

# PLANNING POLICY AND LOCAL PLAN COMMITTEE

11 JANUARY 2021

## REPORT OF THE CORPORATE DIRECTOR (PLACE AND ECONOMY)

### A.1 SECTION 1 LOCAL PLAN: PLANNING INSPECTOR'S FINAL REPORT AND PROCESS FOR ADOPTION

(Report prepared by Gary Guiver and Lisa Hastings)

#### PART 1 – KEY INFORMATION

##### PURPOSE OF THE REPORT

- 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 10<sup>th</sup> 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 Planning Policy and Local Plan Committee's agreement that the modified Section 1 Local Plan be recommended to Full Council for formal adoption.

##### EXECUTIVE SUMMARY

###### Key Points

- 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.
- Officers are pleased to report that, 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.
- The modified version of the Section 1 Local Plan therefore meets the requirements to proceed to formal adoption and the Committee is invited to recommend this to Full Council.
- For Tendring, the formal adoption of the Section 1 Local Plan will mark a significant milestone in the plan-making process as it will:

- 1) formalise the housing requirement of 550 dwellings per annum and thus confirm Council's ability to demonstrate a five-year supply of housing sites – strengthening the Council's defence against unwanted and speculative housing development proposals;
- 2) set the policy framework for progressing work in partnership with Colchester Borough Council, on a more detailed 'Development Plan Document' for the Tendring Colchester Borders Garden Community; and
- 3) provide a strong foundation for the Council to proceed to the Examination of Section 2 of the Local Plan in the knowledge that sufficient sites can be identified to meet both the district's housing and employment land requirements up to 2033 without the need for additional sites.

### Background

Section 1 of the submitted Local Plan ('the Section 1 Plan') set out an overarching strategy for future growth across Braintree, Colchester and Tendring – the 'North Essex Authorities' ('NEAs'). As well as including policies setting the overall housing and employment requirements for North Essex up to 2033, the Section 1 Plan originally proposed three new cross-boundary 'Garden Communities' along the A120 corridor with the potential for longer-term and comprehensively-planned growth. In contrast, 'the Section 2 Plan' for each of the three authorities contains more specific local policies and proposals relevant only to their individual area. Before a Local Plan can be formally adopted by a Council, it must be examined by a government-appointed Inspector whose job it is to check that 1) the plan has been prepared in line with various legal requirements and 2) that the policies and proposals in the plan comply with the 'tests of soundness' contained within the National Planning Policy Framework (NPPF).

Following examination hearings in 2018 and 2020 the Inspector concluded that, in its original form, the Section 1 Local Plan did not meet the government's tests of soundness. In particular, two of the three proposed Garden Communities had not been demonstrated to be economically viable or deliverable – thus making the overall plan unsound. Whilst the Inspector had found the plan to be unsound in its original form, he advised that it had the potential to be 'made sound' and that it could still progress to adoption if the Councils agreed to remove the Colchester Braintree Borders and West of Braintree Garden Communities and consult the public and other interested parties on this and other 'Main Modifications'. The alternative would have been to withdraw the Local Plan from the examination – effectively requiring all three Council's to start their plans again from scratch.

The three NEAs subsequently agreed to proceed with consultation on Main Modifications which took place between 28<sup>th</sup> August and 9<sup>th</sup> October 2020, resulting in 382 responses from 117 individuals or groups. 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 Tendring figure of 550 dwellings per annum). 59 responses were received.

### Inspector's final report

Having considered the comments received both in relation to the Main Modifications and the latest household projections, the Inspector has issued his report to the three Councils which contains his final assessment and conclusions on the legal compliance and soundness of the Section 1 Plan. Officers are delighted to report that the Inspector has concluded that, subject to the incorporation of his final set of Main Modifications, the Section 1 Plan will meet the required tests which enable it to proceed to formal adoption. The Inspector's report is attached in full as Appendix 1 to this report.

The final Main Modifications are mostly unchanged from those published for consultation with just a small number of fairly minor 'adjustments' that respond to certain comments that were received and recent changes to government policy and legislation – namely changes in the Use Classes Order which affect policies on employment land. The final set of Main Modifications is attached as Appendix 2 to this report.

### Next steps

Now that the Councils have received a final report on the legal compliance and soundness of the Section 1 Plan, Officers recommend that the Planning Policy and Local Plan Committee endorse the Inspector's final Main Modifications and their incorporation into the Section 1 Local Plan, and that the modified version of the plan be forwarded to Full Council and recommended for formal adoption.

