communities through a parish/town council or a Neighbourhood Forum to create Neighbourhood Plans for their area. This has introduced a new tier of Development Plan Documents to the planning system.
- 4.15 The *Neighbourhood Planning (General) Regulations 2012* (As amended) provides further details of the process of Neighbourhood Planning, including requirements for consultation and publication of neighbourhood areas, forums and plans. The 2017 regulations amendment brought in new duties for the LPA including a requirement for LPAs to set out how they will give advice or assistance to Neighbourhood plans or Development Orders.
- 4.16 Assistance and advice is available from the Rural Communities Council of Essex (RCCE) and Council's Local Plan Team. The [\*Statement of Relationship with Braintree District Council in the preparation of a Neighbourhood Development Plan\*](#) provides more information and is available online. The table below also outlines the assistance that will be provided:

Stage of Process	Support Available
<b>Initial meeting(s)</b> <b>(Please note that these will be online meetings)</b>	Make a presentation about neighbourhood planning; Facilitate a community workshop to get people involved; Provide examples of publicity materials.
<b>Define the Neighbourhood Area</b>	Explain the application process; Advise on the boundaries and the suitability of the local group as a 'qualifying body'.
<b>Establish a steering group</b>	Chair initial meetings of volunteers; Advise on group structure; Provide example terms of reference; Provide training for group members.
<b>Prepare a project plan</b>	Advise on time plan and budget; Assist with funding applications.
<b>Community engagement</b>	Advise on a communications strategy; Provide example surveys; Advise on engagement event organisation; Facilitate community engagement events; Advise on how to keep records of participants.
<b>Draft a vision and planning objectives</b>	Facilitate a visioning event; Provide example visions and planning objectives.



<b>Create an evidence base</b>	Sign post to sources of information; Provide maps; Advise on assessment of sites; Provide comments on the emerging evidence base; Advise on additional studies that may be needed; Advise on Sustainability Appraisal; Advise on any requirement for Environmental Assessment and Habitats Regulations Assessment.
<b>Prepare a draft plan</b>	Advise on presentation and assessment of options; Advise on creating deliverable proposals; Advise on how to draft planning policy; Advise on the structure of the document; Provide comments on the emerging draft; Provide a Strategic Environmental Assessment scoping report on the draft plan.
<b>Consult on the plan (pre submission consultation)</b>	Advise on the statutory consultation process; Advise on the preparation of the Consultation Statement and Basic Conditions Statement.
<b>Submit the Plan for Validation and Consultation</b>	Advise on suitability of the plan in meeting the 'basic conditions': Conformity of the Plan; Suitability of the Consultation Statement; Suitability of any Environmental Assessment or Habitats Regulations Assessment undertaken; Conformity with other legislative requirements; Conformity with the OS mapping requirements (including copyright issues).
<b>Appoint examiner</b>	Work together on the appointment of the independent examiner.

- 4.17 Like Local Plans, neighbourhood plans are subject to public consultations. Neighbourhood plan consultations must adhere to the stages within the Neighbourhood Planning (general) regulations 2012 (As Amended), however the Coronavirus (COVID-19): Planning Update means that primarily online publication is now an acceptable means of consultation. The LPA may be required to undertake the consultation for Neighbourhood Designation under some circumstances where this is required by regulation – the LPA will advise on a discretionary basis.
- 4.18 When it becomes possible to provide a requirement housing figure for a designated neighborhood plan area, i.e. though preparation of an NPPF 2019 compliant Local Plan, the LPA will provide such assistance during the creation of an evidence base.

- 4.19 Regulation 14 consultation is carried out by the Parish Council or Neighbourhood Forum, they must consult the bodies prescribed in Schedule 1 of the regulations, and they may decide who else to consult given the scope and nature of the proposals in accordance with paragraph 48 of the PPG. The LPA will advise and assist on this consultation as required. For regulation 16, it is the LPA's responsibility to undertake public consultation in accordance with the legislation and the commitments set out within this SCI.
- 4.20 Before the examination, the LPA has to check that the submitted plan/order is legally compliant, i.e. the procedural steps have been followed. The examiner's report is not legally binding, but the authority must have clear reasons for departing from any of the examiner's recommendations. If significant changes are made by the LPA, further examination may be required.

## **5. Preparation of Development Plan Documents, Supplementary Planning Documents and Neighbourhood Plans.**

5.1 The Council will publish details, in its Local Development Scheme and on its website, of the timetable for the preparation of DPDs and will regularly update this information. DPDs that have been adopted will be published on the website, together with supporting evidence documents. An interactive version of the Local Plan will be available on the website.

5.2 The key stages in the preparation of Development Plan Documents are as follows:

### **Preparation and Public Participation, and Duty to Co-operate (Issues and Scoping)**

5.3 This is the survey and evidence gathering stage, undertaken to understand the main issues to be addressed in the document. It involves collating up to date information on social, environmental and economic matters.

5.4 Early consultation will be conducted on each DPD as considered appropriate by the Council.

5.5 The Localism Act and the National Planning Policy Framework (NPPF) places a duty on local planning authorities and other bodies to cooperate with each other to address strategic issues relevant to their areas. The duty requires ongoing constructive and active engagement on the preparation of development plan documents and other activities relating to the sustainable development and use of land, in particular in connection with strategic infrastructure.

5.6 In order to demonstrate effective and on-going joint working, the NPPF requires LPAs to maintain Statements of Common Ground (SOCG) on cross-boundary matters. These will state the matter(s) being addressed and progress made through co-operation to address them. The information required for the production of SOCGs is detailed further in the NPPG.

### **Regulation 18 Consultation**

5.7 This consultation stage is a statutory requirement and a minimum six week consultation period for a development plan document is required. This is an opportunity for the community, statutory consultees and other stakeholders to submit representations on the document and raise concerns. It is also an opportunity to set out alternative options to those being proposed.

- 5.8 The Council will publish the document electronically ~~and in paper form.~~
- 5.9 A Sustainability Appraisal must be integrated at this stage to inform the DPD from a sustainability perspective, ensuring that the social, environmental and economic needs of (and effect on) the area are taken into account. A Habitats Regulation Assessment may also be required to establish whether the DPD has likely significant effects on internationally protected nature conservation sites.
- 5.10 Alternative options put forward by others will also be published and made available for inspection.

### **Regulation 19 + 20 Publication of a Local Plan**

- 5.11 After considering the responses to the draft document, the Council will publish the Submission Document. This will contain finalised policies and proposals. Before it can be submitted to the Secretary of State it will be published for pre-submission consultation for a minimum of six weeks. The submission will be accompanied by a document that sets out how representations have been dealt with in accordance with this SCI.
- 5.12 Representations should relate to whether policies and plans are prepared in accordance with the Duty to Cooperate, the relevant legal and procedural requirements, and whether it is considered to be 'sound' (see paragraph 4.15 below). Representations at this stage should only make reference to these matters.
- 5.13 At the same time the Sustainability Appraisal and Habitats Regulations Assessment will be published together with other supporting documents as appropriate. Copies of all representations received during the period for consultation on the Submission DPD together with a summary of previous issues and how they were dealt with, will be forwarded to Secretary of State.

