

Key Decision Required:	YES	In the Forward Plan:	NO
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CABINET

21 MARCH 2014

REPORT OF THE HEAD OF PLANNING

A.6 PROGRESSING THE LOCAL PLAN AND ESTABLISHING A LOCAL PLAN COMMITTEE
(Report prepared by Gary Guiver and Lisa Hastings)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT
<p>(a) To inform Cabinet that objections to the Council's emerging Local Plan have been received from Essex County Council and Colchester Borough Council which identify fundamental issues that will need to be addressed before the plan can be submitted to the Secretary of State to be examined by a Planning Inspector.</p> <p>(b) To refer this information to Council with a recommendation to set up a dedicated 'Local Plan Committee' through a change to the Council's Constitution, to oversee the remaining stages of preparing the Local Plan, address the fundamental issues raised by objectors and deal with other aspects of planning policy work.</p>

EXECUTIVE SUMMARY
<p>On 6 January 2014, the Council published a series of 'pre-submission focussed changes' to its emerging Local Plan for six weeks public consultation ending on 17 February 2014. These changes were designed to address some of the 800 objections received in response to the original version of the plan published for consultation in November 2012. When Full Council approved the focussed changes for consultation on 26 November 2013 it was also agreed that, following public consultation, the amended Local Plan would be submitted to the Secretary of State to be examined by an independent Planning Inspector (in line with national planning regulations) <u>unless</u> any of the responses raised genuine concerns about the soundness of the plan which might require further changes.</p> <p>Although the focussed changes have succeeded in addressing a large number of the original objections raised by residents, they have also attracted further objections, most notably from Essex County Council and Colchester Borough Council. These objections raise fundamental concerns over the soundness of the revised Local Plan relating, in particular, to the lack of sufficient sites to deliver the full objectively-assessed need for housing over the next 15 years and the legal duty for Councils to cooperate with neighbouring authorities and partner organisations on strategic planning matters of cross-boundary significance.</p> <p>Officers have reviewed how other Councils have addressed similar issues and have taken advice from a senior Planning Inspector to ascertain the severity of the objections raised and the consequent risk of the Local Plan being rejected through the examination process – potentially leaving Tendring vulnerable to unwanted development and powerless to influence the scale, type,</p>

design and community benefits of development through its policies. Based on the Inspector's advice and the recent experience of other authorities, Officers are of the strong view that the emerging Local Plan, in its current revised form, will not survive the scrutiny of an Inspector given the government's 'uncompromising line' on promoting housing growth and the importance that the government attaches to the legal 'duty to cooperate'. Furthermore, the approach to development in the Local Plan does not embrace, fully, one of the main objectives of the Council's own Economic Development Strategy – to facilitate population growth in key locations as a means of generating economic growth and the creation of new jobs.

The responsibility to produce a Local Plan is a Council function and to address the highlighted issues with member engagement, Officers recommend setting up a dedicated 'Local Plan Committee' to oversee the preparation of a new version of the Local Plan specifically dealing with these matters, meeting the government's requirements and provide a more positive planning framework to deliver the objectives of the Economic Development Strategy. The Local Plan Committee will provide a transparent, cross-party mechanism for scrutinising and endorsing technical evidence, considering development options and policy wording, shaping the approach to community involvement, considering and commenting on neighbouring authorities' planning documents and approving supplementary planning documents.

The approval of the Local Plan itself would remain the responsibility of Full Council, but the Local Plan Committee would make recommendations to Full Council in consultation with the Cabinet.

It is anticipated that if work begins on a new version of the Local Plan in April 2014, it can be published for initial consultation in late 2014, published for final consultation in mid-2015 following the local elections, submitted to the Secretary of State before the end of 2015 and adopted by April 2016.

LEGAL

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 state that applications for planning permission must be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The statutory 'development plan' for Tendring, as it stands is the 2007 Adopted Local Plan however, in accordance with the government's National Planning Policy Framework, the policies and proposals in the Adopted Local Plan are increasingly out of date and cannot be afforded full weight. It is therefore essential to progress the emerging Local Plan through the remaining stages of the plan making process and ensure it meets the requirements of national planning policy so it can become the new statutory development plan. Section 15 of the 2004 Act provides the local planning authority will approve 'Development Plan Documents' including the Local Plan.

Section 33A of the Planning and Compulsory Purchase Act (2004), as amended by Section 110 of the Localism Act 2011 places a duty upon local authorities and other public bodies to cooperate on strategic matters of cross-boundary significance, which includes housing supply. Before a Planning Inspector can begin the process of examining a Local Plan, he or she needs to be satisfied, with evidence, that the local authority has done everything it can to ensure effective cooperation with neighbouring authorities and other partner organisations and has sought to resolve, as far as is possible, any cross-boundary planning issues.

Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, provide that certain plans and strategies are not to be the sole responsibility of the

Executive, these include Development Plan Documents such as the Local Plan.

In accordance with Article 15, changes to the Constitution are approved by the full Council after receiving a recommendation by the Executive following a proposal from the Monitoring Officer and a recommendation from the Portfolio Holder with responsibility for corporate governance. The Portfolio Holder for Planning and Corporate Services has confirmed that he supports the proposed changes to the Constitution and recommends the Cabinet endorses the recommendations to Full Council.

RECOMMENDATION

That the Cabinet refers the report attached as Appendix 1 to Full Council and formally supports its recommendations, including that to set up a dedicated 'Local Plan Committee' through changes to the Council's Constitution.

APPENDICES

Appendix 1– Report to Full Council

COUNCIL

25 MARCH 2014

REFERENCE FROM CABINET

A.1 PROGRESSING THE LOCAL PLAN AND ESTABLISHING A LOCAL PLAN COMMITTEE

Report prepared by Gary Guiver and Lisa Hastings

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

- (a) To report to the Council that objections to the Council’s emerging Local Plan have been received from Essex County Council and Colchester Borough Council which identify fundamental issues that will need to be addressed before the plan can be submitted to the Secretary of State to be examined by a Planning Inspector.**
- (b) To seek Council’s agreement to set up a dedicated ‘Local Plan Committee’ through a change to the Council’s Constitution, to oversee the remaining stages of preparing the Local Plan, address the fundamental issues raised by objectors and deal with other aspects of planning policy work.**

EXECUTIVE SUMMARY

On 6 January 2014, the Council published a series of ‘pre-submission focussed changes’ to its emerging Local Plan for six weeks public consultation ending on 17 February 2014. These changes were designed to address some of the 800 objections received in response to the original version of the plan published for consultation in November 2012. When Full Council approved the focussed changes for consultation on 26 November 2013 it was also agreed that, following public consultation, the amended Local Plan would be submitted to the Secretary of State to be examined by an independent Planning Inspector (in line with national planning regulations) unless any of the responses raised genuine concerns about the soundness of the plan which might require further changes.

Although the focussed changes have succeeded in addressing a large number of the original objections raised by residents, they have also attracted further objections, most notably from Essex County Council and Colchester Borough Council. These objections raise fundamental concerns over the soundness of the revised Local Plan relating, in particular, to the lack of sufficient sites to deliver the full objectively-assessed need for housing over the next 15 years and the legal duty for Councils to cooperate with neighbouring authorities and partner organisations on strategic planning matters of cross-boundary significance.

