

intensive businesses within the District should help to strengthen local employment, reduce the amount of out-commuting and encourage young people to remain in Gloucestershire.

New sites in the Local Plan Review should therefore be attractive and in accessible locations to be appealing to a range of different business types, but specifically targeting the growth of knowledge intensive businesses.

We understand that the economic strategy of the Local Plan Review has been built upon providing a supply of additional employment land based on past trends which equates to approximately 48.7ha. When current commitments and losses are included within this supply, the residual employment requirement up to 2040 is approximately 14.4ha. However, recognising current employment trends and commuting imbalances as well as providing a more proactive '*policy-on*' approach to the local economy, the Local Plan Review is currently looking to provide an additional 61ha of new employment land on new sites across the District. In broad terms, GFirst LEP's Construction and Infrastructure Business Group supports this approach and the proposed distribution of new sites. It is considered that these new sites will significantly and positively strengthen the local economy, providing an attractive range of accessible new employment opportunities within the District.

We note that some of the new economic opportunities are based on Green technologies that will put green energy and construction at the heart of their design which will assist in making the county the greenest place to live and work in England. This approach is one of the first adopted by the County's District authorities and is consistent with the LEP's emerging industrial strategy. As such, this underlying principle of the Draft Plan is fully endorsed by GFirst LEP's Construction and Infrastructure Business Group.

Employment Strategy

Page 39 of the Local Plan Review sets out the employment strategy that will be delivered and in summary this involves:

1. *Economic growth and additional jobs on and adjacent to existing high value employment sites within the M5/A38/rail corridor;*
2. *A variety of new employment sites to meet the specific requirements of different sectors with particular support for green technology hubs;*
3. *Support for affordable, low cost sites and premises;*
4. *Foster on-going employment and education links;*

5. New employment located next to new housing to create sustainable communities and reduce commuting;
6. Support for faster roll out of broadband;
7. Support for farm diversification proposals;
8. A flexible approach towards encouraging more tourism businesses; and re-generation of under-utilised or low value employment sites.

The plan is also under-pinned by a new Core Policy DCP1, that seeks for the District to become carbon neutral by 2030. This objective and the employment strategy of the Local Plan is supported by the LEP.

New Employment Sites

We are mindful that plan-makers will need to assess a range of different employment sites from individual small-scale sites to opportunities as part of large-scale developments such as extensions to existing settlements and new settlements where appropriate. Plan-makers will need to assess the suitability, availability and achievability of sites, including whether sites are economically viable. This will enable sound judgements to be made on whether a site can be considered deliverable within the next five years, or developable over a longer period.

We note that the employment strategy of the Draft Local Plan aims to provide 8 new employment sites that will in total provide an additional 61ha of new employment land in the District. The new employment sites are listed in table 5 of the Local Plan and included in Core Policy CP2 of the Plan and include:

<i>Strategic sites</i>	<i>Hectares at each</i>
1. Quedgeley East Extension	5 ha
2. Javelin Park	9 ha
3. Sharpness Docks	7 ha
4. Sharpness	10 ha
5. Stonehouse North West	5 ha
6. Stonehouse Eco-Park (M5 J13)	10 ha
7. Wisloe	5 ha
8. Renishaw New Mills	10 ha

Total:

61 ha

Commentary:

1. **Quedgeley East Extension (PS32):** The Quedgeley East extension has already commenced and policy PS32 provides an additional extension to this. The development will provide mainly for B8 uses and is considered to be a logical and suitable extension to the existing business park. The allocation is supported.
2. **Javelin Park (PS43):** PS43 provides a 9ha extension to Javelin Park and sits next to the 'Energy from Waste' facility. This site is unlikely to provide for high quality business uses but is considered to be a suitable and accessible location for a range of businesses. The allocation is supported.
3. **Sharpness Docks (PS34):** This allocation provides a 7ha employment expansion land to the south of Sharpness with a mix of leisure and tourism uses with 300 residential units to the north of the docks. This proposal has been a legacy of the last local plan with an ambition for the regeneration of land around the docks for employment uses. In isolation, it is hard to see this amount of development being delivered but with the larger Sharpness Garden Village proposal advocated in PS36, it is likely that the infrastructure improvements required for this development could be achieved to secure both the regeneration of the employment land to the south of the docks as well as the mixed use development to the north. The allocation is supported.
4. **Sharpness Garden Village (PS36):** The Sharpness Garden Village provides a sustainable mixed-use community that will comprise of 10ha of new employment land and 2,400 dwellings up to 2040 with an additional 2,600 dwellings up to 2050. We note that the philosophy of the new settlement will be to provide a self-contained community where people will have the opportunity to live and work within the same location. The emphasis on cycling, walking and other individual modes of transport as well as the proposed re-opening of the rail connection to Cam/Dursley and Gloucester is fully supported and aligns with the aims of the LEP's draft Local Industrial Strategy (2019). It is considered that the proposals represent a revolutionary approach to development for Gloucestershire, pursuing a greener way for people to both live and work. This will assist Gloucestershire in reducing its carbon output and conserving and restoring the environment. The location is appropriate for a development of this nature and will assist in attracting modern businesses to the area given its location and environmentally friendly philosophy. It also addresses the Districts objective of meeting a carbon neutral agenda by 2030. It is considered that the employment land provided as part of the proposals will appeal to modern businesses pursuing a greener

lifestyle approach. Overall, the proposed allocation is therefore strongly endorsed and considered to accord with the emerging GFirst LEP Local Industrial Strategy.

5. **Stonehouse North West (PS19a):** This allocation comprises of mixed-use development that will include 5ha of new employment land and 650 new dwellings. The allocation essentially comprises of an extension to the 'Great Oldbury' development. Employment in this location (Oldends Lane) has proved to be popular and successful due to its accessible location and proximity to residential uses. The Great Oldbury development (West of Stonehouse, Policy SA2) was expected to deliver 10ha of new employment land. Where possible the additional employment land arising from PS19a should be located as close to the SA2 employment land and should aim to deliver good access to the A419 and the M5. The allocation has the potential to support good quality employment uses and is supported.
6. **Stonehouse Eco-Park (PS20):** The Eco Park allocation sits north and south of the A417 and comprises of the delivery of 10ha of new employment land in conjunction with a new sports stadium, sports pitches with associated canal improvements. Ecotricity has been leading the plans for a world class low carbon stadium and employment hub at junction 13 of the M5. All the buildings will be innovative in design and technology ensuring that local businesses can develop on site with the aim of reducing their overall carbon output ensuring a greener environment for Gloucestershire. It is anticipated that the Eco-Park will create up to 4,000 new jobs, with a focus on attracting companies from the growing green economy in Gloucestershire and beyond. It is considered that such a business park will assist in attracting skilled employment and will help reduce the amount of out-commuting from the District. The site is also in a location that will be attractive and accessible to modern businesses and will therefore assist in providing a variety and choice of new high-quality employment land. The allocation is therefore supported.
7. **New Settlement at Wisloe (PS37):** The Wisloe Garden Village includes the provision of a 5ha business park as part of a 'garden community' that includes 1,500 dwellings and other associated uses. The proposal sits between the M5 motorway and the A38. Cam/Dursley railway station lies to the south of the proposal with the potential to provide cycle and walking linkages directly to the station from the proposal. If the development is delivered, it has the potential to provide an accessible employment site serving the south of the District. At the same time, we also note that the proposed site has few definable boundaries, save for the M5 and the A38, and there is a danger that the overall garden village principles will be lost with the development simply becoming an urban extension to Cam that will engulf both Cambridge and Slimbridge. At the present time, it is considered that the Vision document produced for the development does little to demonstrate that the settlement will deliver garden community principles.

8. **Land west of Renishaw New Mills (PS47):** This allocation seeks to provide a further 10ha of employment land next to the strategically important New Mills site, which is the home to Renishaw. This allocation is regarded as a suitable extension to an existing strategically important employment site in the south of the District and will ensure that there is scope for the expansion of the New Mills site as well as associated knowledge intensive businesses, and thereby creating a high-quality business location that will help stem out-commuting from the District. Given the site's location, it is envisaged that the masterplan should provide an indication of how linkages could be made to Charfield railway station, should this be re-opened in the future. Overall the allocation is supported.

The Local Plan is considered to provide a good range and distribution of employment sites across the District that should help diversify the employment needs of the District and meet future employment trends. Clearly each site will need to be positively tested through the consultation and examination process to ensure that it is deliverable during the local plan period.

We are also mindful that future planning policies should ensure a flexible approach for business park sites. We are aware of recent planning appeal decisions in Gloucestershire including at Plot G, Stonehouse Business Park, Sperry Way, Stonehouse, GL10 3UT (APP/C1625/W/18/3214940) and Land at Grovefield Way, The Reddings, Cheltenham GL51 6RF (APP/B1605/W/18/3200395). In these appeals, ancillary uses were permitted on business park sites as it was considered that it would make them more attractive to end users. GFirst LEP's Construction and Infrastructure Business Group agrees with this approach and considers that some ancillary uses on business park sites can help to make them more attractive to employers and employees. However, it is considered that such uses should not comprise of more than 20% of the primary employment uses in site. As such, we consider that the Local Plan should explicitly state that ancillary uses on the emerging business park sites in the Local Plan will be acceptable provided that they do not exceed 20% of the primary employment use on site.

We trust these representations are of assistance, but please do not hesitate to contact us should you have any further questions.

Yours faithfully,

The Construction and Infrastructure Business Group

gfirst LEP



Appendix &

Uttlesford District Council Local Plan Examination
Inspector Louise Crosby MA MRTPI
Inspector Elaine Worthington BA (Hons) MT MUED MRTPI

Programme Officer: Louise St John Howe
PO Services, PO Box 10965,
Sudbury, Suffolk CO10 3BY,
email: louise@poservices.co.uk:
Tel: 07789-486419

10 January 2020

[REDACTED]
Planning Policy Team Leader
Uttlesford District Council
London Road
Saffron Walden
Essex
CB11 4E

By email only

Dear [REDACTED]

EXAMINATION OF THE UTTLESFORD LOCAL PLAN

Introduction

1. Stage 1 hearing sessions were held between 2nd and 18th July 2019. We heard a great deal of evidence, some of which has required further formal targeted consultation and hence why it has taken us some time to fully consider everything put to us and to formally respond. This letter describes our findings in relation to several key matters and the plan's soundness.
2. Unfortunately, despite the additional evidence that has been submitted during the examination and all that we have now read and heard in the examination, including the suggested main modifications to the plan (ED41) put forward by the Council, we have significant concerns in relation to the soundness of the plan. In particular, we are not persuaded that there is sufficient evidence to demonstrate that the Garden Communities, and thus the overall spatial strategy, have been justified. We therefore cannot conclude that these fundamental aspects of the plan are sound.
3. It is not the intention of this letter to cover every matter that was discussed at the hearing sessions. Our letter focuses on those aspects of the plan and its evidence base which we do not consider to be justified. It also advises on specific changes that would be needed to some of the plan's policies. More detailed matters, and aspects of the plan that would not require significant further work at this stage or have not been subject to hearings sessions, are not dealt with here.

4. Also, we have not taken account of examination documents received after ED76 (October 2019), in this letter since there has come a point where we have had to draw a line under new documents submitted by the Council, not only so we could finalise this letter and thus ensure the examination is dealt with in an expeditious manner, but also because these documents have not been consulted upon and were not requested by us.
5. To clarify, the plan is being examined under the transitional arrangements set out in Annex 1 to the revised National Planning Policy Framework (the Framework) 2019. As such, the policies in the previous version of the Framework published in 2012 (and the associated version of the Planning Practice Guidance (the Guidance)) continue to apply. References in this letter to the Framework and the Guidance are therefore to those previous versions.

Proposed Garden Communities in General

Introduction

6. The Framework acknowledges that *'the supply of new homes can sometimes be best achieved through planning for larger scale development, such as new settlements or extensions to existing villages and towns that follow the principles of Garden Cities. Working with the support of their communities local planning authorities should consider whether such opportunities provide the best way achieving sustainable development'* (paragraph 52).
7. The plan contains three Garden Communities which are known as, Easton Park, North Uttlesford and West of Braintree. They are relied upon for the delivery of much of the new housing in the remainder of the plan period, and well beyond. In total they are expected to deliver around 18,500 new market and affordable homes.
8. In general terms we are concerned about the lack of evidence before us to enable us to conclude these parts of the plan are sound. Whilst we realise it is the Council's intention to lay down much of the detail of the proposed Garden Communities in further Development Plan Documents (DPDs), following the adoption of the plan, it is this examination which must determine whether the Garden Community proposals are properly justified and realistically developable. This is of major importance in this case given the large scale and long-term nature of the Garden Community developments, combined with the fact that they would be the primary source of housing in the district for the next 30 to 40 years.

Spatial Strategy and Sustainability Appraisal

9. We are concerned that all the reasonable alternatives tested in the Sustainability Appraisal (2018) (SA), included all three Garden Communities with varying degrees of other development, except one (option 3) which included no Garden Communities. No testing was carried out with say two Garden Communities, along with other development at existing settlements. This potential shortcoming of the SA is acknowledged in paragraph 8.165, but there is no explanation as to why such a scenario was not tested. This is a serious omission and has, in part, led to

fundamental problems with the overall spatial strategy which we set out later in our letter.

10. Also, in the 'Appraisal findings for the spatial strategy options' section of the SA (pages 431-448), option 1 (preferred option that is the submitted plan strategy) and option 2a (less development at Garden Communities and more at towns/villages (with a train station)) score equally in all of the 15 SA objectives. However, this was undertaken before the Council's Heritage Impact Assessment (HIA) (Donald Insall Associates January 2019) was published, albeit Historic England had raised objections to the North Uttlesford Garden Community at that stage.
11. In addition, SA objective 9 (to promote and encourage the use of sustainable methods of travel) testing was undertaken on the understanding that Easton Park and West of Braintree would provide a new Rapid Transit System (RTS) which would be delivered in phases alongside housing, employment and other infrastructure. Later in our letter we question whether a RTS would be delivered in the early years of the Garden Community developments. This adds to our concerns about the robustness of the SA.

Garden City Principles

12. The plan at paragraph 3.78 and in Policy SP5, sets out the Garden City Principles developed by the Town and Country Planning Association and advises that the Garden Communities will be developed in accordance with them. We share the Council's view that it is reasonable that these principles should be key pillars in the development of the Garden Communities in Uttlesford. Principle 1 concerns land value capture for the benefit of the community. Strong vision, leadership and community engagement are identified in Principle 2. Principle 3 expects community ownership of land and long-term stewardship of assets. However, the mechanisms by which these guiding principles will be delivered and ensured are not readily evident in the plan.
13. During discussions at the hearings it was suggested by one of the site promoters (West of Braintree) that land value capture for the community would not be realised. Additionally, the site promoter at Easton Park questions the need for a Quality and Collaboration Partnership (QCP), as set out in the Council's Focused Change 4 to Policy SP5. This objection is sustained in ED66 (Statement of Common Ground between the Council and Landsec).
14. We understand that the Council has introduced the QCP as a mechanism to ensure that the public and private sectors can together deliver strategic growth over several plan periods, and still ensure that the fundamental Garden City Principles (such as community engagement, long term stewardship, and to ensure that a holistic approach can be assured) are adhered to. The site promoter at Easton Park considers the QCP to be unnecessary and to replicate the planning system. Additionally, they cannot agree with the Council what the QCP will do (if it is to be accepted as a concept).

15. Furthermore, whilst it is understood that the Delivery Board for North Uttlesford has already been established, ED66 also highlights disagreement between the Council and the site promoter at Easton Park in relation to the terms of the Delivery Board that will oversee the plan making, delivery and implementation of that Garden Community. All these matters cast some doubt as to whether these vital Garden Community Principles would be met in Uttlesford. Without assurances that the necessary mechanisms outside the plan would be put in place, we cannot be content in principle that the new proposed settlements would be true Garden Communities, or that the plan's stated vision for these new settlements would be met. This is a serious concern.

Policies Map

16. The broad locations for the three Garden Communities are shown on the Policies Map and each is intended to be the subject of a detailed DPD which would determine, among other things, the full extent of the land required and the nature and form of the new communities. Nevertheless, Policies SP5, SP6, SP7 and SP8 set out the principles for the development for the Garden Communities along with a number of site-specific requirements.
17. We are concerned that the boundaries of the Garden Community site allocations are not shown on the Policies Map. This is not a matter to be left to DPDs. We cannot find the plan sound based on vague blurred annotations of broad locations, especially for something as significant as three large new communities. Indeed, The Town and Country Planning (Local Planning) (England) Regulations 2012, require that the adopted plan contains a Policies Map that illustrates geographically the application of the policies in the adopted development plan. The site boundary lines would need clearly defining on the Policies Map and need to include land to be safeguarded for transport and any other infrastructure.

Delivery of Market and Affordable Housing

18. The housing requirement for Uttlesford for the whole of the plan period (2011 to 2033) is 14,000 net additional homes. The quantum of new homes expected to be delivered in the remainder of the plan period (up to 2033) in the Garden Communities was proposed by the Council to be reduced from 4820 to 4190 during the stage 1 hearing sessions through a revised housing trajectory (ED51). This is against an overall requirement in those 10 years (2023/24 to 2032/33) for 7190 dwellings. In addition, changes to the anticipated start dates have occurred with delivery in Easton Park and North Uttlesford being pushed on by one year from 2022/23 to 2023/24 and some of the yearly delivery rates have also been amended. Our comments in this letter are based on this revised housing trajectory.
19. The Garden Community site allocations are for a very significant number of homes, over a considerable period, and all three would be developed more or less simultaneously. This would bring about a substantial amount of development and consequential change over a long timescale. Development of this scale and timing on three large sites in one essentially rural district is highly aspirational and ambitious. As such, it is vital that the Garden Communities are justified and deliverable. The Framework indicates that '*Local Plans should be aspirational but realistic*' (paragraph

154) and one of the key tests of soundness is that the plan should be effective, that it is, *'deliverable over its period and based on effective joint working on cross boundary strategic priorities'* (paragraph 182).

20. The latest housing trajectory relies on commencement dates in relation to Garden Communities in North Uttlesford and Easton Park, which we consider to be extremely optimistic considering the current timetable for the adoption of the plan and the overly ambitious timescales for the production and adoption of the DPDs (and the submission and approval of planning applications for the Garden Communities).
21. The Council has provided an update on the timelines for the production of the DPDs for Easton Park and North Uttlesford in Appendix 1 to ED30. This indicates that work on the preparation of the DPDs commenced in June 2019 and we acknowledge that the Council has appointed three members of staff to work on them. However, the update shows that despite consultations being timetabled with the Community Forums for July 2019, appointments to the Local Delivery Boards and the setting up of the Community Forums were yet to be completed at this point.
22. No indication as to how long this might take is given. Whilst ED71 provides a further progress report and indicates that members of the Community Forums have been identified, meetings have not yet been held. Thus, there is already some evidence of slippage in the timetable and the missing of key milestones. Bearing in mind the other subsequent stages set out in the timetable (including the Council's own three stage approval process), it is difficult to see how public consultation on the DPDs would realistically commence early in January 2020 as anticipated.
23. The proposed trajectory is even more optimistic if the promoters of the Garden Communities do not intend to submit planning applications until the DPDs have been adopted (as indicated by the promoter for Easton Park). The Council's timetable assumes promoters would twin track outline planning applications alongside the DPD preparation and examination process.
24. Although we note the North Uttlesford site promoter's willingness to prepare an outline planning application alongside the DPD, we share the Easton Park site promoter's reservations about how such an arrangement would work in practice. This is particularly so given the considerable amount of detail (including, as things stand, the defined site boundaries) that is to be left to the DPDs and the high level of uncertainty, potential wasted expense and associated risks that would be involved without the comfort of advancing a planning application which is in line with an adopted DPD.
25. The promoters of Easton Park have confirmed that they envisage first completions in around September 2025, approximately 2 years after the Council's estimate of 2023/24. All these factors point to the timetable not being realistic. Indeed, there seems to be a lack of recognition on the Council's part as to how complex and challenging it would be to deliver the

three Garden Communities and a lack of appreciation as to the delays that are very likely to occur.

26. The promoters of Easton Park argue for the details of the Garden Communities to be dealt with by Supplementary Planning Documents (SPDs) rather than DPDs, to speed up the process. However, since SPDs cannot set policies and are not subject to independent examination, proceeding down the route of SPDs would require the plan to contain far more detail than it does at present. Additionally, SPDs carry less weight in future decision making as they are not part of the development plan. With something so fundamental as large new Garden Communities it is our firm view that the key details need to be committed to DPDs which would be examined and adopted.
27. Overall, we strongly believe that the Garden Communities will not deliver the quantum of housing in the plan period that the Council's housing trajectory shows. Consequently, the housing requirement for the plan period would not be met.
28. Turning to consider the 5-year HLS situation, the revised housing trajectory (ED51) shows that the Council would have a 5.10 year HLS on adoption of the plan, based on a stepped trajectory and including a windfall allowance and two of the Garden Communities delivering houses in 2023/24. This has since been updated in ED73, a document entitled *Housing Trajectory and 5 year land supply statement 1 April 2019* (published October 2019). In this document, Table 6 shows a 5 year HLS calculation, taking account of the emerging plan and factors in the 'oversupply' of housing against the plan target since 2011/12 (the plan start date). This would provide a HLS of 5.65 years.
29. This calculation relies on the use of a reduced annual requirement of 568 dpa for most of the years, as it is based on the stepped trajectory set out in Policy SP3. It is also based on what we consider to be unrealistic commencement/housing delivery dates for two of the Garden Communities (North Uttlesford and Easton Park, as set out above). So, whilst the Council can, in theory, demonstrate a 5.65 year HLS, we are concerned that if the housing delivery at North Uttlesford and Easton Park slips by just one year, as seems very likely, this would result in 100 less dwellings in this 5 year period. This would result in a very fragile 5 year HLS position.
30. An additional factor is that around 14,000 homes allocated in the plan would be delivered after the plan period. As such, the plan is establishing the growth strategy for meeting the Council's long-term needs. Clearly it is not a problem to look beyond the plan period, but the number of homes that would be effectively allocated beyond the plan period would be similar to the identified OAN figure for the current plan period.
31. However, the scale of the need for housing for the next plan period is currently unknown and uncertain. We are concerned that the Council's chosen strategy would mean that other sites in the district would not be developed or permitted for a significant period of time in the future. This would be likely to adversely affect the vitality and viability of services in

existing towns and villages and result in a lack of housing choice in the market. It would also be difficult to accommodate changes in demand for certain types of development/services required over the very long period being committed to within the current strategy.

32. Furthermore, if the three Garden Communities allocated in the plan are granted planning permission and then work is commenced on site, it would be very difficult to deviate from this strategy. To do so, and to leave the intended Garden Communities effectively uncompleted, could potentially result in relatively small pockets of residential development in the open countryside that would not have the sustainability credentials of Garden Communities and would not ordinarily be supported. The Framework recognises that it is crucial that Local Plans should '*allocate new sites to promote development and flexible use of land, bringing forward new land where necessary...*' (paragraph 157). The current strategy which relies on the Garden Communities to deliver 4190 dwellings in the period 2023/24 – 2032/33 (the end of the Plan period), against a target in this period of 7190 dwellings carries with it significant risks and a lack of flexibility.
33. Finally, the Framework (paragraph 47) requires local planning authorities to '*use their evidence base to ensure that their Local Plan meets the full objectively assessed need for market and affordable housing in the housing market area...*' It also requires that through a Strategic Housing Market Assessment, local planning authorities should understand housing needs in their area and identify the housing that the local population is likely to need over the plan period which (amongst other things) addresses the need for all types of housing including affordable housing (paragraph 159).
34. The Council accepts that there is already an affordability issue in the district. The supporting text to Policy H6 states that there are, and will continue to be, many households in Uttlesford lacking their own housing or living in housing that is inadequate or unsuitable, who are unlikely to be able to meet their housing needs in the housing market without some assistance. The proposed stepped trajectory which arises from the strategy's reliance on the Garden Communities, would result in a worsening affordability problem as it would delay the provision of housing to meet the identified need in the district for a number of years. This is also a significant concern.

Employment Use

35. Whilst noting the main modifications suggested by the Council to provide indicative figures for employment floorspace in the Garden Communities (MM/03/15, 16, and 17), we are concerned that at this stage there is no information about where in the Garden Communities employment uses would be provided and more importantly when they would be delivered. The ethos of Garden Communities is that they are sustainable.
36. Garden Community Principle 4 envisages a wide range of local jobs within easy commuting distance from homes. Ideally, as many residents as possible would live and work within the Garden Communities and thus reduce the need to travel long distances to work, especially by private car.

Policy SP5 envisages that each Garden Community would demonstrate high levels of self-containment.

37. This is more likely to be successful if the employment uses, or at least some of them, are provided during early phases of development. Otherwise there is a risk that the Garden Communities would become little more than commuter settlements. This would require further work to be undertaken, in conjunction with the site promoters, to at the very least identify zones within the Garden Communities where the various employment uses will be located, at what stage they will be completed and how they will be delivered.

Transport and Infrastructure

38. This section of the letter deals with transport and infrastructure matters where they are interlinked or generic. Other separate matters are dealt with in the specific sections dealing with the individual Garden Communities later in our letter.
39. It is a core planning principle of the Framework to '*actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are or can be made sustainable*' (paragraph 17).
40. The Guidance, at paragraph: 001 Reference ID: 54-001-20141010 advises that '*it is important for local planning authorities to undertake an assessment of the transport implications in developing or reviewing their Local Plan so that a robust transport evidence base may be developed to support the preparation and/or review of that plan. A robust transport evidence base can facilitate approval of the Local Plan and reduce costs and delays to the delivery of new development, thus reducing the burden on the public purse and private sector. The transport evidence base should identify the opportunities for encouraging a shift to more sustainable transport usage, where reasonable to do so; and highlight the infrastructure requirements for inclusion in infrastructure spending plans linked to the Community Infrastructure Levy, section 106 provisions and other funding sources*'.
41. The Uttlesford Local Plan Infrastructure Delivery Plan July 2019 (IDP) (ED27 and ED27A) downgrades several highway infrastructure items from 'critical' to 'necessary' (compared to an earlier version), such that they are no longer required to be in place before development at the Garden Communities can commence. In particular, a RTS is proposed for West of Braintree and Easton Park (also referred to as Bus Rapid Transport (BRT)).
42. The plan seeks to bring about a step change increase in sustainable travel modes at both Easton Park and West of Braintree, to achieve significant use of public transport, with trips by active modes and public transport making up to 60% of all trips (paragraphs 3.90 and 3.107 of the plan). Policies SP6 (Easton Park) and SP8 (West of Braintree) both require from the early delivery phase a high quality, frequent and fast rapid transport measure to be provided. Also, there was general agreement amongst all the parties, including the Council, at the hearings that the RTS would need to be in

place from the early delivery phase of the Garden Communities to fulfil their anticipated role and to meet these ambitious targets and the modal shift relied upon.

43. In this context it is difficult to understand why the RTS is classified as 'necessary' rather than 'critical' in the IDP given that it is fundamental to the delivery of two of the largest sites allocated in the plan. This downgrading is also evident in the Council's response to the targeted representations (ED72). With reference to ED13 (Bus Rapid Transport for Uttlesford Supplementary Technical Study), the Council confirms that in the early phases the Garden Communities would be served by a conventional bus service, with a RTS only coming online when there is population to support it, (2029–2033).
44. The Council also advises that it is not necessary to delay the housing delivery to allow for the delivery of the RTS. Whilst appreciating the difficulties in providing a full RTS service from the outset and recognising the role of incremental improvements, in our view, the lack of a RTS until towards the end of the plan period would mean the modal shifts anticipated would not be realised. Moreover, the use of less sustainable modes of travel could have become engrained in the habits of residents living in the homes built within the early phases of the Garden Communities. According to the latest trajectory in ED51 this would be well in excess of 1000 homes.
45. There is valid, widespread concern, shared by us, that the infrastructure serving the Garden Communities would fail to meet the true BRT standards until after 2033. Table 3-2 of ED13, shows that after 2033 it is predicted that there would be a service every 5 minutes, between 6am and 10pm. This would be around 8-10 years after the delivery of the first homes. From 2024 until 2033, services would gradually increase from every 15 minutes to every 10 minutes. But this would depend upon commercial viability.
46. This being so, there is a danger that the Garden Communities would be served by little more than a conventional, regularly running bus service for a good number of years. This would use the existing road network, which is at times congested and there are concerns that such a bus service would be no quicker, and potentially slower, than travelling by car. It is also unclear to what degree the buses would run on existing roads as opposed to segregated bus lanes or busways and how the latter would be phased in.
47. Buses running on existing unsegregated carriageways, even based on a 10 or 15 minute service, is unlikely to encourage the residents to use their cars less for local journeys, despite this being better than the services that operate in Uttlesford at present. We consider this would be directly at odds with Garden Community Principle 7 which requires integrated and accessible transport systems, with walking, cycling and public transport designed to be the most attractive forms of local transport.
48. It would also run contrary to proposed Main Modification MM/3/19 to Policy SP5 which seeks to introduce new text indicating that the new communities will be planned around a step change in integrated and sustainable

transport systems that puts rapid transit networks, among other things, at the heart of growth in the area.

