



The Planning Inspectorate

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# **Report to Tendring District Council**

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**Inspectors appointed by the Secretary of State**

**Date 24 November 2021**

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Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

## **Report on the Examination of the Tendring District Local Plan 2013-2033 and Beyond Section 2**

The Plan was submitted for examination on 9 October 2017

The examination hearing sessions were held between 23 February and 4 March 2021

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## Abbreviations used in this report

The Act	The Listed Buildings and Conservation Areas Act 1990
AONB	Area of Outstanding Natural Beauty
AMR	Annual Monitoring Report
CIL	Community Infrastructure Levy
DPD	Development Plan Document
DtC	Duty to Cooperate
EA	Environment Agency
ELR	Employment Land Review
EPOA	Essex Planning Officers' Association
EVS	Economic Viability Statement
EVSA	Economic Viability Statement Addendum
GC	Tendring Colchester Borders Garden Community
GTAA	Gypsy and Traveller Accommodation Assessment
HE	Historic England
NE	Natural England
HIA	Health Impact Assessment
HMOs	Houses in Multiple Occupation
HRA	Habitat Regulation Assessment
IDPR	Infrastructure Delivery Plan Review
MM	Main Modification
MSA	Medium Site Allocations
Part 1 plan	North Essex Authorities' Shared Strategic Section 1 Plan
PHE	Public Health England
PPTS	Planning Policy for Traveller Sites
RTCUS	Retail and Town Centre Uses Study(RTCUS)
RAMs	Essex Coast Recreational disturbance Avoidance and Mitigation Strategy
SA	Sustainability Appraisal
SAE	Strategic Allocations Employment
SAH	Strategic Allocation Housing
SAMU	Strategic Allocation Mixed Use
SGGR	Strategic Green Gaps Review
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SPD	Supplementary Planning Document
SUDs	Sustainable Urban Drainage Systems
UCO	Use Classes Order

## Non-Technical Summary

This report concludes that the Tendring District Local Plan 2013-2033 and Beyond provides an appropriate basis for the planning of the District, provided that a number of main modifications [MMs] are made to it. Tendring District Council has specifically requested that we recommend any MMs necessary to enable the Plan to be adopted.

Following the hearing sessions, the Council prepared schedules of the proposed modifications and, where necessary, carried out sustainability appraisal and habitats regulations assessment of them. The MMs were subject to public consultation over a six-week period. In some cases, we have amended their detailed wording and added consequential modifications where necessary. We 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:

- Revisions to housing and employment sites allocations to update the Plan in light of changes since submission and to reflect updated evidence on site capacity;
- Modifications to reflect changes in the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 relating to Class E;
- Rewording policies to ensure they are positively prepared;
- Adding or deleting explanatory text to guide development;
- Setting a new monitoring regime to include objectives, targets and key indicators;
- A number of other modifications to ensure that the Plan is positively prepared, justified, effective and consistent with national policy.

## Introduction

1. This report contains our assessment of the Tendring District Local Plan Part 2 in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is compliant with the legal requirements and whether it is sound. The National Planning Policy Framework 2012 (paragraph 182) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The revised National Planning Policy Framework (NPPF) was published in July 2018 and further revised in February 2019 and July 2021. It includes a transitional arrangement in paragraph 220 which indicates that, for the purpose of examining this Plan, the policies in the 2012 NPPF will apply. Similarly, where the Planning Practice Guidance (PPG) has been updated to reflect the revised NPPF, the previous versions of the PPG apply for the purposes of this examination under the transitional arrangement. Therefore, unless stated otherwise, references in this report are to the 2012 NPPF and the versions of the PPG which were extant prior to the publication of the 2018 NPPF.
3. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound and legally compliant plan. The Tendring District Local Plan 2013-2033 and Beyond, submitted in October 2017, is the basis for our examination. It is the same document as was published for consultation in June 2017.

## Main Modifications

4. In accordance with section 20(7C) of the 2004 Act the Council requested that we should recommend any main modifications [MMs] necessary to rectify matters that make the Plan unsound, and thus incapable of being adopted. Our report explains why the recommended MMs are necessary. The MMs are referenced in bold in the report in the form **MM1.1**, **MM2.1** etc, and are set out in full in the Appendix.
5. Following the examination hearing sessions, the Council prepared a schedule of proposed MMs and, where necessary, carried out sustainability appraisal and habitats regulations assessment of them. The MM schedule was subject to public consultation for six weeks. We have taken account of the consultation responses in coming to our conclusions in this report and in this light, we have made some amendments to the detailed wording of the MMs and added consequential modifications where these are necessary for consistency or clarity. None of the amendments significantly alter the content of the MMs as published for consultation or undermines the participatory processes and sustainability appraisal and habitats regulations assessment that has been undertaken. Where necessary we have highlighted these amendments in the report.

## **Policies Map**

6. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as Tendring District Local Plan Policies Map as set out in documents ref CD1.2, CD1.3, CD1.4, CD1.5 and CD1.6.
7. The policies map is not defined in statute as a development plan document and so we do not have the power to recommend MMs to it. However, a number of the published MMs to the Plan's policies require further corresponding changes to be made to the policies map. In addition, there are some instances where the geographic illustration of policies on the submission policies map is not justified and changes to the policies map are needed to ensure that the relevant policies are effective.
8. These further changes to the policies map were published for consultation alongside the MMs in the Schedule of Proposed Map Modifications.
9. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed in the Tendring District Local Plan Policies Map and the further changes published alongside the MMs in the Schedule of Proposed Map Modifications.

## **Context of the Plan**

10. The Tendring Local Plan Part 2 is intended to replace the Tendring District Local Plan 2007. It will form part of the development plan for the area along with the North Essex Authorities' Shared Strategic Section 1 Plan (Part 1 plan) which is a joint strategic plan for the North Essex Authorities, prepared with Colchester and Braintree Councils, and adopted by Tendring District Council in January 2021. The Part 2 plan was submitted for examination alongside the Part 1 plan and seeks to implement the strategic aims of the Part 1 plan in respect of the amount and location of development in the District.
11. Tendring is a coastal district with the Stour Estuary to the north bordering Suffolk and the Colne Estuary to the west bordering Colchester. The district has a large rural heartland which includes parts of the Dedham Vale and the Suffolk Coast and Heaths Areas of Outstanding Natural Beauty. Clacton-on-Sea and Harwich form the largest settlements. Harwich International Port is a multi-purpose freight and passenger port. Clacton-on-Sea is a popular tourist destination along with the smaller settlements of Frinton and Walton-on-the-Naze. The district includes large areas of undeveloped coastline and the international importance of the district for coastal and marine ecology is recognised in the designation of 10 Sites of Scientific Interest, as well as Special Areas of Conservation, Special Protection Areas, Ramsar Sites and a Marine Conservation Zone.

## Public Sector Equality Duty

12. We have had due regard to the aims expressed in S149 of the Equality Act 2010. This, amongst other matters, sets out the need to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
13. We have considered several matters during the examination including accommodation for Gypsies and Travellers, provision for care homes and independent assisted living and for those who need accessible and adaptable housing. In this way the disadvantages that they suffer would be minimised and their needs met in so far as they are different to those without a relevant protected characteristic. There is also no compelling evidence that the Tendring District Local Plan as a whole would bear disproportionately or negatively on them or others in this category.