Officers have reviewed how other Councils have addressed similar issues and have taken advice from a senior Planning Inspector to ascertain the severity of the objections raised and the consequent risk of the Local Plan being rejected through the examination process – potentially leaving Tendring vulnerable to unwanted development and powerless to influence the scale, type, design and community benefits of development through its policies. Based on the Inspector’s

advice and the recent experience of other authorities, Officers are of the strong view that the emerging Local Plan, in its current revised form, will not survive the scrutiny of an Inspector given the government's 'uncompromising line' on promoting housing growth and the importance that the government attaches to the legal 'duty to cooperate'. Furthermore, the approach to development in the Local Plan does not embrace, fully, one of the main objectives of the Council's own Economic Development Strategy – to facilitate population growth in key locations as a means of generating economic growth and the creation of new jobs.

The responsibility to produce a Local Plan is a Council function and to address the issues highlighted with member engagement, Officers recommend setting up a dedicated 'Local Plan Committee' to oversee the preparation of a new version of the Local Plan specifically dealing with these matters, meeting the government's requirements and provide a more positive planning framework to deliver the objectives of the Economic Development Strategy. The Local Plan Committee will provide a transparent, cross-party mechanism for scrutinising and endorsing technical evidence, considering development options and policy wording, shaping the approach to community involvement, considering and commenting on neighbouring authorities' planning documents and approving supplementary planning documents.

The approval of the Local Plan itself would remain the responsibility of Full Council, but the Local Plan Committee would make recommendations to Full Council in consultation with the Cabinet.

It is anticipated that if work begins on a new version of the Local Plan in April 2014, it can be published for initial consultation in late 2014, published for final consultation in mid-2015 following the local elections, submitted to the Secretary of State before the end of 2015 and adopted by April 2016.

RECOMMENDATION

- (a) **That the Council notes that the 'Local Plan: Pre-Submission Focussed Changes' have attracted fundamental objections from Essex County Council and Colchester Borough Council (attached as Appendices A1a, A1b and A1c) questioning plan's conformity with the legal 'duty to cooperate' and the requirements of national planning policy; and**
- (b) **That the Council agrees the establishment of a new Local Plan Committee, through changes to the Council's Constitution, with the terms of reference and composition set out in this report.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Achieving affordable excellence: The way that local authorities are funded through central government has changed significantly in recent years. Councils that support growth in housing and commercial development are rewarded through the grant of 'New Homes Bonus' and through the ability to retain a proportion of business rates. These valuable sources of funding enable Councils to sustain existing services and improve those services in the future. Critically, the government is considering the withdrawal of New Homes Bonus for new homes granted planning permission on appeal, further emphasising the need for Councils to put a robust Local Plan in

place in line with national requirements and to approve planning applications, without delay, in line with the government's 'presumption in favour of sustainable development'.

Increasing the level of future housing development from just under 6,000 homes (currently proposed) to between 11,000 and 12,000 homes over a 15 year period (to meet the objectively assessed need identified in the Council's Strategic Housing Market Assessment (SHMA)) will significantly increase the authority's Council Tax base and increase the level of funding for infrastructure that can be secured either through either Community Infrastructure Levy (CIL) or legal planning obligations. In addition, based on the advice of the Economic Development Strategy, an increase in housing development in the right locations will support growth in the economy and the creation of new jobs, helping to address deprivation and further increase revenue to the Council.

Improving public perception and reputation: A substantial increase in the level of housing development proposed in the Local Plan will undoubtedly lead to some criticism and objections from residents, particularly in the areas of the district that will be affected most. However, the Council has a responsibility, for the good of all residents, to produce a Local Plan that meets the requirements of government policy by meeting the objectively-assessed needs for housing and thus maximising opportunities for economic growth and job creation. Failing to meet government requirements and subsequently having the Local Plan rejected by the Planning Inspectorate will leave the district vulnerable, on appeal, to unwanted developments – for which there will be little scope for the Council to influence the scale, type, design, layout and community benefits and potentially no reward of New Homes Bonus.

Producing a Local Plan that positively embraces the government's growth agenda, helps deliver the objectives of the Economic Development Strategy and demonstrates cooperation with adjoining authorities and other bodies will raise the Council's standing amongst Essex authorities and place it in a better position to attract external funding toward investment in new infrastructure, including from the Local Enterprise Partnership (LEP).

The establishment of a dedicated Local Plan Committee would improve the transparency of the decision making process for the benefit of our residents and other interested parties.

Helping children and young people to achieve their full potential: The emerging Local Plan in its current state includes a number of policies designed to help future generations achieve their potential. These include policies aimed at delivering local housing that people will aspire to live in, policies to support schools and other educational establishments in improving their facilities, policies aimed toward maximising local training and employment opportunities and policies aimed at improving the general environment in which our children and young people will grow up in. A substantial increase in the level of housing development proposed in the plan will support the objectives of the Economic Development Strategy related to improving education and skills by ensuring developments achieve the critical mass required to help deliver new and improved educational facilities, and supporting growth in key sectors of the economy that will provide jobs for young people in the future.

Addressing deprivation: One of the objectives of the Economic Development Strategy is to facilitate population growth in order to generate growth in the economy. Increasing the scale of housing development in the right locations will generate demand for goods and services and deliver new road infrastructure to unlock new employment land and land for new educational, health and leisure facilities. Alongside any strategic housing, employment and mixed use developments required to meet objectively assessed development needs, the new version of the

Local Plan will continue to identify 'Priority Areas for Regeneration' in central Clacton, southern Jaywick, Dovercourt, Harwich and Walton-on-the-Naze – areas that will benefit from investment and economic development.

Local housing for local people: The emerging Local Plan, in its current form, contains policies that are specifically aimed at helping to deliver local housing for local people. As well as pushing for 'aspirational housing' to promote prosperity and family life, the Local Plan aims to deliver new Council Housing for local working people on lower incomes who cannot afford to buy or rent housing on the open market. It is envisaged that the new version of the Local Plan will continue to promote these types of homes, but increasing the overall amount of housing development proposed in the Local Plan to meet the requirements of the National Planning Policy Framework will increase the scope to deliver such housing in different locations that will meet the needs of different sectors of the population, including the specialist needs of older and disabled residents.

Coastal opportunities and protection: The new version of the Local Plan will continue to recognise both the importance of our coastline for the local economy and the quality of life for our residents, but also the threats of flooding and coastal erosion that affect local residents and businesses. The revised plan will make realistic assumptions about the threat posed as a result of global climate change and will balance these against the need to generate economic growth and tackle deprivation, particularly in areas like Jaywick and Walton-on-the-Naze. The new plan will also seek to embrace and maximise potential economic benefits arising from the proposed coastal defences in Clacton, including the potential for new tourist attractions and facilities for residents and visitors.

RESOURCES AND RISK

Resources: The new version of the Local Plan would be prepared by the Council's Planning Policy Team under the leadership of the Planning Policy Manager with input and scrutiny from the proposed Local Plan Committee. The costs involved in preparing updated evidence, printing documents, publicity and examination will be met through the agreed 'LDF Budget'. The establishment of a dedicated Local Plan Committee would incur some additional costs through the payment of Member allowances and additional work for Officers in Planning, Democratic and Legal Services but the wider economic benefits of putting a robust Local Plan in place would significantly outweigh any additional resource costs.