49. It is unclear at this stage which routes would be used for the RTS and how much of the routes would be shared with existing road users or on segregated/dedicated bus ways/lanes. As such, these have not been mapped or costed. This being so, the need for additional land to be identified/safeguarded in the plan to ensure the route of the RTS cannot be ruled out.
50. Accordingly, the scale and nature of the necessary road improvements and details of any vehicle restrictions that may be needed on the RTS route (and other routes) have not been set out. Additionally, little consideration has been given to whether there are likely to be any land assembly issues and/or costs or if Compulsory Purchase Order (CPO) powers would be required to deliver the route (and how long these processes would take).
51. Furthermore, consideration would need to be given to the impact on heritage assets, biodiversity, character and appearance and landscape of any sections of the route that would not utilise existing roads. It is also evident from the Council's response in ED72 that much work is yet to be done to establish how the route would be achieved to Stansted Airport.
52. Reference is made to the possibility of a 'new direct connection' between the airport and the road network to avoid the use of the airport entrance roundabout by the RTS. All these matters are likely to have a bearing on the costs and timing of the RTS, and so its viability and deliverability, and are yet to be properly considered.
53. Policy S6 relating to Easton Park, anticipates bus/rapid transport measures to Great Dunmow and beyond. In considering sustainable transport, ED52 (Statement of Common Ground between Landsec and Essex County Council) states that the Council and the Highway Authority have developed a BRT proposal for the Local Plan which connects Stansted Airport to Braintree via Easton Park, Great Dunmow and West of Braintree.
54. However, the Council's responses in ED72 confirm that the RTS could be provided in discreet segments and that any links via the RTS to West of Braintree (from Easton Park) would only be provided beyond the plan period. These positions do not seem to be aligned. Whilst appreciating that Easton Park and West of Braintree have different and separate employment destinations, in simple terms the absence of the RTS to West of Braintree and the town of Braintree beyond would mean that for trips eastwards to meet needs other than employment, the future residents of Easton Park would be without the sustainable transport options offered by the RTS.
55. We are also conscious that ED13 and ED36 are predicated on what is now an out of date housing trajectory and are concerned that the delivery of fewer homes than previously anticipated in the early years of the plan at Easton Park and West of Braintree has the potential to affect the delivery of the RTS.

56. The Council accepts that more work is required in relation to the RTS. Paragraph 177 of the Framework indicates that it is *'important to ensure that there is a reasonable prospect that planning infrastructure is deliverable in a timely fashion. To facilitate this, it is important that local planning authorities understand district wide development costs at the time Local Plans are drawn up'*. In this instance, considerable additional information would be required to establish that the RTS is a practical and viable solution and that it would be delivered at the time it is needed. Section 5.2 of (ED13) identifies the need for a strategic outline business case be developed alongside improved forecasts from a transport model.
57. In ED72 the Council responds to many of the concerns raised in the targeted consultation by acknowledging that further work is needed but indicates that such details would be available at the strategic planning stage. However, this plan is the strategic planning stage. It includes strategic policies, and these include two Garden Community site allocations that are predicted to begin delivering housing in 2023/24 in the case of Easton Park, and 2025/26 in the case of West of Braintree. We cannot agree that the evidence before us as set out principally in ED13 Bus Rapid Transport for Uttlesford - Supplementary Technical Study June 2019 and ED36 Further Information on Bus rapid Transport Modelling, provides a level of detail sufficient to show that the proposed RTS is practical in principle.
58. Easton Park and West of Braintree are reliant on the RTS to ensure they are sustainable communities, and it is critical that the evidence to support it is provided at this stage. It is not sufficient to say that these really important matters would be resolved at a later date. This work would need to be done now so that the development plan provides the necessary certainty of delivery, particularly given the housing trajectory before us and the significant reliance on Easton Park and West of Braintree to deliver homes (in the case of Easton Park within the next 5 years).
59. Finally, regarding infrastructure, the Framework sets out that it is *'crucial, Local Plans should plan positively for development and infrastructure in the area...'* (paragraph 157) and we continue to be concerned that significant gaps remain in the IDP for the cost of the provision of gas, water, waste, wifi/broadband and significant amounts of the social infrastructure items such as allotments, play space, amenity green space, to name a few. There are also considerable variations in estimated costs for 'big ticket' items, including transport infrastructure. For example, the A11/A1301/Stumps Cross Roundabout improvements are estimated to be between £5 million and £10 million and the improvements at B1256/A120 Dunmow Hoblongs junction are estimated at between £2 and £10 million.
60. There is also a lack of clarity about what the various planned sustainable transport upgrades would cost and until this is known and built into a robust viability assessment the viability of these Garden Communities is an unknown. Overall, the lack of evidence in relation to transport and infrastructure reinforces our concern that the Garden Community policies are not justified and effective.

Viability

61. The Framework advises that '*pursuing sustainable development requires careful attention to viability and costs in plan making...*' and states that '*plans should be deliverable*' (paragraph 173). The Viability Assessment 2018 (VA) carried out by Troy and Three Dragons was undertaken prior to the most up to date IDP and the revised housing trajectory. Moreover, as previously set out, there are a number of 'big ticket' items in the IDP, some of which would require funding up-front before any returns on the development would be seen. In addition, the IDP has many infrastructure items that have no known costs, as set out above.
62. The VA makes broad brush assumptions about the infrastructure costs for the three Garden Communities, based on typologies. It clearly shows in graph form the significant difference a change in infrastructure costs of £10,000 per dwelling (£50,000 as opposed to £40,000), can make to viability and so it is critical that this figure is as accurate as possible. Therefore, it is important that the viability assessment should use the most up to date infrastructure cost estimates rather than case studies and be based on maximum costs where there is a range. This is particularly important given the VA does not contain any specific contingency allowance.
63. Also, Appendix B to *Viability Testing Local Plans – Advice for planning practitioners (June 2012)*¹, advises in relation to costs of promoting schemes and associated fees that on large scale schemes care needs to be taken not to underestimate these. It suggests that fees relating to design, planning and other professional fees can range from 8-10% for straightforward sites to 20% for the most complex. The Council's VA allows for a higher percentage (12%) on the smallest of sites (10 units or less), but only 6% for the Garden Community sites. We consider this figure to be far too low, particularly as these sites are likely to be more complex than straightforward.
64. The build out rate and sales of dwellings would naturally be slower in the early stages of the development, as reflected in the housing trajectory, which has been amended by the Council since the VA was prepared. Combined with slow early delivery rates, there would be in the early years, disproportionately high infrastructure costs. Therefore, we are concerned that the cost of interest from borrowing and particularly peak debt has not been factored in at an appropriate level.
65. Table 5.4 of the VA shows viability results for 10,000 units across a range of scenarios. We are concerned that in the scenario with £50,000 of infrastructure cost per dwelling, where only 95% of the market value is achieved on the sale of the houses, there is very marginal viability. This scenario is a real possibility given the amount of infrastructure that would need to be funded, including the RTS and the fact that the spatial strategy would see three Garden Communities delivering dwellings during a similar timeframe and so competing for house sales.

¹ Document referred to at the hearings, published by The Local Housing Delivery Group

66. The VA at paragraph 5.20 advises that *'this scheme delivers housing over a long trajectory (38 years) and is very sensitive to changes of phasing. Small amendments to the timing of infrastructure items or delivery of residential units as well as to the housing density or mix can make a significant difference to the results. A developer would be able to maximise these factors to the advantage of economic viability and we do not consider that these marginal results would render a study undeliverable'*.
67. We have reservations that some of these 'amendments' may not be in the gift of the developer and housing density and mix, for example, may be controlled by a Local Plan Policy. Also, this scenario could lead to an erosion of some of the key principles of Garden Communities set out in Policy S5, such as the provision of mixed tenure homes and housing types that are genuinely affordable for everyone; beautifully and imaginatively designed homes with gardens; development that enhances the natural environment, providing a comprehensive green infrastructure network and net biodiversity gains and using zero-carbon and energy-positive technology to ensure climate resilience; and integrated and accessible transport systems, within walking cycling and public transport designed to be the most attractive forms of local transport.
68. Given these findings in relation to the long development timescales and the need to ensure that these large scale sites would deliver homes not only in the early years of the plan but for many years to come, in a policy compliant manner, we consider that a revised VA based on the residual valuation appraisal method would need to be supplemented with a discounted cashflow assessment (a valuation method used to estimate the value of an investment based on its future cash flows), in order to provide a more complete and robust analysis.
69. To summarise, the scale of funding necessary and whether the Garden Communities could support such costs is uncertain. For these reasons it has not been adequately demonstrated that the Garden Communities proposed in the plan are financially viable and therefore developable.

Proposed Garden Communities in Detail

North Uttlesford

70. North Uttlesford is in the north west of the District, adjoining the boundary with South Cambridgeshire and is identified in Policy SP7 for 5000 new homes. It is recognised in the plan as being an area of high landscape and visual sensitivity, given its steeply sloping landform and elevated position with open fields and limited vegetation. It is also accepted that the development of the site has the potential to harm the significance of heritage assets on the site, and in the wider area.
71. The Framework at paragraph 126, is clear that Local Plans should set out a positive strategy that recognises that heritage assets are an irreplaceable resource and conserves them in a manner appropriate to their significance. In developing this strategy, local planning authorities should take into account the desirability of sustaining and enhancing the significance of

heritage assets.

72. The HIA finds that North Uttlesford is situated within a sensitive landscape with significant highly sensitive areas and contains extensive heritage assets, comprising built heritage as well as, known and unknown archaeology. It identifies as highly sensitive the immediate setting of the Roman Temple Scheduled Monument which is within the site allocation and the visual and historic relationship to the Roman Fort Scheduled Monument at nearby Great Chesterford.
73. Paragraph 132 of the Framework recognises that Scheduled Monuments are of the highest significance and substantial harm or loss of them should be wholly exceptional. The HIA also highlights that there is evidence of significant buried archaeology on the site and in the wider area which contains evidence of human occupation from the Palaeolithic period onwards. There are other heritage assets nearby including listed buildings and several Conservation Areas.
74. The site promoter's illustrative masterplan indicates that around 42% of the site area would be developed, with 54% remaining for green infrastructure, agricultural land or outdoor recreation. We also note that the Council anticipates around a 50:50 split between developable land and open space.
75. Nevertheless, Historic England maintain an in-principle objection to the development at North Uttlesford due to the potential impact on the highly sensitive historic environment and consider that an alternative location should be sought for the development.
76. The Roman Temple complex consists of below ground archaeological remains and is a Scheduled Monument. It is set away from the Roman Town, but is significantly associated with it, both by function and by physical links in the form of Roman roads. The HIA finds that views between the Roman Town and the Roman Temple and the Great Chesterton Conservation Area make a major positive contribution to its significance.
77. This area is identified as being of high sensitivity in the HIA. Despite the retention of open areas within the site, given its scale, the proposed Garden Community would introduce major change to the setting of the Roman Temple that would be likely to affect its relationship with the Roman Town and the wider landscape. Paragraph 132 of the Framework indicates that *'significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting'*.
78. Historic England advises that the geographical and topographical location of Great Chesterford on the north west boundary of Essex in the Cam valley, at the entrance to the Fens in a gap in the chalk hills is one of its important defining attributes in terms of its archaeological significance. The HIA is clear that the area surrounding and within the site is rich in archaeology.
79. The HIA considers that the extent of the archaeology already identified at the site and nearby points to the possibility of a wider distribution of remains across the site. It also refers to previous excavations of remains

on and around the site as well as chance finds. The Brief Archaeological Impact Assessment of the Proposed Uttlesford Garden Communities July 2018 Place Services (Document 1000.1 HEN) indicates that extensive archaeological deposits of multi-period date are likely to survive here.

80. The Historic Environment Record identifies a number of pre-historic sites in the form of Bronze and Iron Age burial sites. It also refers to the possibility of Roman structures and burials bordering the route between the Roman temple and the Roman town (which runs through the site) and evidence of an Anglo-Saxon burial ground and the presence of both pre-historic and Roman settlement.
81. This being so, based on current knowledge, it seems highly likely that there are remains of significance within the site. Accordingly, the proposed development has the potential to cause harm through the loss of important and extensive heritage information and of the opportunity for increased understanding of the history and development of the area, even assuming around 50% would be undeveloped.
82. The HIA further recognises that the significant buried archaeology on the site may further add to the understanding and significance of the area and the inter-relationships between the other heritage assets on the site and nearby. As such, the evidence base on this matter is currently inadequate. Further archaeological investigations would need to be undertaken to establish the likely scale and significance of archaeological remains on the site.
83. Presently, the proposed Garden Community at North Uttlesford is not justified by the historic heritage evidence available and we share Historic England's views that there is a possibility that it is not a suitable location for the development proposed due to its impact on the significance of heritage assets. Also, as set out earlier in our letter, the SA was carried out in advance of the HIA, which in this case is a concern given the findings of the HIA.
84. The Council's Landscape and Visual Assessment (Chris Blandford Associates June 2017) finds that the landscape sensitivity to a new settlement here would be high, given the open hill slopes and topography of the site. The landscape means that the upper ground on the site is highly visible from a considerable distance. Historic England are also concerned about development on the higher ground in terms of its impact on heritage assets.
85. Having visited the site and viewed the indicative masterplan we are also sceptical as to how development on the high ground including the sensitive upper valleys and ridges could in practice be avoided if the quantum of development proposed, as well as the other necessary facilities that would make it a sustainable community, were to be provided. This issue also has the potential to affect the capacity of the site for development and consequently viability. In light of these matters, it is our view that North Uttlesford is not currently justified due to the harm that would be caused to the landscape and to the significance of heritage assets.

86. Turning to highway matters, the supporting text to Policy SP7 states that developer funded highway improvements could accommodate up to 3,300 new homes at North Uttlesford. The Council indicates that these highway improvements would be in the A505 corridor to provide additional capacity. The Council recognises that additional transport improvements would be required in the A505 corridor to accommodate the further housing provision at North Uttlesford.
87. The revised text set out in ED70 (and to be introduced as a main modification) indicates that *'the proposed developer funded highway improvements could accommodate up to 3,300 new homes at North Uttlesford' and that 'development beyond that would depend on strategic capacity improvements on the A505 corridor'*. It adds, *'it is proposed that beyond the end of the plan period, a cap of 3,300 new homes is placed on any the allocation at North Uttlesford Garden Community to ensure that development over this figure does not take place until strategic improvements have been implemented'*.
88. However, the Council's response to representations made as part of the targeted consultation exercise that took place after the hearings, in Document ED72 (pages 21 and 29) suggests that transport modelling has identified that the interim junction improvements would accommodate a development of up to only 2,700 dwellings. There appears to be some ambiguity here that would require clarification.
89. The A505 Corridor Study is being prepared and led by Cambridgeshire County Council. Whilst the Council have indicated that the study is due to be commenced shortly (Matter 8 Hearing Statement) no clear timelines or funding for this piece of work have been provided. As things stand it is not clear to us what improvements would be required to deliver more than 2,700 or 3,300 homes at North Uttlesford, what they would cost, and when they might happen. ED70 suggests that a funded strategic scheme (strategic capacity improvements) is anticipated towards the end of the plan period, by year 14 (2031/32). However, it also seeks to put in place a contingency to deal with any delay in that strategic scheme coming forward.
90. This does not inspire confidence and leads to a good deal of uncertainty. The Council advises in response to the targeted representations, that it has identified specific schemes to address transport impacts in Cambridgeshire if no strategic scheme were available. However, the details of such schemes do not appear to be before us. The possible lack of a strategic scheme to address capacity on the A505 and the potential inability of the site at North Uttlesford to grow beyond 2,700 or 3,300 homes would be likely to have a significant effect on the overall masterplan for this Garden Community and what could be provided there. It would also have further implications for, amongst other things, viability.
91. Additionally, we are conscious that not only is the production of the A505 Corridor Study largely outside of the Council's control, but also that cross boundary highway and other transport matters and improvements affecting

North Uttlesford are reliant on Cambridgeshire County Council, South Cambridgeshire District Council, Greater Cambridge Partnership or Cambridgeshire and Peterborough Combined Authority. However, notwithstanding the Position Statement from Cambridgeshire County Council, these partners are not signatories to any SoCG provided to this examination. As such, we cannot be assured that they agree and are committed to the necessary infrastructure for North Uttlesford Garden Community.

92. Aside from these points, we have serious doubts whether in the absence of a RTS and considering the train station capacity issues at Whittlesford Parkway Station we heard about at the hearings, the transport measures proposed at North Uttlesford are truly sustainable and in line with Garden Community principles.
93. We are also concerned about the apparent lack of bus provision/links to Saffron Walden and other locations listed in Policy SP7 alongside the focus on bus links to employment opportunities and train stations. This is not included in the IDP update (only a footpath and bicycle route are identified). In this context we question whether the IDP would deliver the aims of Policy SP7 to provide a package of measures to provide transport choice at North Uttlesford, including the delivery of high quality, frequent, and fast public transport services to Saffron Walden (and other destinations).
94. Finally, we are aware that the planning application for the proposed development at the Wellcome Genome Campus site, has recently been granted permission for a significant scheme. That could have ramifications for this plan and in particular the North Uttlesford Garden Community site allocation. Therefore, further work would need to be undertaken to understand the cumulative impacts of that development alongside North Uttlesford on transport in the immediate and wider road network and on rail station capacity.

Easton Park

95. Easton Park is a greenfield site between Great Dunmow and Stansted Airport. Policy SP6 anticipates a new Garden Community of 10,000 homes. The Council accepts that the site contains a number of constraints such as landscape and heritage features, including ancient woodland, scheduled monuments, Easton Lodge Registered Park and Garden, a number of listed buildings and that it is adjacent to the Little Easton Conservation Area.
96. The HIA finds the site to be in an area of moderate to high sensitivity and concludes that Easton Park has the potential to harm the significance of heritage assets. It identifies a number of areas within the site as having a high sensitivity. Notably, these include the northern section of the site around the Registered Park and Garden and Little Easton Conservation Area where there are views into and out of the site.
97. Historic England considers that the HIA, through its sensitivity testing, effectively identifies a reduced developable area at Easton Park and accordingly objects to any development within the site, north of Park Road.

Despite this, the Council anticipates that there is scope for some appropriately sensitive development on this part of the site (Matter 8 Hearing Statement).

98. We also note that this part of the site is shown to accommodate buildings on the site promoter's masterplan. Again, having visited the site and considered the evidence before us, we share Historic England's view that the sensitivity of the historic environment has not been adequately considered by the Council and we conclude that unless evidence is produced to show that it could be acceptably developed, development should not take place within this part of the site. Consideration would need to be given to what implications this has for the capacity of the site and its viability.
99. In addition, the HIA fails to consider the historic asset of Stone Hall (a Grade II* listed building) to the south of the site which was not accessible at the time of the survey. Historic England notes that Stone Hall responds to a wider rural setting which contributes to its setting. This is a serious omission that undermines the reliability of the HIA and would need to be re-considered.
100. Regarding transport and infrastructure matters, we understand that a committed interim improvement scheme at junction 8 of the M11 is being progressed by Essex County Council. The modelling analysis that has been undertaken suggests there is sufficient capacity to accommodate traffic growth up to a point between 2025 and 2030. However, it seems highly likely that further infrastructure improvements would be required at Junction 8 at some stage in the future.
101. Highways England are currently in the process of investigating strategic interventions to Junction 8 (and to the M11 between Junction 8 and 13) to help determine spending within the Department for Transport's next Road Investment Strategy. Given the potential for this to delay development at Easton Park more clarity would be needed as to when the outcome of these investigations will be known and as to the likelihood of the funding being available.
102. As set out in the transport and infrastructure section of this letter, more information would be required to support the RTS. In relation to Easton Park ED13 suggests the RTS should be given exclusive use of sections of the B1256 Great Dunmow bypass. We share the concerns raised by a number of representors as to how this would work in practice and whether it would have the effect of forcing traffic to use the High Street and thus reversing the benefits of the bypass.
103. ED65 proposes a main modification to determine, among other things, the issue of what further land may be required to deliver the RTS at Easton Park. This indicates a large area of land to the north west of the Garden Community for transport linkages. It is based on a plan provided by the Easton Park promoter in ED66 to show an area within which third party land may be required to provide linkages. The amount of land identified for this purpose is considerable and adds to our concerns outlined above under

the Transport and Infrastructure heading in relation to the land requirements/assembly issues and costs associated with the RTS and its consequent viability.

104. Also, the presence of an underground high-pressure gas pipeline crossing the site has recently come to light. Document ED75 proposes a main modification to Policy SP6 to reflect this situation. However, it has not been established what implications arise from the pipeline and its associated easements/restrictions (as described in ED75) in terms of the masterplan for Easton Park including any effect that it may have on the capacity of the site to accommodate development. This work would need to be undertaken.

West of Braintree

105. West of Braintree straddles the boundary with neighbouring Braintree District Council and would form part of a wider proposed Garden Community which is being advanced through the North Essex Authorities (NEA) local plan. That plan is also currently being examined. Policy SP8 of the Uttlesford plan indicates that the overall new Garden Community at West of Braintree would create a new community of 10,500 – 13,500 homes, up to 3,500 of which would be in Uttlesford.
106. During the hearings, the Council sought to reduce the number of dwellings that this allocation would deliver during the plan period by 330, from 970 to 640. It is accepted by the Council that the Uttlesford part of the wider Garden Community is wholly dependent on the Braintree element of it going ahead because the size of the Uttlesford part of the Garden Community would not be sufficient to deliver a Garden Community. The Council's addendum of focussed changes recognises the elevated risk around the delivery of the Uttlesford part of West of Braintree as a result of the initial findings of the NEA Local Plan Inspector in his letter of June 2018.
107. In this context, whilst our role is to examine the soundness and legal compliance of the Uttlesford plan and the proposed allocations within that area only, given that it is not a standalone proposal, it is vital that the Uttlesford plan's assessment of West of Braintree's sustainability and viability should be undertaken on the basis of the whole Garden Community (i.e. also including that part of it within Braintree District).
108. The examination of the NEA plan is ongoing. Whilst documents (ED47-47K) were submitted to this examination during the hearing sessions, they were prepared for the NEA examination, and are for that examining Inspector to consider in the first instance. The NEA Inspector has yet to conclude whether the West of Braintree allocation in that plan is sound. As the Council has recognised in its suggested main modifications, his findings will have ramifications for the housing strategy and numbers in this plan.

Objectively Assessed Need for Housing Land

109. Examination document ED32 is a response to our request at the hearings that the Council consider a Main Modification to SP3 to make it clear that 504 dwellings of the housing requirement relates to bed spaces in

communal establishments. The proposed main modification to Policy SP3 does this, however, there is another issue. The calculation of the housing requirement of 14,000 dwellings will have double-counted the 504 people who live in communal establishments. They will have been included already within the census data which provided the starting point for the OAN figure, but it seems they were also identified and added on again between the Regulation 18 and Regulation 19 consultations.

110. If the housing requirement figure is lower, this would affect the other housing calculations, such as the 5-year housing land supply (HLS) and require other consequential main modifications too.

Hatfield Forest Site of Special Scientific Interest (SSSI)

111. There are objections from Natural England to the plan arising from a lack of mitigation measures to address recreational impacts of development in the district and, in particular, of the proposed Garden Community at Easton Park, upon Hatfield Forest SSSI. We share their concerns but are aware that the Council is working with The National Trust, Natural England and neighbouring Council's which fall within the zone of influence of this SSSI, on a mitigation strategy. This matter would also need satisfactorily resolving.

Overall Conclusions

112. We are very conscious of the considerable work that has been undertaken over several years by the Council and the promoters of the Garden Communities in developing them as proposals. We are also aware of the in-principle support afforded to them as a concept by the Government and the funding that has been provided. However, for the reasons given, the Garden Communities are insufficiently justified and have not been shown to have a reasonable prospect of being delivered as submitted. Moreover, the unsolicited documents referred to in paragraph 4 above do not deal with these matters.

113. Consequently, as things stand the strategy set out in the plan is unsound.

In summary, our main concerns are:

- The lack of clear mechanisms to ensure the Garden Community Principles will be met;
- The need to define precise boundaries and to show these on the policies map;
- The proposed housing delivery trajectory is overly optimistic;
- There is unlikely to be a 5 year HLS on adoption;
- The stepped trajectory unreasonably delays addressing the housing affordability problem;
- The Garden Community approach predetermines the strategy long beyond the plan period and so is unduly inflexible;
- As part of the assessment of reasonable alternatives the SA does not consider a smaller number of garden communities, in combination with more housing in existing sustainable settlements, nor does it have regard to the evidence in the HIA;

- The lack of certainty about the delivery of employment uses undermines the potential for the Garden Communities to be sustainable places;
- The costs, viability and deliverability of the RTS are uncertain and any benefits would be realised too late to help ensure the Garden Communities at Easton Park and West of Braintree would be sustainable places;
- Realistic infrastructure costs have not been established meaning it is uncertain whether the Garden Communities will be viable and developable;
- The North Uttlesford Garden Community is flawed in terms of landscape and heritage impacts and the potential for the A505 improvements and public transport infrastructure are uncertain, undermining the potential for this Garden Community to be a sustainable place;
- The Easton Park Garden Community is flawed in terms of heritage impacts, the potential for highway improvements to M11 junction 8 and the M11 between junctions 8 and 13 are uncertain pending further investigations by Highways England and the unknown implications of the gas pipeline crossing the site on its capacity for built development;
- The West of Braintree Garden Community is flawed since the sustainability appraisal and viability assessment only considers the part of the site within Uttlesford despite it being dependent of the delivery of the larger proposed site allocation in Braintree District.

In addition, further work would be needed on:

- Mitigation measures for Hatfield Forest Site SSSI;
- The housing requirement and trajectory in relation to people in communal establishments.

114. In order to arrive at a sound strategy, we consider that as a primary consideration, the Council would need to allocate more small and medium sized sites that could deliver homes in the short to medium term and help to bolster the 5 year HLS, until the Garden Communities begin to deliver housing. This would have the benefit of providing flexibility and choice in the market and the earlier provision of more affordable housing. It would also create a buffer, so the target of 14,000 homes is not only just being met by a narrow margin and would allow for a less steeply stepped housing trajectory.

115. Hand in hand with this approach, our view is that the Council should delete one of the Garden Communities from the plan. Our suggestion would be that this should be North Uttlesford, which for the reasons set out above, seems to have the most barriers to its development and perform the least well against the Garden Community Principles. As well as realising the benefits associated with the provision of a wider range of sites described above, to do so would realistically acknowledge and address the enormity of the scale of the highly ambitious task of delivering three Garden Communities in the district at once. It would also reduce the post plan period development by around 3000 dwellings, thus providing the potential

for a variety of small and medium sized sites to be allocated in the next local plan period, if appropriate.

116. We must stress however that in suggesting this course of action we are not endorsing the other Garden Communities in the plan. Our identified concerns in relation to the significant issues to overcome at Easton Park and West of Braintree remain and an enormous amount of further work would be required, as outlined above, to justify these ambitious allocations.

Next Steps

117. In our approach to the examination we have given great weight to the guidance to Inspectors on the examination of local plans in Greg Clark's letter to the Chief Executive of the Planning Inspectorate of 21 July 2015 (as recently restated in James Brokenshire's letter of 18 June 2019). At the same time, the recently updated Procedure Guide for Local Plan Examinations makes clear (third bullet point of paragraph 8) that one of the three possible outcomes for an examination is that there are soundness problems with a plan which it is not possible to address by main modifications and that, in advance of a formal recommendation of non-adoption, Councils would be asked to consider withdrawing the plan.
118. We must examine the plan against the soundness tests set out in the Framework and determine whether it is justified and effective. The points covered above are fundamental matters which relate to the soundness of the plan.
119. To address our concerns, the Council would have to prepare a very considerable amount of new evidence. Since the plan was submitted in January 2019 much new evidence and information to support it has already been produced and continues to be submitted. Although we accept that some of this has been at our request, that is not so in all cases.
120. During the course of the examination, so far the Council has sought to amend and justify significant strategic elements of the plan including: revised start dates for the Garden Communities; different housing numbers within the plan period; a revised trajectory; altered methodology for calculation of 5 year supply; detailed changes to Garden Communities policy wording arising from late Statements of Common Ground with key partners and statutory consultees; late emergence of transport RTS/BRT details; Hatfield SSSI draft Mitigation Strategy; a sports strategy; an updated IDP; and the need for additional targeted consultation after the hearings sessions which has lengthened timescales and added another layer of complexity to the process.
121. Documents, including an updated IDP (October 2019), continue to be submitted without the opportunity for participants to comment. To some degree, these are evidence base documents which should have informed the plan making process. As things stand, there are some 81 items in the Examination Documents library that have been submitted following the submission of the plan (and this number continues to grow). We fully appreciate the long timescales involved in the local plan process and understand that things move on.

122. Nevertheless, we share the views of a number of the participants in the examination that it is difficult to keep track of and understand the large volume of additional material that has been submitted and continues to emerge. This is especially problematic for local residents. There is also a risk that this additional material, and any further evidence that is produced, seeks to justify the strategy set out in the plan rather than informing the plan making process which is how it should be used.
123. Proceeding with this examination is likely to become protracted. It would be procedurally challenging to manage in practical terms and extremely difficult for participants to engage with. There is also no guarantee that this plan would be found sound at the end of that long and complex process.
124. We estimate it would take between 1 and 2 years, possibly longer, to complete the necessary work and that would include work which is normally undertaken as part of the plan preparation process, and to consult upon it. Also, any lengthy pause in the examination is likely to lead to the need to revisit the objectively assessed need for housing (OAN). The OAN for Uttlesford is based on the Strategic Housing Market (SHMA) update 2017 which in turn is based on the 2014-based household projections. If new national household projections were to be published, it would be necessary for this examination to consider whether the change was meaningful, in line with the advice in the Guidance. Other parts of the evidence base could also become out of date during this time. All this additional work and any changes the LPA considers necessary to the plan would need to be consulted upon and further hearings held.
125. Moreover, we consider that the work likely to be necessary goes well beyond what could be reasonably addressed by main modifications to the plan. The Council has already suggested a considerable number of main modifications and additional modifications to the plan (around 120 MMs and a similar number of AMs at 14 October 2019). These include amongst other things changes to the housing numbers in the Garden Communities, the altered housing trajectory, a suggested additional policy, a new Garden Community Inset Plan and the inclusion of employment figures for the Garden Communities. With the further work that is necessary the number of main modifications would be very likely to become much greater still.
126. As you will be aware, the examination process is not intended to allow the Council to carry out major changes to the plan or to complete the preparation of its evidence base. Based on our concerns about the soundness of the plan set out above we anticipate that the changes necessary would amount its almost complete re-drafting. The Guidance advises that where the changes recommended by Inspectors would be so extensive as to require the virtual rewriting of the plan, it is likely to be suggested that the local planning authority withdraw the plan.
127. We believe that the key decisions to be made on the future of the Garden Communities and the spatial strategy need to be taken by the Council, in consultation with local residents. The most effective and transparent way

to do this would be through the preparation of a new plan, based on a robust SA, rather than emerging as our recommendations in main modifications.