## Assessment of Duty to Co-operate

14. Section 20(5)(c) of the 2004 Act requires that we consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation.
15. The Council has engaged with adjoining local planning authorities, Essex County Council and prescribed bodies on all relevant strategic matters from an early stage in plan preparation as documented in the Council's "Duty to Cooperate Record of cooperation"[CD4.2]. The plan was submitted for examination alongside the Part 1 plan which is a joint strategic plan for the North Essex Authorities, prepared with Colchester and Braintree Councils. It is evident that the Council has developed a strong working relationship with Braintree and Colchester Councils (the North Essex Authorities) arising from the extensive cross boundary work on the Section 1 Local Plan and also as relates to the progression of the three Section 2 Plans. The district also shares a border with Babergh Mid Suffolk District Council.
16. The DtC was assessed by the Inspector examining the part 1 plan and was found to have been met. The strategic, cross-boundary matters addressed included assessments of need for housing, Gypsy and Traveller accommodation and employment land; strategic infrastructure, including improvements to the trunk and local road networks and the railway network, education, healthcare and broadband provision; and the environmental and other cross-boundary impacts of the Plan's proposals.
17. There are no cross-boundary issues with neighbouring authorities and other relevant organisations, which have not already been considered at the Section 1 examination. The Council has continued to engage with these bodies since the submission of the plan and has updated the part 2 plan to reflect this, in particular Essex County Council in relation to the Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS), the Environment Agency (EA), Historic England (HE) and Natural England (NE).

18. Accordingly, we are satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the DtC has therefore been met.

## **Assessment of Other Aspects of Legal Compliance**

19. The Plan has been prepared in accordance with the Council's Local Development Scheme.
20. Consultation on the Plan and the MMs was carried out in compliance with the Council's Statement of Community Involvement.
21. The Council carried out a Sustainability Appraisal of the Plan and prepared a report of the findings of the appraisal. The report was published along with the Plan and other submission documents under regulation 19. The appraisal was updated in June 2021 to assess the MMs and is adequate.
22. The Habitats Regulations Appropriate Assessment Screening Report (May 2017) and subsequent updates concluded that the Plan is likely to have a significant effect on European sites, alone or in combination with other plans or projects. A full HRA including Appropriate Assessment was undertaken to accompany the submitted Plan which concluded that subject to policy measures incorporated in the Plan, together with appropriate mitigation, there would be no significant adverse effects on the integrity of the European national site network, either alone or in combination. The HRA of the MMs reaches the same overall conclusion.
23. The Development Plan, taken as a whole, includes policies to address the strategic priorities for the development and use of land in the local planning authority's area.
24. The Development Plan, taken as a whole, includes policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change. These are covered in Issue 6 of the report.
25. The Plan complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.

## **Assessment of Soundness**

### **Main Issues**

26. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearing sessions, we have identified 8 main issues upon which the soundness of this Plan depends. This report deals with these main issues. It does not respond to every point or issue raised by representors. Nor does it refer to every policy, policy criterion or allocation in the Plan.

## **Issue 1 – Is the spatial strategy and distribution of development set out in the Plan based on robust evidence and is it justified and effective?**

### *Spatial Strategy and Achieving a Sustainable Pattern of Development*

27. The Vision and Objectives (Chapter 2) sets out the social, economic and environmental priorities to deliver sustainable development within the District. They seek to provide homes and jobs to meet future needs, as identified in the Part 1 plan, in part through the Tendring Colchester Borders Garden Community (GC). The Plan also seeks to capitalise on the District's coastal location as a centre for tourism and international freight and transport. It identifies the need to protect the environmental quality of the area and the natural, historical and built environment and for new development to adapt to and mitigate against climate change. These social, environmental and economic priorities for delivering sustainable development in the District are in line with the NPPF. To add clarity to the Council's vision statement and therefore in the interests of effectiveness, **MM1.1** recognises the importance of climate change adaptation and mitigation for a coastal district such as Tendring and **MM1.2** emphasises the importance of heritage features as an asset to the district's seaside towns.
28. The Sustainable Places chapter contains 3 overarching policies which seek to provide a sustainable pattern of development in the District. Policy SPL1 sets out a hierarchy of settlements in the District within which growth in the District will be managed. Policy SPL2 seeks to define the extent of these settlements with settlement boundaries. The hierarchy prioritises locations with access to the strategic road network and public transport and which have the potential to offer the widest range of services. Policy SPL3 deals with sustainable design.
29. Strategic Urban Settlements are the largest settlements in the District and are identified in the Sustainability Appraisal (SA), Strategic Housing Land Availability Assessment (SHLAA) and the Local Plan Settlement Hierarchy document as having the greatest range of infrastructure and facilities, and the greatest potential for public transport, walking and cycling. The settlements of Clacton-on-Sea and Harwich and Dovercourt fall within this category as due to their size and established infrastructure they provide the greatest potential for delivering sustainable growth. The proposed Garden Community (GC), which was allocated within the Part 1 North Essex Plan and which straddles Tendring and Colchester, is also included in this category as it provides significant potential for longer term growth, beyond the plan period. For this reason, the Plan at the point of adoption, allocates 1,185 homes within the plan period in Clacton, 348 in Harwich and Dovercourt and 1,000 within the GC.
30. The settlements of Frinton Walton and Kirby Cross; Manningtree Lawford and Mistley; and Brightlingsea are identified in the hierarchy as "Smaller Urban Settlements". This recognises that such settlements have some existing infrastructure and facilities and can accommodate some growth over the plan period. In addition to a number of recent permissions which

have been built out, the plan at the point of adoption allocates a further 40 houses within these settlements.

31. The seven villages of Alresford, Elmstead Market, Great Bentley, Little Clacton, St Osyth, Thorpe-le-Soken and Weeley are classified as Rural Service Centres. Due to the more limited range of shops, jobs and services within these settlements, they are identified as providing only a modest proportion of the proposed development within the Plan. The Plan at the point of adoption allocates 304 dwellings within these settlements which includes an outstanding permission for 280 Houses at Weeley.
32. A number of smaller rural villages are also identified within the hierarchy. These have a limited range of services and due to the extent to which residents are likely to be reliant on the private car to access employment and services they are identified for only small-scale development. The Plan does not therefore allocate sites within these villages although settlement boundaries have been drawn to allow for some limited growth in the interests of sustaining existing local services. We are satisfied that the settlement boundaries robustly reflect the nature of the settlements identified.
33. This approach, of locating growth in and around existing urban areas and limiting development in less accessible settlements is supported by the (SHLAA) and the (SA) and is consistent with the overarching aim of the NPPF to provide sustainable development.
34. However, whilst the Plan sets out a clear hierarchy, which is consistent with how sites have been allocated for development, it provides limited guidance on how future proposals for development should be considered. **MM3.2** and **MM3.3** within the supporting text explain how such proposals will be considered within Smaller Urban Settlements and Rural Service Centres. These changes are necessary for effectiveness.
35. The approach taken to development outside settlement boundaries in the supporting text is unduly restrictive as it precludes any development outside settlement development boundaries and so conflicts with national policy in the NPPF. **MM4.1B** within policy SPL2 and **MM4.2** which delete part of the supporting text address this, by making clear that such development should be consistent with the settlement hierarchy outlined in SPL1. These changes are necessary for clarity and effectiveness.
36. The plan is also ambiguous as to the status of the GC. The GC forms part of the adopted plan Part 1 and, as we will return to in Matter 2 below, will make a significant contribution to the longer term housing needs of the district. The GC will be the subject of a Development Plan Document (DPD) and no planning permission will be granted until the DPD has been adopted. At this point in time, the GC does not have a settlement boundary as it is defined as a broad location in the adopted Part 1 plan. To reflect this **MM3.1**, **MM3.5**, **MM4.1A** and **MM4.1C** distinguish between the existing strategic urban settlements of Clacton and Harwich and the proposed GC and are necessary for clarity and effectiveness.