### **Public Examination**

- 5.14 The Secretary of State will appoint an Inspector to carry out the examination into the soundness of the document. The tests of soundness (NPPF Paragraph 35) are set out below:
- a) Positively Prepared – providing a strategy which, as a minimum, seek to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with sustainable development;

- b) Justified – an appropriate strategy, taking into account the reasonable alternatives, based on proportionate evidence;
  - c) Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
  - d) Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this framework.
- 5.14 The Council appoints the Programme Officer who is the point of contact for the Inspector. The name of, and details for how to get in contact with, the inspector will be published on the Council's website. A notice detailing the time and place of the examination and pre-hearing meeting (if necessary) will be published on the Council's website. Please note that the examination and pre-hearing meeting will be conducted online until further notice.
- 5.15 Examinations are not required for SPDs or this Statement of Community Involvement.

### **Adoption**

- 5.16 Following receipt of the Inspector's report the Council will make the necessary changes to the document and then adopt the document together with its Sustainability Appraisal. In most circumstances the Inspector will recommend adoption subject to main modifications necessary to make the plan sound and legally compliant. Any such main modifications will require a full public consultation which will be advertised and the document made available online. ~~at the Council offices. It will also be published on the Council's website.~~

### **SPDs and Neighbourhood Plans**

- 5.17 Supplementary Planning Documents (including AAPs) must accord with a separate part of the Town and Country Planning (General) regulations 2012 to DPDs (regulations 12 to 15). Neighbourhood Plans are prepared in accordance with regulations 14 to 20 of the Neighbourhood Planning (General) Regulations 2012.
- 5.18 On the 13<sup>th</sup> May 2020 updated guidance was published to indicate that it is not mandatory for copies of documents to be made available in a physical location.

5.19 The differences for the purposes of community involvement are set out in the following table:

	<b>Local Plans, Development Plan Documents</b>	<b>Supplementary Planning Documents</b>	<b>Neighbourhood Plans</b>
<b>Preparation and Duty-to- Co-operate</b>	<p>Information gathering to update social, environmental and economic matters.</p> <p>Early consultation on the broad subject of the DPD.</p> <p>The LPA must undertake the DTC and maintain an SOCG on strategic cross boundary matters.</p>	<p>Information gathering to update social, environmental and economic matters.</p> <p>The duty-to-cooperate does not apply to non-strategic plans.</p>	<p>Evidence gathering and public participation is at the discretion of the Neighbourhood Plan group.</p> <p>The duty-to-cooperate does not apply to non-strategic plans.</p>
<b>Draft Consultation</b>	<p>6 week public consultation</p> <p>Sustainability Appraisal required.</p>	<p>4-6 week public consultation.</p> <p>Sustainability Appraisal not required.</p> <p>This stage is optional.</p>	<p>6 week public consultation carried out by qualifying body.</p> <p>Sustainability Appraisal may be required in very limited circumstances.</p>
<b>Publication Draft Consultation</b>	<p>6 week public consultation.</p>	<p>4-6 week public consultation.</p>	<p>6 week public consultation.</p> <p>SEA and HRA screening is required.</p>
<b>Examination</b>	<p>Secretary of State will appoint an Inspector who will carry out an examination into the soundness of the Plan.</p>	<p>No examination is required.</p>	<p>An examiner, who is appointed by the LPA in with agreement with the qualifying body, will determine if the Neighbourhood Plan meets the Basic Conditions.</p> <p>This is likely to be conducted through written representations. <del>rather than public hearings.</del></p>

<b>Referendum</b>	No referendum required.	No referendum required.	Following receipt of examiner's report, the LPA must make a decision on whether the Plan can proceed to referendum in accordance to regulation 18 as soon as possible. <a href="#"><u>The Coronavirus Bill has suspended elections and referendum until the 6<sup>th</sup> May 2021.</u></a>
<b>Adoption</b>	Following receipt of Inspector's report and the recommended changes to make the plan sound, the Council may choose to adopt it in line with regulation 25 and 26.	Following the preparation of a consultation statement and adoption statement, an SPD can be adopted by the LPA in line with regulation 14.	If the Neighbourhood plan referendum receives a simple majority in favour, the LPA can adopt the Plan update. <a href="#"><u>Changes to planning guidance on the 7<sup>th</sup> April 2020 set out that neighbourhood plans awaiting referendums can be given significant weight in decision making.</u></a>

## 6. Community Involvement in the Local Plan

- 6.1 NPPF paragraph 16 states that plans should ‘be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees; [and] be accessible through the use of digital tools to assist public involvement and policy presentation;’
- 6.2 The Council intends to maintain a process of ongoing community involvement and early involvement in the preparation of each document, so that the community have had a chance to influence local policy decisions that are made. The Council will let people know about what it is doing, what stage it has reached in the preparation of documents, where documents can be inspected, how people can be involved and the results of consultations. This information will be updated.
- 6.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) set out the minimum requirements for public participation in the preparation of a DPD. ~~It is proposed to go beyond these requirements.~~

### Methods of Community Involvement

- 6.4 A number of different methods will be used depending on the nature of the subject involved, audience and Council resources, to enable effective community involvement.
- 6.5 The following table sets out the methods and activities the Council will consider using. It is not exhaustive, nor does it represent a list of activities that will be used in every instance. All engagement activities will be published on the Council’s website.

Consultation Method/Activity	How it will be used
Council’s Website	<ul style="list-style-type: none"><li>• Council’s website – <a href="http://www.braintree.gov.uk">www.braintree.gov.uk</a></li><li>• Publication of DPDs through the Council’s Consultation Portal - <a href="http://braintree-consult.limehouse.co.uk/portal">braintree-consult.limehouse.co.uk/portal</a></li><li>• Host information on the timescales and progress of the Local Plan.</li><li>• Viewing and downloading of Local Plan documents.</li><li>• Information on the Examination in Public (where applicable) including <del>location and</del> <a href="#">online arrangements</a>, time of hearings, matter statements, and correspondence from the Inspector.</li></ul>



<b>Social Media</b>	<ul style="list-style-type: none"> <li>• BDC corporate social media presence on Facebook, Twitter and Instagram</li> </ul>
<b>Press Release</b>	<ul style="list-style-type: none"> <li>• Issuing new releases to the local media at key stages in the plan-making process.</li> </ul>
<b>Posters, leaflets and displays in public locations</b>	<ul style="list-style-type: none"> <li>• Can be used to summarise detailed information and capture a wider audience.</li> <li>• <del>Leaflets and flyers could be distributed in public places.</del></li> <li>• Posters, leaflets and forms could be circulated to Parish/Town Councils for local community boards and deposit at village halls or local libraries.</li> </ul>
<b>Council Meetings</b>	<ul style="list-style-type: none"> <li>• Where appropriate feedback from Councillors will be sought by taking the documents to relevant committee meetings.</li> </ul>
<b>Public Exhibitions, workshops and Roadshows</b>	<ul style="list-style-type: none"> <li>• <del>Either</del> Unstaffed exhibitions in accessible public places e.g. libraries, council offices <u>if open</u>, or <del>staffed events at town and village public halls and other venues.</del></li> <li>• <del>Participatory methods could be used to record comments however majority of comments</del> <u>comments should be</u> <del>are expected to be submitted on a proforma or online.</del></li> <li>• The Council have a duty to safeguard vulnerable adults and ensure they have regard to the welfare of children at events, <u>however staffed exhibitions are currently suspended.</u></li> </ul>
<b>Public Meetings</b> <u><b>(To be conducted online)</b></u>	<ul style="list-style-type: none"> <li>• An opportunity for face to face discussion.</li> <li>• It will remain the responsibility of the individual, group or organisations to submit written comments after the meeting.</li> <li>• The Council have a duty to safeguard vulnerable adults and ensure they have regard to the welfare of children at this event, <u>however staffed exhibitions are currently suspended.</u></li> </ul>
<b>Questionnaires</b>	<ul style="list-style-type: none"> <li>• Can be sent by post or email to large numbers of people. Useful in gauging opinion on specific issues.</li> </ul>
<b>Site notices</b>	<ul style="list-style-type: none"> <li>• Used to promote the consultation process and reach individuals or groups who are not on the Council's planning policy mailing list.</li> </ul>