128. We realise that the Council's preference might be to continue with the examination if at all possible and, although we will not reach a final decision on the way forward until we have had the opportunity to consider the Councils' response to this letter, we are of the view that withdrawal of the plan from examination is likely to be the most appropriate option.
129. We appreciate that this will be not be the news the Council were hoping for and that you may need some time to reflect on the contents of this letter and to determine the preferred course of action. We are not setting a deadline for a response from the Council, but an early indication of when the Council is likely to be able to provide a response would be appreciated.
130. We are not seeking a response to this letter from any other parties and will not receive any comments on it. Nevertheless, we are happy to provide any necessary clarification to the Council via the Programme Officer.

Louise Crosby and Elaine Worthington

Examining Inspectors



Appendix &



The Planning Inspectorate

Report to Hart District Council

by Jonathan Manning BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Date: 10 February 2020

Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

Report on the Examination of the Hart District Council Local Plan – Strategy and Sites

The Plan was submitted for examination on 18 June 2018

The examination hearings were held between 20 November and 18 December 2018

File Ref: PINS/N1730/429/11

Abbreviations used in this report

AOS	Area of Search
BMV	Best and Most Versatile
DPA	Dwellings Per Annum
DPD	Development Plan Document
DtC	Duty to Co-operate
ELR	Employment Land Review
FEA	Functional Economic Area
GIS	Geographical Information System
GTAA	Gypsy and Traveller Accommodation Assessment
HDT	Housing Delivery Test
HMA	Housing Market Area
HRA	Habitats Regulations Assessment
IDP	Infrastructure Delivery Plan
IWMS	Integrated Water Management Strategy
LAP	Local Play Area
LDS	Local Development Scheme
LEAP	Local Equipped Area for Play
LPA	Local Planning Authority
MM	Main Modification
NE	Natural England
NEAP	Neighbourhood Equipped Area for Play
NPPF	National Planning Policy Framework
OAHN	Objectively Assessed Housing Need
PPG	Planning Practice Guidance
PPTS	Planning Policy for Traveller Sites
RBC	Rushmoor Borough Council
SA	Sustainability Appraisal
SANG	Suitable Alternative Natural Greenspace
SCI	Statement of Community Involvement
SHBC	Surrey Heath Borough Council
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SPA	Special Protection Area

Non-Technical Summary

This report concludes that the Hart District Council Local Plan – Strategy and Sites provides an appropriate basis for the planning of the District, provided that a number of main modifications [MMs] are made to it. Hart District Council has specifically requested that I recommend any MMs necessary to enable the Plan to be adopted.

All the MMs were proposed or agreed by the Council and were subject to public consultation over a six-week period between 5 July and 19 August 2019. In some cases, I have amended their detailed wording and/or added consequential modifications where necessary. I have recommended their inclusion in the Plan after considering all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- A change to the Plan period;
- To refer to flood risk in the Plan’s vision;
- Changes to the strategic objectives to ensure compliance with national policy;
- The addition of a strategic objective in relation to previously developed land;
- Changes to the Key Diagram;
- Alterations to the housing requirement (including Policy SS1) to correspond with the SHMA and to accommodate Surrey Heath Borough Council’s unmet need;
- Changes to the housing trajectory and updates to the components of supply;
- Alterations to the criteria of Policy SS2 ‘Hartland Village’.
- The removal of Policy SS3 ‘New Settlement at the Murrell Green / Winchfield Area of Search’ and its supporting text;
- Modifications to require the Council to prepare and submit for examination a Gypsy, Traveller and Travelling Showpeople DPD by January 2022;
- Changes to the criteria of Policy H1 ‘Housing Mix’; Policy H2 ‘Affordable Housing’; Policy H3 ‘Rural Exception Sites’; Policy H4 ‘Specialist and Supported Accommodation’; Policy H5 Gypsies, Travellers and Travelling Showpeople’; and Policy H6 ‘Internal Space Standards’ to ensure the Plan is effective and consistent with national policy;
- Alterations to the criteria of: Policy ED1 ‘New Employment’; Policy ED2 ‘Safeguarding Employment Land and Premises’; and Policy ED3 ‘The Rural Economy’ to ensure the Plan is effective and consistent with national policy;
- The change of the Bartley Wood, Hook site from a strategic employment site to a locally important employment site;
- To ensure the Plan is effective and consistent with national policy, changes to Policy ED4 ‘Town, District and Local Centres’; Policy ED5 ‘Fleet Town Centre’; and Policy ED6 ‘District and Local Centres’.
- Changes to the natural and built environment policies, in terms of sustainable development, development in the countryside, landscape, the Thames Basin Heaths SPA, biodiversity, flood risk, historic environment, design, renewable energy and pollution to ensure compliance with national policy and that the Plan is effective;
- The removal of Policy NBE2 ‘Gaps Between Settlements’ and its supporting text;

- Modifications to Policy I1 ‘Infrastructure’; Policy I2 ‘Green Infrastructure’; Policy I3 ‘Transport’; Policy I4 ‘Open Space, Sport and Recreation’; Policy I5 ‘Community Facilities’; and Policy I6 ‘Broadband or Successor Services’ to ensure compliance with national policy and that the Plan is effective;
- Changes to the Council’s implementation and monitoring strategy; and
- Alterations to the glossary and appendices.

Introduction

1. This report contains my assessment of the Hart District Council Local Plan – Strategy and Sites 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 sound and whether it is compliant with the legal requirements. The National Planning Policy Framework 2012 (NPPF) (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 NPPF was published in July 2018 and further revised in February 2019. It includes a transitional arrangement in Paragraph 214 which indicates that, for the purpose of examining this Plan, the policies in the NPPF 2012 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 NPPF 2012 and the versions of the PPG which were extant prior to the publication of the NPPF 2018.
3. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The Hart District Council Local Plan – Strategy and Sites, submitted in June 2018 (CD1) is the basis for my examination. It is the same document as was published for consultation in February 2018.

Main Modifications

4. In accordance with section 20(7C) of the 2004 Act the Council requested (EXAM62) that I should recommend any main modifications [MMs] necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. My report explains why the recommended MMs, all of which relate to matters that were discussed at the examination hearing(s), are necessary. The MMs are referenced in bold in the report in the form **MM1**, **MM2** etc, and are set out in full in Appendix 1.
5. Following the examination hearings, the Council prepared a schedule of proposed MMs and carried out Sustainability Appraisal (SA) of them. The MM schedule was subject to public consultation for six weeks between 5 July and 19 August 2019. I have taken account of the consultation responses in coming to my conclusions in this report and in this light, I have made some amendments to the detailed wording of the main modifications and added consequential modifications where these are necessary for consistency or clarity. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and SA that has been undertaken. Where necessary I 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 Plan. In this case, the submission policies map comprises the set of plans identified as Hart District Council Local Plan – Strategy and Sites Policies Map and associated inset maps as set out in EXAM2 to EXAM45.

7. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications 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. These further changes to the policies map were published for consultation alongside the MMs (EXAM64).
8. 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 EXAM2 to EXAM45 and the further changes published alongside the MMs (EXAM64).

Assessment of Duty to Co-operate

9. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan’s preparation.
10. The Council has provided as part of its evidence a statement (CD9), which sets out how it considers the Duty to Co-operate (DtC) has been met. This sets out that the key strategic planning issues considered were: housing; the Thames Basin Heaths Special Protection Area (SPA); employment land; traveller site provision; flood risk; water supply and waste water; and infrastructure (transport, healthcare facilities, education). In each case the Council has identified in detail how it has met the DtC and what agreements were made with the relevant parties during the Plan’s preparation.
11. I consider that the statement illustrates that the Council has made extensive efforts to engage with all relevant organisations and prescribed bodies during the Plan’s preparation. It is evident that many of the changes made during the Plan’s preparation prior to its submission have resulted from consultation with relevant parties, to address their concerns in a constructive and proactive manner.
12. I am content that matters associated with providing sufficient Suitable Alternative Natural Greenspace (SANG) to mitigate impacts on the Thames Basin Heaths SPA were suitably discussed with neighbouring authorities in the Housing Market Area (HMA) and with other relevant stakeholders.
13. Whilst some concerns have been raised in relation to accommodating unmet housing need from Surrey Heath Borough Council (SHBC), I am mindful that the DtC is not a duty to agree and it is clear to me from the Council’s statement (CD9) and through oral evidence at the hearing sessions that there has been significant discussions between the Council and SHBC on this matter.

14. It has been suggested that the Council should consider unmet need from London, Basingstoke and Deane and Guildford. However, I have not been provided with any substantive evidence to suggest that this is necessary and none of the authorities have requested that the Council accommodate any of their unmet need.
15. I am 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 Soundness

Main Issues

16. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified 12 main issues upon which the legal compliance and soundness of the Plan depends. This report deals with these main issues in turn. It does not respond to every comment or issue raised by representors. Nor does it refer to every policy or policy criterion in the Plan.

Issue 1 – Whether the objectively assessed need for housing and the housing requirement are justified.

Objectively Assessed Housing Need (OAHN)

17. The Plan at Policy SS1 sets out a housing requirement of 388 dwellings per annum (dpa), which at the time of publishing the Regulation 19 Pre-Submission Plan for consultation in February 2018 was based on the then proposed Government standard methodology for calculating local housing need, with an uplift applied. The justification for the uplift is set out in Appendix 2 ‘Housing Numbers and Trajectory’ of the Plan. The ‘cap’ in the methodology was removed and then an uplift of 25% was applied as a contingency in case of a change in methodology or alterations to data, such as new household projections or affordability ratios. Reference was also made to the benefits of boosting the supply of housing, including the delivery of affordable units.
18. In terms of a contingency for a change in methodology or alterations to data, the standard methodology was incorporated into the NPPF 2018 as it was previously set out during the consultation that was undertaken upon it. There is therefore no support in national policy for the amended standard methodology calculation undertaken by the Council. Further, the Council has provided little substantive evidence to justify an uplift of 25% in preference of any other figure. In addition, it is clear under the transitional arrangements that the Plan should be examined against the NPPF 2012.
19. Given the above, I am of the view that there is insufficient justification and evidence to support the Plan’s housing requirement, in terms of its formulation based on the Council’s amended standard methodology. Alterations are therefore needed (**MM21**, **MM26** and **MM138**) for the Plan to be justified to remove reference to the Council’s amended standard methodology.

20. The Council produced a Joint Strategic Housing Market Area Assessment (SHMA) (HOU1a & b) in November 2016, with Rushmoor Borough Council (RBC) and SHBC. Together the authorities constitute the HMA and there is no reason before me to consider that this is inappropriate.
21. The SHMA (HOU1a & b) was based upon the 2012 household projections. This identified a demographic starting point of 247 dpa for Hart, uplifted to 254 dpa once adjusted for vacancy rates. Shortly before the SHMA’s publication, the 2014 household projections were released. However, given the stage at which the SHMA’s preparation had reached it was published based on the 2012 household projections.
22. Nonetheless, given the requirements of the PPG, 2012 (Paragraph: 016 Reference ID: 2a-016-20150227), the Council undertook a review of the SHMA (HOU2a & b) and tested a number of alternative scenarios, with the more recent 2014 household projections, including a partial return to trend of household formation rates for younger people and differing migration trend periods. This found that whilst the 2014 household projections were lower at 207 dpa, once such other factors are taken into account the demographic starting point in the SHMA (HOU1a & b) remains valid. For example, the 2014 household projections, with a partial return to trend of household formation rates for younger people, results in a demographic starting point of some 232 dpa. I am not of the view that this represents a meaningful change in the housing situation in Hart.
23. There has been some concern raised that the moratorium associated with the Thames Basin Heaths SPA, which temporarily suspended planning permissions being granted for housing in Hart, constrained housing delivery between 2008 – 2011. Whilst I accept that this may have influenced the 2012 and 2014 household projection figures, particularly as they look at a five year migration trend, I am mindful that the SHMA review (HOU2a & b) did test longer migration trend patterns, where any dampening effect caused by the moratorium would be much less influential. For example, the 2014 based sub national population projections mid year estimates and a part return to trend household formation rates, with a 10 year migration trend scenario sets out a figure for Hart of 251 dpa, very similar to the SHMA demographic starting point. Whilst the SHMA review did look at 15 year migration trends which resulted in higher figures of up to 323 dpa, I have concerns in relation to relying on trends dating back as far as 1999, a significant period of time ago.
24. The PPG 2012 (Paragraph: 016 Reference ID: 2a-016-20150227) advises that the calculation of housing need should use the most up-to-date information. The 2016 household projections have been published more recently. The Government has expressed concerns with regard to the 2016 household projections and has advised that the 2014 household projections should, for the time being, be used to calculate housing need when using the standard methodology. On this basis, I consider at the current time some caution should be applied to the 2016 household projections.

25. Notwithstanding all of the above, I am also mindful that the final OAHN for Hart, as discussed later, is nonetheless economically driven in terms of job growth. The demographic starting point could therefore be seen as being somewhat academic. This is because, if the demographic starting point was lowered then a greater uplift in terms of job growth would be needed to ensure that there is a sufficient workforce in Hart and vice versa. Consequently, in this context a change to the demographic starting point through more recent household projections does not, in my view, represent a meaningful change in the housing situation in Hart.
26. The SHMA applies an uplift above the demographic starting point for market signals. The affordability ratio in Hart is very high and the SHMA recommends a market signals uplift, due to affordability issues of 15%. I have been referred to other higher examples of uplifts by Inspectors examining other Plans in the South East. Whilst a 15% uplift is lower than some examples elsewhere, in my view, this would still have an important and positive impact on affordability in Hart. In addition, as will be discussed below, the most recent economic forecasts suggest lower figures in terms of job growth in the HMA than were anticipated at the time the SHMA (HOU1a & b) was produced. If this were to be realised, less homes would be needed to accommodate the additional workforce that would migrate into Hart, which would provide more homes for the existing population in Hart, further improving affordability.
27. Following an uplift for market signals the SHMA considers any uplift required to ensure that there would be a sufficient workforce to meet forecast job growth. The forecast models considered varied substantially from 900 to 1500 jobs per annum, which reflects the challenges of long-term forecasting. The SHMA adopted a mid-point of the forecast scenarios with the HMA anticipated to see growth of 1,200 jobs per annum. The SHMA analysed historic trends, the growth potential within the area and included an expectation of some increase in household formation rates. I consider the assumptions and approach adopted in the SHMA in terms of job growth are appropriate and robust. To meet Hart’s proportion of job growth in the HMA a sizeable further uplift of 69 dpa, is applied on top of the 15% uplift for market signals.
28. As mentioned above, the SHMA review (HOU2a & b) identified that the most recent economic forecasts are now lower than those used in the SHMA. This was identified as largely being a result of a stall in employment during 2015 and 2016, notably in Surrey Heath and Hart. I am particularly mindful that long term economic forecasting is extremely challenging and forecast models from different sources can vary significantly. Further, as set out above, any new homes not required to meet future job growth would have the benefit of further improving affordability within Hart. Therefore, I consider that a change to the OAHN is unnecessary and there has not been a meaningful change.
29. The SHMA then applies a final uplift of 21 dpa for concealed families to reach the OAHN of 382 dpa. Based on the evidence provided in the SHMA, I

consider this to be appropriate. The most up-to-date data provided by the Council suggests that concealed families in Hart has slightly increased, but I am not of the view that it is of such significance to require a change to the OAHN.

30. An alternative ‘stock based’ approach to calculating housing need has been suggested. However, there is no clear support for such an approach in national policy.
31. It is important to emphasise that the calculation of housing need is not an exact science. Overall and having regard to all of the above findings, I consider that an OAHN of 382 dpa is robust and should be used as the starting point for the consideration of the housing requirement in the Plan. As a consequence, it is necessary to correlate the start of the Plan period, with the base date of the SHMA, which is 2014, particularly as this results in a greater level of overall need, given its longer timeframe (2014-2032). The Plan needs to therefore be clear that the Plan period is 2014 to 2032 and changes are needed (**MM1, MM18, MM19, MM21, MM23, MM121** and **MM140**) for the Plan to be effective. The housing trajectory and completion figures (from 2014) in the Plan therefore also need to be amended (**MM139** and **MM140**) to reflect this change. This will also ensure the Plan is effective and in accordance with national policy.
32. There has been some suggestion that the Plan period should be extended. The Plan looks forward 13 years after anticipated adoption, which is below the preferred 15 year time period set out in Paragraph 157 of the NPPF. However, the NPPF’s preference is not a set requirement and I consider 13 years to be an appropriate time scale in this instance, particularly as there is now a requirement to review plans every five years.

The housing requirement and unmet need

33. At the hearing sessions, representatives from SHBC provided an update in relation to unmet need, which results from the heavily constrained nature of Surrey Heath. SHBC has published an Issues and Options/Preferred Options consultation of its Local Plan, which identifies a shortfall in supply of 731 dwellings over its plan period (2016-2032). SHBC advised that although there are on-going attempts to try and find more sites, this is unlikely to significantly reduce. The Council had set out that any unmet need from SHBC would occur towards the end of the Plan period, however, this view was not shared by SHBC at the hearing session, who set out that the unmet need is imminent.
34. RBC the other authority in the HMA has received its Inspector’s Report following their Plan’s examination. The Rushmoor Plan does not make any provision for any unmet need from SHBC. There is a surplus in supply identified in the Rushmoor Plan of around 1,000 dwellings. However, it is clear that this is necessary to mitigate risks from some large sites in that Plan failing to deliver as anticipated and should not be seen to be off-setting any unmet need from SHBC.

35. It was accepted by the Council at the hearing sessions that Hart is the least constrained authority in the HMA. Given this, the matters discussed above and the fact that the Rushmoor Plan is unlikely to be reviewed for a period of 5 years following its adoption, I consider that this Plan should seek to meet the identified unmet needs of SHBC of 731 dwellings, which represents the most up-to-date figure at this point in time.
36. I am not of the view that it is premature to require the Plan to accommodate the unmet needs of SHBC or that it will prejudice the plan making process in Surrey Heath. The SHBC unmet need figure is within a formal consultation document and is based on a recognised method of calculating housing need encouraged by national policy. Further, SHBC’s Issues and Options/Preferred Options consultation is supported by a SHLAA, which provides an assessment of potentially suitable sites. I am also mindful that to be positively prepared the Plan should seek to meet unmet requirements from neighbouring authorities, as set out in Paragraph 182 of the NPPF.
37. In terms of any potential additional impacts on the environment and infrastructure from accommodating the unmet need, I have found under Matter 4 that the Plan can accommodate the unmet need from SHBC without the need to include additional sites, albeit with a relatively modest shortfall of 230 dwellings during the last year of the Plan period.
38. It has been suggested that SHBC is able to provide circa 350 units per annum between 2023-2027 whilst in the latter years they are only able to demonstrate approximately 130 dpa. However, even if I was to accept that this was the case, this would appear to ignore more immediate needs before 2023.
39. If in the future, the SHBC unmet need changes either positively or negatively, this will need to be considered in a future review of the Plan or could trigger an early review if necessary. Notwithstanding this, I am mindful that housing requirements are not maximums and Hart accommodating the currently identified unmet needs of SHBC would not rule out sustainable development being permitted in SHBC.
40. Accommodating SHBC’s unmet need would add 41 dpa to the housing requirement over the revised Plan period (2014 to 2032), which would result in a total housing requirement of 7,614 dwellings over the Plan period, which equates to 423 dpa. Modifications (**MM10, MM19, MM21, MM26 and MM139**) are therefore necessary to the strategic objectives, Policy SS1, its supporting text and the housing trajectory to amend the housing requirement. This will ensure that the Plan is positively prepared and in accordance with national policy.

Affordable housing

41. The SHMA calculates the level of affordable housing need within the HMA and for each of the authorities. In Hart the identified need for affordable housing

is 306 dpa (126 dpa for subsidised rented accommodation and 180 dpa for affordable home ownership). This equates to the need for some 5,500 affordable homes over the Plan period (2014 to 2032). I see no reason to disagree with the findings of the SHMA and the assumptions used in this regard and I consider the calculation of affordable housing need to be robust. Notwithstanding this, as is discussed below, the identified need is significantly higher than the amount of affordable housing that is likely to be delivered.

42. The Council are in a relatively unusual position whereby a very large proportion of the necessary supply over the Plan period already has planning permission and as a result, there is a fair level of certainty in relation to how much affordable housing is likely to be delivered. The Council (EXAM56b) has provided a trajectory of the anticipated delivery of affordable housing. This identifies that between 2016 and 2032 it is forecast that 1,633 affordable units would be delivered. Based on a tenure split of 65% subsidised rented accommodation and 35% affordable home ownership, the Plan would meet 47% of the identified need for subsidised rented accommodation. I am mindful that the trajectory provided by the Council is from 2016 to 2032. Given my findings above that the Plan period should be from 2014 to 2032 to correlate with the SHMA, this figure is likely to be higher to take into account any affordable homes delivered in 2014 and 2015. However, any increase is likely to be modest.
43. The PPG 2012 (ID 2a-029-20140306) states that an increase in total housing figures should be considered where it could help deliver the required number of affordable homes. A housing requirement of 423 dpa, is in the region of 67% above the demographic starting point identified in the SHMA (254 dpa). Providing for this level of increase will result in significantly more affordable housing being delivered than if the household projections had been used. I consider that to uplift the housing requirement further could result in open market dwellings being provided when there is no evidence of need, which could lead to an imbalance between homes and jobs and unsustainable commuting patterns.
44. I am also mindful that there are other ways that additional affordable housing could be delivered, for example through rural exception sites under Policy H3 of the Plan. In addition, although the Council set out at the hearing sessions that there are currently no plans to provide affordable housing themselves, this could change during the Plan period.
45. Given all of this and despite the views expressed in the Council’s Affordable Housing Background Paper (HOU5) (March 2017), I am not persuaded that a further uplift to the housing requirement is justified in this case. It is therefore likely that some of those with affordable housing needs will continue to be dependent on the private rented sector, in some cases supported by housing benefit.

Conclusion on main issue 1

46. I consider that with the recommended modifications, the OAHN and the housing requirement are justified.

Issue 2 – Whether the spatial distribution of housing growth in the Plan is sound.

The Spatial Strategy of the Plan

47. The spatial distribution of housing in the Plan is set out in Policy SS1 ‘Spatial Strategy and Distribution of Growth’. This identifies that new homes will be delivered over the Plan period through: existing completions; existing commitments (sites with planning permission); further development and redevelopment within settlement boundaries; Policy SS2 (delivery of Hartland Village); Neighbourhood Plans; Policy H3 (rural exception sites); and Policy NBE1 (development in the countryside).
48. Due to the large level of existing completions and commitments the Plan only allocates one site, Hartland Village for approximately 1,500 dwellings (approximately 1,368 to be delivered over the Plan period). Hartland Village is largely previously developed land and is in an accessible location. The pre submission Sustainability Appraisal (SA) (CD5a) found that the delivery of Hartland Village was the most sustainable growth option to meet housing needs over the Plan period. For reasons set out later in my assessment of legal compliance, I consider that the pre submission SA to be robust. I am satisfied that the allocation of Hartland Village to meet the remaining housing need after existing completions and commitments are taken into account is the most appropriate and sustainable strategy and is therefore justified. In any event, I am mindful that Hartland Village now benefits from planning permission, and I understand that the first phase is under construction.
49. I acknowledge that there are no medium and/or small site allocations directed towards other settlements in the District. However, it can be seen from the existing completions and commitments that most of the defined settlements in the Plan have or will receive some growth over the Plan period. Further, whilst it has been argued that more development should be diverted to the more rural communities to ensure their viability and vitality, I am mindful that Policy SS1 does allow for Neighbourhood Plans to deliver new housing. This would allow those communities who feel that the delivery of more housing would be of benefit to their community to be able to do so.
50. Policy NBE1 allows development in the countryside in certain circumstances. It has been suggested that Policy NBE1 should only apply to isolated development. Whilst, I acknowledge that Paragraph 55 of the NPPF seeks to avoid isolated new homes in the countryside, it does not suggest, in my view, that all housing in the countryside that is not considered isolated is acceptable in principle. The NPPF makes clear that it should be read as a whole. Further, I have found the Council’s spatial strategy to be justified and it does not depend on any notable housing outside of settlement boundaries. Policy NBE1 also includes the consideration of all types of development and not just housing. Given all of this, I am not of the view that it is necessary for Policy NBE1 to refer to isolated development to be consistent with national policy.

51. It has also been suggested that as a priority, settlements outside of the Thames Basin Heaths SPA buffer zones should have received growth first. However, it has been sufficiently demonstrated that any adverse impacts on the integrity of the SPA from the Plan can be suitably mitigated. Nonetheless, I am mindful that the vast majority of the supply needed over the Plan period benefits from planning permission.
52. On a related matter, although the Plan does not expressively rely upon it to deliver its spatial strategy, the introductory text to the Plan does identify a settlement hierarchy. This sets out that: the main urban area is Fleet (including Church Crookham and Elvetham Heath); the primary local service centres are Hook, Yateley and Blackwater and Hawley; the secondary local service centres are Hartley Wintney and Odiham and North Warnborough. These are based on the findings of the Settlement Hierarchy for Hart District Council, 2010 (OTH1). This considered each settlement in terms of its population, facilities and services. Whilst this was produced some time ago, I consider that it offers a reasonable basis to identify the settlement hierarchy in this Plan.
53. The Council had suggested modifications to remove the settlement hierarchy from the Plan as the spatial strategy was not reliant upon it. However, setting out the settlement hierarchy is likely to provide useful context for future windfall developments and is sound.
54. It has been suggested that all settlement boundaries should have been reviewed and expanded to meet the identified housing needs. However, I consider that this is not necessary to meet the identified housing need within this Plan and therefore the current settlement boundaries are appropriate.

Policy SS3 – New Settlement

55. The Plan’s strategy also includes Policy SS3, which sets out the Council’s commitment to preparing a New Settlement Development Plan Document (DPD) after the adoption of this Plan. Policy SS3 and its supporting text identifies an Area of Search (AoS) at Murrell Green / Winchfield for the delivery of up to 5,000 dwellings through the production of a New Settlement DPD. The Plan states that it is not required in this Plan period to meet identified housing needs. Despite this, the Council anticipate that some 1,500 homes from the proposed new settlement would be expected to be delivered within the Plan period.
56. I acknowledge that such delivery would help to meet the relatively modest shortfall in supply at the end of the Plan period identified under Matter 4. However, I have a number of fundamental concerns with regard to the soundness of Policy SS3. The Council and the site promoters have suggested that because the Plan does not rely on any delivery of housing from the proposed new settlement that Policy SS3 in itself cannot be found unsound. However, the policy sets out that *‘Permission will be granted for the development of a new settlement to be identified from the area of search identified on the Policies Map following the adoption of a New Settlement Development Plan Document and agreed comprehensive masterplan’*. The

Plan is therefore establishing the principle of a new settlement as the most appropriate growth strategy for meeting the Council’s long-term needs. It is also establishing a relatively confined area of search for a new settlement.

57. The tests of soundness require the Plan to be justified and therefore *‘the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence’* (Paragraph 182 of the NPPF). To find Policy SS3 sound, I must therefore be satisfied that a new settlement within the identified AoS is the most appropriate growth strategy to meet long-term needs, when considered against reasonable alternatives.
58. The SA (CD5a) that accompanied the pre-submission Regulation 19 consultation on the Plan did not test reasonable alternatives to a new settlement and it was considered as a ‘constant’ as part of all reasonable alternatives that were appraised. On this basis, I am not of the view that the pre-submission SA, in its own right, appropriately or robustly considers reasonable alternatives to a new settlement as a long-term growth strategy.
59. The Council has, however, produced a ‘Post Submission Interim Sustainability Appraisal Report’ (post submission SA) (CD5c) to supplement the pre-submission SA. This did test a number of alternative growth strategies to a new settlement. Putting aside the concerns raised in terms of legal compliance of the post submission SA, in terms of consultation, I am concerned by the way in which the new settlement has been considered and ranked against reasonable alternatives. These concerns were set out in detail in a post hearing letter to the Council (EXAM60) and related to the rankings given for the historic environment, land and other resources, flood risk, landscape, climate change and water. I will not repeat such details here.
60. I accept that the AoS by its very nature leads to some uncertainties, but in this case, the boundary of the AoS is, in my view, relatively confined and the indicative concept plan provided by the site promoters, once the requirements for SANG are taken into account, shows much of the AoS boundary being utilised as part of the proposed new settlement. It is therefore not, in my view, significantly different to that of a site allocation boundary.
61. I acknowledge that some evidence has been provided by the site promoters, particularly in support of their Regulation 19 representations. However, these represent very high-level broad overviews, with little in the way of detail. I am not of the view that there is sufficient evidence before the examination to support the rankings given to the AoS for the new settlement within the post submission SA or to allow a suitably robust comparison of reasonable alternatives to be undertaken, based on proportionate evidence. As a result, I consider that Policy SS3 and its supporting text are not justified, as, on the currently available evidence, it cannot be determined that it represents the most appropriate long-term growth strategy.
62. Further, the post submission SA is not robust and should not be relied upon in support of the Plan. Consequently, there is no need to address concerns

raised with regard to consultation and legal compliance of the post submission SA.