37. The plan recognises that additional sites could come forward within villages through Neighbourhood Plans. However, this approach is not adequately explained. **MM2.1**, **MM3.4** and **MM3.6** make changes within the explanatory text which set out the basic conditions under which a Neighbourhood Plan can be brought forward and identify the policies within the plan which the Neighbourhood Plan must conform with. This is necessary for clarity and effectiveness.
38. Policy SPL3 contains design principles against which planning applications for development will be considered. The policy covers a number of aspects of design but has a number of omissions and is ambiguous in parts. As drafted the policy does not provide clear direction to the decision maker. To ensure that the policy takes into account local characteristics, **MM5.1** adds criteria within Part A of the policy to highlight the importance of local landscape character. **MM5.2** seeks to encourage the use of locally occurring hedge species within landscaping schemes and boundary treatments.
39. Part B deals with practical requirements. Part B (a) fails to reflect the potential for mitigation to resolve highway impacts and is inconsistent with national policy. **MM5.3** amends the policy to resolve this matter. As drafted Part B(d), in relation to the impact of climate change could become out of date. **MM5.4** amends the policy to ensure the requirement to minimise the production of greenhouse gases is aligned to the Building Regulation requirements. **MM5.5** qualifies that the requirement for private amenity space in Part B(f) must be adequate and removes the need for waste separation facilities from the policy as this is not a local waste collection requirement. **MM5.6** amends the wording of Part B(g) to remove ambiguity as to the requirement to integrate Sustainable Urban Drainage Systems (SUDS) into new development. Within Part B there is a requirement to comply with Part M of the Building regulations. However, for effectiveness, it would more logically sit within policy LP3 of the plan, **MM5.7** therefore deletes it from this policy.
40. Part C of the policy relates to Impacts and Compatibility. In order to ensure that disturbance to neighbours is minimised and damage during construction is repaired, **MM5.8** includes an additional criterion for developers to comply with the considerate constructors' scheme. However, the policy as modified goes further than is necessary and, in any case, is covered by other legislation. We have therefore amended the MM to ensure the policy relates solely to planning matters. The policy also requires developers to consider climate change adaption measures as part of new development. This requirement is imprecise. **MM5.9** requires that such measures be incorporated as part of new development and clarifies that the reference to low carbon relates to energy production.
41. The modifications to policy SPL3 are necessary for clarity and for the policy to be effective.

## Conclusion

42. Subject to the MMs identified above the Plan's overall spatial strategy provides a pragmatic and soundly based development strategy for Tendring over the Plan period.

### **Issue 2 – Has the Plan been positively prepared and is it justified, effective and consistent with national policy in relation to its provision for housing?**

43. The Part 1 plan sets out a minimum housing requirement for the 2013-2033 plan period of 11,000 dwellings with an annualised housing target of 550 dwellings a year. Since the Plan was submitted in 2017 a significant proportion of the allocated sites within the Plan are already under construction or have obtained permission. Others, for the reasons set out below, have been deleted from the Plan. Furthermore, a number of unallocated sites have been granted permission and some of these have been developed.
44. **MM9.2** updates Table LP1 setting out the residual housing requirement for the plan period taking into account completions since the base date with a total requirement of 7,362. **MM9.3** updates Table LP2 to reflect the changes in the housing land supply position between April 2017 and April 2020 and shows the deletion of sites from the Local Plan, as set out below in Matter 3. This will be supported by a detailed trajectory for individual sites published in the AMR. **MM9.4** to policy LP1 sets out these figures by supply source and **MM9.1** amends the supporting text. These changes are factual updates necessary for effectiveness.
45. The NPPF also requires local planning authorities to be able to identify a supply of deliverable housing land for at least five years, including an appropriate buffer. The Plan, as updated by the main modifications, credibly demonstrates a housing supply of 12,545, comfortably in excess of the housing target for the plan period. A very large proportion of these homes, 9,578, have also either already been completed, or have the benefit of planning permission. The SHLAA and the various housing topic papers submitted to the examination provide robust evidence on the likely time period for completions across the plan period. This includes large allocations at Hartley Gardens and Oakwood Park, as well as long-term strategic development at the GC. The additional supply will provide flexibility, recognising that delivery may be slower than predicted on some sites, whilst still ensuring that the District provides the homes it needs.
46. Table LP1 sets out net completions since 2013. After poor rates of delivery in 2013-2015 the District has delivered far in excess of the annual requirement since 2016. The 2020 Housing Delivery Test for Tendring also indicates that a higher buffer is not necessary. Therefore, we consider an appropriate buffer to be 5%.
47. The five-year requirement figure for Tendring at April 2021 is consequently **3,110** dwellings (11,000 multiplied by 5/20; plus 212 (shortfall); multiplied by a buffer of 1.05 (i.e., 5%)).

48. The Housing Trajectory in the SHLAA identifies as "contributions from large site commitments" a total of 3,364 dwellings which are expected to be delivered between 1<sup>st</sup> April 2020 and 31<sup>st</sup> March 2025. We have had regard to evidence from the Council and developers as to their intentions on sites, progress in submitting planning applications, possible constraints to delivery, likely start dates and realistic build out rates.
49. Although the plan was examined under the transitional arrangements, we have considered the deliverability of sites against the provisions of the 2019 NPPF since that will govern the calculation following plan adoption. Some of the sites are not supported by sufficient evidence to demonstrate that there is a realistic prospect that housing will be delivered within 5 years. Some sites have been delayed by issues relating to the S106, others are in outline form only with no indication of a reserved matters application coming forward to support delivery within the indicated timescale. Consequently, adopting a cautious approach, we consider that only around **3100** are deliverable within that 5 year period.
50. The trajectory does not include any dwellings on sites of less than 10 dwellings. Instead, these are included as "small sites and windfalls". Appendix 2 of the SHLAA analyses the contribution from small sites versus dwelling completions on small sites between 2001 and 2020 and shows an average of around 180 completions a year. The Council's estimate of **680** dwellings from this source over the next 5 years is therefore a very cautious one, even accounting for an anticipated reduction in the availability of small sites within the plan period.
51. We have set out our conclusions on the deliverability of allocated sites in Matter 3 below. The Council is not relying on any allocated site without permission to deliver homes within the next five years. In the context of a local plan examination, it is not necessary for us to identify a precise housing supply figure. Nonetheless, the 3,100 + 680 comfortably exceeds the 5YHL requirement figure of 3,110, even accounting for potential delays in delivery. As such, we are satisfied that there are sites sufficient to provide a 5-year supply of housing land upon adoption of the Plan. Furthermore, the Plan makes provision for the whole plan period comfortably in excess of the that identified in the Part 1 plan.
52. Information as to housing completions for April 2020-April 2021 was not available during the examination. The implications of the Covid 19 pandemic were raised during the hearing. Whilst there is likely to have been some reduction in delivery during lockdown, a very large proportion of the sites within the five-year supply are sites that are already under construction and so may have been delayed, but not "lost" from the supply. In addition, permissions that may have otherwise expired during that period will have remained valid until May 2021 due to automatic extensions.
53. Given the very comfortable buffer available, and the potential for supply from allocations within the middle of the remaining plan period, we see no reason to conclude that the healthy land supply situation the Council has demonstrated will significantly alter when the figures for completions for 2020/2021 become available.

### *Conclusion*

54. In conclusion, subject to the modifications above, the plan provides for an adequate supply of housing land for the plan period.

### **Issue 3 – Are the housing allocations positively prepared, justified and effective?**

55. The allocations are split into Strategic Allocation Mixed Use Sites (SAMU), Strategic Allocation Housing (SAH) and Medium Site Allocations (MSA). In line with the settlement hierarchy set out in Policy SP1 the majority of development is centred around the Strategic Urban Settlements of Clacton and Harwich and Dovercourt. Site specific requirements are set out within each policy for the strategic allocations. When considered alongside the other policies in the Plan, this will ensure that such matters are effectively addressed when development proposals come forward.

#### *EDME Maltings Mistley (SAMU1)*

56. The EDME Maltings site SAMU1 is made up of land on both sides of the High Street in Mistley. The northern parcel comprises the site of the Thorn Quay Warehouse and the southern section comprises an operational site for EDME Ltd, which is currently still in use. The policy allocates the site for 150 dwellings. However, since submission Thorn Quay Warehouse has received planning permission for 45 dwellings and works have commenced on site. Plans to relocate the existing occupier of the site to alternative premises within the District are well advanced and support the redevelopment of the site for mixed use development during the plan period.
57. However, there are constraints to redevelopment for mixed use due to the complex nature of this brownfield site, which includes a number of heritage assets. Whilst these would not preclude redevelopment, the policy as drafted is over-prescriptive in referring to housing numbers and a minimum amount of employment land. Due to the complex nature of the brownfield site and the need to provide a viable use consistent with the conservation of the heritage assets, it is more appropriate that a future detailed scheme determines the exact level of housing and employment floorspace at the site. The policy also omits to refer to the need to make financial contributions to healthcare. **MM42.1, MM42.2, MM42.3, MM42.4B** and **MM42.4C** update the policy and figure SAMU1 and removes Thorn Quay Warehouse from the site and reference to the village green within it, in order to reflect its on-going development. **MM42.4C** also requires financial contributions to health-care provision. **MM42.4A** removes specific numbers relating to the breakdown of uses within the site.
58. These MMs are necessary to ensure clarity and effectiveness. As it is not possible to ascribe with any accuracy a potential dwelling yield from the site, or a time period for delivery, the southern section of the site should also be removed from the housing trajectory.