The document contained within Appendix 3 to this report is a 'tracked change' version of the modified Section 1 Local Plan which highlights the various modifications. A 'clean' version of the modified Section 1 Local Plan (showing how the final adopted plan will appear on publication) was still being prepared at the time of writing and will be forwarded on to the Committee, as soon as possible, once complete.

## **RECOMMENDATION**

### **That the Planning Policy and Local Plan 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 10<sup>th</sup> December 2020 (attached as Appendix 1 to this report) and his final 'Schedule of Recommended Main Modifications' (attached as Appendix 2); and**
- 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 as a 'tracked change' version but to be followed by a 'clean version') 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.**

## **PART 2 – IMPLICATIONS OF THE DECISION**

### **DELIVERING PRIORITIES**

The preparation of a new Local Plan is a high priority for all three of the North Essex Authorities. It is also the goal of government for local planning authorities to deliver sustainable development and coordinated provision of housing, jobs and infrastructure whilst best protecting and enhancing the natural and built environment. The adoption of the Section 1 Plan following the Inspector's findings and the incorporation of his recommended main modifications will enable all three authorities to proceed to confirm their housing and employment requirements which provide a strong foundation for proceeding to the examination to their respective Section 2 Local Plans and maintaining a five-year housing supply. It will also enable work to proceed on a Development Plan Document (DPD) for the Tendring Colchester Borders Garden Community, jointly between Tendring District Council and Colchester Borough Council.

### **RESOURCES AND RISK**

There is a risk of legal challenge following the adoption of the Section 1 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. With the Inspector recommending the removal of the Colchester Braintree Borders Garden Community and the West of Braintree Garden Community from the Section 1 Plan, a legal challenge is now more likely to come from aggrieved landowners and developers that had been promoting those schemes, as opposed to local campaign groups or residents – but any party has the right to apply for a legal challenge if they so wish. In the event that a legal challenge were lodged (within 6 six weeks from the date of adoption), it would not affect the status of the Section 1 Plan or the Council's decision to adopt the plan unless and until such time that a court ruled that the decision should be quashed. There are however no obvious grounds that would appear to justify such a challenge.

The Section 1 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, as modified. Should either Braintree District or Colchester Borough Councils postpone or make an alternative decision, Members at Tendring will need to consider their position. The outcome of the Local Plan Committees and Council decisions for Braintree and Colchester, and any resulting implications, will be reported to Members as appropriate.

### **LEGAL**

The planning legislation and the National Planning Policy Framework (NPPF) (both the 2012 version applicable to this Local Plan and the new 2019 version) place Local Plans at the heart of the planning system, so it is essential that they are in place and kept up to date. The NPPF expects Local Plans to set out a vision and a framework for the future development of the area, addressing the needs and opportunities in relation to housing, the economy, community facilities and infrastructure – as well as a basis for safeguarding the environment.

Section 38(6) of the Planning and Compulsory Purchase Act 2004, as amended, (“2004 Act”) and section 70(2) of the Town and Country Planning Act 1990 (as amended) 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, the policies and proposals in the Adopted Local Plan are increasingly out of date. The NPPF states that where the development plan is out of date permission should be granted for sustainable development unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits or other policies indicate otherwise. It is therefore important 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 and be relied upon by the Council acting as the Local Planning Authority.

Section 33A of the 2004 Act places a legal duty upon local authorities and other public bodies to engage constructively, actively and on an on-going basis to maximise the effectiveness of Local Plan preparation, this is known as the ‘Duty 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, they need to be satisfied that the local authority has demonstrated it 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. The Inspector has concluded through the examination process and in his final report that the relevant authorities have met with this legal duty.

The Town and Country Planning (Local Planning)(England) Regulations 2012 make provision for the operation of the local development planning system including, for the purposes of this report, regulations relating to the preparation, publication and representations relating to a local plan and the independent examination under Section 20 of the 2004 Act.

Section 19 of the 2004 Act requires a local planning authority to carry out a Sustainability Appraisal of each of the proposals in a Local Plan and the consequence of reasonable alternatives, during its preparation and in addition prepare a report of the findings of the Sustainability Appraisal. More generally, section 39 of the Act requires that the authority preparing a Local Plan must do so “with the objective of contributing to the achievement of sustainable development”. The purpose of a Sustainability Appraisal is to ensure that potential environmental effects are given full consideration alongside social and economic issues. The Inspector has concluded through the examination process and in his final report that the requirement for Sustainability Appraisal has been met and that the content of the plan and its proposed modifications has been suitably informed by its findings. The NPPF requires a local planning authority to submit a plan for examination which it considers to be “sound” meaning that it is: positively prepared, justified and effective. The Inspector has confirmed that legal and procedural requirements have been met but that the Section 1 Plan, in its current form, is not sound. The Inspector has concluded that the Section 1 Plan will be made sound

by incorporating his recommended main modifications, the Council must adopt Section 1 with the main modifications in accordance with Section 23(3) of the 2004 Act.