63. In addition, there is little evidence to demonstrate that a site can actually be delivered in terms of infrastructure, viability and landownership within the identified AoS. The Council’s Infrastructure Delivery Plan (IDP) does not include any consideration of the proposed new settlement other than a brief mention of the potential secondary school and the viability assessment has not directly considered a proposed new settlement in the AoS. Again, whilst there is some information from the site promoters in relation to such matters, it is not of any great substance.
64. Evidence was also provided at the hearing sessions that shows a significant parcel of land cutting across the middle of the AoS that is not either in the ownership of the site promoters or land that is available to them. It was set out by Winchfield Parish Council at the hearing sessions that the owner of the land is not willing to release it as part of the development. This was not disputed by the Council or the site promoters. There is consequently some doubt, at this time, whether a comprehensive and inclusive new community can be delivered as required by Policy SS3 and its supporting text. Given all of this, I am not sufficiently content based on the evidence available to the examination that Policy SS3 is deliverable and is therefore not effective.
65. I am of the view that a significant level of further supporting work would be required for Policy SS3 to be found sound in its current form, which would need to include appropriate and proportionate area/site assessments, infrastructure considerations, viability testing, evidence in support of deliverability and further SA work, which would need to be done in an impartial manner with sufficient evidence to support its findings and comparisons with alternative options. Any further SA work would also need to include additional standalone consultation. This would have all led to a significant delay in the examination to allow such work to be undertaken.
66. It was suggested at the hearing sessions that such detailed work and assessment would be undertaken as part of the preparation of the New Settlement DPD. However, the Plan is establishing the principle of a new settlement as being the most appropriate strategy in the long-term, over other growth options such as smaller strategic urban extensions to existing settlements to name one example. Based on the Council’s approach it is evident that potential growth options, alternative to a new settlement, would not be considered through the production of the New Settlement DPD. Logically, the only reasonable alternatives considered would be potential site options within the already defined AoS boundary. Consequently, I am of the view that there needs to be sufficient evidence now to support the proposed new settlement AoS, to allow a robust comparison to be undertaken with reasonable alternative long-term growth strategies and to allow me to take a view that there is a real likelihood that a site could come forward in the AoS that would not have unacceptable impacts. For the reasons set out above, at the current time, I do not consider this to be the case.

67. Given my findings in terms of the housing requirement and that Policy SS3 is not required for the Plan to be sound (Matter 4) and in light of my findings above, I consider that for the Plan to be justified modifications (**MM6, MM7, MM11, MM12, MM19, MM20, MM22, MM25, MM32, MM36, MM53** and **MM146**) are required to remove Policy SS3, its supporting text and other references to the New Settlement from the Plan. The Council will also need to remove the area of search from the policies map on adoption for the Plan to be effective.

Conclusion on main issue 2

68. I consider that with the recommended modifications the Plan’s spatial strategy is the most appropriate and is therefore justified. The Plan is therefore sound in relation to this main issue.

Issue 3 – Whether the site allocation and the settlement boundaries are justified and sound.

Site Selection

69. The Council’s approach to site selection and assessment is set out in the Site Assessment Methodology Report, 2017 (within HOU6). The sites promoted for housing were assessed using this methodology through the High Level Site Assessments and the Detailed Site Assessments (HOU6). Site selection was also informed by the Hart Strategic Housing Land Availability Assessment (SHLAA) (HOU3a and HOU3b) and the pre-submission SA (CD5a).
70. There have inevitably been concerns raised with regard to the scoring and ranking of some promoted sites, particularly in relation to those that have not been selected for allocation in the Plan. However, I am mindful that these matters are subjective and require judgement to be applied. I am content that the Council’s judgements are within the realms of reasonableness. The adequacy of the pre-submission SA is also examined later on in this report.
71. Overall, I am satisfied that the Council’s approach to site selection and the appraisal of reasonable alternatives, has been robust and is sound.

Hartland Village

72. The Plan includes one site allocation at Hartland Village for approximately 1,500 dwellings. The site is allocated by Policy SS2, which includes a number of provisions and criteria. The site now benefits from planning permission. In order to ensure that the Plan is effective several changes (**MM27, MM28, MM30** and **MM31**) are needed to Policy SS2 and its supporting text to ensure that it reflects that which has now been granted permission. This includes the provision of leisure facilities. Further, the modifications remove reference to the provision of older persons housing and delete reference to the level of affordable housing being reviewed at each phase of the development. Whilst both of these changes have raised some concerns, the permitted development does not include these provisions and is currently being implemented. This was considered acceptable by the Council for reasons associated with viability. However, to ensure the Plan is positively prepared, it is necessary to amend

the supporting text at Paragraph 121 (**MM30**) to state that should a future planning application be submitted that results in the total number of dwellings exceeding 1,500, then the scheme would be subject to the requirements of Policy H1 in full.

73. Criterion b) of Policy SS2 requires the provision of a local neighbourhood centre. However, to ensure consistency with national policy, an alteration (**MM28**) is needed to set out that residential use may be appropriate above retail or commercial units providing the active frontage is not compromised and that satisfactory residential amenity can be achieved. Again, to ensure consistency with national policy, a modification (**MM29**) to criterion k) of Policy SS2 is necessary to refer to the protection of bridleways.
74. The Council has proposed to alter the policies map to show the area of SANG adjacent to the site allocation. I consider this to be appropriate and will ensure that Policy SS2 is effective. In addition, it has come to my attention that Policy SS2 does not refer to the policies map. In order for the Plan to be effective a modification (**MM27**) to Policy SS2 is necessary to address this matter. Whilst this alteration was not subject to consultation, I consider it to be a relatively minor change.

Settlement boundaries

75. The defined boundaries of each settlement are set out on the policies map as proposed to be amended (CD2 and EXAM2 to EXAM45). This includes several changes to expand settlement boundaries to include completed and permitted major developments, which I consider to be appropriate. In addition, the Council has proposed changes to the Dogmersfield settlement boundary to encompass recently permitted development and changes to the Odiham Settlement Boundary to ensure consistency with the Odiham & North Warnborough Neighbourhood Plan. These changes were consulted upon alongside the MM schedule. Again, I consider these changes to be appropriate. In order, to ensure the Plan is effective these changes will need to be made to the policies map when the Plan is adopted.
76. On a related matter, Policy SS1 sets out that one source of new homes will be from sites within settlement boundaries. Paragraph 103 of the supporting text notes that settlement boundaries will be reviewed through future development plan documents. However, a change (**MM24**) is needed to also refer to the fact that settlement boundaries could also be changed through Neighbourhood Plans.

Conclusion on main issue 3

77. I consider that with the recommended main modifications, the site allocation and the settlement boundaries are justified and sound.

Issue 4 - Whether the Plan’s assumption in terms of supply are sound, whether the Plan will meet the identified housing need and whether there is a reasonable prospect of a five year supply of deliverable housing sites on adoption.

Components of supply

Hartland Village

78. Hartland Village forms the only site allocation in the Plan and is allocated through Policy SS2. As set out above, the site benefits from planning permission. This is in the form of outline planning permission for 1,500 homes and full planning permission for the first phase (181 dwellings). At the hearing sessions the site promoter set out that site clearance works have started on site and I see no reason to question the lead in times anticipated by the Council, which would see the site start to deliver completions early this year. In terms of anticipated delivery rates, the Plan currently projects that Hartland Village will deliver 1,428 dwellings over the Plan period. However, during on-going discussions between the Council and the site promoter during the examination this has altered, and it is now anticipated that the site will deliver 1,368 new dwellings over the Plan period. For the Plan to be effective alterations are needed to reflect this change and this is addressed by **MM23**, **MM139** and **MM144**. The anticipated delivery rates peak at 132 dpa in 2022/23, with numerous other years close to this figure.
79. Whilst I acknowledge that for a single house builder, the delivery of up to 132 dpa and an average, over the life of its development, of 105 dpa is challenging, it has nonetheless been achieved within Hart in the past. The Council has provided details of a site at Queen Elizabeth Barracks, where a single developer delivered an average of 130 dpa, with several years being over 200 dpa. I acknowledge that the site delivered a greater level of affordable units than will be delivered at Hartland Village, which can aid the quantity of housing delivered per year. However, even so, the Queen Elizabeth Barracks site delivered, at its peak, significantly more homes than is anticipated at Hartland Village.
80. Furthermore, I accept the Council’s view that Hartland Village is somewhat unique and will be an attractive new community to reside, particularly given the large area of SANG that will be delivered alongside the new homes. I am also particularly mindful that Hart is a sought after location to live, which is supported by the fact that very few planning permissions lapse. Having regard to such matters, I am content that the Council’s projected delivery of new homes from Hartland Village is reasonable.

Other aspects of supply

81. Appendix 2 of the Plan illustrates the housing trajectory. As set out above, I consider that it is necessary to alter the Plan period to reflect the SHMA. Alterations to the housing trajectory and completions table to include 2014/15 and 2015/16, are therefore necessary for the Plan to be effective and this is

addressed by **MM139** and **MM140**. As a result of MM140, the level of existing completions over the Plan period increases from 798 to 2,217.

82. In addition, the Council has sought to update the components of supply to reflect more up-to-date information about their delivery, which includes a base date of 1 April 2018. I consider this to be reasonable and necessary for the Plan to be effective and up-to-date. These updates are made through **MM19**, **MM22**, **MM23**, **MM141**, **MM142**, **MM143**, **MM144** and **MM145**. This base date also correlates with the Council’s five year housing land supply statement (HOU4). Having regard to the MM consultation responses, a change is needed to MM23 to clarify that sites within settlement boundaries can include those identified through neighbourhood plans. This will ensure the Plan is effective.
83. The Council is in the fairly unusual position whereby the vast majority of supply needed over the Plan period benefits from planning permission. The Plan (as amended in MM141) identifies that at 1 April 2018, 3,652 dwellings benefit from planning permission. However, the Council has set out that of this, 5 dwellings have now lapsed and 385 dwellings relate to prior approvals where they cannot be legally implemented until they have acquired SANG to mitigate impacts on the Thames Basin Heaths SPA and should therefore not be considered deliverable. The Plan (as amended in MM141) therefore considers that 3,262 dwellings are deliverable (this excludes Hartland Village, which is included under site allocations).
84. The Council has confirmed that the delivery assumptions for large sites of 10 or more dwellings with planning permission have been informed by discussions with the site promoters. I consider that there is no reason for me to disagree with the Council’s assumptions made in terms of delivery from such sites, which are reasonable.
85. The next component of supply relied upon by the Council relates to sites within settlement boundaries. The Plan (as amended by MM142) assumes that 150 dwellings will be delivered through 6 sites over the Plan period. This is based on site assessments in the SHLAA. Again, there is no reason for me to disagree with the assumed delivery of these sites, which are reasonable.
86. The Plan as currently drafted includes supply from ‘Deliverable Sites’. However, as part of the updated information the Council set out that there were now no sites that fit within this category. I understand that this is largely as a result of planning permissions being granted and these sites now being considered within the identified commitments. For the Plan to be effective, **MM23** and **MM143** is therefore needed to delete the table setting out the ‘Deliverable Sites’.
87. In terms of site allocations, Hartland Village has been discussed above. However, the Plan also relies on the supply of 111 dwellings from site allocations within the made Odiham & North Warnborough Neighbourhood Plan. The delivery rates from these have been criticised for being too conservative. Whilst, this could well be the case, I do not consider that

making conservative assumptions, particularly having regard to the evident healthy level of supply early in the Plan period, results in the Plan being unsound and no changes are needed.

88. The final component of supply is a windfall allowance. The Plan (as amended by MM145) and its housing trajectory assumes that 23 dwellings will be delivered per annum from 2020/21 until the end of the Plan period, a total of 276 dwellings. This is based on clear evidence of historic windfall delivery rates. I consider this to be a reasonable approach.
89. Policy SS1 notes that supply may also be gained through permitting rural exception sites and other housing where it is essential for the proposal to be located in the countryside. I agree with the Council that this source of supply is unlikely to generate significant numbers of new dwellings and there is little evidence to base a robust allowance on within the housing trajectory. Consequently, I am content that the Plan does not need to include an allowance in relation to rural exception sites and other housing where it is essential for the proposal to be located in the countryside.
90. The Council’s assumptions on supply do not include any lapse rates. The Council’s Matter 5 Hearing Statement sets out that over the past seven years only a small number of permissions have lapsed and that all of these relate to developments of 10 dwellings or less. The same hearing statement calculates that if the average lapse rate is drawn from the last four years (where there has been a noticeable rise) the average lapse rate for sites of 10 dwellings or less is 6.3%. If this is then applied to outstanding planning permissions for sites of up to 10 dwellings relied upon in the supply, it would reduce by just 13 dwellings. I do not consider this to be a significant figure that affects the soundness of the Plan. On this basis, I consider that based on the historical evidence provided, there is no need to incorporate lapse rates into the Plan’s supply assumptions. Overall, the Plan (as amended) anticipates the delivery of 7,384 dwellings.

Whether the Plan will meet the identified housing need?

91. Based on the revised trajectory set out in MM139, I calculate that a housing requirement of 423 dpa over the Plan period (7,614 dwellings in total) results in a shortfall of supply of 230 dwellings. I also calculate that this shortfall would occur in the last year of the Plan period (2031/32). The Council agrees with this assessment.
92. The NPPF 2012 at Paragraph 47 sets out that to boost significantly the supply of housing, local planning authorities should (amongst other things) be able to demonstrate a five year housing land supply and identify a supply of specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15 (to meet identified needs).
93. The Plan would provide for specific, developable sites for 11 years following the adoption of the Plan. I consider that this would meet the requirements of Paragraph 47 of the NPPF and the shortfall of 230 dwellings during the last

year of the Plan period does not result in the Plan being unsound, particularly as the Plan would need to be reviewed in 5 years’ time in any event. A modification (**MM22**) is required to set this position out within the Plan.

94. There is clear evidence that over recent years, very few sites in Hart see their planning permissions lapse, particularly for sites over 10 dwellings. I am also mindful that in the short term there is forecast to be a very healthy level of supply over and above the housing requirement in the first five years of the Plan following adoption. This means that a review of the Plan in 5 years’ time would ensure that any under or non-delivery from sites in the longer term can be suitably addressed if necessary at that time. It is also feasible that additional windfall development could come forward over the Plan period that would meet the relatively modest shortfall.

Five year housing land supply

95. The Council’s five year housing land supply statement (HOU4) sets out that against a housing requirement of 388 dpa the Council can demonstrate a 9.53 year supply. I have found that the housing requirement should be increased to 423 dpa to address unmet need from SHBC. Given that this finding was after the close of the hearing sessions, I did not request the Council to produce a revised housing land supply position to take this into account. This was on the basis of the very healthy level of supply anticipated over the next five years.
96. Table 3 of the Council’s five year housing land supply statement (HOU4) illustrates the historic performance of the Council since 1996/97. Table 3 shows that there has been peaks and troughs. However, I consider that the Council, through Table 3, has sufficiently demonstrated that it has overdelivered against the relevant housing requirements (which have changed during this period) over the past 20 years.
97. Further, in the past 5 years (2013/14 to 2017/18) where completions are confirmed, the Council has also overdelivered, even against the increased housing requirement of 423 dpa. Given all of this, the Council does not have a persistent record of under delivery and I consider that a 5% buffer should be applied.
98. I have found that all aspects of the Council’s supply have been based on reasonable assumptions. I am content that even at a greater housing requirement of 423 dpa that the Council will have a healthy five year housing land supply on adoption of the Plan.
99. I acknowledge that the majority of supply is front loaded towards the beginning of the Plan and that the housing trajectory shows supply significantly reducing below the housing requirement from 2025/26 onwards. My attention has also been drawn to the requirement in the NPPF (Paragraph 47) to maintain delivery of a five year supply of housing land to meet the housing target.

100. I consider that previous oversupply during the beginning of the Plan period should be taken into account during the calculation of the Council’s five year housing land supply. Consequently, towards the end of the Plan period where supply falls below the housing requirement, the five year land supply calculation at that point in time should take into account the oversupply above the housing requirement during the early years of the Plan.
101. I am also mindful that in practice, the delivery of some sites may slip and therefore result in a more even spread of supply during the early and middle parts of the Plan period. Given the very healthy supply during the next five years, this offers a good level of flexibility to allow some slippage to later on in the Plan period.
102. The issue of the newly introduced Housing Delivery Test (HDT), which will be relevant to decision making, was discussed. The Council in its Matter 5 Hearing Statement (Table 13) calculated that it could start dipping below 95% from 2025/26. I am mindful that a review of the Plan within 5 years of the adoption of the Plan can address any implications associated with the HDT at that time.

Conclusion on main issue 4

103. I consider that with the recommended modifications, the Plan is sound in relation to this main issue and the Council will be able to demonstrate a five year housing land supply on adoption of the Plan.

Issue 5 - Whether the Plan’s approach to the delivery of affordable housing is sound.

104. Policy H2 sets out the Plan’s approach to the delivery of affordable housing. This requires no less than 40% of developments for new homes to be affordable housing. Having regard to the supporting Whole Plan and CIL Viability Study 2016 (ECO3a) I consider this percentage to be justified. However, I consider that ‘no less than’ could mean that the Council could seek to secure higher levels of affordable housing. The Council confirmed that this was not their intention and I am mindful that the Whole Plan and CIL Viability Study 2016 (ECO3a) indicates that higher levels of affordable housing could make developments unviable. Consequently, a change (**MM38**) is needed to remove ‘no less than’ to ensure the Plan is justified. For the same reason, a subsequent change is also needed (**MM44**) to the penultimate paragraph of Policy H2.
105. Policy H2 sets out that developments of 11 or more units (or exceeding a gross internal area of 1000 square metres) will be required to make provision for affordable dwellings. This complies with the guidance in the PPG. However, I am mindful that the NPPF 2019 requires major developments (10 or more dwellings or the site has an area of 0.5 hectares or more) to make provision for affordable units. Whilst this Plan is being examined under the transition arrangements, I consider that it would be appropriate to modify Policy H2 in this regard (**MM38**) so that it is consistent with national policy moving forward.

106. For the same reason and to aid the decision-making process, I also consider that it would be appropriate to amend the supporting text of Policy H2 (**MM37** and **MM45**) to refer to the latest definition of affordable housing in the NPPF 2019 and to update the definition in the Plan’s glossary (**MM134**). Further, I also consider that it is appropriate to update the tenure mix definitions in Policy H2 (**MM39**) and its supporting text (**MM37**) to reflect those in the latest definition of affordable housing in the NPPF 2019.
107. National policy requires that affordable housing for rent should be used solely for that purpose and remain at an affordable price for future eligible households, or the subsidy should be recycled for alternative affordable housing provision. However, this is not included within Policy H2 and therefore a modification is required to add a new criterion to the policy to address this matter (**MM43**). This will ensure compliance with national policy.
108. Criterion d) of Policy H2 requires that at least 15% of the affordable units will be accessible and adaptable as defined by requirement M4(2) of the Building Regulations. Based on the need for accessible and adaptable homes in the Council’s topic paper (TOP5) and the viability evidence set out in the Whole Plan and CIL Viability Study 2016 (ECO3a) and its Addendum (ECO3d), I consider this to be justified. Further, I am content that this proportion is appropriate. However again, the criterion refers to ‘at least’, which could indicate that the Council may seek more than 15%, which I consider could have the potential to make developments unviable. A change (**MM40**) is therefore needed to remove ‘at least’ for the Plan to be justified.
109. The policy at criterion e) considers the requirements of Building Regulations M4(3) and sets out that where evidenced by local need, a proportion of affordable dwellings should be built as wheelchair user dwellings. I consider this to be vague and ineffective. The Council has suggested a modification to overcome this matter, that sets out that based on local need one or more of the affordable dwellings will be built as wheelchair user dwellings to meet, or exceed where justified, the requirements of Building Regulations M4(3). Having regard to the need for accessible and adaptable homes in the Council’s topic paper (TOP5) and the viability evidence set out in the Whole Plan and CIL Viability Study 2016 (ECO3a) and its Addendum (ECO3d), I consider this to be appropriate and **MM41** is required for the Plan to be justified and effective. To reflect this change, an alteration to the supporting text is also necessary (**MM47**) to set out the circumstances when it might be justified to exceed the standard in Building Regulations M4(3) and to state that wheelchair user dwellings will be negotiated on a site by site basis recognising viability considerations.
110. Further, a change (**MM42**) is necessary to insert a footnote for criteria d) and e) to set out ‘Or as otherwise amended by the Building Regulations’. This will ensure any future changes to the building regulations can be suitably considered.
111. The supporting text to Policy H2 makes it clear that the policy applies to specialist and supported housing schemes. Concerns have been raised that the ability for such schemes to deliver 40% affordable housing can be difficult due to other costs associated with such housing. I accept this view and therefore consider that a modification is necessary (**MM46**) to set out that as

much affordable housing as is viable (up to 40%) will be sought for specialist and supported housing, on a site by site basis. This will allow the merits of each individual case to be considered and is required for the Plan to be justified and effective.

112. It has been brought to my attention that Policy H2 refers to ‘exceptional circumstances’, which does not comply with national policy. I have therefore amended **MM44** to remove reference to exceptional circumstances. Whilst, such a change was not consulted upon, I consider it to be minor and does not alter the overall meaning of the policy.
113. Policy H3 of the Plan considers rural exception sites for affordable housing. The policy current states that an element of market housing will be supported where at least 70% of the total number of proposed dwellings would be affordable housing for subsidised rent. At the hearing sessions it was discussed where the 70% figure had originated. I am not of the view that there is sufficient evidence to justify this threshold and it could lead to much needed affordable housing not being delivered. Subsequently, to ensure compliance with national policy, there is a need to alter Policy H3 (**MM49**) to set out that some market housing will be supported as part of a rural exceptions scheme where it would facilitate the provision of affordable accommodation to meet local needs. This would allow the merits of each individual case to be considered. It has come to my attention that a subsequent change to the supporting text of Policy H3 to reflect this change is necessary and I have amended **MM50** in this regard.
114. The supporting text to Policy H3 sets out that it is envisaged that rural exception sites would be for developments of up to 20 dwellings. However, for the Plan to be effective and consistent with national policy, it is necessary to clarify that where there is an established local need, developments could be greater in size. **MM50** is therefore required to address this matter.
115. On a related matter, the supporting text to Policy H3 at Paragraph 189 states that the Council may use compulsory purchase powers to deliver rural exception sites. For the Plan to be effective and consistent with national policy, it is necessary to set out (**MM48**) that this would be as a last resort.

Conclusion on main issue 5

116. I consider that with the recommended modifications, the Plan’s approach to the delivery of affordable housing is sound.

Issue 6 - Whether the Plan makes adequate provision to meet the needs of gypsies and travellers and travelling showpeople.

117. The Plan is supported by the Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (2016) (the GTAA), which assesses the additional need for pitches and plots over the Plan period. The GTAA sets out that there is currently an over provision of 5 pitches for Gypsies and Travellers who meet the definition set out in the Government’s Planning Policy for Traveller Sites (2015) (the PPTS). However, the GTAA also notes that an additional 10 pitches are required for non-travelling gypsies and travellers. This represents a shortfall of 5 pitches. I am particularly mindful of the requirements of the Housing and Planning Act 2016 and the Public Sector Equality Duty.

Consequently, I consider that the Council should be seeking to positively meet this need and the reliance on the criteria based Policy H5 results in the Plan not being positively prepared and unsound.

118. Identifying additional pitches to meet this future need would not be a quick process and to allow the rest of the Plan to be adopted without undue delay, the Council agreed at the hearing sessions to produce and submit for examination a Gypsy and Traveller DPD within two years of the adoption of this Plan. Consequently, to ensure the Plan is positively prepared and consistent with national policy, changes are needed (**MM54 and MM55**) to Policy H5 and its supporting text to secure the production of the Gypsy and Traveller DPD within two years of the adoption of this Plan or by January 2022 (whichever is soonest). I have altered the timescale to January 2022 to reflect the passage of time since the MM consultation took place.
119. In addition, I also have concerns in relation to the robustness of the GTAA itself. This primarily relates to the duration and time of year that the interviews were undertaken. The interviews undertaken of the gypsy, traveller and travelling showpeople that underpinned the evidence of the GTAA were conducted between May and June 2016. I consider this to be a limited period of time and was at a time of year when traditional gypsy horse fairs occur and consequently when many gypsy and travellers are travelling. This appears to be evident in the GTAA as 14 households were not present to be interviewed. As a result, I consider that the GTAA should not be relied upon when considering the need for future proposals, as there is a realistic probability that need has been underestimated.
120. Therefore, for the Plan to be justified **MM54** and **MM55** are necessary to remove reference in the Plan to the GTAA. The Council had proposed to publish a new GTAA in 2019 and have referred to this within MM55, which I consider to be appropriate. However, again to reflect the passage of time, I have amended this timeframe to 2020.
121. MM54 includes alterations that make clear that before the adoption of the Gypsy and Traveller DPD, future proposals will be considered against Policy H5 (as amended) and will need to demonstrate a need for the proposal. In the absence of a robust GTAA, I consider that this is an appropriate approach and is necessary to ensure soundness. However, having regard to the MM consultation responses, I consider that it should be made clear that this would only apply to sites within the open countryside to be consistent with national policy. I have therefore amended MM54 to this effect. MM55 also includes additional supporting text to clearly set out to future applicants what will be considered when establishing whether or not there is a need for the proposed development, which is necessary for the Plan to be effective.
122. It is also necessary within MM54 to make alterations to ensure that Policy H5 applies to both travelling and non-travelling gypsy and travellers. This will ensure the Plan is positively prepared.
123. Further, some other more minor alterations are needed to the criteria of Policy H5 (**MM54**) to ensure the Plan is effective. This includes amending criterion c) to refer to services and facilities being ‘suitably’ accessible rather than ‘readily’ accessible as currently drafted. I consider that this is needed to reflect the intentions of the PPTS.

124. MM54 alters criterion d) to refer to the significance of heritage assets. During the MM consultation it has been raised that this does not accord fully with the NPPF. I consider that Policy NBE9 of the Plan suitably addresses matters associated with the Historic Environment and consequently there is no need for repetition within Policy H5. I have therefore removed its reference in criterion d). This will ensure the Plan is effective.
125. The Council has suggested alterations to criterion g) to set out that sites should not be inappropriately screened and should not create a sense of isolation from adjoining communities. I consider this to be in accordance with the PPTS and is necessary for soundness.
126. On a related matter, I consider criterion j) of Policy H5 to be consistent with the PPTS, which sets out at Paragraph 13 that sites should not be located in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans.
127. The Plan currently contains definitions of gypsies and travellers and travelling showpeople in the glossary that do not reflect those in the PPTS. Changes (**MM135** and **MM137**) are therefore needed to ensure compliance with national policy.

Conclusion on main issue 6

128. I consider that with the recommended modifications, the Plan makes adequate provision to meet the needs of gypsies and travellers and travelling showpeople and is sound.

Issue 7 - Whether the other housing policies of the Plan are soundly based.

Housing mix

129. Policy H1 of the Plan sets out the Council’s approach to the housing mix from market housing. Criterion d) refers to site suitability for self and custom build homes. However, the Plan currently does not set out what will be considered when determining if a site is suitable such housing. A change is therefore needed (**MM35**) to set out that site suitability will be considered on a case by case basis and considerations will include the scale of the development, its layout and the type of dwellings proposed. For example, for a block of flats, it would not be feasible to have a proportion of self build, as the flat(s) could not be separated for a self build purpose.
130. Criterion d) of Policy H1 sets out that for developments of 20 dwellings or more, 5% of plots should be for self and custom built homes, subject to site suitability and the need shown on the self and custom build register. MMs were consulted upon (MM34, MM36 and MM128 of EXAM64) to remove the 20 dwelling threshold. However, I am mindful that in order for developments to be able to provide a 5% provision that they would need to be at least 20 dwellings in size. I have therefore not recommended these modifications as they are not required for soundness.
131. I am not of the view that the Plan’s approach to self build and custom housing in Policy H1 is contrary to national policy, which sets out that Council’s should

encourage their delivery through various mechanisms. I am mindful that the PPG (Paragraph: 025 Reference ID: 57-025-201760728) sets out that relevant authorities should consider how they can best support self-build and custom housebuilding in their area, include developing policies in their Local Plan for self-build and custom housebuilding. I consider the Council’s approach complies with this guidance and therefore Policy H1 complies with national policy in this regard. Further, given the evidence provided in the Whole Plan and CIL Viability Study 2016 (ECO3a) and its Addendum (ECO3d), I am content that a requirement of 5% of dwellings on suitable sites to be self and custom build plots would not make developments unviable.

132. The supporting text to Policy H1 also notes at Paragraph 176 that if such plots are not taken up by the public after being marketed for at least two years then they will be allowed to revert to conventional build plots. I agree with concerns raised that a two year marketing period is excessive and the Council has suggested that this should be reduced to one year. For the Plan to be justified and effective, I consider that a change (**MM35**) is needed to alter the marketing period to one year.
133. Criterion b) of Policy H1 requires that at least 15% of new dwellings will be accessible and adaptable as defined by requirement M4(2) of the Building Regulations. Having regard to the Council’s Topic Paper on Accessible Homes (TOP5), I am satisfied that the imposition of this optional technical standard is justified and consistent with national policy. Further, based on the Whole Plan and CIL Viability Study 2016 (ECO3a) and its Addendum (ECO3d), I am content that this threshold is appropriate and would not make developments unviable.
134. Similarly to criterion d) of Policy H2, as discussed under main issue 5, criterion b) of Policy H1 refers to ‘at least’, which could indicate that the Council may seek more than 15%, which I consider could have the potential to make developments unviable. I have therefore amended **MM33** and **MM34** to include this change to Policy H1 and its supporting text. This will ensure the Plan is consistent, justified and effective.

Housing for older people

135. The SHMA contains an assessment of need for housing for older people. The PPG (Paragraph: 021 Reference ID: 2a-021-20150326) sets out that: ‘...*The age profile of the population can be drawn from Census data. Projection of population and households by age group should also be used... The future need for specialist accommodation for older people broken down by tenure and type (e.g sheltered, enhanced sheltered, extra care, registered care) should be assessed and can be obtained from a number of online tool kits provided by the sector. The assessment should set out the level of need for residential institutions (Use Class C2)...*’.
136. The SHMA (HOU1a) at Pages 210 to 217 takes the approach advocated in the PPG and utilises census data, population projections and utilises the Strategic Housing for Older People (SHOP) analysis toolkit. This identifies a need for sheltered accommodation (52 units per annum), enhanced sheltered accommodation (14 units per annum), extra care housing (8 units per

annum), residential care (33 units per annum) and nursing care (22 units per annum). It is clear that this is a significant need.