### *Hartley Gardens Clacton (SAMU2)*

59. The Hartley Gardens Site is consistent with policy SP1 as it lies close to services and existing infrastructure in Clacton. The area can reasonably provide 1,700 homes in total, to come forward towards the end of the plan period and beyond. The site includes land to the south east that is being developed as Brook Park West. This land is no longer critical for the redevelopment of the wider Harley Gardens site and its inclusion within the allocation is therefore no longer necessary. Furthermore, since the submission of the Plan the Council has carried out further work in relation to the capacity of the site (Hartley Gardens Topic Paper) which indicates that in order to achieve an appropriate level of landscape and environmental protection, including appropriate levels of biodiversity net gain, additional land, to the north and west is necessary as part of the site. **MM43.1** removes the Brook Park West development from the site and includes an additional area to the north west within the site allocation. This is necessary to ensure that the Plan has been positively prepared and in the interests of effectiveness.
60. The evidence confirms that it is likely that the majority of development on site will occur beyond the plan period and **MM43.4A** clarifies that the site will achieve the phased delivery of 1,700 dwellings.
61. In order to ensure the holistic development of the site, the policy requires a master planned approach which reflects the extent of the site and scale of development proposed beyond the plan period. Whilst it has been the Council's intention to address this through an SPD, a masterplan, prepared for approval by the Council, could also address this matter. To provide certainty and ensure a whole site approach to future development **MM43.2**, **MM43.3**, **MM43.4I**, **MM43.4J**, **MM43.4K** and **MM43.4L** amend the policy and supporting text to require an SPD or masterplan and also outline the factors that will influence it. We have altered the advertised modifications to include references to a masterplan. Subject to this change, the modifications, which ensures that the plan is effective and positively prepared, are justified.
62. The policy requires the provision of affordable housing but is not sufficiently clear as to the type or amount required. In order to be effective, **MM43.4A** provides clarity in this regard in line with the other policies in the Plan. To reflect the findings of the Employment Land Review (ELR), which identifies that the District has a reduced need for employment land over the plan period, **MM43.4B** reduces the likely employment requirement on the site, whilst still allowing for the possibility to deliver some additional employment land, if economic conditions support it, to ensure that the Plan is positively prepared.
63. To reflect the latest available evidence in relation to education needs and for effectiveness, **MM43.4C** sets out the likely educational requirements for the site. To reflect new evidence in relation to the ecological importance of land adjoining the site, and to be consistent with national policy **MM43.5F** requires at least 10% biodiversity net gain, in line with the most up to date national guidance and is necessary for the policy to be effective.

64. The policy also sets out a number of requirements in relation to health, transport, green infrastructure and utilities infrastructure. However, these requirements are overly prescriptive. **MM43.4D, MM43.4E, MM43.4G MM43.4H**, provides flexibility in how they might be delivered and is necessary for the policy to be effective.

*Oakwood Park Clacton (SAMU3)*

65. Based on discussions at the hearing it was demonstrated that the site has capacity to provide 900 dwellings rather than the 750 identified, to come forward throughout the plan period and beyond. **MM44.1, MM44.2A and MM44.2B** update the policy and supporting text to reflect this. The policy is also over-prescriptive in terms of land take requirements for the various uses, which could constrain delivery and **MM44.2C** provides flexibility in how these might be delivered. **MM44.2I** clarifies the status of part of the site as land with planning permission. A bridleway runs through the site. **MM44.2J** ensures that the character of this route is taken into consideration in the master planning of the site. Furthermore, the site is adjoined to the east by land which is excluded from the allocation but included within the proposed settlement development boundary. The Council acknowledge that it could form a longer-term phase of further development post 2033, depending on the progress and success of the allocated site. **MM44.2D** ensures that the master planning of the allocation site takes this potential into account, so such land is not prevented from future development. These changes are necessary for clarity and to ensure the policy is effective.

*Rouses Farm, Jaywick Lane, Clacton (SAMU4)*

66. The evidence contained in the Strategic Housing Land Availability Assessment (SHLAA) demonstrates that the site has capacity for 950 dwellings which can come forward throughout the plan period. **MM45.1** updates the policy to reflect this and amends the education requirements to reflect the higher site capacity. The policy is also over-prescriptive in relation to requirements for healthcare and the modification provides flexibility on how this will be delivered. This modification is necessary for clarity and effectiveness.

*South of Thorpe Road, Weeley (SAMU5)*

67. The site is subject to an outline planning permission for 280 houses. The Council have proposed the policy be modified to ensure that the railway bridge to the south is a multi-user bridge, that is capable of being accessed and used by pedestrians, cyclists and equestrians. However, we are advised that the legal agreement serving the development requires only a pedestrian bridge and as such these modifications would serve no purpose. **MM46.1** and **MM46.2** are therefore not required for soundness.

*The Strategic Allocation Housing sites*

68. Land at Greenfield Farm Dovercourt (SAH1) has been granted consent for 42 dwellings. The remainder of the site has significant access and deliverability constraints and is no longer considered to be developable.

Land at Robinson Road Brightlingsea (SAH3) has permission for 115 dwellings and is under construction. Consequently, the requirements of policies SAH1 and SAH3 are now out of date and the specific allocations in the Plan are no longer required. **MM47.1, MM47.2** and **MM41.1** which delete the allocations are necessary for effectiveness.

69. Land at Low Road Dovercourt (SAH2) is a large edge of settlement site with capacity for around 300 dwellings. It has no identified environmental constraints or issues that would constrain delivery. The SHLAA anticipates delivery over an eight year period, starting towards the end of 2023. We consider this to be a reasonable assumption given the size of the site and the slower rate of build out in the north of the District.

#### *The Medium Sized Allocations*

70. Table LP2 includes 13 MSA sites. MSA3 - Orchards Works Clacton has already been developed. There is also limited evidence to support the deliverability of MSA2 - Cotswold Road, Clacton, MSA5 - Station Gateway Clacton, MSA7 - Mayflower Primary School, Dovercourt, MSA9 - Old Town Hall Site, Walton and MSA10 - Southcliffe Trailer Park, Walton and the Council have indicated that they no longer consider these suitable for allocation as housing sites.
71. In relation to MSA12 - Land at the Farm Kirby Road, the site appears to be highly constrained by a number of mature trees on the site and a building, referred to as "an historic farm building" in the SHLAA, located in the centre of the site. Taking into account the size of the site and likely constraints we find no compelling evidence that the site is suitable for development of the extent put forward and should not be relied upon as part of the housing supply calculations.
72. All of these sites lie within the urban area and whilst all may potentially be suitable for housing, in the absence of substantive evidence to demonstrate their likely delivery within the plan period the allocation of these sites for housing is unsound.
73. The Council seek removal of MSA4 - Land rear of 522-524 St. John's Road Clacton and MSA14 - Montana Roundabout Little Clacton as they now benefit from planning permission. We note that only parts of these sites are covered by permissions. The SHLAA identifies both sites as having potential impediments to delivery, at least in part. Therefore, whilst we note that if the permissions lapse then the sites would be lost from the housing supply, site specific allocations for these sites would not meet the tests of soundness.
74. **MM9.1, MM9.2, MM9.3** and **MM9.4** update the supporting text, tables and policy LP1 to remove these sites as allocations and are necessary for effectiveness.
75. In relation to the remaining MSA sites, MSA1 is the Council Offices site at Thorpe Road, Weeley. The site has no overriding environmental constraints and is based on the reasonable assumption of capacity for 24 dwellings.