Risks: The main risk associated with submitting the Draft Local Plan in its current form is that it will be rejected by the Planning Inspectorate for not adequately addressing the legal duty to cooperate and not identifying sufficient land to meet the objectively assessed need for housing development, in full, as required by the National Planning Policy Framework. Having considered the latest objections from Essex County Council and Colchester Borough Council and having received advice from a senior Planning Inspector, noting the experiences of other authorities in a similar position, Officers advice to Members is that this risk is very high.

Having the Local Plan rejected by the Planning Inspectorate would leave Tendring vulnerable to unwanted development proposals and powerless to influence the scale, type, design and community benefits of development. The Council would only have the National Planning Policy Framework and the government's 'presumption in favour of sustainable development' as a framework for determining applications. In instances where the Council decides to refuse planning applications, particularly for housing development, the likelihood of decisions being overturned on appeal by Planning Inspectors will be very high. Losing appeals carries with it the risk of claims of costs against the Council and no award of New Homes Bonus for any homes built. Another risk is

that the objectives to facilitate economic growth in line with the objectives of the Economic Development Strategy will not be fully realised, leaving Tendring with continued problems with unemployment and deprivation.

The risks associated with the preparation of a new version of the Local Plan proposing a substantial increase in the level of housing development mainly relate to the inevitable negative reaction from residents and the additional resources that may be required to deal with a larger number of objections. Residents and Town and Parish Councils in affected areas will put pressure on Members and Officers to scale down some of the proposals and will put forward strong objections, possibly using the media to vent their disapproval.

To minimise the risk of disruption and to ensure that resident feedback is as constructive as possible, it is recommended that a dedicated Local Plan Committee is set up to ensure constructive and transparent cross-party and geographically-representative cooperation between Members. This will ensure that local concerns are balanced with the strategic needs for growth in the district. The Committee would also help shape the approach to community involvement to ensure that residents are given access to relevant information, sufficient opportunity to comment on the proposals and sufficient opportunity to ask questions of Officers, Members and other relevant partners.

LEGAL

Legislation: Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 state that applications for planning permission must be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The statutory 'development plan' for Tendring, as it stands is the 2007 Adopted Local Plan however, in accordance with the government's National Planning Policy Framework, the policies and proposals in the Adopted Local Plan are increasingly out of date and cannot be afforded full weight. It is therefore essential to progress the emerging Local Plan through the remaining stages of the plan making process and ensure it meets the requirements of national planning policy so it can become the new statutory development plan. Section 15 of the 2004 Act provides the local planning authority will approve 'Development Plan Documents' including the Local Plan.

Section 33A of the Planning and Compulsory Purchase Act (2004), as amended by Section 110 of the Localism Act 2011 places a duty upon local authorities and other public bodies to cooperate on strategic matters of cross-boundary significance, which includes housing supply. Before a Planning Inspector can begin the process of examining a Local Plan, he or she needs to be satisfied, with evidence, that the local authority has done everything it can to ensure effective cooperation with neighbouring authorities and other partner organisations and has sought to resolve, as far as is possible, any cross-boundary planning issues. With this in mind, Members should note that both Essex County Council and Colchester Borough Council have raised fundamental objections to the Council's emerging Local Plan relating to housing numbers and therefore, as things stand, it will not be possible to demonstrate to and Inspector that cooperation has been effective.

Regulations: The Local Plan must be prepared, consulted upon and examined in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012. At the examination, the Planning Inspector will need to be content that these regulations have been followed and that the scope for any legal challenges have been minimised.

Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, provide that certain plans and strategies are not to be the sole responsibility of the Executive, these include Development Plan Documents such as the Local Plan.

Examination: Alongside the legal and regulatory requirements, the Local Plan, as amended, will eventually be judged through an examination, by a Planning Inspector, against the following policy tests, as set out by the government in the National Planning Policy Framework. The Local Plan must be shown to be:

“Positively Prepared” – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;

“Justified” – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;

“Effective” – the plan should be deliverable over its plan period and based on effective joint working on cross-boundary strategic priorities; and

“Consistent with national policy” – the plan should enable the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework.

It is important to ensure the Local Plan meets these tests because following the examination, the Planning Inspector will make one of three recommendations to the Council. Either: 1 the Local Plan is ‘sound’ and the Council can proceed to formally adopt it; 2 the Local Plan can be considered sound subject to making some changes; or 3 the Local Plan is ‘unsound’ and cannot proceed to adoption. Based on the objections received, the advice of the Planning Inspectorate and the experience of other authorities, the Draft Local Plan is most likely to be declared ‘unsound’ if it were submitted for examination in its current form.

In accordance with Article 15, changes to the Constitution are approved by the full Council after receiving a recommendation by the Executive following a proposal from the Monitoring Officer and a recommendation from the Portfolio Holder with responsibility for corporate governance. The Portfolio Holder for Planning and Corporate Services has confirmed that he supports the proposed changes to the Constitution and recommends the Cabinet endorses the recommendations to Full Council.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Health Inequalities /Area or Ward affected / Consultation/Public Engagement.

Crime and Disorder: The new version of the Local Plan would continue to contain policies and proposals aimed at delivering quality homes, tackling over-concentrations of Houses in Multiple Occupation (HMO’s) and taking a more positive approach toward growth in the right locations to facilitate economic development and job creation (in line with the objectives of the Economic Development Strategy) which will help, alongside non-planning measures, to improve prosperity and tackle crime and disorder.

Equality and Diversity: An Equality Impact Assessment for the new version of the Local Plan will be prepared to ensure that matters relating to equality and diversity are sufficiently covered. It should be noted that alongside meeting the objectively assessed needs for housing, one of the main challenges facing Councils in the preparation of their Local Plans is the identification of land for travellers in line with the government's 'Planning Policy for Traveller Sites'. At the time of writing, a new Gypsy and Traveller Needs Assessment was being carried out for all local authorities in Essex which will determine how many additional traveller pitches each authority will need to plan for in their Local Plans.

Health Inequalities: The new version of the Local Plan will continue to contain policies and proposals aimed at delivering green infrastructure and providing quality new homes, job opportunities and community facilities which will all assist in tackling the district's health problems. In increasing the amount of development in the new version of the Local Plan and embracing the objectives of the Economic Development Strategy, the Council has an opportunity to plan more positively for new health care facilities to meet the needs of an ageing population and to provide local employment across a range of disciplines and pay-grades. This could be particularly beneficial for coastal towns such as Clacton which are popular for people wishing to move into the district to retire.

Area or Ward affected: All wards.

Consultation/Public Engagement: The preparation of the Local Plan to date has been informed by comments received during five previous rounds of public consultation:

800 comments received in 2009 in response to the Core Strategy Issues and Possible Options Document;

1,500 comments received in 2010 in response to the Core Strategy and Development Policies Document;

1,400 comments received in 2011 in response to the consultation on Housing Development in Tendring; and

800 comments received in 2012/13 in response to the Local Plan: Proposed Submission Draft (2012).

560 comments received in 2014 in response to the Local Plan: Pre-Submission Focussed Changes (2014).

If a new Local Plan Committee is set up to oversee the preparation of the new version of the plan, it will be able to work with Officers to ensure, as far as possible, that the plan reflects the comments received so far – acknowledging that a significant increase in housing development will attract further objections from residents in affected areas when the new plan is published for consultation.