137. I appreciate that the use of other data sources may result in differing or higher levels of need. However, the SHMA has followed the approach suggested by national policy. Whilst the Plan is being examined under transitional arrangements, it is also worth noting that the new PPG guidance (Paragraph: 004 Reference ID: 63-004-20190626), now specifically refers to the SHOP analysis tool kit as being an appropriate toolkit. Given all of the above, I consider the assessment of need for housing for older people to be in accordance with national policy and is therefore sound.
138. The Plan seeks to meet the needs of older people in a number of ways. Policy H1 requires as part of the housing mix provision to be made for specialist/supported housing where appropriate. Policy H1 and Policy H2 also require a proportion of new market and affordable dwellings to be accessible and adaptable homes.
139. It has been suggested that the Plan should allocate sites for specialist/supported housing. The Council confirmed at the hearing sessions that no sites that it considered to be appropriate and/or deliverable were put forward. Several omission sites have been promoted and I acknowledge that the site promoters disagree with the Council’s site assessments. However, as set out above in relation to the site selection process, such assessments are often a matter of judgement that can be somewhat subjective, and I have found that the judgements made by the Council in the SA (CD5a), SHLAA (HOU3a and HOU3b) and High Level and Detailed Site Assessments (HOU6) to be within the realms of reasonableness.
140. It has also been pointed out to me that the majority of supply required to meet housing needs over the plan period has already been granted planning permission and therefore Policies H1 and H2 are unlikely to deliver any significant levels of housing for older people. I also acknowledge that for viability reasons Hartland Village the only site allocation in the Plan has been granted planning permission without any provision for older people’s housing.
141. Notwithstanding this, the Plan does recognise these matters and includes Policy H4 that specifically addresses specialist and supported housing. This takes a more flexible approach to meeting such needs and where certain criteria are met would allow proposals outside of settlement boundaries and therefore in the countryside to come forward. Given the above, I consider this to be a pragmatic approach that in the circumstances is justified and results in the Plan being positively prepared. This approach would allow suitable windfall sites to be delivered and could also allow the promoted omission sites to be considered through the decision-making process on their merits.
142. However, it is clear that the Council will need to monitor the delivery of housing for older people carefully and I am mindful that the Plan will be reviewed within the next five years, in any event, where such matters can be addressed if necessary.

143. Turning to the wording of the policies that relate to the provision of older peoples housing in the Plan, Policy H1 includes criterion c) that requires housing proposals to make provision for specialist/supported accommodation where appropriate. It is not clear from Policy H1 or its supporting text when the Council will consider it appropriate for housing schemes to make provision for specialist/supported accommodation. Changes are therefore needed to Policy H1 (**MM33**) and its supporting text (**MM34**) to refer to the need for the development, as evidenced in the SHMA and the factors (such as scale, location, design and layout) that will be considered when determining if provision should be made. This will ensure the Plan is effective. During the MM consultation, it was suggested that at the time of determining an application, there may be other relevant evidence in relation to need that should be considered. I accept this view and I have amended MM33 to also refer to other relevant evidence. I do not consider it necessary to include the consideration of need in MM34, as this is addressed by MM33.
144. Policy H4 sets out that proposals for specialist and supported dwellings will be permitted within a) settlement boundaries and Hartland Village and b) on sites within the countryside, where certain criteria are met. The criteria include: where there is a demonstrable need; that there are no available or viable alternatives within settlement boundaries and the site is well related to an existing settlement with access to appropriate services and facilities either on or off site.
145. The MM schedule as consulted upon (MM52 and MM53 of EXAM64) included alterations to criterion b) i) of Policy H4 and its supporting text. This included the need for applicants to demonstrate a ‘local’ need for the scheme. However, I have had regard to the consultation responses on the MM schedule and I accept that need is best established on a district level, as identified in the SHMA and that this could place an unreasonable burden on future applicants. I have therefore not included this modification in the MM schedule to this report.
146. In a similar manner, the MM schedule as consulted upon (EXAM64) also set out changes to criterion b) i) to state that ‘there are no available or viable alternatives sites within settlement boundaries where the need arises’. However, given my above findings in terms of ‘local’ need, this would not be appropriate. The wording of Policy H4 criterion b) i) of the Plan (as submitted) could be interpreted to mean that all sites within settlement boundaries in the District would need to be considered, in terms of whether they were available and viable for the development proposed. I consider that this would place an unreasonable burden on future applicants. Consequently, to ensure that the Plan is justified and consistent with national policy, a change (**MM52**) to the supporting text of Policy H4 is required to set out that a proportionate level of evidence should demonstrate that there are no suitable sites within defined settlements, that are in the vicinity of the application site and that it will not be necessary to investigate all settlements in the District.
147. Whilst the wording of **MM52**, in this regard, is different from that in the MM schedule that was consulted upon (EXAM64) (as a result of my findings with regard to local need), I consider that it establishes the same principle that applicants should not be expected to examine all defined settlements in the

District for alternative sites when seeking to ensure compliance with criterion b) of Policy H4. Therefore, I am of the view that the alteration that I have made to MM52 is not significantly different from that which has been consulted upon. Depending on the site’s location, the defined settlements that should be considered for alternative sites would be considered on a site by site basis and would be a matter of judgement for the decision maker.

148. As already set out above, criterion b) i) requires that there are no available or viable alternatives within settlement boundaries. However, having regard to consultation responses on the MMs, I consider that alternative sites should be both available and viable. I have therefore amended **MM51** to address this matter. This will ensure the policy is effective.
149. There have been concerns raised more generally about the sequential approach of Policy H4 by only allowing sites in the open countryside if there are no available and viable sites within settlement boundaries. However, I consider that the approach of Policy H4 is consistent with national policy that seeks to steer development towards settlements that offer the greatest level of services and facilities.
150. Policy H4 at criterion b) ii) requires sites to be well related to an existing settlement with access to appropriate services and facilities either on or off site. However, it is not clear in the Plan what appropriate access might be or what factors will be considered when determining such matters, such as for example the nature of potential occupants. A modification to the supporting text to Policy H4 (**MM52**) is therefore needed to address this matter and to ensure the policy is effective.
151. Finally, to ensure consistency with alterations to Policy SS2, as discussed above, it is necessary to remove reference to Hartland Village from Policy H4 (**MM51**). This will ensure the Plan is effective.

Space standards

152. Policy H6 requires development proposals for new homes to meet or exceed the nationally described space standard. I consider the Council’s Topic Paper: Internal Space Standards for New Homes (TOP3a) and its Appendix (TOP3b) provide robust justification for its implementation and is therefore justified and consistent with national policy. However, there is no evidence to suggest that it would be appropriate to seek developments to exceed the space standards. A modification (**MM56**) is therefore needed to address this matter and for the Plan to be justified.
153. To ensure the Plan is consistent with national policy and is effective, it is necessary (**MM57**) to set out that the space standards apply to market and affordable housing, including conversions and change of use proposals. Further, it is also necessary (**MM57**) to set out that if a development does not comply with the space standards then it must be supported by evidence of viability. This will ensure consistency with national policy.
154. The Council has also suggested a modification (**MM58**) to refer to the requirements of other policies in terms of adaptable and accessible homes in the supporting text to Policy H6. I consider that this is appropriate to aid future applicants and is necessary for the Plan to be effective.

Conclusion on main issue 7

155. I consider that with the recommended modifications, the other housing policies of the Plan are soundly based.

Issue 8 - Whether the strategy for job growth and employment is sound.

156. The Plan is supported by the Hart, Rushmoor and Surrey Heath Joint Employment Land Review Update, 2016 (ECO2a) (the ELR). This considers the employment land needs of the Functional Economic Area (FEA) comprised of the three authorities. I consider that the ELR complies with the guidance in the PPG and considers future employment needs based on employment labour demand; employment land supply; and past take up trends.

157. The ELR concludes that there is sufficient floorspace for office use in the FEA but that industrial land is tight. Its conclusions took account of both quantitative and qualitative factors. I see no reason to disagree with the findings of the ELR, in terms of its assessment of need and I consider it to be robust.

158. Policy ED1 of the Plan sets out the Council’s approach when considering planning applications for new employment. A change is needed (**MM59**) to refer to the policies map. This will ensure the policy is effective. Further, Policy ED1 under criterion d) refers to an overriding need having to be demonstrated to justify new employment provision in the countryside. The NPPF encourages a strong rural economy and does not refer to there having to be an overriding need. To ensure compliance with national policy, changes are needed (**MM60** and **MM61**) to Policy ED1 and its supporting text to remove reference to overriding need.

159. Policy ED2 of the Plan addresses the safeguarding of employment land and premises. It identifies 6 strategically important sites and 13 locally important sites. A change is needed (**MM62**) to refer to the policies map, to ensure the policy is effective.

160. The policy sets out that strategic employment sites are safeguarded from other uses and that locally important sites can be considered for other uses in certain circumstances. It has been suggested that the same flexibility should be applied to strategic sites. I acknowledge that Paragraph 22 of the NPPF sets out 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. However, in this case the ELR has considered the suitability of the strategic employment sites and reinforces the importance of safeguarding existing provision to ensure that there is sufficient employment land over the Plan period. Further, the Plan will need to be reviewed within the next 5 years, where the role of each site can be re-considered. Given this, I consider that the Council’s approach to safeguarding strategically important sites is sound.

161. The strategically important sites identified in Policy ED2 include a site known as Bartley Wood, Hook. It has been drawn to my attention that there have been several prior approvals granted for office to residential use. It is evident that this has affected the strategic importance of the site. Consequently, I consider that a modification (**MM63**) is necessary to remove Bartley Wood,

Hook from the strategic sites and to safeguard the site as one of local importance, where there is a greater level of flexibility to allow alternative uses, where this would be appropriate. To ensure Policy ED2 is effective this change will also need to be made to the policies map. During the MM consultation it has been raised that further prior approvals have been granted and that the site should not be safeguarded at all. However, it remains unclear to me whether the more recently permitted prior approvals remove all buildings from the site that are in employment use. Further, I consider that Policy ED2 (as amended by MM63) allows a suitable level of flexibility.

162. In a similar manner, concerns have been expressed about the suitability of Ancells Business Park, Fleet to be considered a locally important site. I am content the sites designation as a locally important site is appropriate, given that the policy allows some flexibility as discussed above.
163. The Council has proposed changes to the boundaries of: Waterfront Business Park; Blackbushe Business Park; Eversley Storage; and Optrex Business Park on the policies map to correct errors. I consider this to be appropriate and will ensure that Policy ED2 is effective.
164. On a related matter, at the time of the hearing sessions the Council were seeking to enforce an Article 4 Direction to stop permitted development rights for office to residential conversions. The appropriateness of this was not for me to consider as part of this examination. I understand that the Article 4 Direction has now been implemented. MM67 of the MM schedule (EXAM64) that was consulted upon was written in a manner that reflected that the Article 4 direction had not, at that time, been implemented. I have therefore amended the MM accordingly to address this change in circumstance. **MM66** is needed to alter the supporting text of Policy ED2 to refer to this matter. This will ensure that the Plan is effective.
165. Policy ED2 does not offer any protection to existing employment uses outside of the strategically and locally important sites. Given the importance that employment uses make to the rural economy and to ensure compliance with national policy, I consider that changes are needed (**MM64**) to Policy ED2 to set out the circumstances when the loss of other existing employment sites will be justified.
166. During the examination, interested parties raised concern that the Council’s guidance on the allocation of Council owned or managed SANG does not allow it to be allocated to sites that are designated as strategic or locally important employment sites. Given the flexibility associated with locally important employment sites, which would allow the potential for residential development in certain circumstances, this is an area of concern. I consider that it would be unreasonable for proposals that met the requirements of Policy ED2 to be subsequently refused Council owned or managed SANG provision that could in effect, block its delivery. Alterations (**MM65** and **MM67**) are therefore needed to Policy ED2 and its supporting text to make clear that if a development proposal meets the requirements of Policy ED2 then the loss of employment land would not be a reason for refusing an allocation of Council owned or managed SANG.

167. Policy ED3 considers the rural economy and sets out a number of circumstances where development proposals for economic uses will be supported in the countryside. In order for the policy to be effective, a change (**MM68**) is needed to remove ‘or’ at the end of criteria b) and d). This ensures that the policy reads as intended.

Conclusion on main issue 8

168. I consider that with the recommended modifications, the Plan’s strategy for job growth and employment is sound.

Issue 9 - Whether the strategy for town, district and local centres and retail is sound.

169. Policy SS1 of the Plan sets out that over the Plan period an additional 5,900 square metres (net) of convenience and 3,960 square metres of comparison floorspace (net) is required. These figures reflect those identified in the Retail, Leisure and Town Centres Study 2015, Part 1 and Part 2 (ECO5a and ECO5b) (the Retail Study). I consider this to be a robust assessment.

170. The Plan does not allocate any specific sites to meet this need, other than the provision of a local neighbourhood centre at Hartland Village within Policy SS2. However, this will not meet all of the identified need. The Council confirmed at the hearing sessions that no sites considered suitable were promoted during the Plan’s preparation and whilst the Retail Study did identify sites, these did not have any landowner or developer backing and therefore their deliverability could not be ensured.

171. The Council has set out that the Retail Study indicated that existing units would help to accommodate growth, in terms of increased turnover densities and a reduction in vacancy rates. However, the Council conceded that this, in itself, would not be sufficient to meet the identified need.

172. The Plan seeks to meet the identified need in several ways. Firstly, through the identification of the town, district and local centre boundaries in Policy ED4 that provide some certainty regarding the areas in which retail and main town centre development will be encouraged, but also provides flexibility by potentially allowing any site within the centre to come forward.

173. Secondly, Policy ED5 identifies a Primary Shopping Area (PSA) within Fleet Town Centre, which has been significantly extended to include land previously described as a secondary retail area. I consider this additional area to be well connected and significantly increases opportunity for new retail and main town centre use floorspace.

174. The Council also set out that neighbourhood plans may also allocate sites and that there are many neighbourhood plans being drafted, which cover the town, district and local centres.

175. Given that no deliverable and acceptable sites were put forward during the Plan’s preparation, I consider that the Council’s approach to meeting the identified need to be justified. However, the Council will need to monitor the delivery of additional floorspace carefully. I am mindful that the Plan will

need to be reviewed within the next 5 years, where such matters could be revisited if necessary.

176. Policy ED4 of the Plan sets out the Plan’s approach to maintaining and improving the vitality and viability of the town, district and local centres. This includes the identification of a hierarchy: with Fleet as the only town centre; Blackwater, Hook and Yateley being district centres; and Hartley Witney and Odiham designated as local centres. Having regard to the evidence within the Retail Study, I consider the hierarchy to be justified.
177. Policy ED4 includes a threshold that requires development for town centre uses exceeding 1,000 square metres to be supported by an Impact Assessment. Based on the evidence provided in the Retail Study, I consider this threshold to be justified. However, a modification (**MM69**) is necessary to set out that this relates to gross floorspace and not net floorspace as this was an error. This will ensure the Plan is effective.
178. It has been brought to my attention that Policy ED4 requires proposals for ‘main town centre uses’ outside of town centres to undertake a retail impact assessment. However, the NPPF only seeks an impact assessment for ‘retail, leisure or office development’. Further, the NPPF 2019 requires only ‘retail and leisure’ development to undertake an impact assessment. Consequently, I have altered MM69 to reflect the wording of the NPPF 2019 to ensure compliance with national policy moving forward. To reflect this change and to ensure consistency with national policy, alterations are also needed to the supporting text of Policy ED4 and I have added these to **MM69**. For the same reasons, a further main modification (**MM149**) is also needed to amend the glossary definition of retail impact assessments.
179. Whilst these additional changes have not been consulted upon, I consider that they are necessary to address inconsistencies with national policy and are not significant ones. Further, I am mindful that the NPPF 2019 will be a significant material consideration for decision making in any event and it is appropriate to bring Policy ED4 in line with the latest position of national policy to aid decision making.
180. Policy ED5 relates to Fleet town centre. This includes several criteria that proposals within the identified primary shopping area must meet. The NPPF at Paragraph 23 recognises that residential development can play an important role in ensuring the vitality of centres. To be consistent with national policy, a change is needed to Policy ED5 (**MM70**) to set out that residential use may be appropriate above retail or commercial units providing the active frontage is not compromised and that satisfactory residential amenity can be achieved. In addition, for the same reason changes are needed to Policy ED6 that addresses development in district and local centres (**MM71**) and the introductory text at the front of the Plan (**MM3**).
181. Interested parties have set out that more should have been done to regenerate Fleet’s town centre and I acknowledge the feasibility study provided in this regard by one party. Further, I acknowledge the suggestion that the provision of mixed-use developments that include residential might help to meet future housing needs in the longer-term. However, no deliverable sites with sufficient landowner or developer backing have been put forward for such developments within Fleet town centre or any other district

or local centre. Although, I am mindful the modifications discussed above (MM70 and MM71) would allow such mixed-use developments to come forward as windfall. Nonetheless, the Council will need to ensure that all options for meeting future housing needs are considered fully in future reviews of the Plan, including the potential for regeneration.

Conclusion on main issue 9

182. I consider that with the recommended modifications, the Plan’s strategy for town, district and local centres and retail is sound.

Issue 10 – Whether or not the key issues, vision, strategic objectives and policies associated with the natural and built environment in the Plan are soundly based.

183. The Plan identifies 14 key issues that the Plan must address. In order to ensure compliance with national policy, changes (**MM4** and **MM5**) are needed to refer to the need to consider the public rights of way network and to appropriately refer to the District’s heritage assets.

184. The Plan’s vision does not refer to the important matter of flood risk. To ensure that the Plan is consistent with national policy a modification (**MM8**) is necessary to address this matter. Further, **MM9** is needed to ensure the vision appropriately refer to heritage assets in accordance with the NPPF. Having regard to the MM consultation responses, it has been suggested that the vision should include reference to ancient woodland and ancient or veteran trees in accordance with the NPPF. I consider this to be appropriate and necessary for the Plan to consistent with national policy. I have therefore amended MM9 accordingly.

185. The NPPF and the Plan both promote the use of previously developed land. However, this is not reflected in the strategic objectives. To ensure compliance with national policy, a modification (**MM16**) is required to add an additional strategic objective to the Plan to address this matter and a change is also needed (**MM136**) to add the NPPF definition of previously developed land to the glossary. In addition, changes are needed to strategic objectives 9 (**MM13**) 10 (**MM14**) and 13 (**MM15**) to appropriately refer to heritage assets, refer to the provision of sustainable transport and to make reference to public rights of ways respectively. These will ensure the Plan is consistent with national policy.

186. Policy SD1 of the Plan identifies its approach to sustainable development. The last paragraph reflects Paragraph 14 of the NPPF 2012. However, I am mindful that the equivalent paragraph (11) in the NPPF 2019 has been amended. I consider it is appropriate to ensure the policy is consistent with national policy moving forward and a change is needed in this regard (**MM17**).

187. The Plan’s approach to development in the countryside is set out by Policy NBE1. This identifies the countryside as being outside of settlement boundaries. However, I am mindful that the Plan also designates strategic and locally important employment sites. These should not be considered as countryside and therefore, for the Plan to be effective, changes (**MM72**, **MM74** and **MM75**) are needed to Policy NBE1 and its supporting text to set

this out. Having regard to the MM consultation responses, this amended also needs to be reflected in **MM73** and I have amended this modification accordingly.

188. Paragraph 261 of the supporting text to Policy NBE1 sets out the context to the policy. I consider that this goes beyond the protection afforded by the NPPF and alterations (**MM73**) are needed to ensure compliance with national policy. It has been raised that Paragraph 261 should clarify that a more restrictive approach to development in the countryside is taken than for development within the defined settlement boundaries and designated Strategic and Locally Important Employment sites. I agree that this is necessary for the Plan to be effective and I have amended MM73 accordingly. I am not of the view that that Paragraph 261 should include reference to historic landscape character, as this is covered by Policy NBE3 of the Plan and there is no need for duplication.
189. Policy NBE1 at criterion g) sets out that replacement dwellings or extensions to existing dwellings would be considered suitable in the countryside. I am mindful that the NPPF, 2019 also allows for the subdivision of an existing dwelling. I consider it is appropriate to ensure the policy is consistent with national policy moving forward and a change is needed (**MM76**). Criterion h) of Policy NBE1 allows the conversion of previously used permanent buildings or redundant agricultural buildings to be developed for appropriate uses. However, neither the policy nor the supporting text sets out what is an appropriate use. A change is needed (**MM77**) to add a footnote that explains an appropriate use is one that is consistent with other development plan policies. This will ensure the Plan is effective.
190. The NPPF allows housing development in the countryside where it would secure the optimal viable use of a heritage asset and is of exceptional quality or truly innovative in design. Further, the PPTS also considers that gypsy and traveller sites may also be considered appropriate in the countryside. For Policy NBE1 to be consistent with national policy, a modification (**MM78**) is needed to add these additional criteria.
191. Paragraph 267 of the Plan sets out that applications for rural worker dwellings which are primarily made on the grounds of providing security will not generally be supported. However, there may be certain circumstances where this could be justified. An alteration (**MM79**) is therefore needed to set out that rural worker dwellings for such reasons need to be robustly justified and explain why alternative security measures are inadequate.
192. Paragraph 271 of the Plan sets out that the redevelopment of suitable previously developed land in the countryside will be encouraged provided that the site is not of high environmental value and that the proposed use and scale of development is appropriate to the site’s rural context. The Council has sought to modify this paragraph (**MM80**) to clarify that such proposals should not cause harm to areas of high environmental value. I consider this to be necessary for the Plan to be effective.
193. Policy NBE2 designates indicative gaps between settlements. These are illustrated on the key diagram and policies map. The policy sets out that the precise boundaries of the gaps will be determined through a separate development plan document or through neighbourhood plans. I consider that

the identification of indicative gaps which have ambiguous boundaries shown on the policies map is ineffective. This is because, firstly it is unclear to me how this could be reasonably applied during decision making and secondly, such an approach could lead to arguments about whether a site is located within the indicative gap or not. Having regard to the evidence provided by the Council and the discussions that took place at the hearing sessions, I am not satisfied that there is sufficient evidence to allow the gap boundaries to be formalised within this Plan. Consequently, to ensure the Plan is justified, I consider that modifications (**MM81**, **MM147** and **MM148**) are needed to remove Policy NBE2, its supporting text and references to it from Appendix 4 and 5 from the Plan.

194. I have also become aware that a subsequent change is needed to Policy SS2 ‘Hartland Village’ and its supporting text to remove reference to the site’s location in a gap. I have amended **MM28** and **MM31** to include this change. This will ensure the Plan is consistent and effective.
195. I am not of the view that the deletion of Policy NBE2 and the removal of Saved Policies CON19 ‘Strategic Gaps – general policy’, CON20 ‘Strategic Gaps: Blackwater Valley’ and CON21 ‘Local Gaps’ from the list in Appendix 5 of the Plan (MM148) weakens the protection provided by the development plan. This is because modifications are also recommended to Policy NBE3 ‘Landscape’. The Council has proposed modifications (**MM82** and **MM83**) to Policy NBE3 and its supporting text. I consider that reference to the avoidance of physical or visual coalescence of settlements, or damage to their separate identity, either individually or cumulatively with other existing or proposed development is consistent with the NPPF. I therefore consider MM82 and MM83 to be appropriate and necessary to ensure compliance with national policy.
196. I am not of the view that Policy NBE3 or its supporting text (as modified by MM82 and MM83) would restrict all potential development between settlements. But, instead, it would allow matters such as coalescence to be considered on a case by case basis, where it is of relevance. Further, I consider the use of ‘perception’ in the supporting text (MM83) to be justified, as there may be circumstances where settlements can be perceived to have coalesced even if they have not physically done so.
197. MM83 also sets out that policies to designate specific areas or ‘gaps’ between settlements can be prepared through subsequent Development Plan Documents and Neighbourhood Plans. This also raised concern during the MM consultation. I am mindful that the designation of gaps is relatively common and the Council could seek to identify gaps in future development plan documents, such as the planned Development Management DPD, but would need to be sufficiently evidenced at that time. In addition, the same would apply to gaps designated in neighbourhood plans, where the justification for such designations would need to be robustly evidenced for any future examiner to find them appropriate.
198. The Thames Basin Heaths Special Protection Area (SPA) is the subject of Policy NBE4. A number of changes (**MM84**, **MM85** and **MM86**) are needed to Policy NBE4 and its supporting text to ensure that it reflects the decision by the Court of Justice of the European Union in the People Over Wind and

Sweetman v Coillte Teoranta case in April 2018 and to ensure that there will be no adverse effect on the SPA, in accordance with national policy.

199. It has been brought to my attention that the changes to the supporting text proposed in MM85 and MM86 are not entirely consistent with Policy NBE4. This relates to proposals for 50 or more net new dwellings that would be located within 5 to 7 kilometres of the SPA. Policy NBE4 sets out that such developments may be required to provide mitigation measures. It also sets out that this will be assessed on a site by site basis in consultation with Natural England (NE) and where necessary an appropriate assessment may be required. However, the changes to the supporting text to Policy NBE4 that were consulted upon in the MM schedule (MM86 and MM87 of EXAM64) set out that all developments of 50 or more net new dwellings that would be located within 5 to 7 kilometres of the SPA will need to undertake an appropriate assessment.
200. I consider that it is not necessarily the case that all such developments will have a likely significant effect and therefore it should not automatically be the case that they will need to undertake an appropriate assessment. Consequently, I have amended MM85 and MM86 to ensure the supporting text is consistent with Policy NBE4, which I consider sets out the correct approach to such developments, in accordance with the Thames Basin Heaths SPA Delivery Framework (ENV3) and national policy. I am also mindful that NE has not raised any concerns with regard to the wording of Policy NBE4 in relation to this matter.
201. I am not of the view that MM85 seeks to pre-empt the assessment stage. The additional text sets out that for proposals between 400 metres and 5 kilometres from the SPA, an appropriate assessment will be necessary where there is a net increase in dwellings. Further, to provide guidance to future applicants the additional text sets out the probable outcome of the assessment if contributions are made to the Thames Basin Heaths Avoidance Strategy. The role of the Thames Basin Heaths Avoidance Strategy is to ensure no adverse effect on the integrity of the SPA arises from new housing development via recreational pressure. Consequently, I consider that it is appropriate to set out to future applicants that compliance with the Thames Basin Heaths Avoidance Strategy would likely result in a conclusion of no adverse effect on the integrity of the SPA.
202. I consider that the use of the word mitigate in MM85 is also appropriate, given that mitigation measures may result in no harm arising. I am also mindful that NE has not raised any concern with regard to the wording of MM85.
203. I do not consider that Policy NBE4 should contain additional criteria in relation to SANG provision. I am mindful that the supporting text to Policy NBE4 sets out that proposals for new SANG must be approved by the Council (as competent authority) following advice from NE and will be expected to follow NE’s SANG guidelines. As a result, I do not consider that there is a need to duplicate such guidelines within Policy NBE4 or its supporting text.
204. I acknowledge that SANG provision is sometimes made in areas of flood risk, which might affect their usability. I am mindful that the NPPF sets out within its core objectives that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food

production). It is therefore clear that it can be appropriate for open land to be multifunctional. Further, the supporting text to Policy NBE4 notes that if the SANG is used for publicly accessible open space, then it must be of high quality in accordance with the Hart Open Space Study, 2016. This at Appendix 2 sets out a quality scoring matrix that includes whether the site is with a flood zone. Given all of this, I consider that the usability of the site will be an important focus, including factors such as flood risk, when the suitability of a proposal for SANG is being considered by the Council and NE. On this basis, I consider that no changes are needed in this regard. Further, it is relevant to note that NE do not share any of the above concerns.

205. On a related matter associated with the Thames Basin Heaths SPA, the introductory text of the Plan at Paragraph 26, sets out that the Habitats Regulation Assessment (HRA) confirms that the recreational impacts of proposed development on European sites can be avoided or mitigated. It also confirms that air quality is not likely to cause a significant effect on the SPA. However, the Plan itself does not refer to increases in nitrogen deposition that can adversely affect the SPA. A change is needed (**MM2**) to address this matter and to set out that the Council is committed to working with partners to monitor roadside air quality that may affect the Thames Basin Heaths SPA. This ensures compliance with national policy.
206. Policy NBE5 addresses the matter of biodiversity. When consulted upon, MM88 of EXAM64 included an alteration to set out that development should conserve or ‘where possible’ enhance biodiversity. I am mindful that Paragraph 8 c) of the NPPF 2019 refers to protecting and enhancing. Consequently, I consider that it is not necessary to make such a change and I have removed the modification from the schedule, this will ensure the policy is consistent with national policy moving forward. Several alterations (**MM87**, **MM88** and **MM89**) are needed to Policy NBE5 and its supporting text to ensure compliance with national policy and to refer appropriately to the Conservation of Habitats and Species Regulations 2017.
207. Managing flood risk is the subject of Policy NBE6. Changes (**MM90** and **MM91**) are needed to the policy to appropriately refer to national policy and guidance on flood risk. This ensures that the policy is effective and consistent with national policy.
208. Policy NBE8 requires all new homes to meet the water efficiency standard of 110 litres per person a day. Having regard to the evidence in the Hart, Rushmoor and Surrey Heath Water Cycle Study and appendices, 2017 (ENV5a and ENV5b), I consider that this is justified. Further, I am content that it would not result in developments becoming unviable and the cost of such measures is low, as shown in the Whole Plan and CIL Viability Study, 2016 (ECO3a).
209. To ensure compliance with national policy in terms of the historic environment, several changes (**MM92**, **MM93** and **MM94**) are needed to Policy NBE9 and its supporting text, to ensure its wording reflects that in the NPPF.
210. Policy NBE10 of the Plan relates to design. To ensure the policy is consistent with national policy, modifications (**MM95** and **MM96**) are required to refer to

public rights of way within criterion b) and reducing opportunities for crime and anti-social behaviour in criterion g).