Redevelopment would require the relocation of Council services and so would not be available until the middle of the remaining plan period.

76. MSA6 is Land off Waterworks Drive in Clacton. The site has capacity for 90 dwellings and lies within a residential area. It is identified as requiring remediation and site clearance and is currently occupied by the water company. Although the site was previously allocated in the 2007 plan it remains a developable site which is likely to be deliverable within the middle of the remaining plan period.
77. MSA8 is at Land adjoining Harwich and Parkeston Football Club, Dovercourt and is shown in the plan with a capacity of 89 dwellings. The site is partly occupied by the football club who have indicated that they no longer intend to relocate. This reduces the capacity of the site to around 48 dwellings. The site has no other overriding environmental constraints and is likely to become available for development towards the middle of the plan period.
78. MSA11 is Land at Station Yard Walton. The site is in an accessible location close to the station and the estimated capacity of 40 dwellings reflects the site's town centre location. The SHLAA indicates that there are no irresolvable issues which would impede development, although the multiple ownership of the site indicates that development towards the middle of the remaining plan period.
79. These sites will together increase the range of developable sites within the housing supply. However, the plan document provides no details of these sites other than their inclusion within the list of Local Plan Housing Allocations. **MM48.1** which identifies the sites, is therefore necessary for clarity and effectiveness.

### *Conclusion*

80. In conclusion, subject to the above-mentioned modifications, the allocations for housing development in the Plan are justified, effective and consistent with national policy.

### **Issue 4 – Does the plan set out a soundly based strategy for the local economy and are the employment allocations positively prepared, justified and effective?**

#### *Employment Land*

81. The Part 1 plan sets out that in order to meet the requirement for employment uses, and to maintain appropriate flexibility in provision to meet the needs of different sectors, the Part 2 Plan should allocate between 12 and 20 hectares of employment land for the Plan period. The ELR provides a robust assessment of the employment land available. It indicates that the existing range of operational employment sites across the District continue to play an important role in meeting the needs of existing businesses and most should continue to be protected. These are to be shown on the policies map.

82. The NPPF states that planning policies should avoid the long-term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Policies PP6 and PP7 safeguard existing employment sites for B1, B2 and B8 uses but as submitted the criteria for assessing their change of use within it are overly onerous as they require no overall loss of employment land. **MM23.2** and **MM23.1B** to policy PP6 and **MM24.1** to policy PP7 address this and set out how proposals for development on safeguarded employment sites for uses other than B2 or B8 will be treated, including ensuring no incompatibility with existing land uses. These changes are necessary for clarity and for consistency with national policy.
83. To respond to the changes to the Use Classes Order (UCO) and for effectiveness, references to Class B1 within policies PP6 and PP7 is replaced with Class E(g) in **MM23.1A**. **MM24.1** also replaces policy PP7 with an updated version which reflects the changes outlined above to SAE allocations, reflects recent changes to the UCO and includes recent permissions. It also provides criteria against which proposals for alternative uses will be considered. These changes are necessary for clarity and effectiveness.
84. As submitted, Policy PP7 allocates 6 hectares of employment land within the GC, with a further 4-24 hectares earmarked for potential future growth beyond the plan period. However, the GC is to be the subject of its own DPD and it would not be appropriate to identify a site within the GC at this stage. To be effective and to ensure the Plan has been positively prepared, **MM24.1** therefore ensures that the replacement policy refers to additional employment land within the GC without a specific allocation.
85. As revised, policy PP7 allocates around 12 hectares more employment land than that set out in the higher growth scenario in the part 1 Plan. However, given the relatively low levels of provision set out, and the fact that the allocations in policy PP7 are almost all subject to extant planning permissions, we are satisfied that the allocations are soundly based and will provide some choice and flexibility in provision which may assist economic growth.
86. Furthermore, we are satisfied that the modifications to policies PP6 and PP7 provide sound criteria to consider applications for changes of use from employment uses where appropriate.

### *Employment Allocations*

87. SAE1 relates to use of land at Carless Refinery. The land is allocated specifically for the expansion of the refinery use, and is not general employment land, but this is not clear from the policy. Furthermore, as worded the policy does not take account of the proximity of internationally important wildlife sites or the recently extended Suffolk Coast and Heaths Area of Outstanding Natural Beauty. **MM49.1**, which amends the policy to reflect these matters, is necessary for clarity and effectiveness.
88. SAE2 relates to land south of Long Road, Mistley. The allocation includes 2 hectares of land for employment use within a mixed-use scheme. The

scheme has outstanding planning permission, and the site is included within the employment allocations in policy PP7. Furthermore, the criteria within the policy are replicated within other policies in the plan. As the allocation is not necessary **MM49.2** deletes the policy, map and supporting text in the interests of effectiveness.

89. SAE3 relates to land at Lanswood Park, Elmstead Market. The allocation includes 1.2 hectares of land for employment use. However, the site has already been largely built out and the allocation is therefore no longer necessary. **MM49.3** deletes the policy and supporting text in the interests of effectiveness.
90. SAE4 relates to the Mercedes Site at Bathside Bay. The allocation includes 7.4 hectares of land for employment use. However, the site has already been developed and the allocation is therefore no longer necessary. **MM49.4** deletes the policy and supporting text in the interests of effectiveness.
91. SAE5 relates to development at Mistley Port and SAE 6 relates to development at Mistley Marine. Both seek to protect the sites for port-related development. However, the requirements of the policies are duplicated within other policies within the Plan. The policies therefore serve no purpose and are unnecessary. **MM49.5** and **MM49.6** delete the policies and supporting text in the interests of clarity and effectiveness.
92. SAE7 relates to Stanton Europark, a mixed use development which includes 3.3 hectares of employment land. The site is included within the employment allocations in policy PP7. Furthermore, the criteria within the policy are replicated within other policies in the plan. **MM49.7** deletes the policy and supporting text in the interests of effectiveness.

### *Tourism*

93. The promotion of tourism and the retention of existing tourist accommodation is an important part of the economic development strategy for the District. Policy PP9 seeks to protect the supply of existing tourist accommodation in hotels and guesthouses. However, as drafted the policy is overly restrictive as it prevents any re-use of such accommodation under any circumstances. **MM25.1** rectifies this by ensuring the policy is positively worded.
94. The District has a large number of camping and touring caravan sites as well as holiday parks which accommodate predominantly static caravans. These are often in environmentally sensitive areas. Policies PP10 and PP11 both set out the need to take biodiversity into account in the determination of such proposals but lack precision and clarity. **MM26.1** to PP10 and **MM27.4** to PP11 rectify this by making clear the need to address the likely requirements of Appropriate Assessment prior to the submission of applications.
95. The Plan seeks to safeguard many of the District's better served holiday parks as "safeguarded parks". The submitted Holiday and Residential Park Impact Assessment provides robust evidence as to the importance of these

parks to the local economy and with the exception of Southcliffe Trailer Park, which does not merit long term protection, we find justification for the safeguarding of the parks shown on the modified policies map.

96. In recent years holiday parks have also come under increasing pressure to accommodate permanent residential occupation. At the hearing sessions the Council advised that such proposals could have implications for the tourist economy and raised concerns regarding the standard of living conditions and services and facilities for existing and future occupants. Furthermore, in coastal locations occupation during winter months may have implications for flood risk. As drafted policy PP11 and the supporting text does not adequately explain this and is also over-prescriptive in relation to design matters. **MM27.1, MM27.2, MM27.3** and **MM27.5** amend the policy and supporting text to provide clarification, setting out criteria against which future proposal will be assessed. These modifications are necessary for effectiveness.