	<ul style="list-style-type: none"> <li>• This method can be used to notify residents about proposed development land allocations.</li> </ul>
<b>Workshops</b> <u>(To be conducted online)</u>	<ul style="list-style-type: none"> <li>• Interactive sessions to focus discussion around difficult issues and key themes. This method could capture an audience who may respond to this kind of contact.</li> </ul>
<b>Inspection points</b>	<ul style="list-style-type: none"> <li><del>• Documents will be put on deposit at the Council offices and will be available for inspection during normal office hours.</del></li> <li><del>• Deposits may also be made in public libraries.</del></li> <li>• Documents will be available online at all times.</li> <li>• <u>Documents can be viewed on an appointment basis with the parish council subject to conformity with Covid-19 procedures.</u></li> <li>• <u>Sending documents to a person who is unable to access the internet.</u></li> </ul>

## 7. Who is involved?

7.1 There are various types of bodies, groups and organisations that the council, where appropriate, will involve and consult during the preparation and development of the Local Plan. These lists are not exhaustive and also relate to successor bodies where re-organisations occur.

7.2 Regulation 18 (2) of the *Town and Country Planning (Local Planning) (England) Regulations 2012* (as amended) state that the local planning authority must notify and invite to make representations on the Local Plan, the following bodies:

1) Specific consultation bodies (statutory consultees)

- Historic England
- Environment Agency
- Highways England
- Homes England
- Natural England
- Network Rail
- Mid Essex Clinical Commissioning Group
- Essex Police
- Essex County Council
  
- Relevant authorities adjacent to the district: (Babergh and Mid Suffolk DCs, Colchester BC, Maldon DC, Chelmsford CC, Uttlesford DC, South Cambridgeshire DC, West Suffolk DC, Cambridgeshire CC, Suffolk CC).
- Town and Parish Councils
- Telecommunications companies
- Electricity and gas companies
- Sewerage and water companies

2) general consultation bodies

The Council will seek to engage and consult, where appropriate, with the general public, the wider community, and neighbourhood forums and hard to reach groups. These may include:

Community and voluntary bodies:

- Residents and tenants groups
- Registered social landlords

- Wildlife groups
- Environmental organisations
- Historical/Archeological organisations
- Sports organisations
- Arts organisations
- Citizens advice bureau
- Town and village societies and associations
- Local amenity societies

Special interest groups:

- Disability groups
- Older peoples groups
- Youth groups
- Mental health groups
- Local trusts
- Ethnic minority organisations
- Faith groups and churches
- Local trusts
- LGBT+
- Gypsies and Travelers
- Showman's Guild

Other Bodies:

- Schools, colleges and other education and training providers
- Developers and planning consultants/agents
- Health organisations
- Environmental groups
- Rail and bus groups
- Community transport providers
- House builders
- Housing Associations
- Sport and cultural organisations
- Essex Fire and Rescue
- East of England Ambulance Service
- Local branches of professional institutions

### 3) Residents or other persons carrying on business

Subject to change, these may include:

**Business Groups:**

- Chambers of trade and commerce
- Town centre strategy groups
- Business groups
- Landowner and farming organisations
- Haven Gateway
- South East Local Enterprise Partnership (SELEP)

**Others:**

- Anyone that has previously made a representation on the Local Plan (and have not opted out)
- Anyone who has asked to be placed on the Council's planning policy mailing list.

### **Voluntary Sector Involvement**

- 7.3 The Council will consult with the voluntary and community sector on proposals that may have a significant effect on their services. The Council will make documents available to view prior to the statutory consultation period but this may not always be possible.

### **Consultation with hard to reach groups**

- 7.4 The Council will make efforts to include the views of people with sensory, physical and learning disabilities.
- 7.5 Some parts of the community are often less involved in the planning process, for example, hard to reach groups including young people, older people, people with disabilities and ethnic minorities. Positive action will be taken to ensure that they have the opportunity to participate by following these basic principles in consulting with hard to reach groups:
- Documents are as clear, concise and understandable as possible;
  - Hold **online** meetings and exhibitions **which are** ~~in accessible locations~~ suitable for people with disabilities.
  - ~~— Accessible locations by public transport and locations within the more rural parts of the District.~~

~~7.6 Where people are invited to attend a consultation events in a specific place we will:~~

- ~~— Make sure the venue is accessible,~~
- ~~— Offer a range of contact methods,~~
- ~~— Offer assistance in completing written consultations documents; and~~
- ~~— Be sensitive to the cultural needs of the people we are talking to.~~

### **The Duty to Co-operate**

7.7 The *Localism Act 2011* and NPPF places a duty on LPAs and other prescribed bodies to cooperate with each other to address strategic matters that cross administrative boundaries. Whilst the Council has always consulted with neighbouring District and County Councils, this has added a formal duty to engage constructively, actively and on an ongoing basis in the preparation of the Local Plan and on strategic matters such as infrastructure. The Council's compliance with the duty to cooperate will be demonstrated through Statements of Common Ground which will be published on the Council's website.

### **Feedback and respond to Consultation Results**

- 7.8 All representations on DPDs will be made available to view online. Comments can be made through the Council's consultation portal, by post or email. Written comments will be transcribed onto the consultation portal.
- 7.9 After the consultation has concluded, all representations will be published on the Council's website. Representations will be reviewed by officers and reported to the relevant committee. The report will summarise the representations received, provide officer comment on the matters raised, make recommendations with reasons, and be used to inform future stages of plan preparation. The report and minutes of these meetings will be made available online.

### **Data Protection**

- 7.10 In compliance with the General Data Protection Act (GDPR), the following actions will be undertaken:
- 7.11 The details of anyone who makes a representation to the Council will be held on a database in order to undertake its statutory tasks. A mailing list will also be created featuring only individuals, groups or businesses who have opted in. The names and organisation of any member of the public making a representation will be published alongside their representation as these are

required to be made a matter of public record. All other personal details will be redacted.

- 7.12 A Privacy Notice will be provided at the time of collecting the data. No personal respondent data will be shared with partners or any other third parties, and will be disposed of once it is no longer needed. Acknowledgement by e-mail or letter will be also sent to representations and to provide further information.

**Regarding the use of data for Public Examination:**

- 7.13 All DPDs submitted to the Secretary of State will be accompanied by a Consultation Statement which sets out compliance with the SCI in the preparation of the document, the main issues raised and how these have been addressed. A duty to cooperate statement will also be prepared to demonstrate how the LPA has met the duty in the preparation of the DPD. As required by legislation, all those on our mailing list will be notified by letter or e-mail when documents are submitted to the Secretary of State for consideration, when the Inspector's main modifications is published (if required) and when a document is adopted.