It is envisaged that there will be two further rounds of public consultation. The first consultation will be on the 'preferred options draft' i.e. a version of the new Local Plan indicating the Council's preferred approach and explaining which alternative options were considered and discounted. At this stage it will be important to ensure effective engagement with communities, particularly in those areas affected by new developments. It is proposed that the Local Plan Committee would work with Officers to shape and agree the approach to community involvement to ensure this is

effective as possible.

The second consultation will be on the 'proposed submission draft' i.e. the final version of the plan that the Council intends to submit to the Secretary of State to be examined by a Planning Inspector, having taken into account any comments received in response to the preferred options draft. At this stage, interested parties will be invited to make any final comments on the soundness of the plan which will then be forwarded to the Inspector.

These public consultation exercises will be carried out in line with the Town and Country Planning (Local Planning) (England) Regulations 2012 and the Council's latest 'Statement of Community Involvement' (SCI).

PART 3 – SUPPORTING INFORMATION

RESULTS OF PUBLIC CONSULTATION

In January 2014, the Council published the Tendring District Local Plan: Pre-Submission Focussed Changes (2014) (hereafter the '2014 Focussed Changes') for six weeks consultation following Full Council approval on 26 November 2013. The purpose of the 2014 Focussed Changes was to address some of the objections raised in response to the Tendring District Local Plan: Proposed Submission Draft (2012) (hereafter the '2012 Draft Local Plan') which was published for consultation in November 2012. Some of the changes were also aimed at bringing the Draft Local Plan more in line with government policy contained within the National Planning Policy Framework (NPPF).

At the Full Council meeting on 26 November 2013 when the 2014 Focussed Changes were approved for consultation, it was agreed that *"unless any responses to the consultation exercise raise genuine concerns about the soundness of the plan that might require further changes, the revised Local Plan incorporating the pre-submission focussed changes be submitted to the Secretary of State for examination by a Planning Inspector"*.

During the six-week consultation period, 560 representations were received, including many comments of support for some of the changes. The majority of representations, in both objection and support, were from residents of Alresford and Elmstead Market, related to the highly contentious housing developments proposed for those villages in line with the Council's strategy for a fair and proportionate distribution of housing development across all towns and villages.

Objections from Essex County Council and Colchester Borough Council however raise fundamental concerns about the soundness of the Local Plan, questioning its compliance with national requirements. These concerns relate mainly to the amount of housing development proposed in the plan and how this falls short of what is required to meet the 'objectively assessed need' for housing and the need to cooperate with neighbouring authorities and partner organisations to address strategic planning matters of cross-boundary significance.

Through section 33A of the Planning and Compulsory Purchase Act (2004), as amended by Section 110 of the Localism Act 2011, District Councils and County Councils have a 'duty to cooperate' on strategic planning matters. It is therefore imperative that any objections to Local Plans submitted by the County Council are treated very seriously and, through effective cooperation, the objections are resolved, as far as is practical, before the Local Plan is submitted

to the Secretary of State to be examined. If a Planning Inspector is not convinced that a Council has invested sufficient effort in cooperation with partner organisations, they can refuse to examine a Local Plan for failing to comply with minimum legal requirements.

Essex County Council's original objections to the 2012 Draft Local Plan related mainly to the short 10-year plan period and the fair and proportionate 6% increase in housing stock proposed for all towns and villages in the district. Whilst this approach was generally popular amongst residents, the County Council was concerned that such a thin distribution of growth will have a detrimental effect on the future provision of school places, with developments in some locations (including Clacton and some of the district's villages) too large for existing schools to cope with, but not large enough to justify, accommodate and help pay for the construction of new schools.

In an attempt to address this issue, the 2014 Focussed Changes extended the plan period to 15 years with specific development sites for years 1-10 and 'broad locations for longer-term growth' (around Clacton, Harwich and the Colchester Fringe) for years 11-15, from which additional sites could be allocated through a review of the Local Plan at the appropriate time. The changes also retained the thrust of a fair and proportionate distribution of growth across the district, but without the rigid 6% increase in housing for all towns and villages – thus allowing flexibility for local limitations and constraints to be taken into account.

Whilst these changes went some way to addressing some of the County Council's concerns, further objections have been submitted in response to the 2014 Focussed Changes which still highlight fundamental issues with the Council's approach. The County Council continues to assert that whilst more flexible, the 'fair and proportionate' distribution of growth will still place an unacceptable burden on the provision of school places in the district. It also raises concern that the level of housing development proposed in the Local Plan is considerably short of what the Council's own evidence suggests is the 'objectively-assessed need' and that the arguments that the Council has put forward for not identifying specific sites to meet the need, in full, are unlikely to withstand the scrutiny of a Planning Inspector, based on the recent experience of other authorities.

The County Council also questions the Council's ability to deliver the objectives for economic growth and job creation in its Economic Development Strategy without a more positive strategy for housing development. In particular, it questions whether identifying very vague 'broad locations' for longer-term growth around Clacton, Harwich and the Colchester Fringe will provide a sufficient level of certainty for developers and external funding agencies (such as the Local Enterprise Partnership) to bring investment to the area. The County Council has suggested therefore that the Local Plan should identify specific sites for development for the full length of the 15 year plan period, not just the first 10 years.

Neighbouring authorities are also bound by the legal duty to cooperate and Tendring's only adjoining authorities are Colchester Borough Council and Babergh District Council. Since the government's abolition of regional plans which set 'top-down' targets for housing and jobs and policies to guide development at a strategic level, the onus is now on authorities to agree growth targets and strategy amongst themselves based on objective technical assessments. Objections to Local Plans submitted by neighbouring authorities must also therefore be treated very seriously and, through effective cooperation, any matters are resolved, as far as is practical, before the Local Plan is submitted to the Secretary of State to be examined.

Colchester Borough Council's original objections to the 2012 Draft Local Plan, like those of Essex County Council, related mainly to the short 10-year period, the lack of evidence to justify a rigid 6% increase in housing stock for all settlements and the Council's arguments for not identifying

enough land to meet the objectively-assessed need for housing, in full. In response to the 2014 Focused Changes, Colchester has maintained and reinforced its objections.

The National Planning Policy Framework firstly requires Councils to address housing needs within its own area and if, in exceptional circumstances a Council cannot achieved this, it is then expected to work with adjoining authorities to ensure that the unmet need is addressed across two or more districts. Colchester Borough Council is therefore concerned that if Tendring fails to identify sufficient land to meet its own objectively assessed need for housing in full, Colchester will be expected to make up for the shortfall – on top of any additional need for housing in its own area, which is currently being assessed through a new Strategic Housing Market Assessment (SHMA) being prepared jointly for Colchester, Braintree and Chelmsford.

Objections from developers and landowners have to be considered very carefully to ensure the Local Plan survives the examination process. Because developers and landowners tend to have a financial interest in the content of Local Plans, they are often prepared to invest considerable resources and expertise in scrutinising plans, highlighting their weaknesses, comparing cases across the country and trying to persuade an Inspector that a plan is unsound. Where developers are supportive of a Local Plan however, they are often prepared to assist Councils in persuading the Inspector that the plan is sound and helping to ‘fight off’ other objectors through the examination process.

THE EXPERIENCE OF OTHER AUTHORITIES

The abolition of regional plans and the introduction of the National Planning Policy Framework and the legal duty to cooperate have made the preparation of Local Plans very challenging for Councils. A number of authorities across the country have either had their Local Plans rejected by Planning Inspectors or have decided to abandon and re-write their plans in response to objections received by neighbouring authorities, partner organisations, landowners and developers – mainly relating to housing numbers. Even a number of fellow Essex authorities have experienced such problems.