#### *Retail and Town Centre Uses*

97. Since the publication of the Plan the Council commissioned a "Town Centre and Retail Study" which was carried out in 2020. This found that the forecasted an increase during the plan period in turnover for convenience goods shopping could be accommodated within town centres either by expanding existing stores, utilising vacant property or, where appropriate, new development. The study forecasted a negligible increase in comparison retail. For clarity and effectiveness **MM18.1, MM18.2, MM18.3, MM18.4** and **MM18.5** to the supporting text and **MM18.6** to policy PP1 update the Plan in the light of this new evidence within the latest Retail and Town Centre Uses Study (RTCUS) 2020.
98. Policy PP2 sets out the retail hierarchy for the district. However, the supporting text does not include a full definition of town centres. **MM19.1** clarifies that out-of-centre retail parks are not town centres for the purposes of the local plan. **MM19.2** also more accurately reflects recent national policy in relation to main town centre uses and deletes an error in the text relating to the protection of retail parks as employment land. These changes are necessary for the Plan to be consistent with national policy.
99. To ensure that the Plan is effective **MM20.1** updates policy PP3 – village and neighbourhood centres to include the proposed development of the new neighbourhood centres at Oakwood Park, Rouses Farm and Hartley Gardens.
100. In order to ensure the effects of new retail development on town centres are properly understood, Policy PP4 sets thresholds for retail impact assessments for town centres. The thresholds are based on evidence provided in the 2016 Retail Study. Since then, the RTCUS advises that to respond to changes in the retail market, the impact threshold for Clacton and Frinton should be lowered from 929 sq.m floorspace in Frinton and Clacton and 250 sq.m in other settlements to 350sq.m and 250 sq.m respectively. However, whilst we recognise that Clacton in particular is vulnerable to competition from out of centre retail, following the detailed discussion at the hearings, we find that it has not been adequately

demonstrated that the likely impacts of trade diversion would justify a lowering of the impact threshold for these larger settlements.

101. Notwithstanding this, the policy does not accurately reflect current national policy. **MM21.1** and **MM22.6** update the supporting text to remove reference to office development and update the Plan on the timescale over which a retail impact assessment should be based. The policy sets different thresholds for different town centres and is ambiguous in relation to how these will be applied. It also fails to advise on how retail applications will be assessed. **MM21.2** makes clear that the thresholds relate to the nearest town centre, and provides criteria against which such applications will be considered. These modifications are necessary in order for the policy to be effective.
102. Policy PP5 seeks to direct new retail development towards existing town centres. However, it does not reflect revised national policy in the NPPF in relation to primary and secondary frontages or the introduction of Use Class E. **MM22.1, MM22.2, MM22.3, MM22.4** and **MM22.5** update the supporting text. **MM22.7** updates the policy and, in order to be effective, provides criteria for considering residential schemes within the town centre. These changes are necessary for clarity and to provide consistency with national policy.

#### *Other Employment Related Matters.*

103. Policy PP12 sets out a strategy for improving education and skills in Tendring. The policy includes reference to the University of Essex but does not make clear that the expansion of the university will take place as part of the GC development. **MM28.1** makes this change in order that policy PP12 can be effective.
104. Policy PP13 relates to the rural economy. For clarity and effectiveness **MM29.1** and **MM23.3** move the criteria by which rural diversification schemes will be judged from within policy PP6 to within policy PP13.
105. Policy PP14 identifies priority areas for regeneration. The policy states that the Council will support proposals for new development which are consistent with achieving its regeneration aims. However, the policy and supporting text does not specify what the regeneration aims for the identified regeneration areas are. **MM30.2, MM30.3, MM30.4, MM30.5** and **MM30.6** set out these aims in detail and are necessary for clarity and effectiveness. The policy also omits Thorpe-le-Soken from the list of conservation areas at risk. **MM30.1** rectifies this error and updates the policy to refer to "heritage" assets, in the interests of effectiveness.

#### *Conclusion*

106. In conclusion, subject to the modifications above, the Plan provides a soundly based strategy for the local economy and an adequate supply of employment land.

## **Issue 5 – Does the plan set out a soundly based strategy to provide healthy communities and living places which is justified, effective and consistent with national policy?**

### *Healthy Places*

107. The Healthy Places chapter of the Plan contains 5 policies which aim to ensure that opportunities exist for residents to make healthier life choices and to address health inequalities in the district.
108. Policy HP1 relates to improving health and wellbeing. At the hearing sessions we were provided with new evidence relating to the delivery of digital health infrastructure and its importance in delivering future health care in the district. **MM6.1** updates the supporting text of the Plan to reflect this and is necessary to ensure the Plan is positively prepared. The policy requires a Health Impact Assessment (HIA) on all development delivering 50 or more dwellings. However, this threshold falls short of the most up to date guidance from the Essex Planning Officers Group (EPOA) and Public Health England (PHE). The policy also fails to recognise that different proposals will be likely to have different impacts dependent upon local context. **MM6.2** and **MM6.3** amend the supporting text and the policy to include non-residential development over 1,000 square metres and all development in Use Class C2 in line with EPOA guidance and provide flexibility as to the detail or complexity of the HIA in appropriate cases.
109. Policy HP2 seeks to ensure that communities are supported by an appropriate range of community facilities. The supporting text provides a list of the sort of facilities the policy seeks to protect and provide. However, the list is overly restrictive in the range of facilities it refers to. **MM7.1** amends the text to ensure that such facilities are not unnecessarily limited to the examples set out in the Plan and is necessary for clarity and effectiveness.
110. Policy HP4 relates to "safeguarded local greenspace". This seeks to protect a range of open spaces and includes formal parks and gardens, amenity greenspaces including play areas, allotments, cemeteries and outdoor playing pitches. In some cases, land within private ownership has been designated because it provides natural and semi-natural greenspace or lies within or adjoining a wider parcel of land which does so. These spaces are shown on the policies map.
111. During the examination the spaces that are subject to this designation were reviewed with some sites being found to have been developed, or of insufficient quality to be safeguarded. Subject to the removal of these sites from the designation we are satisfied that the methodology for including the remaining spaces is sufficiently rigorous to justify protection under the terms of the policy. However, the terminology used could be confused with "Local Green Space" as defined in the NPPF, which sets a much higher bar for protection. **MM8.2** which renames the policy "safeguarded open space" is therefore necessary for clarity. **MM8.1** to the supporting text also provides clarification that Local Green Spaces, as set out in the NPPF, can be designated through the neighbourhood planning process and is necessary to ensure the Plan is positively prepared.

112. Policy HP5 provides a set of standards for the provision of open space and sports and recreation facilities in the district. However, the policy is overly complex and does not provide clear guidance to developers as to what the open space requirements for a proposal are likely to be. **MM8.3** redrafts the policy and sets out parameters within which open space provision should be provided, including where recreational disturbance to internationally important wildlife sites has been identified. It also sets out the Council's intention to prepare an SPD. Furthermore, it provides flexibility in setting out that in some circumstances financial contributions may be an appropriate alternative. These changes are necessary for the policy to be effective.

### *Living Places*

113. The Living Places chapter provides 11 policies which relate to housing supply, housing choice, housing density and standards, housing layout, affordable and council housing, rural exceptions sites, self-build and custom homes, backland residential development, traveller sites, care and independent assisted living, and HMOs and bedsits. The policies seek to provide new homes in the district to meet a growing and aging population and to deliver high quality sustainable communities.

114. Policy LP3 relates to housing density and standards. The policy has a number of omissions and does not provide clear direction for the decision maker. **MM11.1** sets out that the "Technical Housing Standards - nationally described space standard" apply to new development which is justified in order to ensure an appropriate standard of residential development in the district. **MM11.2** includes within the policy the need to have regard to the context of development and the opportunity to enhance the character of the area. For completeness, **MM11.3** includes reference to public rights of way. As the requirement to meet Part M of the Building Regulations in relation to accessible and adaptable housing relates specifically to housing standards **MM11.4** moves this requirement from policy SPL3. These changes are necessary for clarity and effectiveness.