## **8. Development Management**

### **Introduction**

- 8.1 In order to carry out development or works to a listed building in the Braintree District, permission to do so must be granted by the Local Planning Authority through a formal application process. 'Development' has a legal definition, but in summary it means that planning permission is usually required for:
- Building new structures,
  - Changing the use of existing structures or land; and
  - Making extensions/modifications that aren't covered by permitted development rights.
- 8.2 The exception to this is where certain types of development which Government legislation allows to be carried out without the need to obtain planning permission from the Local Planning Authority. These rights are commonly referred to as 'Permitted Development' rights. Government guidance on what requires planning permission and what can be undertaken under permitted development rights can be found online ([www.gov.uk](http://www.gov.uk), [www.planningportal.co.uk](http://www.planningportal.co.uk), or [www.braintree.gov.uk](http://www.braintree.gov.uk)).
- 8.3 Braintree District Council is the Local Planning Authority for the Braintree District. The Local Planning Authority processes thousands of applications each year. Applications vary in scale from householder applications to extend an existing dwelling, to large scale major developments for residential or commercial development.
- 8.4 For most people, their main contact with the planning system is through the planning application process, either as an applicant, or as a resident who may be affected by a particular planning proposal.
- 8.5 This section of the Statement of Community Involvement sets out the approach which will be taken by the Local Planning Authority to involve the community in the planning application process.

### **Pre-Application Process**

- 8.6 The National Planning Policy Framework (NPPF) sets out the Governments expectation that Local Planning Authorities should approach decisions on proposed development in a positive and proactive way, working with applicants to secure developments that will improve the economic, social and environmental conditions of the area. The NPPF also states that Local



Planning Authorities should seek to approve applications for sustainable development where possible.

- 8.7 The NPPF highlights the importance of pre-application engagement and states that a Local Planning Authority should encourage Applicants to engage in pre-application discussions prior to submitting a formal application for consideration.
- 8.8 The Local Planning Authority operates a comprehensive chargeable pre-application process for applicants for all scales of planning proposals, from householder extensions, proposed works to listed buildings, to minor and major residential and commercial development. Details of this service are available on the Council's website ([www.braintree.gov.uk/preapp](http://www.braintree.gov.uk/preapp)).
- 8.9 Pre-application advice benefits:
- Enabling local concerns and objections to be identified early in the process, and providing an opportunity for these to be addressed,
  - Raising awareness and ensuring that local communities are provided with accurate information on proposed developments,
  - Provide an opportunity for the community to discuss proposals with the applicant,
  - Potentially avoiding the need to revise proposals later in the application process; and
  - Assisting with the submission of better quality planning applications.
- 8.10 It is recognised that the level of engagement needs to be proportionate to the nature and scale of a proposed development. The more complex or contentious the proposal, the broader the range of consultation methods should be, to allow as many people as possible to engage with the process. Applicants proposing to submit an application to extend or undertake alterations to their property are strongly encouraged to discuss their proposals with any adjoining properties who could be affected by the proposals. This assists in identifying potential issues early on and can assist the planning application process, as this provides an opportunity to address concerns and objections from adjoining properties before an application is submitted for consideration.
- 8.11 Applications for new residential or commercial development should be subject to wider community engagement. The scale of this engagement would be relative to the proposed development. The list below is not exhaustive, but outlines some of the consultation measures which should be considered by applicants to ensure meaningful engagement with the local community is

undertaken:

- Consultation with the Parish/Town Council
- Consultation with the Neighbourhood Plan Group (if applicable)
- Leaflet mail drop to adjoining properties outlining the proposed development and how residents can submit feedback
- Publicise proposals via a website and/or through the local press, social media and flyers and provide a mechanism for residents to be able to submit feedback
- Public meeting/local exhibition in an accessible venue (accessible for disabled persons and for all members of the community) within the locality of the proposed development, for residents to view the proposals, ask questions and submit feedback
- Workshops with different groups (local residents and interest groups) to discuss proposals.

8.12 The Local Planning Authority's Government & Local Validation Requirements (Validation Checklist) sets out when a Statement of Community Involvement is required by the applicant to accompany a formal application submission, to evidence and outline the consultation undertaken with the wider community.

### **Publicity of Applications**

8.13 There are legal requirements for the publicity of applications. For the majority of applications the Local Planning Authority will exceed the minimum legal requirements.

8.14 The tables below set out the consultations and range of publicity which the Local Planning Authority will carry out to ensure a thorough and meaningful consultation process to provide the community with an opportunity to engage in the planning process and comment on proposals.

**Table 7.1 Applications for Major Development**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"><li>• Site notice OR letter to adjoining property</li><li>• Newspaper publication</li><li>• Website</li><li>• Consult Parish / Town Council</li></ul>
<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"><li>• Site notice AND letter to adjoining property</li><li>• Newspaper publication</li><li>• Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li><li>• Consult Parish / Town Council</li></ul>

**Table 7.2 Applications accompanied by an Environmental Impact Assessment (EIA)**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"> <li>• Site notice</li> <li>• Newspaper publication</li> <li>• Website</li> <li>• Consult Parish / Town Council</li> </ul>
<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"> <li>• Site notice AND letter to adjoining property</li> <li>• Newspaper publication</li> <li>• Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li> <li>• Consult Parish / Town Council</li> </ul> <p>NB) For any current application which is accompanied by an EIA, a printed copy of the Environmental Statement is available at the Council Offices at Causeway House, Bocking End, Braintree, Essex, CM7 9HB for public inspection during opening hours.</p>

**Table 7.3 Applications which represents a Departure from the Development Plan**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"> <li>• Site notice</li> <li>• Newspaper publication</li> <li>• Website</li> <li>• Consult Parish / Town Council</li> </ul>
<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"> <li>• Site notice AND letter to adjoining property</li> <li>• Newspaper publication</li> <li>• Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li> <li>• Consult Parish / Town Council</li> </ul>

**Table 7.4 Applications affecting a Public Right of Way (PROW)**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"> <li>• Site notice</li> <li>• Newspaper publication</li> <li>• Website</li> <li>• Consult Parish / Town Council</li> </ul>
<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"> <li>• Site notice AND letter to adjoining property</li> <li>• Newspaper publication</li> <li>• Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li> <li>• Consult Parish / Town Council</li> </ul>

**Table 7.5 Applications for:**  
**Minor Development**  
**Householder Development**  
**Change of Use**  
**Applications for Variation or Removal of Condition(s) attached to a previous consent**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"> <li>• Site notice OR letter to adjoining property</li> </ul>
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	<ul style="list-style-type: none"> <li>• Newspaper Publication ONLY where proposal affects the character and appearance of a Conservation Area or Listed Building</li> <li>• Website</li> <li>• Consult Parish / Town Council</li> </ul>
<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"> <li>• Site notice AND letter to adjoining property</li> <li>• Newspaper Publication ONLY where proposal affects the character and appearance of a Conservation Area or Listed Building</li> <li>• Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li> <li>• Consult Parish / Town Council</li> </ul>