211. Proposals for renewable and low carbon energy are considered by Policy NBE11. A change (**MM97**) is needed to criterion c. to appropriately refer to heritage assets in accordance with the NPPF. To ensure compliance with national policy, a modification (**MM98**) to Policy NBE12 ‘Pollution’ is needed to refer to cumulative impacts.

Conclusion on main issue 10

212. I consider that with the recommended modifications, the key issues, vision, strategic objectives and policies associated with the natural and built environment in the Plan are soundly based.

Issue 11 - Whether the Plan’s approach to infrastructure is justified and consistent with national policy.

213. In support of the Plan, an Infrastructure Delivery Plan (IDP), 2018 (INF1) has been produced by the Council. I consider that the Council’s consideration of infrastructure to be robust and the IDP and Transport Assessment, 2018 (INF2) sufficiently demonstrates that the Plan (as modified) is deliverable. However, I consider a modification (**MM100**) is necessary for the Plan to be effective, that explains the role of the IDP and how any funding gaps will be delivered. I am also mindful that the vast majority of the supply needed to meet the housing requirement already benefits from planning permission, including Hartland Village. Consequently, the individual needs of sites have been considered through the decision-making process and it has been found that they can be delivered appropriately with any necessary infrastructure secured.
214. Highways England has raised concern that the increased housing requirement to accommodate the unmet needs of SHBC could result in increased impacts on the Strategic Highway Network that have not been assessed. However, as already set out above, I do not consider that additional sites are necessary for this Plan to be sound. In the future, when the Plan is reviewed and the identified modest shortfall in supply in the last year of the Plan period is addressed, new evidence will be required to demonstrate how housing needs, at that time, can be suitably delivered without unacceptable impacts on the highway network.
215. In relation to SANG capacity, the HRA identifies at Paragraph 5.17 that even after the allocation of housing provided by the Plan (including 265 windfall dwellings) and the quantum of SANG allocated for use by neighbouring RBC, that SANG sites under the Council’s control have remaining capacity for 916 units (dwellings). I have been provided with no substantive evidence to doubt this position. Further, I am mindful that the vast majority of supply needed to meet the housing requirement benefits from planning permission, where the provision of suitable SANG will have been considered where necessary. Given that I have found the Plan’s spatial strategy to be sound, I am not of the view that additional SANG capacity needs to be delivered in parts of the District where there is an existing deficit, as development in these areas is not necessary.

216. Policy I1 sets out the Plan’s approach to the delivery of infrastructure. The policy sets out that all development that requires planning permission must make appropriate provision for infrastructure, on and off-site, or through financial contributions to off-site provision. However, I am mindful that there may be circumstances that sufficient infrastructure already exists and this is not necessary. Changes (**MM101** and **MM102**) are therefore needed to address this matter to set out that this is will be required to make otherwise unacceptable development acceptable. This will ensure compliance with national policy.
217. The Council confirmed at the hearing sessions that it was not its intention to seek tariff based planning obligations for developments of 10 dwellings or less and that the viability assessment had not considered the ability of developments of such size to be able to make such contributions. Changes (**MM102** and **MM104**) are therefore required to make this clear and to ensure the Plan is consistent with national policy. I appreciate that such thresholds have been removed in the NPPF 2019 and latest PPG guidance (with the exception of affordable housing). On this basis, it could be suggested that the policy should remain as it is without the above recommended modification. However, given that such requirements have not been tested in the viability assessment, this would in itself be unsound. Nonetheless, the NPPF 2019 and the latest PPG guidance, will be a significant material consideration in determining planning applications.
218. The Council accepted at the hearing sessions that the Policy I1 should refer to financial viability, in accordance with national policy, as there may be instances where the sought contributions would make a proposal unviable. A change to the policy (**MM103**) and its supporting text (**MM105**) is therefore necessary to make this clear and to set out what will be required of applicants in such circumstances. I consider that it is appropriate for these changes to reflect the NPPF, 2019 in terms of viability to ensure that the Plan is consistent with national policy moving forward.
219. The supporting text to Policy I1 at Paragraphs 381 and 382 considers waste water supply, surface water, foul drainage and sewage treatment capacity. Thames Water has advised that the provision of water treatment (both wastewater treatment and water supply) is met by its asset plans and as of 1 April 2018, network improvements will be from infrastructure charges per new dwelling. Modifications (**MM106** and **MM107**) are therefore needed to reflect this matter and to ensure the Plan is effective. It has been suggested that these modifications reduce the protection offered by Policy I1 and that capacity issues should be properly investigated and addressed prior to any development. However, I am mindful that Policy I1 requires developers to demonstrate that there is adequate waste water capacity and surface water drainage both on and off the site to serve the development and that it would not lead to problems for existing or new users.
220. Paragraphs 373 and 384 provide supporting text to the Infrastructure section and Policy I1. Changes (**MM99** and **MM108**) are needed to include public rights of way. This ensures compliance with national policy.
221. Policy I2 sets out the Plan’s approach to green infrastructure. The PPG at Paragraph: 029 Reference ID: 8-029-20160211 sets out that ‘*Local Plans*

should identify the strategic location of existing and proposed green infrastructure networks’. As currently drafted the Plan does not identify the existing green infrastructure network within the District. At the hearing sessions, the Council set out that it was possible to show the green infrastructure network on the policies map. A modification (**MM109**) is therefore required to criterion a) of Policy I2 to refer to the existing green infrastructure network being shown on the policies map. The Council will also need to ensure that the green infrastructure network that was consulted upon alongside the MM schedule is shown on the policies map on adoption of the Plan for Policy I2 to be effective.

222. Policy I3 relates to transport. To reflect national policy, a change (**MM110**) is needed to set out that development should promote the use of sustainable transport modes rather than offering maximum flexibility as currently drafted. Further, to ensure Policy I3 is effective and reads as intended, alterations (**MM110**) are needed to criterion f) and h). Paragraph 398 of the supporting text to the policy refers to Travel Plans. The Council has suggested a modification (**MM111**) to this paragraph to set out that consideration should also be given to the Hampshire Countryside Access Plan and Rights of Way Improvement Plans. I consider this to be required for the Plan to be consistent with national policy.
223. The Plan’s approach to open space, sport and recreation is set out by Policy I4. The policy sets out that existing open space, sports and recreational buildings and land including playing fields should not be built on, other than in three specific circumstances. However, it is not clear where the existing open space is located. The Council confirmed at the hearing sessions that the existing open space can be illustrated on the policies map. A change (**MM MM112**) to Policy I4 is therefore necessary to refer to the policies map for it to be effective. The Council will also need to ensure that when the Plan is adopted that the policies map includes the open space map that formed part of the consultation on changes to the policies map that was undertaken alongside the MM schedule. This will ensure that Policy I4 is effective.
224. At the hearing sessions, the Council confirmed that, in a similar manner to Policy I1, it is not seeking tariff based planning obligations from development of 10 or less dwellings. A modification (**MM112**) to Policy I4 and its supporting text (**MM113**) is therefore needed to make this clear. The supporting text to the policy at Paragraph 403 sets out that the exact nature of any on-site provision will need to be agreed on a case-by-case basis. Further, it states that where necessary, contributions to off-site improvements to open space, sports and recreational facilities will be required. However, it is not clear under what circumstances an off-site contribution will be considered suitable. For the policy to be effective, an alteration (**MM113**) is needed to the supporting text to address this matter and to provide clarity to future applicants.
225. Table 2 of the Plan that supports Policy I4 sets out the open space standards that will be applied to development proposals. This refers to Local Play Areas (LAPs), Local Equipped Area for Play (LEAPs) and Neighbourhood Equipped Areas for Play (NEAPs). Table 2 does not, however, set out what size these should be, to offer suitable guidance to future applicants. Consequently, a modification (**MM114**) is needed to set these out within Table 2. Table 2 also

sets out the requirement for natural and semi-natural green space to be delivered. However, the relationship between the need for this and proposals that also require the provision of SANG to mitigate impacts on the Thames Basin Heaths SPA is not clear within the Plan. For the Plan to be effective, a change (**MM115**) is therefore necessary to set out that natural and semi-natural space will not be requested in addition to the provision of SANG (either on-site or through financial contributions) where required to mitigate impacts on the Thames Basin Heaths SPA.

226. Policy I5 of the Plan addresses community facilities. A change (**MM116**) to criterion ii. is required to ensure that the policy reads as intended and is therefore effective.
227. Policy I6 sets out the Plan’s approach to broadband or successor services. Concern has been raised that the policy could place an unreasonable burden on developers. However, the Council set out at the hearing sessions that developers are only expected to deliver the necessary infrastructure within their site. Changes are therefore needed to Policy I6 (**MM117**) and its supporting text (**MM118**) to make this clear and also to set out that the Council will work with Hampshire County Council as well as the telecommunications industry to maximise access to superfast broadband. This will ensure the Plan is effective and consistent with national policy. I am not of the view that the requirements of Policy I6 (as modified) would affect the viability of developments.
228. Policy I7 safeguards land at Phoenix Green for a flood alleviation system. The Plan sets out that up to 80 properties are at risk of flooding. I am satisfied that there is a need to deliver the scheme, as set out in the Summary Technical Note - Outline Business Case for the Phoenix Green Flood Alleviation Scheme (INF4). Concerns have been raised by the landowner about the impact of the scheme on the agricultural holding on which it would be located. Further, it has been suggested that the Council has not demonstrated that it has the resources likely to be needed to implement the flood alleviation scheme and therefore it does not comply with Section 19(2) (i) of the Planning and Compulsory Purchase Act 2004. However, the Council has set out that the scheme is a formal flood alleviation scheme on the Environment Agency’s Programme of flood and coastal erosion risk management schemes and is being funded through the Flood Defence Grant in Aid process. The Council also set out that the works can be undertaken using the Land Drainage Act 1991 section 14 (A) 1 which allows the Council to serve notice and undertake the works so compulsory purchase is not necessary. I see no reason to disagree and given the clear need for the scheme, I consider Policy I7 to be justified. However, the Council will need to monitor this position closely and if the scheme is not delivered then a review of Policy I7 may be necessary in the near future.
229. The changes to the policies map were consulted upon alongside the MMs. This included changes to the area of land safeguarded for the flood alleviation scheme to reflect the most up-to-date position on the land necessary to deliver the scheme. The Council will need to ensure that this change to the boundary is made to the policies map on adoption, to ensure that Policy I7 is effective.

230. Policy I8 safeguards land for education at Robert May’s School and Calthorpe Park School. I consider that the evidence provided by the Council shows that there is a need to safeguard such land to meet future educational needs and on this basis Policy I8 is justified. Proposed changes to the policies map that were consulted upon alongside the MMs included minor changes to the area of land safeguarded at Calthorpe Park School to reflect an updated position of the school’s needs. The Council will need to ensure that this change to the boundary is made to the policies map on adoption, to ensure that Policy I8 is effective.

Conclusion on main issue 11

231. I consider that with the recommended modifications, the Plan’s approach to the delivery of infrastructure is sound.

Issue 12 – Whether the Plan’s delivery, monitoring and review framework is sound.

232. The Plan contains a delivery, monitoring and review framework, which includes a number of indicators. The Plan currently sets out that the Council will commence a review of the Plan in 2021 unless triggered sooner by other factors. However, during discussions at the hearing sessions it became clear that this was an error. Consequently, for the Plan to be effective, a change is needed (**MM119**) to correct this and to set out a review will be undertaken within five years of the adoption of the Plan or sooner if triggered by factors that are set out in Paragraph 427 of the Plan. It has been suggested that the Plan should contain firmer commitments for an early review if certain circumstances arise, such as if any unmet need from SHBC were to increase above that considered in the Plan (as modified). However, the review framework includes DtC issues such as housing and I consider that this is sufficient to monitor and trigger the need for an early review if necessary.
233. MM119 also includes a reference to the Council having aspirations to plan ahead for long-term growth needs, to reduce the risk of policies (particularly housing policies) becoming out of date and would provide greater certainty over the longer term. It also notes that all reasonable growth options, including the potential for a new settlement, would need to be fully considered in a future review of the Plan or a subsequent DPD. Reference to the Council’s aspiration for a new settlement has raised numerous concerns during the MM consultation. However, it must be borne in mind that it is an aspiration and MM119 makes clear that all reasonable growth options will need to be considered in the future. I therefore consider MM119 to be appropriate in this regard. Notwithstanding this, it has been suggested that the words ‘and evidenced’ should be included in MM119 to ensure that any long-term growth options are fully considered and supported by sufficient evidence. I consider this to be necessary for the Plan to be justified and effective and I have therefore altered MM119 to this effect.
234. A number of changes are needed to the monitoring framework objectives themselves to reflect other MMs. This includes: updating the housing completions and delivery assumption figures (**MM121, MM122 and MM123**); the deletion of references to Policy SS3 (**MM120, MM124, MM126, MM127, MM128 and MM130**); and to reflect the deletion of Policy NBE2 and

alterations to Policy NBE3 (**MM129**, **MM131** and **MM132**). Further, an alteration (**MM125**) to indicator 4d is necessary to make clear that the annual target should be that 15% of new homes delivered in any given year are accessible and adaptable. These will ensure the Plan is effective.

235. Policy SS1 sets out that development will be focused on (amongst other things) previously developed land. However, there is no monitoring objective that considers this matter. For the Plan to be effective, a new monitoring objective is necessary (**MM133**).

Conclusion on main issue 12

236. I consider that with the recommended modifications, the Plan’s delivery, monitoring and review framework is sound.

Assessment of Legal Compliance

237. My examination of the legal compliance of the Plan is summarised below.

238. The Local Plan has been prepared in accordance with the Council’s Local Development Scheme (EXAM63) (LDS).

239. Consultation on the Local Plan and the MMs was carried out in compliance with the Council’s Statement of Community Involvement (SCI) (CD7).

240. I have set out above that the post submission SA (CD5c) that was primarily produced to consider the proposed new settlement area of search subject to Policy SS3 is not robust and should not be relied upon. However, I consider that the pre-submission SA (CD5a) that has been carried out is adequate to support the Plan (as modified).

241. A number of criticisms have been made of the pre-submission SA (CD5a). I consider that the pre-submission SA does appropriately look at different spatial strategies. Whilst this is done through different site combinations, it is clear that the reasonable alternatives include a single new large settlement (Hartland Village), strategic sites and non-strategic smaller sites that are dispersed throughout the District or several combinations of strategic and non-strategic sites. I consider that this offers a reasonable range of differing spatial strategies.

242. I acknowledge the concerns of the promoters of some of the sites who set out that because their site was considered along with a combination of other sites and that the low scoring of other sites affected the overall ranking of the reasonable alternative in which their site was appraised. However, it is clear that to meet the housing needs of the District many of the smaller non-strategic sites would have needed to be delivered together. I consider that such an approach is therefore acceptable. Further, to consider every possible combination of sites available would have led to dozens of reasonable alternatives and would have made the pre-submission SA unmanageable. Overall, I consider that the pre-submission SA considers an appropriate range of reasonable alternatives.

243. In terms of testing different housing levels to be delivered, this is also undertaken thorough the differing reasonable alternatives and site

combinations appraised in the pre-submission SA. These range from 397 dpa to 490 dpa, which I consider offers a suitable range. Whilst I know that the post submission SA set out that it had also been produced (as well as to consider the proposed new settlement) to test a higher housing figure, I consider 490 dpa to be a reasonable maximum figure to test, which is significantly above the housing requirement in the Plan even as modified.

244. To inform the selection of reasonable alternatives a large number of proposed sites were appraised using a Geographical Information System (GIS). I consider that this approach and the criteria adopted to be an appropriate way of appraising a large number of sites, including those in relation to SANG, SINC and ancient woodland. It is inevitable that many site promoters disagree with the scoring of their site. In many instances, judgement is needed, and some considerations are clearly subjective. I have considered carefully the concerns raised by site promoters and I am content that based on the information that the Council had before them at the time of producing the pre-submission SA, its scoring was reasonable.
245. It should also be noted that it is not for the Council to suggest to site promoters how their site could be improved or what further information or clarification is needed to improve a site’s score. To do so for all promoted sites would be an unmanageable task. Further, it has been suggested that some of the scores for the sites should have been updated to reflect additional information provided as part of planning applications or clarifications submitted by site promoters. This would require the SA to be regularly updated. This simply isn’t practical, and I am mindful that at some point the Council has to draw a line under the evidence base and submit a Plan for examination.
246. Further to the above, I am particularly mindful that even if some of the scores were improved for the disputed sites, even significantly so, I am satisfied that Option 1 (Hartland Village only) would still be ranked the highest, given its location and previously developed nature. In addition, Hartland Village does benefit from planning permission and is currently being constructed. The spatial strategy for the Plan to meet the identified housing need has therefore, in the main part, already been set through existing planning permissions.
247. I note that a promoted site called Rye Common was not considered to be a reasonable alternative to those considered in the pre-submission SA. However, it was considered as an area of search alternative alongside the Murrell Green / Winchfield (area of search) for a new settlement in Appendix III. Rye Common was therefore appraised by the same criteria as the reasonable alternatives. I consider that this offers sufficient information to allow me to be content that had Rye Common been considered as a reasonable alternative that it would not have ranked higher than Option 1 (Hartland Village only), which is the spatial strategy adopted in the Plan (as modified).
248. There has been some suggestion that the SA addendum (EXAM65) to support the MMs should have considered further reasonable alternatives based on the increase in the housing requirement to 423 dpa. However, as I have already

found, further supply is not required to make the Plan sound. Consequently, this is unnecessary.

249. Overall, I am content that the pre-submission SA provides an adequate basis to inform the Plan.
250. The Habitats Regulations Assessment June 2018 (ENV13) sets out that a full assessment has been undertaken and that the Plan may have some negative impacts which require mitigation and this mitigation has been secured through the Plan as modified.
251. The Plan (as modified) includes a vision, strategic objectives and Policies NBE6, NBE8, NBE10, NBE11 and Policy I3 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.
252. The Local Plan complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.
253. I have had due regard to the aims expressed in S149(1) of the Equality Act 2010. This has included my consideration of several matters during the examination including the provision of gypsy and traveller sites, housing for older people and accessible and adaptable housing.

Overall Conclusion and Recommendation

254. The Plan has a number of deficiencies in respect of soundness 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 explored in the main issues set out above.
255. The Council has requested that I recommend MMs to make the Plan sound and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix 1, the Hart District Council Local Plan – Strategy and Sites satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

Jonathan Manning

INSPECTOR

This report is accompanied by Appendix 1 containing the Main Modifications.



Appendix &)



The Planning Inspectorate

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

by Roger Clews BA MSc DipEd DipTP MRTPI

an Inspector appointed by the Secretary of State

Date: 10 December 2020

Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

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

The Plan was submitted for examination on 9 October 2017

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

File Ref: PINS/A1530/429/9

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Attachments

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

Schedule of Recommended Main Modifications

Abbreviations used in this report

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

Non-Technical Summary

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

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

The Main Modifications can be summarised as follows:

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

Introduction

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

Main Modifications

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

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

Policies Map

6. Local planning authorities [LPAs] must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, LPAs are required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. For Braintree District Council, the submission policies map consists of all the "Proposal Maps" following page 209 in their submitted Publication Draft Local Plan, and for Colchester Borough Council, it comprises the separately-bound set of "Policies Maps" which accompanied their submitted Publication Draft Local Plan.
7. The submission policies maps for Braintree and Colchester include geographic illustrations of the broad locations of the proposed Colchester / Braintree Borders and West of Braintree garden communities [GCs], which are the subject of submitted Plan policies SP7, SP9 and SP10. However, I am recommending MMs which remove those two proposed GCs from the Plan². Consequently, when the Plan is adopted, the geographic illustrations of those two proposed GCs on Braintree's and Colchester's submission policies maps should not be carried forward to their adopted policies maps.
8. The Plan proposes a third GC, the Tendring / Colchester Borders GC, which is the subject of policies SP7 and SP8. I am not recommending the removal of this GC from the Plan. Accordingly, the geographic illustrations of its broad location on Colchester's and Tendring's submission policies maps will need to be carried forward to their adopted policies maps.

Context of the Plan

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

² See main issue 3 in the Assessment of Soundness below.

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

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

Public Sector Equality Duty

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

Assessment of Duty to Co-operate

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

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

Assessment of Other Aspects of Legal Compliance

Sustainability appraisal

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

Habitats Regulations Assessment

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

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

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

Climate change

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

Other legal compliance matters

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

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

Assessment of Soundness

Main Issues

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

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

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

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

Wherever possible, local needs assessments should be informed by the latest available information. The National Planning Policy Framework is clear that Local Plans should be kept up-to-date. A meaningful change in the housing situation should be considered in this context, but this does not automatically mean that housing assessments are rendered outdated every time new projections are issued⁴.

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

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

37. Paragraph 015 of the relevant PPG⁵ advises that official household projections should provide the starting-point estimate of overall housing need. Accordingly, the latest official projections then available, the 2014-based projections, were used as the starting-point for the housing needs assessment which underpins the housing requirements in submitted policy SP3. The 2014-based projections show household growth between 2013 and 2037⁶ of around 14,500 in Braintree, 19,900 in Colchester, and 15,000 in Tendring. The corresponding household growth figures in the 2018-based projections are around 8,600 in Braintree, 20,400 in Colchester, and 16,700 in Tendring.
38. It is clear that the biggest change is in projected household growth in **Braintree**: a fall of around 40% between the two sets of projections. In NEA/018a Stantec investigated the factors that caused this change. They found that changes in household formation rates do not appear to be responsible: there is only a marginal difference between the household formation rates for Braintree that were used in the 2014-based and 2018-based projections.
39. Instead, the fall in Braintree's projected household growth is explained by lower projected population growth, in which the two main factors are lower internal migration rates (that is, reduced net in-migration from the rest of the UK), and lower life expectancy leading to increased mortality rates. Other factors have only a marginal influence on the difference between the 2014-based and 2018-based household projections.
40. In assessing the significance of the changes in internal migration rates, account needs to be taken of the base periods used to calculate them. In the 2014-based projections, a five-year base period was used (2009-2014). But in the 2018-based projections, the base period was only two years (2016-2018). As Figure 3.4 in NEA/018a shows, net internal migration is subject to

⁴ PPG Reference ID: 2a-016-20150227

⁵ PPG Reference ID: 2a-015-20140306

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

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

41. Moreover, Figure 3.4 shows that the annual net internal in-migration figures for Braintree between 2009 and 2018 were consistently and substantially lower than those in the preceding six years (2003 to 2008). A very similar pattern is reflected in the figures for new housebuilding in Braintree, set out in Figure 2.1 in NEA/018a. Indeed, in the first five years of the Plan period (2013 to 2018), on average 379 new dwellings were built each year: only a little over half the submitted Plan's requirement figure of 716 dwellings a year.
42. On this basis, Stantec conclude that the main reason for the fall in projected household growth in Braintree between the 2014- and 2018-based projections is that since the base date of the submitted Plan (2013), housing need has not been met. Not enough new homes have been built to meet the housing requirement, with the result that fewer people have been able to move into the district. As a result, in-migration trend figures have reduced, and have fed through into lower population and household projections.
43. I agree with that analysis. In my view it would be both contrary to the evidence, and inconsistent with the NPPF's guidance that assessed housing needs should be met in full, to accept that the under-supply of housing in Braintree in recent years should lead to a reduction in the district's future housing requirements.
44. For all these reasons, therefore, I consider that the 2018-based household projections do not provide a reliable basis for assessing Braintree's housing requirements. I consider that the alternative NMSS projection for Braintree, included in the Stantec report, should not be relied upon either, because it too is based on recent migration trends. Although it uses a more stable five-year trend period (2014-19) than the two years used in the official projections, in-migration over that five-year period has also been affected by the under-supply of housing in the district.
45. Turning to higher mortality rates, Stantec show that these account for an annual average of 92 fewer additional households⁷ in the 2018-based projections for Braintree, compared with the 2014-based projections. They are a considerably smaller factor in the overall reduction in projected households than internal migration rates, discussed above, which account for 178 fewer additional households annually.
46. Moreover, in considering their significance, it is necessary to take account of the wider context of the plan-making process. The Plan has been in examination for over three years. On submission its policy SP3 housing requirements were based on the latest available official household projections, as national policy and guidance require. The transitional arrangement in the 2019 NPPF allowed the Plan to continue to be examined against the policies of the 2012 NPPF and the corresponding PPG. In this way it helped to overcome the delay to plan-making that would have arisen if the Plan's housing

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

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

47. But if the housing requirement for Braintree were now to be reviewed and altered, the result would be considerable further delay not only to this examination, but very likely to the examination of Braintree's Section 2 Plan as well. That would conflict with the advice in the NPPF that planning should be genuinely plan-led and that plans should be kept up to date.
48. Against that background, the figure of 92 fewer additional households per annum represents between one-sixth and one-seventh of the 606 additional households per annum forecast for Braintree in the 2014-based household projections. In my judgment, such a reduction would not lead to an excessive or unreasonable disparity between the submitted housing requirement and the future need for housing in Braintree. I do not regard it as a sufficiently meaningful change to justify the considerable delay to plan-making that would occur if the housing requirement were to be reviewed.
49. There is evidence that the affordability of housing in Braintree has worsened during the period in which the Plan has been in examination. But as with the increase in mortality rates, I do not consider that this would justify delaying the Plan in order to review the housing requirement, given that the requirement already includes a substantial affordability uplift of 15% on top of the demographic starting-point figure⁸.
50. For **Colchester**, the Stantec report shows that the 2018-based household projections forecast an increase of 849 households per annum, only 18 households per annum more than the 2014-based projections. I do not regard that change, of around 2%, as sufficiently meaningful to justify reviewing the policy SP3 requirement for Colchester. Nor have I seen any locally-specific evidence to demonstrate that the household formation rates used in the 2018-based projections have caused Colchester's housing needs to be underestimated.
51. Compared with national trends, there may be some evidence of worsening affordability and suppressed household formation in Colchester since the start of the Plan period. But compensation for such effects will be provided by the uplift of around 6% on the demographic starting-point figure that is included in Colchester's housing requirement in order to cater for expected employment growth.
52. The policy SP3 housing requirement for **Tendring** is not derived from the official household projections, due to the distorting effect on those projections of errors that gave rise to exceptionally large unattributable population change [UPC] in the district between the 2001 and 2011 Censuses. Consequently, the change between the 2014-based and 2018-based household projections for Tendring has no material effect on the way the requirement is calculated. In IED/012 and IED/022 I set out my reasons for endorsing the alternative approach used to derive the demographic starting-point for Tendring, which in turn underpins the housing requirement figure.

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

53. That starting-point figure was originally arrived at by taking an annual average of the highest number of dwellings delivered in Tendring over a five-year period. However, as I explain in IED/011, it was subsequently corroborated by a detailed analysis of the inaccuracies in migration flow data which were a major contributing factor to UPC. In the light of that corroborating analysis, I see no justification for reviewing Tendring's demographic starting-point figure on the basis of more recent housing delivery figures.
54. As with Colchester, there may be some evidence of worsening affordability in Tendring, relative to national trends, since the start of the Plan period. To counter this, the housing requirement for Tendring includes a substantial 15% affordability uplift to the demographic starting-point figure with the explicit purpose of improving affordability.
55. It is true that, over the past six and four years respectively, housing delivery in both Colchester and Tendring has exceeded their respective housing requirement figures in policy SP3. But I have seen no evidence to support the view that a discernible improvement in affordability should have occurred as a result over that relatively short period, particularly when one takes into account that in preceding years housing delivery in both districts was significantly below the policy SP3 requirement figures⁹. Adoption of the NEAs' local plans will provide the basis for a sustained period of delivery at or above the requirement rates, and will allow the effect of that level of provision on affordability to be fully assessed.
56. Taking all these points into account, I find that there has been no sufficiently meaningful change in the housing situation in Colchester or Tendring to justify delaying the Section 1 Plan further in order to review the policy SP3 housing requirement for either district.
57. Based on forecasts prepared by the Greater London Authority in 2013, I found in IED/012 that any increase in net migration from London to the NEAs would be very limited. There has been no subsequent evidence which leads me to a different view. The new London Plan has yet to be published in its final form, and no request has been made for the NEAs to accommodate any of London's unmet housing need. Consequently, I see no basis for altering the housing requirements in policy SP3 to take account of in-migration from London.
58. For the foregoing reasons, therefore, I conclude that the housing requirement figures set out in Plan policy SP3 are soundly based.