Basildon Council originally proposed planning for 6,500 homes over 20 years (325 a year) but to comply with the requirements of national policy, the Council has now published a revised plan for 16,000 dwellings over 20 years (800 a year) which includes proposals to revise the boundary of the metropolitan green belt to make space for the development.

Brentwood Borough Council has prepared (and submitted) a Local Plan proposing an annual dwelling stock increase of 233 despite identifying an objectively assessed need of 373 dwellings per annum. The Council has argued that the higher level of growth would require a significant release of green belt land, would significantly worsen congestion in Brentwood Town Centre and would irrevocably change the rural character of the Borough. When this plan was published for consultation, it attracted strong objections from adjoining authorities concerned about the impact of Brentwood not delivering its full projected need for housing on the pressure for housing in neighbouring areas. Officers are now waiting to see whether the examination will proceed and, if so, whether the plan will survive the scrutiny of the Inspector. Incidentally, Brentwood is the constituency of Eric Pickles MP, Secretary of State for Communities and Local Government.

Castle Point Borough Council was in the early stages of preparing a new Local Plan proposing an annual dwelling stock increase of 200 dwellings per year when it received a planning application

for 165 homes at Thundersley, on land within the green belt. The Council refused the planning application but the applicant appealed against the decision and issues of housing supply were considered by the Appeal Inspector. They concluded that the Council was significantly short of housing land and that to comply with the requirements of national policy, it needed to identify sufficient land to deliver an average of 470 a year. Castle Point has proceeded with a Local Plan still promoting a dwelling stock increase of 200 dwellings per annum, arguing that the district's physical constraints (including green belt and flood risk) make it impossible to deliver the objectively assessed need, in full. Officers are now waiting to see whether adjoining authorities object.

Maldon District Council originally prepared a Local Plan proposing an annual dwelling stock increase of 213. However, in engaging with neighbouring authorities to comply with the legal duty to cooperate and taking informal advice from the Planning Inspectorate, it was suggested that Maldon needed to plan to meet the objectively assessed need of 294 dwellings a year derived from 2010 sub-national household projections. The Council was concerned that it would fail to gain the support of its neighbouring authorities if it were to submit its Local Plan to the Secretary of State in its emerging form and there was a high probability of it being rejected by the Planning Inspector. The Council is now preparing a Local Plan proposing an annual dwelling stock increase of 294, identifying major greenfield urban extensions to Maldon and Heybridge. The Council undertook an initial public consultation exercise in 2013 which attracted 3,500 objections but it is still planning to proceed with a new plan including the higher housing numbers.

Uttlesford District Council originally prepared a Local Plan proposing an annual dwelling stock increase of 365 a year based on the requirements of the now abolished East of England Plan. However following legal advice and advice from the Planning Inspectorate, the Council decided it was necessary to prepare a new plan including proposals for 523 dwellings per annum, again based on 2010 sub-national household projections, with additional sites allocated for development in Saffron Walden, Great Dunmow and Elsenham.

ADVICE FROM THE PLANNING INSPECTORATE

Now that the National Planning Policy Framework and the duty to cooperate have been in force for two years, the Planning Inspectorate has had the opportunity to examine a number of Local Plans across the country and has now developed a clear approach to interpreting government policy under the new arrangements.

On 12 November 2013, the Council's Planning Policy Manager attended a meeting of the Essex Planning Officers' Association (EPOA) Policy Forum at which Mr. Keith Holland, a Senior Planning Inspector, was present to answer questions about the examination of Local Plans. In that meeting, the Inspector described the government's drive to increase housing development as 'uncompromising' and suggested that there would be very few circumstances under which a Council would be allowed to proceed with a Local Plan identifying insufficient land to meet the objectively assessed need for housing. Even in those rare instances where it may be physically impossible for a Council to identify sufficient land within its own area, Inspectors will expect that Council to work with adjoining authorities to address unmet need across a wider area. Even authorities within the metropolitan green belt are being expected to review green belt boundaries to make room for additional housing. When questioned on a range of factors that Councils, including Tendring, have used to justify lower housing figures, the Inspector effectively discounted them all as matters that, in an Inspector's eyes, would carry little weight when examining a Local Plan.

Public opinion was one such factor. When asked how much weight should be given to the views expressed by residents, the Inspector reinforced the fact that the government's priority is for Councils to meet housing needs on an objective basis, informed by evidence and rational thinking. Therefore Local Plans that fail to do this, notwithstanding efforts to take on board residents' views, will be rejected.

Deprivation and unemployment was another factor discounted by the Inspector. When asked whether housing growth could be limited to reflect a shortage of jobs in an area, the Inspector again reinforced the government's view that building new homes will stimulate economic activity not only in construction, but also in supporting supply-chain industries and by increasing the demand for goods and services and helping to unlock potential employment sites. This view is consistent with advice in the Council's own Economic Development Strategy which recommends facilitating population growth in certain locations including Clacton, Harwich and the Colchester Fringe. Therefore any arguments that additional housing will exacerbate unemployment and deprivation, as have been made by some residents, will not be accepted by an Inspector.

Limited infrastructure was also discounted as a reason for lower housing numbers. When questioned about this, the Inspector suggested that infrastructure provision will not improve unless Councils plan positively for growth. Unless Councils allocate specific sites in their Local Plans to meet the objectively assessed need for housing, they are unlikely to access funding, either through developer contributions or external sources such as the Local Enterprise Partnership, for investment in new and improved schools, medical facilities, roads, public transport, utilities and other infrastructure. Therefore any arguments that additional housing cannot be built because the existing infrastructure will not be able to cope, as have been made by some residents, will not be accepted by an Inspector.

Another argument for lower housing figures put forward by some Councils, including Tendring, was that, based on historic rates of housing development, it would be unrealistic to expect the housing market to deliver substantial increase in growth. For example, Tendring has historically delivered around 400 dwellings per year over the last 15 or so years, but the objectively assessed need suggests that nearer 700 homes a year are needed in the future. In response to this point, the Inspector suggested that historic rates of development should not be used as a reason for limiting the amount of land allocated for housing in Local Plans. The government argues that limits on development imposed through Local Plans, regional plans and county structure plans in the past have, in part, led to the shortage of housing that Councils now face in the future. To rectify this, the government's priority is to ensure that the planning system no longer gets in the way of growth. By ensuring Local Plans identify sufficient land to meet the full objectively-assessed need for housing, Councils will have done their job – leaving developers free to obtain planning permission and deliver new homes at a rate dictated by market demand.

The loss of agricultural land and the impact of development on the character of the open countryside and on wildlife was another reason for Councils promoting lower housing numbers. This too was discounted by the Inspector. The fact that the government now even expects authorities in green belt areas to review green belt boundaries to make space for new housing indicates that protection of the countryside for its own sake is no longer a government priority.

The National Planning Policy Framework seeks only to protect from development landscapes of the highest importance, such as National Parks and Areas of Outstanding Natural Beauty (AONB) and areas of high importance to nature conservation such as Sites of Special Scientific Interest (SSSI). If greenfield agricultural land is required to meet objectively assessed needs for development, Councils are expected to allocate such land for development in their Local Plans.