**Table 7.6 Listed Building Consent**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"> <li>• Site notice</li> <li>• Newspaper publication</li> <li>• Website</li> </ul>
<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"> <li>• Site notice AND letter to adjoining property</li> <li>• Newspaper publication</li> <li>• Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li> <li>• Notify Parish / Town Council</li> </ul>

**Table 7.7 Householder Prior Approval Applications (Single storey rear extension)**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"> <li>• Letter to adjoining property</li> </ul>
<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"> <li>• Letter to adjoining property</li> <li>• Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li> <li>• Notify Parish / Town Council</li> </ul>

**Table 7.8 Householder Prior Approval Applications (Additional Storeys)**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"> <li>• Letter to adjoining properties</li> </ul>
<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"> <li>• Letter to adjoining properties</li> <li>• Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li> <li>• Consult Parish/Town Council</li> </ul>

**Table 7.9 Other Prior Approval Applications**

**Agriculture & Forestry – request whether Prior Approval is required**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"> <li>• None</li> </ul>
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<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"> <li>Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li> <li>Notify Parish / Town Council</li> </ul>
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#### **Agriculture & Forestry – where Prior Approval is required**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"> <li>Site notice posted by the applicant</li> </ul>
<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"> <li>Site notice posted by the applicant</li> <li>Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li> <li>Notify Parish / Town Council of Prior Approval application – N.B. where Prior Approval is required no separate notification will be issued to the Parish / Town Council</li> </ul>

#### **Demolition of an Unlisted Building**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"> <li>Site notice posted by the applicant</li> </ul>
<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"> <li>Site notice posted by the applicant</li> <li>Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li> <li>Notify Parish / Town Council</li> </ul>

#### **Permitted Development requiring Prior Approval – Electronic Communication Code Operators**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"> <li>i. Where development does not accord with the provisions of the adopted development plan, or would affect a right of way to which Part 3 of the Wildlife and Countryside Act 1981 (public rights of way) <ul style="list-style-type: none"> <li>Site Notice</li> <li>Newspaper Publication</li> </ul> </li> <li>ii. in the case of development which does not fall within paragraph i) but development is on a site having an area of 1 hectare or more <ul style="list-style-type: none"> <li>Site Notice OR letter to adjoining properties</li> <li>Newspaper Publication</li> </ul> </li> <li>iii. in the case of development which does not fall within i) or ii) <ul style="list-style-type: none"> <li>Site Notice OR letter to adjoining properties</li> </ul> </li> </ul>
<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"> <li>Site notice AND letter to adjoining property</li> <li>Newspaper publication</li> <li>Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li> <li>Notify Parish / Town Council</li> </ul>

#### **Permitted Development requiring Prior Approval – new dwelling house on detached blocks of flats**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"> <li>Site notice AND letter to all owners and occupiers of flats within the existing block of flats AND letter to adjoining property (Letters not required for Part 20 Class ZA).</li> </ul>
<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"> <li>Site notice AND letter to all owners and occupiers of flats within the existing block of flats AND letter to adjoining property (In respect of Part 20 Class ZA letters sent only to adjoining properties).</li> <li>Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li> <li>Consult Parish / Town Council</li> </ul>

#### **Permitted Development requiring Prior Approval (not listed above)**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"> <li>Site notice OR letter to adjoining property</li> </ul>
<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"> <li>Site notice AND letter to adjoining property</li> <li>Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li> <li>Notify Parish / Town Council</li> </ul>

#### **Table 7.10 Permission in Principle**

##### **Publicity of proposals to enter land in Part 2 of Brownfield Land Register**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"> <li>Site Notice</li> <li>Consult Parish / Town Council</li> </ul>
<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"> <li>Site Notice</li> <li>Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li> <li>Consult Parish / Town Council</li> </ul>

##### **Permission in Principle Consent – Permission in Principle Stage Application**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"> <li>Site Notice</li> <li>Consult Parish / Town Council</li> </ul>
<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"> <li>Site Notice</li> <li>Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li> <li>Notify Parish / Town Council</li> </ul>

##### **Permission in Principle Consent – Technical Details Consent Stage**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"> <li>Site Notice</li> <li>Consult Parish / Town Council</li> </ul>
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<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"> <li>• Site Notice</li> <li>• Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li> <li>• Notify Parish / Town Council</li> </ul>
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**Table 7.11 Applications for:  
Advertisement Consent  
Discharge of Conditions (DAC)  
Non-Material Amendments (NMA)  
Certificate of Lawful Use or Development (Existing and Proposed)**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"> <li>• None</li> </ul>
<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"> <li>• Site Notice AND letter to adjoining property ONLY for applications for Certificates of Lawfulness for an Existing Use or Development where deemed appropriate by the Case Officer</li> <li>• Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li> <li>• <u>Consult Parish / Town Council - Advertisement Consent; Certificate of Lawful Use or Development (Existing)</u></li> <li>• Notify Parish / Town Council - Certificate of Lawful Use or Development (Proposed)</li> </ul>

**Table 7.10 Works to Protected Trees (subject to a TPO)**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"> <li>• None</li> </ul>
<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"> <li>• Site notice AND letter to adjoining property</li> <li>• Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li> <li>• Notify Parish / Town Council</li> </ul>

**Table 7.11 Works to Trees within a Conservation Area**

<b>Legal Requirement for consultation</b>	<ul style="list-style-type: none"> <li>• None</li> </ul>
<b>LPA SCI Consultation</b>	<ul style="list-style-type: none"> <li>• Website: <a href="http://www.braintree.gov.uk/pa">www.braintree.gov.uk/pa</a></li> <li>• Notify Parish / Town Council</li> </ul>

## Site Notices

- 8.15 Site notices are required to be displayed on or adjoining the application site on an appropriate structure such as a telegraph pole, street light, or fence/wall/gate so they are viewable from a public vantage point. The site notice(s) will be displayed by a Planning Officer or a Council Officer who will determine the most appropriate position for the site notice(s). The site notice will provide details of the application submission, advise how to view the

proposals online via the Council's Public Access website and how to submit comments and representations on the application and the timescales for doing so.

### **Letters to Adjoining Properties (Notification Letters)**

- 8.16 Where indicated within the tables above, the Local Planning Authority will send letters to adjoining properties to notify the owners/occupiers that an application has been submitted for consideration. The notification letters provide details of the application submission, advise how to view the proposals online via the Council's Public Access website and how to submit comments and representations on the application and the timescales for doing so.
- 8.17 In some cases, residents may feel they could be affected by a proposal and/or wish to make representations on an application but have not received a notification letter from the Local Planning Authority. The extent of letter coverage will be relative to the scale and nature of the proposal so in some cases not all residents will receive a notification letter. However, if an owner/occupier has not received a notification letter they are still able to submit representations on the application.

### **Newspaper Publication**

- 8.18 Where indicated within the tables above, the Local Planning Authority will publish a notice of applications in a newspaper circulating in the locality where the land to which the application relates is situated. The notice will provide details of the application submission, advise how to view the proposals online via the Council's Public Access website and how to submit comments and representations on the application and the timescales for doing so.

### **How to View and Comment of Applications**

- 8.19 All current applications are available to view on the Council's Public Access website ([www.braintree.gov.uk/pa](http://www.braintree.gov.uk/pa)). The system provides access to the submitted plans, supporting documents, and any representations or consultations responses received. You can also search for past applications and appeals (from 1990), and planning enforcement history. For those who do not have access to the internet, access to the Council's Public Access website is available at the Council's offices, at Causeway House, Bocking End, Braintree, Essex, CM7 9HB, during opening hours.
- 8.20 In addition to searching for specific applications, you can create your own account on Public Access and specify criteria for receiving alerts and



notifications of applications.