Following receipt of the Inspector's report, it is for the Councils 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.

The terms of reference of the Planning Policy and Local Plan Committee includes the exercise of the Council's functions, powers and duties in relation to the preparation of the District Council's Local Plan, including ensuring that it meets the "tests of soundness" set out in the NPPF. In accordance with Section 23 of the 2004 Act, the Section 1 Plan, with the main modifications, is adopted by resolution of Full Council and the Committee is invited to make that recommendation.

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.

## **OTHER IMPLICATIONS**

**Area or Ward affected:** All wards (although the land proposed for a Garden Community crossing the Tendring/Colchester Border falls mainly within the new Alresford and Elmstead ward and the Ardleigh and Little Bromley ward).

**Consultation/Public Engagement:** 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.

There will however be further public engagement and consultation in due course in relation to preparing a Development Plan Document for the Tendring Colchester Borders Garden Community and there may be further consultation requirements in respect of Section 2 of the Local Plan depending on any modifications required for that part of the plan.

## **PART 3 – SUPPORTING INFORMATION**

### **Background**

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.

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.

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 in a number of respects – including in relation to transport infrastructure, housing delivery, employment provision, viability, delivery mechanisms and the sustainability appraisal. The Inspector also identified concerns about the viability and deliverability of the Garden Communities and the way in which the authorities had selected those proposals over other reasonable alternatives. Because of this, he was unable to endorse the Section 1 Plan as being sound and instead provided the authorities with options for how to progress a Local Plan towards adoption. The Councils selected the option of producing additional evidence aimed at addressing the Inspector’s specific concerns, including an additional sustainability appraisal and studies on viability, transport and housebuilding rates. The various documents were endorsed by Members of all three Council’s in June and July 2019 and were subsequently published for consultation in Summer 2019 to allow third parties 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 and whether it addressed the Inspector’s initial concerns. On 15 May 2020, the NEAs received the Inspector’s letter setting out his further post-examination conclusions – which were reported to the Committee in July 2020. 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 GC proposals from the Plan; or to withdraw the Plan from examination.

The authorities agreed to consult on the Inspector’s recommended main modifications which, in summary, included:

- Removal of the West of Braintree and Colchester Braintree Borders Garden Communities from the policies and associated maps and diagrams in the Section 1 Plan and any other references to those developments in the text of the plan.
- A new policy SP1A on 'Recreation disturbance Avoidance and Mitigation Strategy' (RAMS) setting out how the impacts of new development on internationally important wildlife sites will be avoided and mitigated in line with the European Habitat Regulations.
- Modifications to Policy SP2 'Spatial Strategy for North Essex' to refer to just one Garden Community – the Tendring Colchester Borders Garden Community.
- Modifications to Policy SP4 'Providing for Employment' to update the employment land requirements for each of the three Councils to reflect the latest evidence, including the requirement for Tendring for between 12 and 20 hectares of new employment land in the plan period to 2033.
- Modifications to Policy SP5 to refer specifically to the 'Tendring Colchester Borders Garden Community' and to include a new section (E) aimed at ensuring there is sufficient capacity in the water supply and waste water infrastructure to serve the development.
- Modifications to Policy SP6 'Place-shaping Principles' to include specific requirements in regard to the protection of internationally important wildlife sites which, depending on the findings of ongoing survey work, might include the creation of a new habitat to offset and mitigate any impacts arising as a result of the development.
- Modifications to Policy SP7 to refer specifically to the 'Development and Delivery of a New Garden Community in North Essex' (as opposed to three) and to state specifically that the Tendring Colchester Borders Garden Community will deliver between 2,200 and 2,500 homes and 7 hectares of employment land within the plan period to 2033 (as part of an expected overall total of between 7,000 and 9,000 homes and 25 hectares of employment land to be delivered beyond 2033) and provision for Gypsies and Travellers.
- Further modifications to Policy SP7 to explain that a Development Plan Document (DPD) will be prepared for the garden community containing policies setting out how the new community will be designed, developed and delivered in phases; and that no planning consent for any development forming part of the garden community will be granted until the DPD has been adopted.
- Modifications to Policy SP8 'Tendring / Colchester Borders Garden Community' to state that the adoption of the DPD will be contingent on the completion of a 'Heritage Impact Assessment' carried out in accordance with Historic England, which will inform the content of the DPD.