115. Policy LP4 relates to housing layout. The policy has a number of omissions, does not provide clear direction for the decision maker and duplicates other policies in the Plan. To address this **MM12.1A** and **MM12.1C** set out clearer expectations about the safety and surveillance of open space and public and private spaces within new developments. **MM12.1B** sets out the need to consider SUDs from the outset of master-planning. **MM12.1D** and **MM12.1E** set out clearer expectations in relation to highway layouts and parking. **MM12.1F** includes design criteria aimed at achieving a high standard of architecture. **MM12.1G**, **MM12.1H** and **MM12.1I** remove criteria which are contained in policy LP3. **MM12.1J** includes guidance on the requirement for private amenity space. **MM12.2** includes reference to other forthcoming site specific documents which will provide guidance in relation to the layout of new development. These changes are necessary to ensure the Plan is positively prepared.

116. Policy LP5 relates to affordable and council housing. The Economic Viability Statement (EVS) and the Economic Viability Statement Addendum (EVSA) provide robust evidence that 30% affordable housing can be supported,

subject to some flexibility over density or mix for build to rent schemes. We are therefore satisfied that the threshold set is a reasonable one. At the hearing sessions we heard evidence as to the historically weak rate of delivery of affordable housing and the high level of need in the district. In light of this, **MM13.1** to the supporting text and **MM13.3D** and **MM13.3G**, to the policy, which seek to maximise delivery of affordable housing on site, are therefore necessary in to ensure the Plan is positively prepared and to make the policy effective.

117. In addition, **MM13.2** to the supporting text is necessary to ensure that local identified housing need is met and to provide clarity on circumstances where an exemption to the 10% affordable home ownership might apply. The requirement for an affordable housing statement is unnecessary and is removed by **MM13.3H**. To provide sufficient direction to the decision maker, **MM13.3F** specifies that the Strategic Housing Market Assessment (SHMA) will be used in addition to the housing needs register in considering the appropriate size and type of affordable housing to be provided within a development. For effectiveness, **MM13.2E** clarifies that there should be no material difference to the appearance or quality between affordable or open market housing.

118. Finally, for clarity and to ensure a consistent approach throughout the Plan, **MM13.3A**, **MM13.3B**, **MM13.3C** and **MM13.3E** remove the reference in the policy to council housing. To reflect the changes to policy LP5 **MM10.1** deletes the reference to council housing from policy LP2 housing choice, and **MM14.1**, **MM14.2** and **MM14.3** delete these references from policy LP6 – rural exceptions sites. All these changes are necessary to make the policies effective.

119. Policy LP6 relates to rural exceptions sites. For clarity **MM14.1** corrects a drafting error in how the settlement hierarchy is referred to. To be consistent with recent national policy and for effectiveness, **MM14.4** includes additional criteria in relation to biodiversity, geodiversity and the historic environment against which such proposals will be assessed.

120. Policy LP7 relates to self-build and custom build homes. As drafted the policy is imprecise and is inconsistent with other policies in the plan. For clarity **MM15.1** quantifies the scale of development which would be acceptable under the policy and sets out more clearly the material considerations that would be relevant to such development. These changes are necessary for the policy to be effective.

121. Policy LP9 relates to traveller sites. The Gypsy and Traveller Accommodation Assessment (GTAA) identifies a future need, to 2033, of 1 pitch to meet the needs of Gypsies and Travellers that do meet the 2015 definition, 2 pitches for those whose status is unknown and 3 pitches for those not meeting the 2015 definition. The GTAA confirms that there is no need for plots for Travelling Showpeople and that the need for any transit provision should be kept under review. We are satisfied that the assessment has been carried out using a robust methodology and that the assessment is up to date.

122. During the examination we were provided with evidence to demonstrate that the number of existing pitches in the District is 19 and that there are outstanding permissions for 6 further pitches. Further provision is also expected to come forward in the longer term at the GC. There is therefore no identified need for the District to allocate further sites for Gypsies and Travellers. **MM16.1, MM16.2** and **MM16.3A** update the policy to reflect the more recent evidence of supply and revises the policy title to include Gypsies.
123. In line with the Planning Policy for Traveller Sites (PPTS) the policy contains criteria to assess applications for new sites that may come forward. However, some of the criteria are overly prescriptive and inconsistent with similar criteria applied to applications for the settled community. **MM16.3B-F**, which remedy this, are therefore necessary to ensure that the plan is positively prepared and effective.
124. Policy LP10 relates to care and independent living. The District is a popular location for retirement and has an aging population, which the policy seeks to respond to. However, in relation to proposals for new facilities outside the settlement boundary the policy lacks detail in how such proposals will be assessed. **MM17.1**, which sets these out, is necessary for clarity and effectiveness.

### *Conclusion*

125. In conclusion, subject to the modifications above, the Plan sets out a soundly based strategy to provide healthy communities and living places.

### **Issue 6 – Does the Plan set out a soundly based strategy to protect the natural and built environment and to address, mitigate and adapt to climate change?**

126. The Protected Places chapter of the Plan contains 15 policies relating to development and flood risk, the coastal protection belt, the rural landscape, biodiversity and geodiversity, water conservation, drainage and sewerage, strategic green gaps, archaeology, conservation areas, listed buildings and renewable energy generation. It also contains site specific policies for The Avenues Area of Special Character in Frinton, The Gardens Area of Special Character in Clacton, Ardleigh Reservoir, and Safeguarding sites in Thorpe-Le-Soken and Great Oakley. The policies seek to protect the quality of the district's special natural and built environment.
127. Policy PPL1 relates to development and flood risk. However, the policy does not reflect the latest national guidance in the PPG and has some minor drafting errors. To update the policy and supporting text **MM31.1** and **MM31.2** amend the supporting text to provide guidance in respect of the provision of emergency refuge during flood events and the provision of buffer strips. **MM31.3A, MM31.3B, MM31.3C** and **MM31.3E** amend the policy to better reflect national guidance in the PPG in respect of evacuation, minimum floor levels, floodplain storage and the application of exceptions tests. **MM31.3D** recognises the potential of blue infrastructure

to mitigate potential flood risk. These amendments are necessary to ensure consistency with national policy and thus effectiveness.

128. Policy PPL3 relates to the rural landscape. The policy has a number of omissions which reduce effectiveness. Since the plan was submitted for examination the Suffolk Coasts and Heath AONB Extension has been confirmed. To reflect this **MM32.1** updates the supporting text and **MM32.3** updates the policy. For completeness **MM32.2** includes an additional criterion in relation to the historic environment. These changes are necessary for clarity and thus effectiveness.
129. Policy PPL4 relates to biodiversity and geodiversity. The policy has a number of omissions which reduce its effectiveness. Since the submission of the Plan for examination the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS strategy document) has been adopted. This seeks to ensure that in combination impacts from recreation disturbance are mitigated. **MM33.1** updates the supporting text to reflect this. It also provides necessary additional detail regarding the need for HRA and **MM33.2** updates the policy in this regard. **MM33.3** and **MM33.4** update the policy to reflect the latest national policy in the revised NPPF requiring a net gain in biodiversity. These modifications are necessary to ensure consistency with national policy and to therefore ensure effectiveness.
130. Policy PPL5 relates to water conservation, drainage and sewerage. The policy does not include guidance on when SUDS techniques may be inappropriate and as drafted is imprecise. In the interests of clarity and effectiveness **MM34.1** provides additional guidance in the supporting text in relation to the implementation of SUDs. **MM34.2** includes a requirement that water efficiency measures are implemented as part of new development. It also clarifies the need for adequate sewerage provision to serve development. These changes are necessary to make the policy effective.
131. Policy PPL6 relates to strategic green gaps. The Strategic Green Gaps Review (SGGR) provides a robust assessment of the existing green gaps and, along with the evidence submitted by the Council to the examination, provides a comprehensive analysis of reasons for their retention and proposed alteration, as shown on the policies map. However, the policy and supporting text is unclear as to the reasons for designation and what the policy seeks to achieve. **MM35.1**, **MM35.2** and **MM35.3** provide clarification within the supporting text and simplify the wording of the policy. These changes are necessary in order for the policy to be effective.