- 8.21 Representations to an application can be made online via the Council's Public Access website ([www.braintree.gov.uk/pa](http://www.braintree.gov.uk/pa)). In order to submit a representation it is necessary to complete a short registration process. Once registered you will be able to make your comments as well as tracking the application until this has been determined. Further guidance on this can be found online via our website ([www.braintree.gov.uk/pa1](http://www.braintree.gov.uk/pa1)).
- 8.22 Representations can also be submitted in writing to the Local Planning Authority quoting the relevant application number addressed to: Development Management, Braintree District Council, Causeway House, Bocking End, Braintree, Essex, CM7 9HB
- 8.23 All representations received in connection with applications will be available for public inspection and viewable on the Council's Public Access website ([www.braintree.gov.uk/pa](http://www.braintree.gov.uk/pa)) within three weeks of receipt. Anonymous representations cannot be taken into account and will not be posted on the website. The name and address of anyone submitting a representation will be published, but in accordance with the Data Protection Act, telephone numbers and e-mail addresses will be removed. Anyone submitting representations should ensure that they do not include personal details within their representation, such as e-mail addresses or telephone numbers. In some cases representations may also need to be redacted to remove sensitive information. Please make sure that your comments are relevant, because you remain personally and legally responsible for them. The Local Planning Authority reserves the right not to publish or redact any comments which in its judgement are libellous, offensive, defamatory, threatening, abusive, or contravenes the provisions of the Equality Act 2010 or any other legislation.
- 8.24 When considering representations received in connection with applications, the Local Planning Authority can only take into account material planning considerations, which may include;
- Local, strategic and national planning policies
  - The design of the proposed development
  - The distance between the development and neighbouring property, particularly if the distance is unclear on the plans
  - Highway issues: traffic generation, vehicular access, highway/pedestrian safety
  - The effect on the amenity of neighbouring premises (e.g. impact such as overlooking, overbearing, overshadowing, loss of natural light, noise, smell, fumes)

- The impact upon trees/ecology, heritage assets, or the historic environment
- Capacity of physical infrastructure and social facilities
- Previous appeal decisions

8.25 The Local Planning Authority cannot take into account representations which raise non-material planning considerations, which may include;

- Effect on property value
- Loss of a view
- Boundary disputes, private covenants or private interests
- Suspicion about future intentions
- The personal circumstances of the applicant

8.26 The Local Planning Authority will not generally enter into correspondence with anyone who has submitted representations on an application once the comments have been submitted. Any representations received will be considered by the Local Planning Authority and taken into account in the assessment of the application.

8.27 The Local Planning Authority will notify anyone who has submitted representations on an application where;

- The application is due to be referred to the Council's Planning Committee for determination (see How Applications are Determined below for further information); and
- The application has been determined and a decision has been issued to the applicant/agent. Anyone who has submitted representations on the application will be notified of the outcome of the application. A copy of the decision notice and either the Delegated or Committee Report will also be published on the Council's Public Access website ([www.braintree.gov.uk/pa](http://www.braintree.gov.uk/pa)).

8.28 The Local Planning Authority may also notify anyone who has submitted representations on an application where:

- Revised/Additional Plans/Supporting Documentation have been submitted by the applicant/agent and where the Local Planning Authority has accepted this information. The decision on whether to undertake further consultation on any revised or additional plans/supporting documentation will depend on the nature, scale and significance of this information. Where in its judgement the Local Planning Authority considers it necessary to undertake further

consultation, the length of any re-consultation (i.e. whether to re-consult for 21, 14 or 7 days) will also depend on this factor.

### **How Applications are Determined**

- 8.29 The Council's Scheme of Delegation sets out who can determine applications, in accordance with the Scheme of Delegation the majority of applications are determined under delegated powers by Officers.
- 8.30 Applications, which meet the specific criteria with the Council's Scheme of Delegation, are referred to the Council's Planning Committee for determination (where the elected councillors on the Planning Committee will make the final decision). When an application has been scheduled to be referred to the Planning Committee, the Local Planning Authority will write to notify anyone who has submitted representations to advise of the date and venue of the Planning Committee and how to register to speak at the committee meeting during public question time session. Members of the public who have not made a representation to an application can also register to speak on a planning application. Further information on registering to speak at a Planning Committee is available on the Council's website ([https://www.braintree.gov.uk/info/200141/committees\\_and\\_meetings/102/attending\\_committee\\_meetings](https://www.braintree.gov.uk/info/200141/committees_and_meetings/102/attending_committee_meetings)).
- 8.31 Planning Committee meetings are scheduled to take place throughout the year. A schedule of dates for Planning Committee are published on the Council's website along with agenda papers and minutes of previous meetings ([https://braintree.cmis.uk.com/braintree/Committees/tabid/62/ctl/ViewCMIS\\_CommitteeDetails/mid/381/id/5/Default.aspx](https://braintree.cmis.uk.com/braintree/Committees/tabid/62/ctl/ViewCMIS_CommitteeDetails/mid/381/id/5/Default.aspx)).
- 8.32 The Planning Committee are public meetings and members of the public are welcome to attend. The Planning Committee meetings are also webcast. Webcasts can be watched live or for up to 6 months after the meeting date (<https://braintree.public-i.tv/core/portal/home>).

### **Appeals**

- 8.33 If an Applicant is aggrieved by the decision of the Local Planning Authority to refuse permission for an application or to grant it subject to conditions, or if the Local Planning Authority has not made a decision on the application within the required timescales, the applicant can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990. Appeals can also be made against Planning Enforcement Notices issued by the Local Planning Authority. The Planning Inspector appointed by the Secretary of

State will then be responsible for considering the appeal and deciding whether the appeal should be dismissed or allowed.

- 8.34 If the Local Planning Authority receives notification of an appeal, the Local Planning Authority will notify all interested parties (i.e. anyone who has submitted representations on the application) of the appeal details. The Local Planning Authority cannot advise on appeals and would recommend that independent legal advice is taken. The Council will also send the Planning Inspectorate copies of any comments received during the consultation on the planning application and it should be noted that the Planning Inspectorate will not accept any further written representations regarding householder appeals. In the case of enforcement notices, the Council will also notify everyone who it thinks is affected about the appeal. When the Planning Inspectorate issue an appeal decision the Council will post the notice on the Public Access website. More information regarding the appeal process can be found on the Council's website ([https://www.braintree.gov.uk/info/200228/planning\\_information/210/planning\\_appeals](https://www.braintree.gov.uk/info/200228/planning_information/210/planning_appeals)).

- 8.35 There is no third party right of appeal against the decision of the Local Planning Authority, but the legality of decisions made by the Local Planning Authority can be challenged through Judicial Review. A Judicial Review is a challenge to the way in which a decision has been made, rather than the rights and wrongs of the conclusion reached. There are strict time limits for Judicial Review. The Local Planning Authority cannot advise on Judicial Review and would recommend that independent legal advice is taken.