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

59. The NEAs' Section 2 Plans will identify the vast majority of the housing land supply needed to meet their housing requirements¹⁰. Accordingly, one of the purposes of policy SP3 in the Section 1 Plan is to provide the framework for this. The NPPF advises at paragraph 47 that local planning authorities should meet their housing needs by identifying specific deliverable sites for a five-year period (plus an appropriate buffer brought forward from later in the plan

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

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

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

60. In order for housing delivery to be maintained in the NEAs' area, as national policy requires, there needs to be sufficient flexibility in the supply of land in the event that some sites may not come forward as expected. Policy SP3 therefore needs to make it clear that additional provision will be made in order to ensure flexibility, choice and competition. It also needs to make it clear that the housing needs of the wider area will be taken into account, in accordance with national policy, when the requirement figures are reviewed.
61. The table in policy SP3 sets out the housing requirements for all three NEAs, both as total figures for the Plan period and as annual average figures. To avoid any future misunderstandings when the policy is used in applications and appeals, it is necessary to specify that the annual average figure for each authority will form the basis for assessing its five-year housing land supply, subject to adjustment to take account of any under-supply since the start of the Plan period¹¹. It is also necessary to clarify the terminology used in the policy and the table, to ensure that it is consistent and unambiguous, and thereby effective.
62. **MM8** makes all these necessary changes to policy SP3. As published for consultation, MM8 also proposed to delete the word "minimum" from the heading to the column in the table which gives the total housing requirement for each NEA over the Plan period. But having considered the responses to the consultation, I agree that the deletion is unnecessary for soundness, and could be seen as conflicting with the reference in MM8 to additional provision to ensure flexibility, choice and competition. Other changes introduced by MM8 and summarised above will provide clear guidance on how the policy is to be used when assessing five-year housing land supply.
63. However, the submitted Plan does not provide sufficient clarity on how housing delivery at the cross-boundary Tendring / Colchester Borders GC will be allocated to the two LPAs for monitoring purposes and for assessing five-year housing land supply. The arrangements set out in submitted paragraph 8.15 are both unduly complex and incomplete, relying on future discussions to resolve certain issues. As a result the Plan is ineffective, as it fails to provide clear guidance for future decision-makers.
64. These shortcomings are overcome by **MM30**, which clarifies the submitted Plan's intentions by amending policy SP8 so as to specify that housing delivery from the GC over the Plan period will be distributed equally between Colchester Borough Council and Tendring District Council, irrespective of its actual location within the GC. This is a straightforward and effective policy provision which reflects the commitment of the NEAs to a shared strategic plan which addresses development needs on a cross-boundary basis. There is nothing in legislation or national policy to prevent such an arrangement being made.

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

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

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

68. Submitted Plan policy SP4 sets out employment land requirement figures for the Plan period for each of the NEAs. In IED/011 I consider these and find that the baseline requirement figure for Braintree needs to be corrected for an arithmetical error; that the higher-growth scenario requirement figure for Colchester is unrealistically high and needs to be replaced by a lower figure of about 30ha derived from the *Colchester Employment Land Needs Assessment*; and that for Tendring both the baseline and higher-growth scenario requirement figures need to be replaced, the former by a credible figure based on the Experian economic forecasting model, and the latter to correct a misinterpretation of the relevant study. Subject to these amendments, I conclude that the requirement figures reflect the supporting evidence.
69. Paragraphs 135 to 141 inclusive of IED/011 (attached below), which form an integral part of this report, set out my reasons for reaching those conclusions. There has been no subsequent evidence which leads me to alter them. In particular, it is too soon to judge what long-term implications the coronavirus pandemic may have for employment patterns and the need for employment land. In any event, the fact that the employment land requirements are expressed as a range will provide an appropriate degree of flexibility in applying the policy. Accordingly, **MM9** makes the amendments to the requirement figures that are necessary to reflect the supporting evidence, in order to ensure that the requirements are justified.
70. As submitted, most of the text of policy SP4 is explanatory in nature and, contrary to national policy, provides no clear indication of how a decision maker should react to a development proposal. MM9 therefore removes the explanatory text from the policy. MM9 also introduces a new sentence to clarify how the policy's requirements will be met, principally through land allocations in Section 2 of each NEA's local plan¹². For consistency, MM9 also deletes the words "and Retail" from the title of policy SP4 (since the policy

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

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

71. Both policy SP4, as submitted, and MM9, as published for consultation, refer to employment land as being required for "B" class employment uses. This shorthand terminology reflects the supporting evidence, which assessed the need for land for office, research and development, industrial, and storage and distribution development in the NEAs' area. Until recently, all those uses were comprised in use classes B1, B2 and B8 of the *Town and Country Planning (Use Classes) Order 1987*, as amended.
72. Since MM9 was published for consultation, however, amendments to the Use Classes Order have come into effect¹³. One of those amendments has the effect of absorbing into new use class E those employment uses that previously fell within use class B1. This means that the shorthand references in submitted policy SP4 and published MM9 to "B" class uses are no longer justified or effective, as they would exclude the former B1 uses.
73. I have therefore adjusted those references so that they set out in full the types of use for which employment land is required by the policy. For the same reasons, I have made corresponding adjustments to **MM32**, which is also discussed under main issue 3 below. In each case the adjusted wording continues to reflect the supporting evidence, as it simply replaces the shorthand reference to the "B" class uses with a list of the employment uses that were formerly covered by that term. Accordingly, I consider that no prejudice will be caused by these adjustments.
74. With the changes made by recommended MM9, I conclude that the employment land requirement figures set out in policy SP4 are soundly based, and that the policy effectively sets out how those requirements are to be met.

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

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

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

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

The proposed Colchester / Braintree Borders and West of Braintree GCs

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

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

82. In IED/022 I also find, for separate reasons, that neither Route 3 nor Route 4 of the proposed rapid transit system for North Essex has been shown to be deliverable. Because of this, it has not been shown that the necessary public transport connections are capable of being provided from either the proposed West of Braintree GC (which would depend on Route 3 for public transport links to destinations outside the GC, and on Route 4 for links to places east of Braintree), or from the proposed Colchester / Braintree Borders GC (which would depend on Route 4 for public transport links westwards to Braintree). The lack of necessary public transport connections would directly conflict with the NPPF's advice that the transport system needs to be balanced in favour of sustainable transport modes. Nothing in the main modifications responses leads me to reconsider these findings.
83. For the reasons given in paragraphs 10 to 20 inclusive, 23 to 31 inclusive, and 60 to 266 inclusive of IED/022 and in paragraphs 77 to 82 above, therefore, I conclude that the proposed Colchester / Braintree Borders and West of Braintree GCs are not justified or deliverable, and that as a result they are unsound. Consequently, it is necessary for the proposals for these two GCs to be removed from the Plan. This is achieved by **MM41 and MM42**, which delete the whole of policies SP9 and SP10, by **MM18 and MM24**, which delete references to the two GCs from policy SP7, and by **MM43, MM44 and MM45**, which delete the two GCs from the Key Diagram¹⁴. Necessary consequential changes to delete references to the two GCs from other policies are provided by other MMs. Consequential changes to the reasoned justification may be made by the NEAs as additional modifications.

The proposed Tendring / Colchester Borders GC

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

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

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

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

87. These shortcomings are rectified by **MM18, MM27, MM28, MM29 and MM32**, together with **MM43, MM44 and MM45**. These modifications restructure the opening and closing paragraphs of SP7 and the opening paragraph of SP8 in order to eliminate duplication; ensure that Section 1 of each NEA's adopted local plan contains an accurate map of the GC's broad location; define the amount of employment development provision¹⁵, provide a clear definition of the purpose of the DPD; and make it clear that phased delivery of the GC will be planned on a comprehensive basis. I have adjusted the wording of MM32, as it was originally published for consultation, for the reasons given in paragraphs 71 to 73 above.
88. MM18 further clarifies that the policies of the DPD, and development at the GC, will accord with the principles set out in policy SP7, and that planning permission for development of the GC will not be granted until the DPD has been adopted. This is necessary because the DPD will provide detailed policies to govern development at the GC. MM29 also makes it clear that the requirements of policy SP8 also form part of the policy framework for the GC's development.
89. MM29 further specifies that adoption of the DPD will be contingent on the completion of a Heritage Impact Assessment, which will inform the appropriate extent and capacity of development at the GC and establish any necessary mitigation measures. This change, based on advice from Historic England, is necessary for the reasons given in paragraphs 96 to 102 of IED/022 (attached below), which form an integral part of this report. In summary, while I found it appropriate for the SA of the Plan to assess heritage impacts using a proximity-based approach, in order to comply with national policy a detailed assessment in accordance with Historic England guidance will be needed to inform the development proposals in the DPD. The change also necessitates the insertion of the word "expected" in MM18, to reflect that the Heritage Impact Assessment will help to determine the overall amount of development to be accommodated at the GC.

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

90. **MM38 and MM39** are necessary to ensure that the approach to heritage and biodiversity assets set out in policy SP8 is consistent with national policy, and that appropriate account is taken of heritage assets and biodiversity assets, both within and near the GC¹⁶.
91. As submitted, policies SP7 and SP8 include differently-worded requirements for masterplans and other design documents to guide development at the GC, rendering those requirements confusing and ineffective. **MM21 and MM31** overcome this problem by deleting the requirement from SP7 and making the requirement in SP8 more precise. The requirements in SP7 and SP8, as submitted, for planning applications at the GC to be consistent with the DPD, masterplans and design guidance, are unjustified, as those documents have not been prepared, examined or adopted. The requirements are therefore deleted by MM21 and MM31.
92. As submitted, policy SP7 expects 2,500 dwellings to be delivered at the GC in the Plan period, but in order to reflect the latest available evidence in EXD/070 and my findings on delivery rates in paragraphs 157 to 175 of IED/022 (attached below), which form an integral part of this report, MM18 amends this figure to a range from 2,200 to 2,500 dwellings in order to ensure that the policy is justified. The requirement for provision for Gypsies and Travellers at the GC contained in MM18 and MM32 is not a new requirement¹⁷: it is simply moved from submitted policy SP8 to policy SP7 as part of the restructuring of those policies described above.
93. In order to secure sustainable development in accordance with national policy, it is necessary for the Plan to set clear strategic guidance on infrastructure requirements for the GC and on the timing and funding of their provision. As submitted, the Plan provides insufficient guidance on these matters and is therefore ineffective. Accordingly, **MM11** inserts a new section A into policy SP5, setting out the means by which the DPD's policies, in combination with the policies in the Plan, will ensure provision of the necessary infrastructure at the right time to meet the needs of the GC.
94. Because of the central importance of transport infrastructure to the sustainability of the GC, **MM11 and MM33** also make it clear that planning permission for development will not be granted until planning consent and funding approval have been secured for the new A120-A133 link road and the rapid transit system serving the GC, and that sustainable transport measures will be provided from first occupation of the GC. While choices have yet to be made from the options for some sections of the rapid transit system's route, MM11 defines the route's parameters with sufficient precision at this stage of planning.
95. To ensure that the policy is effective, MM33 also clarifies the requirements of policy SP8 for other necessary transport infrastructure, and removes an inappropriately specific requirement for public transport priority measures; **MM20** makes it clear that where appropriate, as part of the process of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Overall Conclusion and Recommendation

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

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

Roger Clews

Inspector

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

Attached below are the following documents:

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

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

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

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

NORTH ESSEX AUTHORITIES Strategic (Section 1) Plan

Inspector: Mr Roger Clews

Programme Officer: Andrea Copsey

To:

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

Karen Syrett, Place Strategy Manager, Colchester Borough Council

Gary Guiver, Planning Manager, Tendring District Council

8 June 2018

Dear Ms Goodings, Ms Syrett and Mr Guiver

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

1. Now that the hearing sessions have concluded I am able to advise you about the further steps that I consider are necessary in order for the Section 1 Plan to be made sound and legally-compliant. I shall also deal, as far as I can, with your question as to whether the Section 1 Plan [hereafter, "the Plan"] could be adopted by each of the three North Essex Authorities [NEAs]¹⁸, separately from and in advance of their Section 2 Plans.
2. My letter focusses on those aspects of the Plan and its evidence base which I consider require significant further work on the part of the NEAs. It also advises on specific changes that are needed to some of the Plan's policies. More detailed matters, and aspects of the Plan that do not require significant further work at this stage, are not dealt with here but may be considered in the report I will produce at the end of the examination.
3. At this point my letter does not deal with chapter 4 and policy SP3, which cover the Plan's housing requirements. I will write separately about this topic once I have considered any implications the recently-published 2016-based sub-national population projections may have for the issue of Unattributable Population Change [UPC] in Tendring.
4. In document SD002a¹⁹, the NEAs have suggested modifications to address some of the issues of soundness that have been identified during the examination. However, it will be clear from this letter that further main modifications will need to be made in order for the Plan to be capable of adoption. All the main modifications that are eventually proposed will of

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

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

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

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

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

Duty to co-operate

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

11. Given the stage of preparation that the Preferred Options Plan had reached by March 2016, I consider that was a reasonable position for BDC to take. The alternative would have been to assess the new site in the same way as the other proposed GC sites had already been assessed, before publishing the Preferred Options Plan. But that would have delayed the Plan preparation process, with no guarantee that other sites would not then have come forward, creating further delays. Cut-off dates have to be set if the planning process is to move forward.
12. In August 2016 Lightwood Strategic made representations on the Preferred Options Plan, enclosing a site submission form for the Monks Wood site along with supporting material. In due course, Concept Feasibility Studies for Colchester Metro Town²⁰ (April 2017) and Monks Wood (May 2017) were prepared by the NEAs' consultants, AECOM, along similar lines to those already published in June 2016 for other potential GC sites. The latter included another rejected alternative at North Colchester as well as the three allocated sites.
13. North Colchester, the Metro Town proposals and the Monks Wood site were also assessed as alternatives to the allocated GCs in the Sustainability Appraisal [SA] for the Publication Draft Plan, published in June 2017. (I consider the SA separately below.) All this is evidence of effective co-operation between the NEAs in the assessment of alternative sites for GCs, including Monks Wood.
14. I see no great significance in the fact that the BDC Local Plan Sub-Committee resolved on 31 October 2016 to agree a Vision for its Local Plan that included GCs west of Braintree and west of Colchester, but not at Monks Wood. The relevant recommendation contained a clear caveat to the effect that any subsequent changes to the spatial strategy would be reflected in the Vision. That reflected the fact that consideration by the NEAs of the spatial strategy – of which the GCs are a major component – was still continuing. No final decisions on the Section 1 Plan, its spatial strategy and the GCs allocated in it were taken until the NEAs formally approved the Publication Draft Plan for consultation beginning in June 2017, and then resolved to submit the Plan for examination in October 2017.
15. I see nothing in legislation or national guidance to indicate that the DtC requires local planning authorities to co-operate with prescribed bodies over the potential cross-boundary impacts of sites that are considered, but rejected, for inclusion in a plan. Consequently, I see no reason to conclude that the DtC required co-operation between BDC (or the NEAs) and other external bodies in respect of Monks Wood and the other rejected GC sites. That is also the view of the NEAs and of Chelmsford Borough and Uttlesford

²⁰ Prepared by CAUSE in 2015 as a potential alternative strategy for growth in North Essex

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

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

Failure to register representations

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

- The NEAs' failure to submit an accurate statement of representations and to submit all representations to the SoS led to the examination proceeding and being framed and formulated by myself without reference to or benefitting from Lightwood's case and evidence;
 - The failure to make all representations publicly available prevented fellow objectors from formulating their cases and representations with reference to or benefitting from Lightwood's case and evidence.
21. Lightwood maintain that a failure to comply with Regulation 22 cannot be cured subsequently. It is not possible after the event, they say, to gauge how the examination, evidence and representations would have altered as a result of their representations being available or how parties would have conducted themselves. Lightwood contend that the Plan should therefore return to the stage before the breach.
22. Evidently the NEAs' failure to register the five sets of representations was a regrettable error, for which they have apologised. The question for me is whether Lightwood's interests, or those of any other party, have been prejudiced as a result.
23. In this regard, steps were taken to ensure that Lightwood were able to appear and be heard before me on all the Matters to which their representations related. Those steps included arranging an additional hearing session for Matter 1, as explained above. While it is true that Lightwood had only a short time to prepare for the Matters 6, 7 and 8 hearing sessions, it was they who originally suggested that they should attend those hearings²¹. Their suggestion, which I accepted, was extremely helpful in minimising delay to the examination. Lightwood were able to prepare brief hearing statements for Matters 6, 7 and 8, and I and the other participants had the opportunity to read and consider all their representations in advance of the hearing sessions.
24. As a result of all the steps taken, my view is that Lightwood and the other participants were provided with adequate opportunities to appear before and be heard by the Inspector, as the legislation requires. I consider it unlikely that any significant additional matters, issues and questions would have been discussed at the hearings had Lightwood's representations, and the other unregistered representations, been before me at the outset of the examination. Taking all this into account, I am satisfied that the hearing sessions enabled me gain a full understanding of the views of all participants, including on Matters 1, 6, 7 & 8.
25. Overall, therefore, I find that that effective arrangements were put in place to minimise the effects of the failure to register certain representations at the right time, and that no substantial prejudice to any party resulted from that failure.

²¹ Email from Richard Walker of Lightwood to the Programme Officer, 18 January 2018

Habitats Regulations Assessment [HRA]

26. On 12 April 2018 the Court of Justice of the European Union [CJEU] issued a judgment²² which ruled that Article 6(3) of the Habitats Directive must be interpreted as meaning that mitigation measures (referred to in the judgment as measures which are intended to avoid or reduce effects) should be assessed within the framework of an appropriate assessment [AA], and that it is not permissible to take account of measures intended to avoid or reduce the harmful effects of the plan or project on a European site at the screening stage.
27. The HRA report on the pre-submission Plan contained both a screening stage assessment and an AA. The NEAs will need to ensure that the screening stage assessment of that report, and any future HRA reports, is compatible with the CJEU's judgment.

Other legal issues

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

Cross-Boundary Garden Communities (chapter 8)

29. Three proposed GCs, providing between 29,000 and 43,000 homes in total, are a central element in the Plan's spatial strategy for North Essex. I have no doubt that the NEAs are sincere in their aspirations for three high-quality, sustainable communities, based on the principles outlined in their *Garden Communities Charter* [the NEGC Charter]. Their proposed approach is innovative and ambitious, and if carried out successfully it has the potential to provide for housing and employment needs not just in the current Plan period but well beyond it.
30. The GCs are identified as broad locations on the submission policies map. But it is clear from the content of policies SP7, 8, 9, & 10 [hereafter: "the GC policies"] that the submitted Section 1 Plan, if adopted, would establish both the in-principle acceptability of, and many of the specific requirements for, the proposed GC developments. Follow-on plans²³ are intended to set out the principles of design, development and phasing for each GC, but it is this examination which must determine whether or not the GC proposals are properly justified and realistically developable. This is of more than usual importance given the large scale and long-term nature of the GC proposals,

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

²³ Referred to in the Plan as Development Plan Documents or DPDs

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

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

Transport infrastructure

Trunk road improvements

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

36. In addition, a decision has yet to be made on the alignment for the dualled A120. The alternative alignments still being considered have quite different implications for the A120's relationship with CBBGC.
37. I appreciate that the NEAs, ECC and Highways England are working together constructively to resolve these issues. Nonetheless, greater certainty over the funding and alignment of the A120 dualling scheme and the feasibility of realigning the widened A12 at Marks Tey is necessary to demonstrate that the GC proposals are deliverable in full.

Rapid transit system

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

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

Marks Tey station

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

Delivery of market and affordable housing

48. The NEAs' own publications²⁴ envisage each of the three proposed GCs starting to deliver housing in 2023/24. WoBGC is expected to deliver 250 dwellings in that first year and in each subsequent year to the end of the Plan period (2033). The other two GCs would build up more gradually to rates of 300 dwellings per annum [dpa] for TCBGC from 2027/28 onwards and 350dpa for CBBGC from 2031/32 onwards. The Hyas appraisal envisages slightly different delivery rates.
49. Credible research by NLP²⁵ indicates that sites over 2,000 dwellings take an average of around seven years from the submission of the first planning application to the delivery of the first dwellings on site. However, it also shows that planning approval for greenfield sites tends to take somewhat less time than for brownfield. Moreover, the work already done by the NEAs and others to develop concept frameworks and masterplans for each GC would help shorten that time further.
50. On this basis I consider it reasonable to assume that the planning approval process would allow housing delivery at any GC(s) to start within four or five years from the adoption date of the plan (or plan revision) which establishes the GC(s) in principle. However, that timescale could alter depending on how long it takes to put the necessary infrastructure in place, as discussed above.
51. The NLP research found that greenfield sites providing more than 2,000 dwellings deliver around 170dpa on average, with substantial variation around that mean figure. Factors supporting a higher delivery rate include the market strength of the area, the size of the site, public sector involvement in infrastructure provision, and the proportion of affordable housing.
52. All these factors suggest that GCs in North Essex could achieve build-out rates higher than the NLP average. Nonetheless, out of the 13 sites in this category NLP identified only one large site which achieved average delivery of more than 300dpa, and the data for that site cover a period of only three years. Moreover, their analysis of the few sites for which data is available over 10 years or more revealed pronounced peaks and troughs in the annual delivery figures.
53. All this leads me to the view that, while it is not impossible that one or more of the GCs could deliver at rates of around 300dpa, it would be more prudent to plan, and carry out viability appraisal, on the basis of an annual average of 250dpa.
54. The way in which the numbers of dwellings delivered at the GCs would be allocated to the individual NEAs for monitoring purposes is set out in Plan

²⁴ See document EB/065 for references

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

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

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

Employment provision

56. The NEGC Charter's Principle 3 seeks to provide access to one job per household within each new GC or within a short distance by public transport. It states that the employment function will be a key component of creating character and identity and sustainable communities. Policy SP7 describes the GCs as incorporating a range of homes, employment and other facilities, thereby reducing the need for outward commuting.
57. In this context, it is surprising that the GC policies contain no specific figures for the amount of employment land or floorspace to be provided at each of the GCs. Instead there are only general requirements to provide and promote opportunities for employment and a wide range of jobs, skills and training opportunities, and suggested locations for different types of employment use. This is in contrast to the figures (expressed as a range) in each policy setting out the expected level of housing development.
58. I recognise that setting employment land requirements for different uses and allocating land to meet them is a complex process, involving forecasts of market demand across different employment sectors. If the sites provided do not match the demands of the market, the jobs will not come. To that extent I agree with the NEAs that it is not possible to predict accurately the exact mix of employment space that will be required this far in advance of development. But that would not preclude setting indicative requirements for the overall amount of employment land or floorspace at each GC.
59. It would be inappropriate to delegate this role to the individual DPDs, as the NEAs suggest. The role of the DPDs is to take forward the design, development and phasing of the GCs based on the principles established in

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

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

Viability

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

Transport infrastructure costs

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

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

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

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

Land purchase and interest

69. The Hyas report uses a financial model, developed by ATLAS²⁷, based on a "master-developer" model of delivery. In this model the master developer acquires the development land and undertakes strategic investment in enabling works and strategic infrastructure, before selling on the serviced plots to individual housebuilders or commercial developers to build them out. Interest on borrowing to fund the strategic investment, and a financial return to the master developer on that investment, are built into Hyas's viability assessment.
70. It is unclear whether the 6% interest figure assumed for strategic investment borrowing is justified, having regard to the legislation on state aid as highlighted in the advice to the NEAs by PwC²⁸. Further clarification on this point is necessary.
71. More importantly, however, no allowance is made in the Hyas appraisal for interest on borrowing to fund land purchase by the master developer. The Harman report *Viability Testing Local Plans* (June 2012) specifically warns against overlooking interest costs on land purchase. Given the scale and duration of the GC development programme, those costs will be substantial.

²⁷ *The Garden Cities and Large Sites Financial Model*

²⁸ PwC, *North Essex Garden Communities Final Report* (14 Dec 2016)

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

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

Contingencies and sensitivity testing

74. The Hyas report modelled a range of different scenarios for each GC. The variables used were: various proportions of market and affordable housing and starter homes; uplifts of 0%, 5% and 10% on overall infrastructure costs; and uplifts of 0%, 5% and 10% on development value (to reflect a "Garden Community premium").
75. 10% would be an unusually low figure if it was intended to represent the sole contingency allowance on infrastructure costs. The NEAs produced further evidence²⁹ setting out what they claimed amounted to a total 42% contingency allowance for CBBGC, as an example of the approach taken for all three GCs. Over a third of that amount, however, is the 15% profit allowance intended as an incentive to perform the master-developer role referred to above.
76. A 15% profit allowance is not excessive given that, as the NEAs accept, the Plan needs to be neutral as to whether the master-developer role is played by a public or private sector body³⁰. Even if the oversight role is retained in the public sector, it is quite possible that many of the master-developer functions would need to be outsourced. Consequently, the master-developer profit allowance should not be counted as part of the overall contingency allowance.
77. The other additional element which the NEAs identified as part of the total contingency allowance was what they termed "in-built contingency" of around 24% on certain capital sums for infrastructure. Tracing these figures back to their source documents shows that most do indeed represent an uplift of around 20% on the minimum cost identified for each item. However, as was demonstrated at the hearing sessions, 20% or 24% is a low contingency figure for major capital projects. A contingency allowance of at least 40%

²⁹ EB/13(2/2a)

³⁰ See the next section on delivery mechanisms

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

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

Price of land

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

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

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

Conclusions on viability

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

Delivery mechanisms

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

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

90. In its paragraph (ii), policy SP7 seeks to encapsulate the principles that the delivery model for the GCs should follow and the objectives it should seek to achieve. The requirements it places on landowners and promoters to secure high-quality place-making, to fund the infrastructure necessary to address the impacts of development, and to manage and maintain the on-site infrastructure are generally compatible with relevant guidance in the NPPF and PPG. The final sentence of the paragraph defines the tasks the delivery model will need to perform, taking an appropriately neutral stance on who will perform them.
91. However, the specific reference in the first sentence to "sharing risk and reward" between the public and private sector conflicts with the long-established legal principle that revenue or profit may not be appropriated by a public-sector body without explicit Parliamentary sanction³¹. The reference may have been intended by the NEAs as a statement of aspiration, but its inclusion in SP7 as one of the principles with which the GCs "will conform" makes it an unlawful policy requirement. It is therefore necessary to remove it from the policy, as the NEAs now propose.
92. In the same sentence, it is also necessary for soundness to remove the reference to "deploying new models of delivery" as a policy requirement. It may be a legitimate aspiration of the NEAs but there is no substantial evidence to show that only (unspecified) new models of delivery are capable of achieving the policy's objectives.

Sustainability Appraisal

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

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

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

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

Objectivity of assessment

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

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

Clarity of descriptions of alternatives and reasons for selection

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

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

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

Selection of GCs and combinations for assessment

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

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

Other SA points

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

Conclusions on SA

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

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

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

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

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

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

Conclusions on Cross-Boundary Garden Communities

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

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

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

Providing for Employment (chapter 5)

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

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

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

Infrastructure and Connectivity (chapter 6)

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

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

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

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

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

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

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

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

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

Concluding remarks

157. I expect that this letter will come as a disappointment to the NEAs after all the hard work and resources they have committed to bringing the Section 1 Plan forward for examination. Nonetheless, I hope it will be appreciated that my findings do not necessarily represent a rejection of their commendable ambitions for high-quality, strategic-scale development in North Essex. Equally, however, the scale of those ambitions, and the long timescale over which any GC proposals would come forward, require that adequate time and care are taken now to ensure that any proposals are realistic and robust.

158. I am not inviting comments on the contents of this letter. But I will assist the NEAs with any queries, and with any further advice they may need on taking forward the necessary further work and changes to the Plan I have identified. I would appreciate it if you would let me know, as soon as you are able to, which of the options outlined in paragraphs 148 to 156 above, or any alternative course of action, the NEAs wish to pursue. This will enable an outline timescale for the remainder of the examination to be devised. Please contact me through the Programme Officer, with a copy to the PINS case officer.

Yours sincerely

Roger Clews

Inspector

NORTH ESSEX AUTHORITIES Strategic (Section 1) Plan

Inspector: Mr Roger Clews

Programme Officer: Andrea Copsey

To:

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

Karen Syrett, Place Strategy Manager, Colchester Borough Council

Gary Guiver, Planning Manager, Tendring District Council

27 June 2018

Dear Ms Goodings, Ms Syrett and Mr Guiver

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

1. As indicated in my letter of 8 June 2018 (*Advice on the Next Steps in the Examination*), I am now writing to give my views on chapter 4 and policy SP3 of the Section 1 Plan ["the Plan"], which cover the Plan's housing requirements. I am not inviting comments on this letter, but please contact me via the Programme Officer if you have any queries on it.
2. This letter should be read in conjunction with my letter of 8 June. The views expressed in it are based on the evidence currently before me. I reserve the right to modify these views in the light of any further evidence that may come forward before the examination ends.
3. As noted in my letter of 8 June, in document SD002a³³ the NEAs have suggested modifications to address some of the issues of soundness that have been identified during the examination. These include modifications to policy SP3 and its reasoned justification. Accordingly, the main purpose of this letter is to consider whether the housing requirement figures contained in submitted policy SP3 are soundly based.

Housing need in North Essex

4. Submitted policy SP3 sets out housing requirement figures for the Plan period for each of the NEAs³⁴. They equate to the objectively-assessed housing need [OAHN] for each NEA as calculated by the *Objectively Assessed Housing Need Study, November 2016 Update* [the OAHN Study]. The OAHN Study covers a housing market area [HMA] that includes the three NEAs plus Chelmsford.

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

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

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

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

UPC in Tendring

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

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

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

Evidence on the factors giving rise to UPC

12. Evidence on the factors that gave rise to UPC has evolved over time. Consequently it would no longer be appropriate to view the 2016 OAHN Study as providing the principal justification for the NEAs' view that 480 dwellings per annum [dpa] should be taken the demographic starting-point for assessing housing need in Tendring, rather than the officially-projected growth figure of around 670dpa³⁵. It is necessary to engage with more recent evidence that is before the examination, including evidence produced originally for two planning inquiries in 2017³⁶, and papers dealing with the implications of the 2016-based sub-national population projections [SNPP]³⁷.
13. In July 2017, inquiry evidence by consultant Neil McDonald concluded that adjusting the latest (2014-based) household projections to correct for the inaccuracies in the migration flow data suggested a demographic housing need of between 420dpa and 540dpa. Those figures correspond to a range of between 60% and 40% of UPC in Tendring being attributable to inaccuracies in estimating migration. Advice from ONS indicates that some 47%-57% of the UPC figure for Tendring is attributable to inaccuracies in migration trend rates. Mr McDonald's evidence demonstrates that the NEAs' starting-point figure of 480dpa – which lies at the middle of his range – is consistent with the ONS advice.
14. In reaching his conclusions Mr McDonald considered a suggestion that the errors in migration flow estimates were likely to have been concentrated in the early part of the decade 2001-11, and therefore to have had little or no effect on the latest household projections³⁸. However, he demonstrated convincingly, both through a detailed analysis of migration flows between 2001 and 2016, and subsequently by comparing household growth as indicated by MYEs with the actual number of dwellings added to the housing stock, that in Tendring's case that suggestion is not borne out.