#### *Heritage Assets*

132. Policies PPL7, PPL8 and PPL9 all deal with the historic environment. A number of aspects of the policies are inconsistent with national policy. **MM36.1**, updates the supporting text to these policies and makes clear that they will be considered alongside the guidance on heritage assets in the NPPF.
133. PPL7 relates to archaeology. The policy does not adequately address the approach to non-designated heritage assets. Nor does it set out clearly its

approach to assessing heritage assets of archaeological importance or scheduled monuments at risk. **MM36.2, MM36.3A, MM36.3B** and **MM36.3C** address these matters and are necessary for the policy to be effective.

134. Policy PPL8 relates to conservation areas. The policy does not accurately reflect the statutory duty in the Act or national policy in relation to the setting of heritage assets and has omissions in relation to trees, the need to make an informed assessment of significance, conservation areas at risk, registered parks and gardens, conservation area management plans and the designation of new conservation areas. **MM36.4A, MM36.4B, MM36.4C, MM36.4D, MM36.4E** and **MM36.4F** address these matters and are necessary for clarity and effectiveness.

135. Policy PPL9 relates to listed buildings. The policy does not reflect national policy in the NPPF in relation to how the significance of these heritage assets is identified and how harm to these assets is assessed. The policy also omits to address how listed buildings at risk will be treated. **MM36.5A, MM36.5B, MM36.5C** and **MM36.5D** address these matters and are necessary for the policy to be effective.

#### *Renewable Energy Generation*

136. Policy PPL10 relates to renewable energy generation. Whilst the aims of the policy are clear, it lacks sufficient detail on how this should be achieved. It also omits to refer to energy efficiency measures, and so does not effectively plan for new development in ways which reduce greenhouse gas emissions as set out in the NPPF. To reflect this, and to be consistent with the Council's aspiration within the Plan's vision and objectives for all new development to account for, adapt to and mitigate against climate change, **MM37.5A** adds clarity to the policy and includes "energy efficiency measures" within the title to reflect the inclusion of this matter within the policy, thereby ensuring it is effective.

137. **MM37.2** and **MM37.3** provide guidance on how renewable energy generation and mitigation can be achieved in new developments. **MM37.4** sets out that the Council may produce an SPD to complement the policy should this be necessary. **MM37.5B** and **MM37.5C** sets out how proposals should demonstrate how such measures have been incorporated and ensures they are implemented. **MM37.5D** makes clear that the policy does not replace requirements under the building regulations. All these changes are necessary to ensure that the Plan is positively prepared and for the policy to be effective.

138. In relation to wind energy, national policy in the Written Ministerial Statement of June 2015 sets out that when determining planning applications for wind energy development involving one or more wind turbines, local planning authorities should only grant planning permission if the development site is in an area identified as suitable for wind energy development in a local or neighbourhood plan. The Plan does not identify suitable areas for large scale energy generation. **MM37.1** to the supporting text makes clear the Council's intention to produce an SPD to provide more guidance on how large scale renewable energy generation could be

achieved in the district. In order to identify specific areas suitable for such uses the document would need to take the form of a DPD that has been formally adopted. We have therefore altered the advertised modification to reflect this. Subject to this change, the modification, which ensures that the plan is positively prepared, is justified.

#### *Other Area Specific Policies*

139. Policy PPL11 relates to The Avenues Area of Special Character, Frinton-on-Sea. The area covered by the policy falls within the Frinton and Walton Conservation Area. The policy does not reflect the wording of the Act, is inconsistent with national policy in the NPPF and does not provide sufficient direction for the decision maker. In order for the policy to be effective **MM38.1** clarifies the qualities and characteristics which are important to the area and modifies the wording to reflect the statutory wording in the Act.

140. Policy PPL13 relates to the Ardleigh Reservoir Catchment Area. The policy omits to establish the operational importance of the reservoir itself. **MM39.1** which provides clarity in this regard is therefore necessary for the policy to be effective.

#### *Conclusion*

141. In conclusion, subject to the modifications above, the Plan sets out a soundly based strategy to protect the natural and built environment and to address, mitigate and adapt to climate change.

### **Issue 7 - Does the Plan make adequate provision for infrastructure including community facilities and transport and would development be viable having regard to infrastructure and policy requirements?**

#### *Connected Places*

142. The connected places chapter of the Plan contains 3 policies aimed at ensuring that everyone working in, living in or visiting Tendring is able to travel and communicate effectively. Policy CP2 relates to improving the transport network. However, the policy does not reflect national policy in relation to how highways impacts are to be considered and does not take into account the updated position in respect of the A120/A133 and the rapid transport system serving the GC. **MM40.1** updates the supporting text and makes minor changes to assist with readability. **MM40.2A** updates the policy with regards to the transport requirements to support the GC. **MM40.2B** makes changes to the wording to ensure it is positively worded and consistent with the NPPF. These changes are necessary to ensure that the Plan is positively prepared and to ensure effectiveness.

### *Infrastructure*

143. The delivering infrastructure chapter of the Plan contains a single policy entitled infrastructure delivery and impact mitigation. The Plan is supported by the Infrastructure Delivery Plan Review (IDPR) which identifies the likely infrastructure needs for development including a detailed assessment of the SAMU sites. This identifies no significant issues in providing the required infrastructure to these sites.
144. The provision of water to the SAMU sites will require major and local reinforcements to the existing network to which Anglian Water have raised no concerns. Heath care provision at Hartley Gardens and Oakwood Park will require expansion of existing facilities, which is reflected in the individual policies. The link road at Hartley Gardens is identified as a potential risk to delivery. The modified policy no longer prescribes how connectivity is to be achieved through the site which will be developed through the forthcoming DPD or masterplan. The timescale for delivery on the site reflects this and the viability assessment takes adequate account of construction costs of a link road should it be required.
145. We are therefore satisfied that the IDPR makes a comprehensive assessment of infrastructure requirements and that the Plan reflects these. Policy DI1 relates specifically to infrastructure delivery and impact mitigation. However, the policy as drafted is unclear as to the approach to developer profit or return. **MM50.1** amends the policy to better reflect national guidance within the PPG in relation to viability. **MM50.2** updates the policy to reflect the Council's position in regard to the introduction of CIL. These amendments are necessary for clarity and effectiveness.

### *Viability*

146. The Plan has been informed by the EVS as updated, which was prepared in accordance with the guidance in the NPPF and the PPG relevant to this examination. It provides a comprehensive and robust assessment of Plan viability based on the type and scale of development envisaged over the plan period. It also takes adequate account of the policy requirements of the Plan including for affordable housing, housing choice, accessible and adaptable housing, infrastructure costs and an allowance for S106 contributions that would be sought under Policy DI1.
147. The range of site typologies tested across the different market areas is reasonable. This included sensitivity testing on 300-unit case studies, for 3 value areas, and 3 of the SAMU sites allocated in the Plan, taking adequate account of potential additional infrastructure and/or remedial works.

### *Conclusion*

148. In conclusion, subject to the modifications above, the Plan makes adequate provision for infrastructure including community facilities and transport and the requirements of the Plan are viable and deliverable.

## **Issue 8 - Are the arrangements for monitoring and delivery robust?**

149. Chapter 11 of the Plan deals with monitoring and review. It sets out that the Annual Monitoring Report (AMR) will be the main mechanism for assessing the Plan's performance and effect. The Plan does not include any objectives, indicators or targets for use in future monitoring. Although the NPPF does not specifically require a plan to include these details, the absence of detail within the Plan is nonetheless likely to be an impediment to effectively assessing the Plan's performance. **MM51.2** includes a clearer framework of objectives, targets and indicators for use in future monitoring and is necessary for clarity and thus effectiveness.

### *Conclusion*

150. Subject to the proposed MM, the arrangements for monitoring and delivery are robust.

## **Overall Conclusion and Recommendation**

151. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that we 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.

152. The Council has requested that we recommend MMs to make the Plan sound and capable of adoption. We conclude that the duty to cooperate has been met and that with the recommended main modifications set out in the Appendix the Tendring District Local Plan Part 2 satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.

*Anne Jordan and Jameson Bridgwater*

INSPECTORS

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