### **Planning Enforcement**

- 8.36 A breach of planning control occurs when;
- Development is carried out without the required planning permission;
  - Works to a listed building is carried out with the required listed building consent; or
  - There is a failure to comply with a condition or limitation attached to an approved application.
- 8.37 The Local Planning Authority has powers to investigate breaches of planning control. Before taking action the Council will determine whether it is expedient to use its powers. The Local Planning Authority is not under a duty to investigate a complaint or to take specific action.

- 8.38 Information on how the Local Planning Authority undertakes its Planning Enforcement function can be found in our published Enforcement Plan ([https://www.braintree.gov.uk/downloads/download/1259/planning\\_enforcement\\_plan](https://www.braintree.gov.uk/downloads/download/1259/planning_enforcement_plan)). This explains how the Local Planning Authority will investigate alleged breaches of planning control, how the Planning Enforcement Team will prioritise investigations, our staged approach to taking enforcement action, and when we will inform residents of the outcome of an investigation.
- 8.39 Alleged breaches of planning control can be reported by completing the online enquiry form on the Council's website ([https://www.braintree.gov.uk/forms/form/526/en/enforcement\\_complaint\\_form](https://www.braintree.gov.uk/forms/form/526/en/enforcement_complaint_form)) or by contacting the Planning Enforcement Team ([https://www.braintree.gov.uk/info/200125/planning\\_and\\_building/292/planning\\_enforcement/2](https://www.braintree.gov.uk/info/200125/planning_and_building/292/planning_enforcement/2)).

## **9. Monitoring and Review**

- 9.1 Changes to national legislation, regulations and policies on the preparation of SCIs, DPDs, SPDs and Neighbourhood Plans will be monitored and any significant changes may require a review of this document. The SCI will need to be compliant with any legal requirements for the processing of data or changes to anti-discrimination laws, and respond to changes in corporate policy.
- 9.2 The database of people and organisations to be consulted will be kept up-to-date and managed to comply with Data Protection Legislation.
- 9.3 The community involvement process will be kept under review, as measured through comments, customer satisfaction surveys, complaints and consultation feedback, to ensure that they are effective. This SCI will be reviewed no later than five years after adoption as required by the Town and Country Planning Regulations 2017.

## 10. Glossary

Term Used	Explanation
Authorities Monitoring Report (AMR)	Sets out the principal characteristics of the District, assesses progress in preparing Local Development Documents and monitors progress in housing, employment and other development.
Development Plan Document (DPD)	Spatial Planning Document that are subject to independent examination. This includes the Local Plan and Policies Map.
Duty to Co-operate (DTC)	Requirement to co-operate with relevant authorities and other bodies on the preparation of policies that address strategic planning matters.
Local Development Scheme (LDS)	This sets out the program for the preparation of DPDs and SPDs.
Major Planning Applications	Any application that involves mineral extraction, waste development, the provision of 10+ dwellings/a site over 0.5 hectares or a floorspace of over 1,000 sqm/ an area of 1 hectare.
National Planning Policy Framework (NPPF)	Sets out Government's planning policies for England and how these are expected to be applied.
National Planning Policy Guidance (NPPG)	Supports the NPPF; the guidance is published online and regularly updated.
Supplementary Planning Document (SPD)	These documents are supplementary to the Development Plan and are used to provide additional detail as deemed necessary.
Sustainability Appraisal and Strategic Environmental Assessment (SA/SEA)	Assessments required by European and national law into how the plan will impact on the District's environment in the long term and contribute towards sustainable development.

# Equality Impact Assessment

## Basic



This basic impact assessment is an initial screening process to help identify if a full Equality Impact Assessment is required and, if it isn't, to record the reasons why.

It considers positive, negative or no impact on each of the 9 protected characteristics in relation to addressing the 3 aims of the Equality Duty that we as a public body must give due regard to;

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

Directorate

Sustainable Development

Service

Planning Policy

Title of policy, strategy, project or service

Statement of Community Involvement

Is the policy, strategy, project or service;

Existing

☐

New/proposed

☐

Changed/Reviewed

☒ x

Q 1. Aim of the policy, strategy, project or service

The SCI sets out how communities and stakeholders will be consulted for Local Plan documents and related documents.

Q 2. Who is this policy, strategy, project or service going to benefit or have a detrimental impact on & how?

The SCI will benefit individuals with protected characteristics by promising to engage and consult, when appropriate, special interest groups and the voluntary sector. The Council also promises to make efforts to include the views of people with disabilities and hard to reach groups such as young people, old people, ethnic minorities and people with disabilities.



Q3. Is this policy, strategy, project or service aimed at one of the protected characteristics?  
If so, what justification is there for this?

No. The SCI outlines how the Council will engage with all stakeholders.

Q 4. Thinking about each of the protected characteristics does or could the policy, strategy, project or service have a negative or positive impact?

Group	Negative	Positive/ No impact	Unclear
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gender reassignment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marriage & civil partnership (only in respect of eliminating unlawful discrimination).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pregnancy & maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sex	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**If the answer for any group is 'negative' or 'unclear' do a full EIA**

Q5. Thinking about each of the protected characteristics does or could the policy, strategy, project or service help to support the 3 aims of the Equality Duty?

Group	Yes	No	Unclear
Age	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Disability	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gender reassignment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marriage & civil partnership (only in respect of eliminating unlawful discrimination).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pregnancy & maternity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Race	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Religion or belief	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sex	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sexual orientation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**If the answer for any group is 'no' do a full EIA**

Q 6. What evidence has been used (e.g. data, feedback, consultation & engagement, surveys) that may influence the policy, strategy, project or service?

Group	Evidence
Age	Government legislation and national and local policy
Disability	Government legislation and national and local policy
Gender reassignment	Government legislation and national and local policy
Pregnancy & maternity	Government legislation and national and local policy
Race	Government legislation and national and local policy
Religion or belief	Government legislation and national and local policy
Sex	Government legislation and national and local policy
Sexual orientation	Government legislation and national and local policy

Q 7. Using the responses to questions 4 & 5 should a full EIA be carried out on this policy, strategy, project or service?

Yes

☐

No

☒

Provide your reasons for your response showing how you have considered due regard

No negative or unclear impacts have been identified.

Completed by (Print name):

Alan Massow

Signature :

Approved by Head of Service (print name):

Emma Goodings

Signature :

Date:

26/01/2021

<b>Neighbourhood Plan Update</b>		<b>Agenda No: 7</b>
<b>Portfolio</b>	<b>Planning</b>	
<b>Corporate Outcome:</b>	<b>Connecting People and Places</b>	
<b>Report presented by:</b>	<b>Alan Massow – Principal Planning Policy Officer</b>	
<b>Report prepared by:</b>	<b>Alan Massow – Principal Planning Policy Officer</b>	
<b>Background Papers:</b>		<b>Public Report : Yes</b>
<ul style="list-style-type: none"> <li>• <b>Localism Act 2011 (Amends TCPA)</b></li> <li>• <b>Neighbourhood Planning Act (2017)</b></li> <li>• <b>The Neighbourhood Planning Regulations (2012) (As amended)</b></li> <li>• <b>The Neighbourhood Planning (Referendums) Regulations 2012</b></li> <li>• <b>The Neighbourhood Planning (Prescribed Dates) Regulations 2012)</b></li> <li>• <b>National Planning Practice Guidance</b></li> </ul>		<b>Key Decision: No</b>
<b>Executive Summary:</b>		
<p>The following report provides background on the progress of neighbourhood planning in Braintree District, and also provides an outline of the process for neighbourhood planning.</p>		
<b>Recommended Decision</b>		
<p>To note the progress of Neighbourhood Plans in the District as set out in this report.</p>		
<b>Purpose of Decision:</b>		
<p>To note the report</p>		