Whilst Councils are encouraged to direct development toward areas of lower agricultural value, where practical, there is an acceptance that higher grade land could be lost to development if necessary. In an Inspector's eyes, the best way of protecting agricultural land, the character of the countryside and areas of importance for wildlife is by identifying sufficient land in Local Plans where development will be allowed, thus giving stronger protection to land outside of these areas; and by having policies in place to ensure that the impacts of development are either mitigated, minimised or offset.

At the meeting, the Inspector also advised attendees that when interpreting the National Planning Policy Framework's requirement for Council's to identify a 'five year supply' of housing land, plus a 5% or 20% 'buffer', Inspectors will expect Councils to base this upon the latest objectively-assessed need for housing. Therefore even Councils with adopted Local Plans in place, such as Colchester, will be vulnerable if their latest evidence suggests that higher rates of housing development are required to meet future needs. The Inspector emphasised that failure to identify an ongoing supply of housing land will result in planning applications for housing being granted, against a Council's wishes, on appeal.

With regard to the duty to cooperate, the Inspector emphasised that this was a legal duty and that failure to comply would make Local Plan challengeable in the courts, therefore Inspectors will not even begin the process of examination if Councils are unable to demonstrate effective cooperation with their neighbouring authorities and partner organisations.

ESTABLISHING A LOCAL PLAN COMMITTEE

A substantial increase in housing development through proposals in the Local Plan will no doubt attract strong objection and resistance from communities across the Tendring district, all of which are represented by elected members of the Council.

Given that the Council is required, by law, to have a Local Plan that has been prepared in accordance with the legal duty to cooperate and the requirements of the National Planning Policy Framework, the engagement and cooperation of Members from all political groups in preparing the new plan will be essential. Other authorities have sought to achieve this through setting up a dedicated Committee including Members from all political groups. This approach is also recommended in accordance with the legislation which provides that responsibility for the Local Plan is a 'Council function'. The Council can delegate functions to a Committee to oversee the preparation of the Local Plan and to ensure that it meets the 'tests of soundness' from national planning policy.

Terms of Reference

It is therefore recommended that a 'Local Plan Committee' be set up for Tendring. The Local Plan Committee's Terms of Reference are recommended to be as follows:

To oversee the preparation of the new Tendring District Local Plan* to ensure that it meets the "tests of soundness" set out in the National Planning Policy Framework.

To ensure the Local Plan* is "positively prepared", based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving

sustainable development.

To ensure that the Local Plan* is “justified”, promoting the most appropriate strategy for growth, when considered against reasonable alternatives, based on proportionate evidence.

To ensure that the Local Plan* is “effective”, being deliverable over the plan period and based on effective joint working on cross-boundary strategic priorities.

To ensure that the Local Plan* is “consistent with national policy” enabling the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework.

To ensure the Council effectively complies with the statutory duty to cooperate.

To consider and recommend the content of the Local Plan*, in consultation with the Cabinet, for consideration and formal approval by Full Council for either public consultation (preferred options or pre-submission versions), submission to the Secretary of State (to be examined by a Planning Inspector), or final adoption (following receipt of the Planning Inspector’s report).

To formally approve Supplementary Planning Documents (SPDs) and other planning documents for public consultation and final adoption.

To approve the preparation, commissioning and subsequent publication of studies, surveys and other technical documents that form part of the “evidence base” needed to justify the content of the Local Plan*, Supplementary Documents (SPDs) and other planning documents.

To scrutinise, note and understand the recommendations and conclusions of the “evidence base” to ensure that it provides a robust platform upon which to base policies and proposals in the Local Plan*, SPDs and other planning documents.

To approve the publication of the Annual Monitoring Report (AMR) each year and to consider whether or not it highlights development trends that may or may not require changes to policies or proposals in the Local Plan*, SPDs or other planning documents.

To consider representations submitted in response to public consultation exercises on the Local Plan*, SPDs or other planning documents and consider the need for any changes to these documents in response to any issues that they raise.

To consider and agree responses to consultation exercises on national, regional and sub-regional planning policy issues and on other authorities’ planning documents.

Approve the work programme required for the Committee to undertake its functions effectively and in a timely manner.

Refer to Cabinet and/or Council any recommendations in respect of the Council's overall strategy and policies.

* The Local Plan can consist of one or more ‘Development Plan Documents’ which could include one document for the majority of the Tendring District and a separate document, if necessary, prepared jointly with Colchester Borough Council, for any major development crossing the Tendring/Colchester border.

Composition:

The Local Plan Committee would comprise eight Members. It is recommended that the Local Plan Committee should contain different Members from the Planning Committee to minimise the risk and perception of, or accusations of, 'pre-determination' in the consideration of planning applications against the policies in the Local Plan. In accordance with Section 15 (duty to allocate seats to political groups) to the Local Government and Housing Act 1989, the eight Members on the Local Plan Committee shall be appointed from respective political groups as follows:

Conservative (5 Members)
Labour (1 Members)
Tending First (1 Member)
Independent (1 Member)

It is recommended that the Local Plan Committee would be chaired by the Planning and Corporate Services Portfolio Holder to reflect their strategic (as opposed to regulatory) responsibility for planning matters (including strategic development) and to facilitate effective consultation with Members of the Cabinet.

Timetable:

An indicative timetable of work for the proposed Local Plan Committee, for the period up to the 2015 local elections is set out below.

June/July 2014 – Review national planning policy, duty to cooperate and the evidence base and consider and agree a preferred strategy for growth, vision for growth and work programme.

August/September 2014 – Consider and agree Local Plan preferred options document, including planning policies, for recommendation to Full Council.

October/November 2014 – Consider and agree the new Statement of Community Involvement (SCI) and the programme of public consultation on the Local Plan preferred options document.

December 2014/January 2015 – Consider and approve the Annual Monitoring Report and reflect on the messages coming out of the public consultation on the Local Plan preferred options document

February/March 2015 - Consider representations received in response to the Local Plan preferred options documents.

This programme of work is only indicative and would be the subject of change and agreement with the Local Plan Committee itself.

APPENDICES

Appendix A1(a) – Essex County Council's objections to the Local Plan
Appendix A1(b) – Colchester Borough Council's objections to the Local Plan



Tendring District Local Plan: Pre-Submission Focussed Changes (2014)

REPRESENTATION FORM

This is the representation form to use for giving us your comments on the pre-submission focussed changes proposed for the Tendring District Local Plan. The documents that detail these changes are available to view on the Council's website (www.tendringdc.gov.uk) and hard copies are available to view at the District Council offices at Weeley, the Town Hall at Clacton and at all the libraries in the district.

Please fill in the form carefully and clearly as illegible forms may not be considered.

PART A – DETAILS OF PERSON OR ORGANISATION MAKING THE REPRESENTATION

PLEASE PRINT ALL DETAILS

Name of person or organisation making the representation:

ESSEX COUNTY COUNCIL

If an organisation, please provide a contact name:

MATTHEW JERICO (PRINCIPAL PLANNER, ECONOMIC GROWTH AND DEVELOPMENT)

E-mail: matthew.jericho@essex.gov.uk **Tel No:** 0333 01 01 30557

Address (put the organisation address if relevant): County Hall, Market Road, Chelmsford

Post Code: CM1 1QH

If you are an agent acting on behalf of someone please provide your details here

Name of agent:

If an organisation, please provide a contact name:

E-mail: **Tel No:**

Address (put the organisation address if relevant):

..... **Post Code:**

Please remember to notify us if your contact details change.