- Modifications to Policy SP8 to explain how housing delivery for the garden community, irrespective of its actual location, will be distributed equally between Tendring District Council and Colchester Borough Council when it comes to counting house completions and monitoring delivery against each of the Councils' housing targets.
- Modifications to Policy SP8 also requiring that the planning consent and funding approval for the A120-133 link road and Route 1 of the rapid transit system are secured before planning approval is granted for any development forming part of the garden community.
- Other modifications to Policy SP8 emphasising the need for development at the garden community to achieve an efficient use of water, manage flood risk, avoid adverse impacts on internationally important wildlife sites arising from sewerage treatment and discharge, conserve and enhance heritage assets and their settings, and to minimise adverse impacts on sites of international, national and local importance for ecology.
- Finally, modifications to Policy SP8 to require the allocation of land within the garden community to accommodate expansion of the University of Essex.

The consultation on Main Modifications took place between 28<sup>th</sup> August and 9<sup>th</sup> 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 Braintree District Council website following this link: [Braintree District Council - Section 1 Proposed Main Modifications \(objective.co.uk\)](https://www.braintree.gov.uk/consultation/section-1-proposed-main-modifications)

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 Tendring figure of 550 dwellings per annum). 59 comments were received which can be viewed on the Braintree District Council website following this link: [Responses to Consultation on 2018-based Household Projections – Section 1 examination – Braintree District Council](https://www.braintree.gov.uk/consultation/2018-based-household-projections-section-1-examination)

**Inspector's Final Report under Section 20 of the 2004 Act**

Following the Inspector's consideration and assessment of all the comments received, the NEAs on 10<sup>th</sup> 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.

The non-technical summary from the Inspector's report provides a clear overview of his conclusions and is therefore replicated 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.*

*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."*

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 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

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

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?*

In respect of main issue 1 and the housing requirements, Officers are pleased to report that 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.

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 12 and 20 hectares of employment land in Tendring up to 2033.

For issue 3 on Garden Communities, the Inspector has confirmed his earlier conclusion that two of the three Garden Communities are not viable nor deliverable and that they 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.

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,

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.

Paragraphs 127 and 128 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**

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.

The 'modified' version of the Section 1 Plan attached as Appendix 3 to this report and, at present, is a 'tracked change' version that highlights 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. A 'clean' version of the modified Section 1 Local Plan (showing how the final adopted plan will appear on publication) was still being prepared at the time of writing and will be forwarded on to the Committee, as soon as possible, once complete.

## **Adoption**

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."*

Officers recommend the adoption of the modified Section 1 Plan as soon as possible in order to:

- 1) formalise the housing requirement of 550 dwellings per annum and thus confirm the Council's ability to demonstrate a five-year supply of housing sites – strengthening the Council's defence against unwanted and speculative housing development proposals (on current calculations, the Council would be able to demonstrate a comfortable 6.5 year housing supply);
- 2) set the policy framework for progressing work in partnership with Colchester Borough Council, a more detailed 'Development Plan Document' for the Tendring Colchester Borders Garden Community; and
- 3) provide a strong foundation for the Council to proceed to the Examination of Section 2 of the Local Plan in the knowledge that sufficient sites can be identified to meet both the District's housing and employment land requirements up to 2033 without the need for additional sites.

The Planning Policy and Local Plan Committee is therefore asked to recommend the modified Section 1 Local Plan to Full Council for adoption in advance of the Section 2 Plan.

## **APPENDICES**

Appendix 1 – Report on the Examination of the North Essex Authorities' Shared Strategic Section 1 Plan (10 December 2020).

Appendix 2 – North Essex Authorities' Shared Strategic Section 1 Plan – Schedule of Recommended Main Modifications (10 December 2020).

**[Appendix 3 – The modified Section 1 Local Plan for North Essex (showing tracked changes) – NOT INCLUDED IN THE COUNCIL BOOK]**

**[NEW Appendix 3 – The modified Section 1 Local Plan for North Essex ('clean' version – prepared in accordance with the decision of the Planning Policy & Local Plan Committee on 11 January 2021) – INCLUDED IN THE COUNCIL BOOK]**