Any Corporate implications in relation to the following should be explained in detail.	
<b>Financial:</b>	Officer time and resources are required to support Neighbourhood Plans. The costs to the local authority are met from base budget, as well as securing some government funding.
<b>Legal:</b>	The Local Planning Authority has a duty to support Neighbourhood Plans. At present Neighbourhood Plan referendums are not able to take place.
<b>Safeguarding:</b>	No matters arising out of this report
<b>Equalities/Diversity:</b>	Neighbourhood Plans have a positive/neutral impact on people with protected characteristics.
<b>Customer Impact:</b>	Each Neighbourhood Plan will have impacts on the communities that it covers.
<b>Environment and Climate Change:</b>	No matters arising out of this report
<b>Consultation/Community Engagement:</b>	Neighbourhood Plans require public consultation
<b>Risks:</b>	That Neighbourhood Plans can be legally challenged.
<b>Officer Contact:</b>	Alan Massow
<b>Designation:</b>	Principal Planning Policy Officer
<b>Ext. No:</b>	2577
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## 1 Introduction

- 1.1 Neighbourhood Plans were introduced by the Localism Act 2011. These plans give communities statutory powers to shape the way in which their communities develop.
- 1.2 A Neighbourhood Plan sets out planning policies for a neighbourhood area, usually a parish council area. Planning policies can be used to decide whether or not a planning application should be approved in that area.
- 1.3 Neighbourhood Plans are written by local community volunteers or the groups can hire independent planning consultants to assist in the process if they wish to do so.
- 1.4 Local Planning Authorities have a duty to support neighbourhood planning. This can include providing evidence base documents, commenting on draft policies, and assisting with mapping.
- 1.5 Braintree District Council appointed the Rural Communities Council of Essex (RCCE) to assist neighbourhood plan groups and provide them with support and advice.

## 2 Neighbourhood Plan Process

- 2.1 The following table sets out the process and estimated time scales for creating a Neighbourhood Plan.

Stage	Statutory duties	Stage	Period
Initial meeting(s)	Regulation 7	1 Getting Started	3 to 6 months
Define the neighbourhood area			
Establish a steering group			
Prepare a project plan		2 Getting Organised	2 to 4 months
Community engagement			
Create an evidence base			
Draft a vision and planning objectives		3 Gathering Evidence	6 to 12 months
Prepare a draft plan			
Consult on the plan (pre submission consultation)			
Submit the plan for validation	Regulation 15 and 16	4 Drafting the Plan	5 to 9 months
Appoint examiner	Regulation 17		
Independent examination	Regulation 18		
Referendum	Regulation 4		
Plan is made	Regulation 19 and 20		
		5 Making the Plan	7 to 12 months

- 2.2 The neighbourhood plans undergo two stages of public consultation at Regulation 14 and Regulation 16. The first consultation is undertaken by the neighbourhood plan group, and the second is carried out by the Local Planning Authority.
- 2.3 Consultation is undertaken for a 6 week period. At regulation 14 consultation all responses are considered by the neighbourhood plan group who then modify the Plan. Once this has been done, the Plan is submitted to the Local Authority who undertake regulation 16. The responses to this consultation are passed on to an independent examiner, who examines the plan to see if it meets the Basic Conditions.

### **3 Basic Conditions**

- 3.1 In order for a plan to progress successfully through examination it is necessary for it to meet what is known as the Basic Conditions. They are;
- a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan)
  - b. having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders
  - c. having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders
  - d. the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development.
  - e. the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)
  - f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.
  - g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan)
- 3.2 If a neighbourhood plan is deemed to not meet the Basic Conditions then it is unable to be adopted.
- 3.3 Assuming a successful examination, a referendum is organised by Electoral Services in accordance with the Neighbourhood Planning (Referendum) Regulations 2012. The referendum will pass on a simple majority after which the Local Planning Authority then has 8 weeks to 'make' the plan.

- 3.4 It is the Local Planning Authority's responsibility to organise and pay for the examination and referendum to a Neighbourhood Plan and to deal with any legal challenges to the Neighbourhood Plan.

#### **4 Neighbourhood Plans in the District**

- 4.1 Since the introduction of Neighbourhood Planning, the District has designated 11 neighbourhood areas at the request of the Parish Council. These are:

- Coggeshall
- Cressing
- Feering
- Hatfield Peverel
- Kelvedon
- Bradwell with Pattiswick
- The Salings
- Great Yeldham
- Stisted
- Great Bardfield
- Toppesfield

- 4.2 Of these designated areas Bardwell with Pattiswick, Cressing and Hatfield Peverel have adopted Neighbourhood Plans.

- 4.3 A number of other Parish and Town Councils are considering starting work on neighbourhood plans but have yet to submit an area application.

- 4.4 Once a neighbourhood plan has been adopted, it becomes part of the Development Plan for the District, and its policies have to be used in the determination of planning applications.

#### **5 Current Timetable**

- 5.1 The table below shows the likely dates for consultation and submission of Neighbourhood Plans to the Local Authority. This is based on information received from the Neighbourhood Plan groups and the RCCE.

<b>Parish</b>	<b>Month area designated</b>	<b>Expected Reg 14</b>	<b>Expected Reg 15</b>	<b>Reg 16</b>	<b>Referendum</b>
Feering	Mar-15	Feb-20	Jan-21	-	-

Parish	Month area designated	Expected Reg 14	Expected Reg 15	Reg 16	Referendum
Kelvedon	Mar-15	Jul-18	Jan-21	-	-
Bradwell with Pattiswick	Sept-16	May-18	Oct-18	Dec-18	Jun-19
Cressing	Aug-18	Sep-18	Jan-19	Jul-19	Feb-20
Coggeshall	Oct -15	Mar-19	20	Aug-20	tbc
The Salings	Feb-17	Oct-19	May -20	Sep-20	tbc
Earls Colne	Mar-19	Jun-21	Dec-21	-	-
Great Bardfield	May-19	Jun-21	Dec-21	-	-
Hatfield Peverel	Jan-15	Sep-16	Mar-17	Jul-17 Jun-18 Mar-19	Nov-19
Stisted	Dec-17	Jun-21	Dec-21	-	-
Steeple Bumpstead	Mar-18	Jun-21	Dec-21	-	-



<b>Parish</b>	<b>Month area designated</b>	<b>Expected Reg 14</b>	<b>Expected Reg 15</b>	<b>Reg 16</b>	<b>Referendum</b>
Toppesfield	Jul-19	May-21	Nov-21	-	-

5.2 As can be seen from the table above, the next Neighbourhood Plans to be completed are Coggeshall on which an Inspector's report has been received and is now waiting for a local referendum, and The Salings which is currently with an examiner for consideration.

5.3 The remainder of the Neighbourhood Plans currently underway are anticipated to reach regulation 15 this year and then will be progressed by the local authority as quickly as resources allow.

## **6 Recommendation**

6.1 That the progress of Neighbourhood Plans in the District as set out in this report is noted.