PART B – DETAILS OF REPRESENTATION

Do you wish to support or object to the proposed changes to the Local Plan?

Support

Object

(Please tick one box)

Please tell us why. If you are objecting, you will need to explain how the plan, even with the proposed changes would still fail to meet one or more of the following ‘tests of soundness’, set by the government. The tests of soundness say that Local Plans must be:

- **“Positively Prepared”** – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
- **“Justified”** – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
- **“Effective”** – the plan should be deliverable over its plan period and based on effective joint working on cross-boundary strategic priorities; and
- **“Consistent with national policy”** – the plan should enable the delivery of sustainable development in accordance with the policies in the government’s National Planning Policy Framework.

In making your comments, please be sure to indicate which of the proposed changes to the Local Plan you are either supporting or objecting to and if you are objecting, what further changes you think are needed.

What changes to Local Plan are you commenting on?	Comment(s)
Refer to the attached Annex for the full response from ECC which provides comments on specific sections of the Local Plan. A summary is provided in the comment(s) column to the right.	<p>The key issues underlying ECC’s objection to the ‘Focussed Changes’ consultation as set out in Annex 1 continue to reflect those raised in 2013, namely:</p> <p>A. <u>Sustainable development and delivering infrastructure</u> – the ‘Focussed Changes’ retains the spatial strategy outlined in the Local Plan Proposed Submission Draft, November 2012, and still more or less applies a six per cent increase in all settlements or as it is now renamed a ‘sustainable, fair and proportionate’ distribution. This will not positively assist effective provision of community infrastructure and public transport to meet the future needs of Tendring.</p> <p>B. <u>Timescale of the Local Plan</u> – ECC supports the timescale of the local plan being extended from 10 years to 15 years (2014 to 2029). However, it is a 15 year plan in name only. The Local Plan only makes provision for a 10 year housing supply with provision for the final five years (2024 to 2029) subject to a local plan review. Broad areas of search and an indicative housing figure of 2,000 dwellings are provided for this latter period, although no clear mechanism or timeframe for the Local Plan review is in place. Such an approach places pressure on ECC to plan and fund the required needs arising from development in Tendring post 2024. There are no specific sites allocated for housing beyond this period and therefore the housing mix, type and quantity and its viability cannot be determined. The same applies for associated transport infrastructure and any required mitigation.</p>

- C. Future social and community infrastructure funding and delivery – further assessment is required to identify the scale and source of funding to ensure timely and adequate delivery of community and social infrastructure to meet future needs of Tendring residents for the duration of the plan period. Such an approach continues to be questioned in terms of the District’s ability to meet its objectively assessed housing need; the economic, social and environmental impacts; and the ability of ECC as service and infrastructure provider to plan for the long term. Specifically, ECC does not have the capital to fund new schools and expects a developer to contribute to the pupil places likely to be generated from new development.
- D. Historic environment – additional policy and evidence referencing should be included in the Local Plan to ensure compliance with the National Planning Policy Framework.
- E. Evidence base – the preparation and publication of an updated evidence base for the Strategic Housing Market Assessment, Strategic Housing Land Availability Assessment and an Economic Development Strategy is welcome and supports ECC’s local plan response from 2013. However, there are inconsistencies with how the evidence base is reflected in the draft Local Plan’s spatial strategy and policies and therefore its ability to support the District Council’s aspirations.

Specific objection is raised to the following three issues.

- Education provision – there are known pressures on reception year places across the district, particularly within rural areas, Clacton-on-Sea and Frinton/Walton. ECC has not been satisfied that the revised spatial strategy and detailed policies outlined in the ‘Focussed Changes’ to the draft Local Plan will be capable of facilitating timely and adequate provision of the anticipated additional education provision to secure sufficient places to accommodate new pupils in the right locations prior to dwelling occupation.
- Sustainable transport – the dispersed spatial distribution that continues to be proposed by the ‘Focussed Changes’ to the draft Local Plan is likely to lead to further dependence on the private car. The largest proposed housing development location is estimated to accommodate 350 units. On this basis no single proposed housing location would be large enough to deliver viable and effective transport alternatives to the private car. A more sustainable approach to delivery of effective transportation improvements and investment within Tendring would be to concentrate development within the larger settlements of the district.
- Strategic Transport Network – policies in the ‘Focussed Changes’ to the draft Local Plan propose upgrades to the A120 and A133 and a new north/south link road between the A120/A122. ECC remains to be convinced of the viability of some of the proposed upgrades for the A133 and A120 and the scale and distribution of growth proposed by the ‘Focussed Changes’ is unlikely to change this situation. It is also unclear when and how the A120/A133 link road will be funded and progressed during the plan period.

Essex County Council objects to the Tendring District Local Plan Pre-Submission Focussed Changes on the basis that:

- a. the District Council has failed in its ‘duty to co-operate’ requirements with the County Council under Section 110 of the Localism Act; and

	<p>b. the Draft Local Plan and its 'Focussed Changes' do not meet the requirements of paragraph 182 of the National Planning Policy Framework where a local planning authority should submit a plan for examination which it considers is 'sound' – namely that it is:</p> <ul style="list-style-type: none"> i. Positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development; ii. Justified – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence; iii. Effective – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and iv. Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.
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If you are objecting to the plan, do you consider it necessary to speak at the public examination in front of the Planning Inspector?

Yes

No

(Please tick one box)

If you wish to speak at the examination, please outline why you consider this to be necessary:

(Please note that the Inspector will determine what issue will be debated and who will be invited to speak at the examination)

Throughout 2013, Tendring District Council and Essex County Council officers and members have met in an attempt to address concerns raised by the County Council; the focus being on the provision and funding of additional primary school and commensurate childcare and early years places arising from new development particularly in Clacton. Although the County Council has worked closely with the District Council in the on-going preparation of its draft Local Plan, the 'Focussed Changes' fail to address the fundamental issues raised by the County Council. A full explanation of the County Council's concerns and objection is outlined in the attached Annex to this representation form. The County Council would therefore wish to ensure these matters are raised and discussed at the examination

FAIR PROCESSING NOTICE – DATA PROTECTION ACT 1998

Please note that any comments submitted cannot be treated as private and confidential and may be made available for public inspection. Respondents' details will be held on a database in accordance with the terms of Tendring District Council's registration with the UK Information Commissioner pursuant to the Data Protection Act 1998.

Please sign and date this form: Signed: MATTHEW JERICHO Date: 17th February 2014

All representations must be received by the Council no later than 17:00 on Monday 17th February 2014. Any submissions received after this deadline cannot be considered.

Please return completed forms to: The Planning Policy Manager, Planning Department, Tendring District Council, Council Offices, Thorpe Road, Weeley, Clacton-on-Sea, Essex, CO16 9AJ.



Tendring District Local Plan: Pre-Submission Focussed Changes (2014)

REPRESENTATION FORM

This is the representation form to use for giving us your comments on the pre-submission focussed changes proposed for the Tendring District Local Plan. The documents that detail these changes are available to view on the Council's website (www.tendringdc.gov.uk) and hard copies are available to view at the District Council offices at Weeley, the Town Hall at Clacton and at all the libraries in the district.

Please fill in the form carefully and clearly as illegible forms may not be considered.

PART A – DETAILS OF PERSON OR ORGANISATION MAKING THE REPRESENTATION

PLEASE PRINT ALL DETAILS

Name of person or organisation making the representation:

Colchester Borough Council

If an organisation, please provide a contact name: Karen Syrett

E-mail: karen.syrett@colchester.gov.uk Tel No: 01206 506477

Address (put the organisation address if relevant): Rowan House, Sheepen Road, Colchester

Post Code: CO3 3WG

If you are an agent acting on behalf of someone please provide your details here

Name of agent:

If an organisation, please provide a contact name:

E-mail: Tel No:

Address (put the organisation address if relevant):

..... Post Code:

Please remember to notify us if your contact details change.

PART B – DETAILS OF REPRESENTATION

Do you wish to support or object to the proposed changes to the Local Plan?

Support

Object

(Please tick one box)

Please tell us why. If you are objecting, you will need to explain how the plan, even with the proposed changes would still fail to meet one or more of the following ‘tests of soundness’, set by the government. The tests of soundness say that Local Plans must be:

- **“Positively Prepared”** – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
- **“Justified”** – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
- **“Effective”** – the plan should be deliverable over its plan period and based on effective joint working on cross-boundary strategic priorities; and
- **“Consistent with national policy”** – the plan should enable the delivery of sustainable development in accordance with the policies in the government’s National Planning Policy Framework.

In making your comments, please be sure to indicate which of the proposed changes to the Local Plan you are either supporting or objecting to and if you are objecting, what further changes you think are needed.

What changes to Local Plan are you commenting on?	Comment(s)
Whole Document	<p>Colchester Borough Council appreciates that Tendring District Council urgently requires an adopted plan to ensure new development is addressed in a planned and comprehensive manner. The Council also welcomes the Plan’s recognition of the strategies of neighbouring authorities and Colchester is committed to working closely with Tendring to ensure comprehensive consideration of strategic and cross-boundary issues.</p> <p>The Council is concerned however that a planning inspector could find the plan unsound as published and considers that there is a need to address various issues before the plan progresses to submission. Areas of particular concern are detailed below and the relevant tests of soundness are shown in bold;</p> <p>This Council previously recommended that the evidence underpinning the Tendring Local Plan should be reviewed and used to inform the Plan itself. Whilst it is noted that the Strategic Housing Market Assessment and the Strategic Housing Land Availability Assessment have been updated they are not entirely reflected in the Focussed Changes. The SHMA sets out that there is an objectively assessed need for 685 new dwellings per year in the district but the plan only makes provision for between 362 and 400 units per annum.</p> <p>National Policy set out in Paragraph 47 of the National Planning Policy Framework requires local planning authorities to ‘boost significantly the supply of housing.’ To do this the Local Plan should meet the full, objectively assessed needs for market and affordable housing in the housing market area. At present the Plan does not meet the need and is therefore inconsistent with national policy. Neither is it</p>

'Positively Prepared': based on a strategy which seeks to meet objectively assessed development and infrastructure requirements.

Colchester Borough Council reluctantly admits that discussions to date between the two authorities have not strictly met the Duty to Co-operate. The Focussed Changes therefore do not meet the **'Effective'** soundness test because Colchester Borough Council has not been satisfied that the broad location for growth on the Colchester Fringe is deliverable over the plan period based on effective joint working on cross-boundary strategic priorities. Evidence has not been provided to demonstrate:

- Sound infrastructure delivery planning;
- Delivery partners are signed up to it; and
- That there is coherence with the strategies of the neighbouring authority.

Furthermore, the broad location on the Colchester Fringe does not appear to have been considered against reasonable alternatives. It is therefore not **'Justified'** because the evidence base does not clearly demonstrate that it is the most appropriate strategy when considered against reasonable alternatives. The SHLAA states that 'for the period beyond 2024, it may be possible to increase the rate of housing development to around 920 dwellings per annum, but this would require the Council to identify major employment and infrastructure-led strategic housing allocations on the edge of Clacton-on-Sea or Colchester Fringe or the establishment of a new strategic growth area in the centre of the district.' This higher figure and a new growth area in the centre of the district have not been assessed as alternatives, they do not feature in the Sustainability Appraisal and the Plan does not appear to be based on a robust and credible evidence base. Sites in Clacton (acknowledged to be some of the most sustainable locations (p11 of the SHLAA)) have been excluded because there were lots of objections and because they are not viable but no assessment appears to have been done of what would happen to viability if affordable/council housing targets were reduced or densities increased. The DPD should also provide the most appropriate strategy when considered against reasonable alternatives. These alternatives should be realistic and subject to sustainability appraisal. There is no mention in the Sustainability Appraisal of higher densities or lower affordable housing targets being considered as an option to improve viability and help bring sites forward.

There are other issues detailed below which also require clarification;

The Colchester Fringe is identified as a new Urban Settlement in Policy SD2 (MAJ2.3) along with Clacton, Harwich etc. These areas are expected to be the focus for the majority of the District's economic growth. The policy wording is unclear however in relation to housing: it talks about 'these settlements accommodating housing stock between 2014 and 2024' but the next paragraph states that growth in West Tendring/Colchester Fringe, will be beyond 2024 and subject to a review of the Local Plan.

Transport – a potential new link is proposed between the A133 and A120 to the east of Colchester. It is not clear what the evidence base for this is, if the cost is justified and if there are alternatives that have been subject to assessment and sustainability appraisal. It could be preferable for example to invest in other more sustainable transport measures, ie an East Colchester Transit link.

The spatial strategy, which still disperses growth around the district, may not result in the critical mass necessary in one location to support new community infrastructure. This is more of an issue for ECC, who will no doubt have concerns around incremental growth putting pressure on school places. Development East of Colchester will impact on existing infrastructure in Colchester, such as roads, stations and hospitals. No discussion has taken place on what infrastructure should be provided, where and how it is funded.

	Colchester Borough Council supports the preparation of a Local Plan for Tendring which sets out a vision and policies for the long-term planning and development of the District. This is best achieved by collaborative working and through a joint planning document if required. Colchester has begun to prepare its new Local Plan and would urge Tendring to open discussions about aligning timescales.
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Please turn over 

If you are objecting to the plan, do you consider it necessary to speak at the public examination in front of the Planning Inspector?

Yes

No

(Please tick one box)

If you wish to speak at the examination, please outline why you consider this to be necessary:

(Please note that the Inspector will determine what issue will be debated and who will be invited to speak at the examination)

There are fundamental issues raised in this representation which the Council will want to ensure are properly reflected. Attendance may also assist the Inspector with the examination of these points.

FAIR PROCESSING NOTICE – DATA PROTECTION ACT 1998

Please note that any comments submitted cannot be treated as private and confidential and may be made available for public inspection. Respondents' details will be held on a database in accordance with the terms of Tendring District Council's registration with the UK Information Commissioner pursuant to the Data Protection Act 1998.



Please sign and date this form: Signed:

Date: 17.2.14

**All representations must be received by the Council no later than 17:00 on Monday 17th February 2014.
Any submissions received after this deadline cannot be considered.**

Please return completed forms to: The Planning Policy Manager, Planning Department, Tendring District Council, Council Offices, Thorpe Road, Weeley, Clacton-on-Sea, Essex, CO16 9AJ.