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

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

³⁷ EXD/037 & EXD/038

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

15. ONS introduced improvements to estimates of international migration and foreign armed forces dependants when preparing the base data for the 2016-based SNPP. But those factors make a much smaller contribution to population and household change in Tendring than internal (within-UK) migration, estimates of which are not affected by the ONS improvements. Having considered all the conflicting evidence on this point, I consider it is highly likely that errors in migration trend rates continue to affect the official household projections for Tendring in the way that Mr McDonald indicates. As the 2016-based SNPP will also have been affected by those errors, they provide no basis for taking a different view.
16. Indeed, later evidence from Mr McDonald suggests that errors in migration flow estimates may have an even greater distorting effect on household projections, and that when taken together with adjustments to mortality rates made by ONS, they mean that Tendring's demographic starting-point should be within a range from 380dpa to 460dpa. However, the NEAs prudently propose no change to their original figure of 480dpa.
17. Rebasings the household projections to reflect the 2016 MYEs, as was also suggested, would be inappropriate as it would ignore the persuasive evidence that the errors that gave rise to UPC continue to distort migration trend rates for Tendring. Nor do I agree that household formation rates should be adjusted from those used in the latest official household projections, notwithstanding that this has been done in other plan examinations. A number of cogent studies now indicate that household formation rates lower than those experienced before 2008 are not a temporary phenomenon but reflect longer-term changes in economic and social circumstances³⁹. There is no substantial evidence to show that Tendring is an exception to those changes.

Conclusions on the factors giving rise to UPC

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

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

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

Employment trends

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

Market signals

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

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

Need arising in London and elsewhere

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

Affordable housing need

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

29. By contrast, income levels in Tendring are significantly lower than the national average. On the same 2015 figures, spending 35% of their gross household income on rent here would leave a lower-quartile income household with a residual income of only £8,582, some £1,500 below the corresponding figure for England and Wales. I consider that this discrepancy justifies use of a lower threshold of 30%, consistent with national benchmarks, for market housing affordability in Tendring. In view of existing local market conditions it would be unrealistic to set a lower threshold. This adjustment has the effect of increasing affordable housing need in Tendring to 278dpa⁴⁰.
30. Policies in the Section 1 and Section 2 plans set affordable housing requirements of 30%-40% in Braintree, and 30% in Colchester, Tendring and at the proposed GCs. Some additional affordable housing is likely to come forward on exception sites, or directly from affordable housing providers. On this basis there is a good prospect that affordable housing need will be met over the Plan period in Braintree and Colchester if their overall housing requirements are met in full, even after allowing for the fact that a proportion of sites will be exempt from the policy requirements.
31. In Tendring, however, affordable housing need of 278dpa represents around half the objectively-assessed need figure of 550dpa. Even after allowing for other sources of provision, that will not be delivered by an affordable housing requirement of 30%, and there is no evidence to show that a higher percentage requirement would be viable. In these circumstances PPG advises that an increase in the overall housing requirement should be considered where it could help deliver the required number of affordable homes.
32. However, Tendring's OAHN of 550dpa already requires annual housing delivery to more than double from the annual delivery rates experienced between 2010 and 2016. The need to make up the large shortfall in provision since the start of the Plan period will produce a substantial further increase in the required annual delivery rate, at least in the early years of the Plan period. Meeting that higher delivery rate will itself increase affordable housing provision significantly above that which would be derived from the OAHN alone. Moreover, given the scale of the uplift in delivery already required, it seems very unlikely that there would be effective demand for an even higher level of overall housing provision.
33. In these circumstances I consider that increasing the housing requirement for Tendring above 550dpa would be both unnecessary and ineffective in securing additional affordable housing provision in the foreseeable future. However, the need for such an increase should be considered again at the Plan's next review, based on up-to-date evidence of affordable need and an analysis of market and affordable housing delivery in the early years of the Plan period.

⁴⁰ SHMA, Table A7.1d

Review and recovery mechanisms

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

Conclusions on housing need and requirements

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

Yours sincerely

Roger Clews

Inspector

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

To:

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

Karen Syrett, Planning and Housing Manager, Colchester Borough Council

Gary Guiver, Planning Manager, Tendring District Council

15 May 2020

Dear Ms Goodings, Ms Syrett and Mr Guiver

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

1. My letter to the North Essex Authorities [NEAs]⁴¹ of 8 June 2018 [examination document IED/011] set out the shortcomings which, on the evidence available to me at that time, I had identified in the submitted Section 1 Plan and its evidence base. My letter went on to outline the significant further work which I considered the NEAs would need to undertake in order to address those shortcomings, and to set out three options for taking the examination forward.
2. The NEAs decided to pursue Option 2, which involved them producing and commissioning a number of additional evidence base documents with the aim of overcoming the deficiencies I had identified. The examination of the Section 1 Plan was paused from December 2018 until the end of September 2019 while this further work was carried out and public consultation on the additional evidence took place. I read all the responses to the public consultation, and held further hearing sessions in January 2020 focussing mainly on the additional evidence base documents and the responses to them.
3. I am now in a position to advise the NEAs of my findings, based on the evidence currently before me, on the legal compliance and soundness of

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

the Section 1 Plan, and on the options available to them as a result. In giving this advice, I have taken into account all the written and oral evidence and representations that have been submitted to the examination since it began in October 2017.

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

Context

8. Before addressing the critical matters I have identified, it is necessary to set the context by considering the overall structure and purpose of the Section 1 Plan. Although it was produced by the three NEAs and covers the whole of the Braintree, Colchester and Tendring local authority areas, it was not produced as a joint plan under the provisions of section 28 of the *Town and Country Planning Act 2004*, as amended ["the 2004 Act"]. Instead, it is intended that the Section 1 Plan (with identical content and wording) will form an integral part of each NEA's individual Local Plan, alongside a Section 2 Plan which each NEA has prepared independently. Because the Section 1 Plan is common to all three NEAs, it is being examined as a single entity, separately from and in advance of the three Part 2 plans.
9. The Section 1 and Section 2 Plans have distinct and complementary roles. Section 1 deals with cross-boundary issues: it provides a spatial portrait of

and a strategic vision for the North Essex area, sets out the requirements for housing and employment growth for each of the three districts, and highlights key strategic growth locations across the area⁴². The Section 2 Plans are intended to operate at individual local authority level, providing the strategy for the distribution of, and identifying sites for, most of the new development which each NEA proposes to accommodate in its district.

10. Most significantly, the Section 1 Plan proposes the development of three garden communities [GCs] in North Essex. Two would occupy cross-boundary sites, at Tendring / Colchester Borders and Colchester / Braintree Borders, to the east and west of Colchester respectively. The third would be to the West of Braintree, next to the border with Uttlesford district.
11. The broad locations identified for the three GCs amount to over 2,000 hectares in total, and the Plan, as submitted, expects them to provide up to 43,000 dwellings altogether. Because of their scale, only a relatively small proportion of the development they are proposed to contain would be completed by the end of the plan period in 2033, with the rest coming forward over several decades into the future. Indeed, it is envisaged that the largest of the proposed GCs would not be completed until around the end of this century.
12. The NEAs have appropriately high aspirations for the quality of development at the proposed GCs. A *North Essex Garden Communities Charter*, based on the Town & Country Planning Association's Garden City Principles, but adapted for the North Essex context, sets out 10 place-making principles that articulate the Councils' ambitions for the GCs. In accordance with those principles, the Plan itself expects the GCs to exhibit "the highest quality of planning, design and management of the built and public realm"; to "provide for a truly balanced and inclusive community and meet the housing needs of local people ... including 30% affordable housing at each GC"; to "provide and promote opportunities for employment within each new community and within sustainable commuting distance of it"; and to be planned "around a step change in integrated and sustainable transport networks ... that put walking, cycling and rapid public transit networks and connections at the heart of growth in the area"⁴³.
13. These policy requirements appropriately reflect the advice at paragraph 150 of the 2012 NPPF that Local Plans are the key to delivering sustainable development which reflects the vision and aspirations of local communities. More specifically, NPPF paragraph 52 advises that

The supply of new homes can sometimes best be achieved through planning for larger scale development, such as new settlements ... that follow the principles of

⁴² See the Section 1 Plan, para 1.13.

⁴³ Submitted Plan policy SP7

Garden Cities. Working with the support of their communities, local planning authorities should consider whether such opportunities provide the best way of achieving sustainable development.

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

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

My role

15. My role is to examine the Section 1 Plan [hereafter referred to for brevity as "the Plan"] in order to determine whether or not it meets the relevant legal requirements and is sound⁴⁴. In determining its soundness I must have regard to national policy in the *National Planning Policy Framework* [NPPF] as published in March 2012. (The March 2012 version of the NPPF, rather than the current version, applies in this examination because the Plan was submitted for examination before the date specified in relevant transitional provisions⁴⁵.) If I find that the Plan is not legally-compliant or sound, I am empowered to recommend main modifications to make it so, if the NEAs ask me to.
16. It is this Plan which will establish whether or not the proposed GCs are acceptable in principle. In considering the soundness of the Plan I have been mindful of the need not to stray into matters of detail that would be more appropriately dealt with in the Strategic Growth DPDs or masterplans. I have also paid careful attention to the support given in national planning policy for the development of settlements that follow Garden City principles⁴⁶, and to the fact that the Government has provided direct support for the North Essex GC proposals through its Garden Communities Programme.
17. My examination of the Plan has been informed by a great deal of detailed evidence, both supportive of and critical of the Plan's proposals. Although

⁴⁴ The 2004 Act, section 20(5)

⁴⁵ 2019 NPPF, para 214. Any previous national Planning Practice Guidance which has been superseded since the new NPPF was first published in July 2018 also continues to apply.

⁴⁶ 2012 NPPF, para 52

it is not possible or indeed necessary for me to refer to every point that was raised in the evidence, I am grateful to everyone who has invested their time and effort in contributing to the examination so far.

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

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

In particular, we are not persuaded that there is sufficient evidence to demonstrate that the Garden Communities⁴⁷, and thus the overall spatial strategy, have been justified. We therefore cannot conclude that these fundamental aspects of the plan are sound.

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

Legal compliance

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

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

22. There are legal obligations on the NEAs to prepare and submit a Habitats Regulations Assessment and a Sustainability Appraisal of the Plan. I consider these below.

Soundness

23. At paragraph 182 the 2012 NPPF advises that the soundness of plans is to be examined by reference to four criteria. The Plan undoubtedly meets the first of these. It has been **positively prepared** with the aim of identifying development and infrastructure requirements for the plan period, and it includes the proposed GCs which are intended to make a substantial contribution to meeting those requirements, both in the plan period and beyond.
24. When considering whether or not the Plan is **justified** – that is, whether it is the most appropriate strategy when considered against the reasonable alternatives – the principal evidence base document before me is the Sustainability Appraisal [SA]. I therefore consider the SA in detail below.
25. The NEAs' purpose in producing the Section 1 Plan was to work across local authority boundaries in order to meet strategic priorities. The key question in deciding whether or not the Plan is **effective**, therefore, is whether it is deliverable.
26. There was some discussion at the hearing sessions about the meaning of the word "deliverable" in this context, and I was assisted by further representations, including legal submissions, on the point. In my view the straightforward meaning of the word, ie "able to be delivered", is to be preferred⁴⁸. But that then raises the question of what it is that must be able to be delivered.
27. The relevant sentence of NPPF paragraph 182 says that the plan should be deliverable. It seems to me that, in this context, the term "the plan" has to be taken to include the policies and proposals in the plan. It would not make sense only to require that the plan document itself is deliverable, if the policies and proposals it contains are not.
28. The sentence also includes the qualification "over [the plan's] period". It was suggested that this means that I need not consider whether the GC proposals in the Plan are deliverable beyond the end date of the Plan in 2033. But, as will be seen when I consider the SA below, the advantage which the SA identifies for the Plan's strategy is that "it provides clear direction for strategic development over many decades to come". In my

⁴⁸ The definition of deliverable sites at footnote 11 in the 2012 NPPF is given in the context of the guidance in NPPF para 47 on the five-year housing land supply, not in the context of the para 182 test.

view, the Plan could not be considered to be sound if I were to find that the proposed GCs were justified having regard to their ability to provide for strategic development over many decades to come, but reached no finding on whether or not they were deliverable beyond 2033.

29. The 2012 NPPF advises at paragraph 177 that it is important to ensure that there is a reasonable prospect that planned infrastructure is delivered in a timely fashion. The Plan's policies include a comprehensive set of infrastructure requirements for the GCs, which (in accordance with national policy) appropriately reflect the garden city principles that underpin them⁴⁹. In considering whether the GCs are deliverable, therefore, it is also necessary to take into account whether or not the infrastructure necessary to support them is deliverable.
30. Below I consider in detail the deliverability of the necessary supporting infrastructure and of the proposed GCs themselves.
31. The NPPF's fourth soundness criterion is that the Plan is **consistent with national policy**, that is, it enables the delivery of sustainable development in accordance with the NPPF's policies. I consider whether or not the Plan meets this criterion in my overall conclusions on soundness.
32. In considering the soundness of the Plan it is also necessary to review, in the light of current circumstances, the conclusions I reached in IED/011 on the housing requirement figures in the Plan. I deal with that matter first.

The housing requirement figures in the Plan

33. By virtue of the transitional provisions referred to at paragraph 15 above, the guidance on determining housing need at paragraph 60 of the 2019 NPPF does not apply to the Plan: instead the assessment of housing need was appropriately carried out based on guidance in the 2012 NPPF and the corresponding PPG. In IED/011 I concluded that the housing requirement figures for each of the NEAs, as set out in submitted policy SP3, represent their respective objectively-assessed housing needs, and accordingly that the Plan's housing requirements are soundly based.
34. NPPF paragraph 158 requires plans to be based on up-to-date evidence. Given the time that has elapsed since June 2018, it is therefore necessary to consider whether there has been a meaningful change in the situation regarding housing need⁵⁰ in North Essex, which would justify a reconsideration of the Plan's housing requirements.

⁴⁹ See paras 12-13 above.

⁵⁰ See PPG ID Ref 2a-016-20150227

35. Factors that might indicate a meaningful change in housing need include population and household projections and employment forecasts published since June 2018, and any changes in market signals.

Population and household projections

36. The official 2016-based household projections, published in September 2018, show higher household growth for Colchester borough and Tendring district over the 2013-37 period than the corresponding 2014-based projections. However, for Braintree district they show the opposite, such that the additional growth in Colchester is effectively matched by lower growth in Braintree. Since Braintree and Colchester are part of the same housing market area, redistribution of household growth from one to the other does not constitute a meaningful change in housing need overall.
37. For Tendring district the evidence from recent population and household projections has to be considered in the context of my finding in IED/011 that the NEAs were justified in not using official household projections as the basis for assessing housing need in the district. My full reasons for reaching that finding are given in IED/011, but to summarise briefly, Tendring has one of the highest rates of Unattributable Population Change [UPC]⁵¹ in the country. The evidence before me in June 2018 showed that this was due in substantial part to errors in the migration trend rates used to produce the official population projections, and that it was highly likely that those errors were continuing to distort the official household projections for Tendring, to the extent that the NEAs were justified in using a different basis for assessing future housing need.
38. The official 2016-based sub-national population projections [SNPP] were before me when I considered the issue of UPC in Tendring in IED/011. They form the basis for the 2016-based household projections. Consequently, the publication of the 2016-based household projections does not alter my conclusions on that issue.
39. Since June 2018 the official 2017 and 2018 mid-year population estimates [MYE] have also been published. The fact that the 2018 MYE figure for Tendring closely matches the 2018 population predicted by the 2016-based SNPP is in itself no indication of a meaningful change in the housing situation, since both are informed by the same migration trend rates. I note that the Quality Indicators published alongside the MYEs estimate that there is a relatively low proportion of hard-to-estimate groups (including internal migrants) in Tendring. However, I have seen no evidence that

⁵¹ UPC is the term for the unexplained difference between the population change between 2001 and 2011 as estimated by the Censuses in those years, and the population change over the same period as predicted by official projections.

since June 2018 the Office for National Statistics has addressed the specific errors in migration trend rates that gave rise to a substantial part of the exceptional UPC for Tendring.

40. The increasing proportion of older people in the North Essex population may affect the type of housing that needs to be provided, but has no impact on the overall number of dwellings required, as it is accounted for in the population and household projections. Policies on housing type are a matter for the Section 2 Plans.

Employment forecasts

41. In calculating objectively-assessed housing needs, account was taken of two 2016 economic forecasts of job growth and associated dwelling requirements over the Plan period. The housing requirements for Braintree and Colchester meet the higher of the dwelling requirements from those two forecasts, from the East of England Forecasting Model [EEFM]. A bespoke economic forecast for Tendring similarly showed that its housing requirement would meet future labour demand in full. As a result, in IED/011 I found that economic growth in North Essex would not be hampered by any lack of housing.
42. Since June 2018 a more recent, 2017 forecast from the EEFM has been published. Compared with the 2016 forecast, it shows a reduction of 96 dwellings per annum [dpa] in the dwelling requirements for Braintree, and an increase of 202dpa for Colchester. For Tendring there is no significant change. On the face of it, these results might appear to indicate a potential increase in housing need for North Essex as a whole.
43. However, whereas the 2016 EEFM forecast for Colchester predicted growth of 928 jobs per annum and a corresponding dwelling requirement of 920dpa, in EEFM's 2017 forecast the jobs per annum figure fell to 724 while the dwelling requirement increased to 1,122dpa. This is a dramatic and apparently anomalous change from EEFM's 2016 figures, and it diverges to an even greater extent from the 2016 forecast by Experian (1,109 jobs per annum, 866dpa).
44. Since I was given no explanation for this apparent anomaly, I consider that substantially less weight should be given to EEFM's 2017 forecast than to the two 2016 forecasts, when assessing housing need. In my experience, economic forecasts can show significant variations from one year to the next, and without corroboration it would be unwise to place reliance on a single set of results. Consequently, I find that the EEFM 2017 forecast does not indicate a need to increase the Plan's housing requirements in order to meet labour demand.

Market signals

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

Conclusion on the housing requirement figures

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

Habitats Regulations Assessment [HRA]

48. In IED/011 I referred to a judgment of the Court of Justice of the European Union [CJEU]⁵² and indicated that the NEAs would need to ensure that the HRA report on the pre-submission Plan was consistent with that judgment. In response, the NEAs commissioned Land Use Consultants [LUC] to produce an updated HRA report on the Plan [EB/083]. The updated report takes account of recent caselaw including the judgment I referred to. It concludes:

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

Natural England concur with this conclusion.

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

49. The NEAs consider that the Habitats Regulations⁵³ do not require an assessment of future growth beyond the Plan period. Nonetheless, both they and LUC made it clear that EB/083 does in fact take account of the implications for European sites of the development beyond 2033 that is proposed in the Plan – ie, future growth at the proposed GCs. In my view that is appropriate, since the Plan's policies envisage that development of the GCs will occur both within the Plan period and for a long period beyond. However, some references in the report appear to indicate that it considers impacts within the Plan period only. The NEAs and LUC should review those references so that the report is consistent on this point.
50. EB/083 follows a sound methodology, beginning with a screening stage to assess the likelihood of significant effects on European sites by the Plan's proposals (alone or in combination). This is followed by an Appropriate Assessment in which any likely significant effects are assessed, in the light of avoidance and mitigation measures, in order to determine whether or not they would result in an adverse effect on the integrity of any European site.
51. I consider that it is reasonable for EB/083 to conclude that main modifications to Plan policies SP5, SP7, SP8, SP9 and SP10, requiring adequate waste water treatment capacity to be provided before dwellings are occupied, will ensure that no adverse impact on any European site will occur as a result of changes in water quality.
52. It is also reasonable for EB/083 to conclude that any adverse impacts arising from loss of offsite habitat⁵⁴ for wintering birds will be avoided provided that mitigation safeguards are incorporated into the Plan through a main modification to policy SP8. Those safeguards include requirements for surveys of the broad location of the Tendring / Colchester Borders GC to identify whether it provides any functionally-linked offsite habitat for relevant bird species, and if necessary, phasing of development and provision of alternative offsite habitat to offset any loss resulting from development.
53. The size of the broad location means that there is no real doubt that alternative habitat could be provided on site, through the DPD and master-planning processes, if it were found to be necessary. Accordingly, it is not necessary for the surveys to take place before the Plan itself is adopted.
54. The other cause of likely significant effects identified by EB/083 is the impact of the recreational activities of future residents on European sites

⁵³ *The Conservation of Habitats and Species Regulations 2017*

⁵⁴ "Offsite habitat" in this context means habitat that is not part of a European site but is functionally linked to it, providing ecological support for the bird populations for which the site was designated.

along the Essex coast and its estuaries. This is also a concern for other local authorities in Essex. In response, an Essex Coast Recreational avoidance and Mitigation Strategy [RAMS], initiated by Natural England, has been adopted by 11 Essex authorities. Its implementation is managed by a steering group on which Natural England is represented.

55. The RAMS, which is to be funded by a per-dwelling tariff on residential development, involves a range of measures including habitat creation, access management, information and consciousness-raising, and enforcement. EB/083 concludes that the RAMS provides a high degree of certainty that recreational pressures will not lead to adverse effects on the integrity of the European sites.
56. In my view, EB/083 has adequately assessed the likelihood of significant effects arising from recreational activities, including by identifying appropriate zones of influence based on visitor surveys. It may be that measures to control airborne activities, such as powered paragliding, are more difficult to enforce than for land- or water-based activities. But airborne activities involve relatively small numbers of people, whom it would be possible to target with information and education campaigns. Indeed I was told that such campaigns are already under way.
57. The current RAMS covers the period 2018 to 2038. However, the NEAs made it clear that they intend the RAMS approach to operate in perpetuity. Plainly, that will be essential if significant development within the zones of influence is to be able to continue beyond 2038, assuming that the Habitats Regulations (or a similar protection regime) remain in force. Funding arrangements to ensure that it occurs are proposed in the current RAMS document. I therefore see little danger that the RAMS approach will cease after 2038.
58. The RAMS includes provision for monitoring its effectiveness, which it is intended will feed back into the mitigation measures in an iterative fashion, enabling adjustments and improvements to be made in response to evidence of how successful the measures are. In my view this is a strength rather than a weakness of the RAMS approach. While there is currently no conclusive evidence that RAMS approaches elsewhere have ensured that no adverse effects on integrity have occurred, that is not because there is evidence that they have failed, but because they have not been operating long enough for definitive conclusions to be drawn.
59. Taking into account the mitigation measures, which as well as the RAMS include the proposed modifications to the Plan's policies, the NEAs are satisfied that there is sufficient certainty that the Plan would not adversely affect the integrity of any European site, alone or in combination. In the

light of all the above points, I consider that they are justified in taking that view.

Justification for the proposed GCs

Sustainability Appraisal

Background

60. In IED/011 I identified a number of shortcomings in the June 2017 SA of the Plan carried out by Essex County Council [ECC]'s Place Services [SD/001], and made a number of specific suggestions as to how those shortcomings might be rectified. In response, the NEAs commissioned external consultants LUC to carry out an Additional Sustainability Appraisal of the Plan [SD/001b, hereafter "the ASA"], which was completed in July 2019.
61. The ASA does not replace the June 2017 SA in its entirety: its purpose is to address my concerns about the approach of that earlier SA document to the assessment of alternative GC options and of alternative spatial strategies. Accordingly, the ASA replaces Appendix 1 of the June 2017 SA, which deals specifically with these matters, and provides further appraisal information relevant to chapters 4 to 7 of the June 2017 SA. In this letter I focus on the ASA, as it is specifically intended to redress the shortcomings I had previously identified.
62. The ASA has a two-stage methodology, which closely follows my suggestions in IED/011. In Stage 1, LUC appraise alternative strategic sites that could form part of the Plan's spatial strategy. In Stage 2, they appraise a range of alternative spatial strategies, including various combinations of the strategic sites that survive the Stage 1 appraisal. The NEAs themselves decided which strategic sites were taken forward from Stage 1, and which spatial strategic alternatives were to be appraised at Stage 2, giving their reasons in Appendix 6. In Appendix 8 the NEAs give their reasons for preferring the spatial strategy in the submitted Plan to any of the alternative strategies.

National policy and guidance

63. Paragraph 165 of the 2012 NPPF advises that:

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

64. The PPG defines the role of SA as:

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

This process is an opportunity to consider ways by which the plan can contribute to improvements in environmental, social and economic conditions, as well as a means of identifying and mitigating any potential adverse effects that the plan might otherwise have. By doing so, it can help make sure that the proposals in the plan are the most appropriate given the reasonable alternatives⁵⁵.

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

Issues to be considered

66. In my view the NEAs have met the relevant statutory requirements for consultation on and submission of the SA and ASA reports. In assessing the likely significant effects on the environment of the GC proposals in the Plan and of the reasonable alternatives to them which it identifies, the ASA deals with all the relevant issues identified in Schedule 2 of the SEA Regulations. In combination with the June 2017 SA, it also meets the Schedule 2 requirements to identify the measures envisaged to prevent, reduce and as fully as possible offset any significant effects on the environment of implementing the Plan, to describe the monitoring measures envisaged, and to provide a non-technical summary.
67. The principal issues that require further consideration are:
- whether reasonable alternatives for the Stage 1 and Stage 2 assessments were properly identified, so that no reasonable alternative was excluded from the assessments;
 - whether adequate reasons were given following the Stage 1 assessment for the selection of alternative strategic sites and alternative spatial strategies to be assessed at Stage 2, and for the rejection of other alternatives;
 - whether the assessment, at both Stage 1 and Stage 2, of the likely effects (including cumulative effects) of the Plan's proposals and of the reasonable alternatives were carried out at the same level of detail, and in sufficient depth to enable a proper evaluation to be made;

⁵⁵ PPG ID Ref 11-001-20140306

- whether the ASA, together with the June 2017 SA, helps to demonstrate that the proposals in the Plan are the most appropriate, given the reasonable alternatives.

Were reasonable alternatives properly identified?

68. Reg 12(2)(b) of the SEA Regulations makes it clear that it requires assessment of the likely significant effects of reasonable alternatives taking into account the objectives of the plan. From what is said in the Section 1 Plan about its purpose⁵⁶, it does not have the objective of providing an overarching strategy to govern the distribution of all development across the North Essex area. Consistent with this is the fact that the shared Section 1 Plan has not been prepared as a joint development plan document under section 28 of the 2004 Act, as one would expect if it were intended to have the role of a joint spatial strategy.
69. The limited role of the Section 1 Plan is explained further in paragraphs 3.1-3.2 of the reasoned justification to policy SP2 (Spatial Strategy for North Essex):
- New homes, jobs, retail and leisure facilities serviced by new and upgraded infrastructure will be accommodated as part of existing settlements according to their scale, sustainability and role, and by the creation of strategic scale new settlements. ... For the majority of settlements these issues are addressed in the second part of the Local Plan dealing with each authority's area.
70. Against this background, in my view it is legitimate for the ASA to confine itself to assessing reasonable options for providing the amount of development which the Section 1 Plan expects the GCs to deliver in the plan period. Policy SP2 makes it clear that this is at least 7,500 dwellings, together with employment development and necessary infrastructure and facilities. That is the relevant objective which the Plan sets for itself. The Plan does not seek to provide, or to set out a strategy for the provision of, all the development needed across the North Essex area. Apart from the GC development proposed in the Plan itself, those tasks are left to the Section 2 plans.
71. Similarly, it is legitimate for the ASA to identify, as reasonable options for the Stage 1 assessment, only strategic sites capable of delivering at least 2,000 dwellings. The relevant Section 1 Plan objective in this context is to identify key strategic growth locations. It is not to identify every possible location for development across North Essex. Given that the largest of the sites proposed for allocation in the Section 2 plans would comprise around 1,700 dwellings, the decision to set a 2,000-dwelling capacity as the cut-off

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

point between strategic and other sites was in my view a reasonable planning judgment, appropriately reflecting the respective roles of the Section 1 and Section 2 plans.

72. 23 alternative strategic sites (including the three GC sites in the Plan) were assessed during the Stage 1 assessment, and most of them were assessed at a range of different sizes. They made up an impressively comprehensive list, and I find no evidence that any strategic site that could have been a reasonable alternative was excluded from it.
73. I consider whether or not reasonable alternatives for the Stage 2 assessment were properly identified as part of the next issue.

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

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

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

77. For each of the discounted sites, Table 2 then sets out the NEAs' reasons for not taking it forward into Stage 2. These include concerns about

highway capacity and availability of infrastructure and services, impact on landscape character, relationship to existing settlements, and deliverability. It may be that others would have made different planning judgments on some of these points, but nothing I have heard or read indicates that any of the judgments made by the NEAs was unreasonable or irrational.

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

78. The NEAs' selection of **alternative spatial strategies** to be assessed at Stage 2 was informed by a series of seven principles which they devised in the light of discussions with stakeholders and of my comments in IED/011. As the NEAs correctly note, attempting to assess every possible combination of every site taken forward into Stage 2 would be an unmanageable task. Devising principles to inform the selection of alternative spatial strategies is, therefore, a reasonable way to proceed, providing of course that the principles themselves are sound.
79. Five of the seven principles are that the alternative strategies should be coherent and logical, and reasonable, that they should test the alternative spatial approaches suggested by me in IED/011, that they should deliver social infrastructure, and that any strategic site included in them should deliver a minimum of 2,000 dwellings in the plan period. In my view, and taking into account my comments above on the reasonableness of the 2,000-dwelling threshold for alternative strategic sites, these principles are sound ones.
80. Principle 1 is entitled "Meet the residual housing need within the plan period". Residual housing need is the gap between the Plan's overall housing requirement for North Essex (43,720 dwellings) and the number of dwellings completed, committed, and planned for in the NEAs' Section 2 Plans. Self-evidently, it is a sound principle that this need should be met.
81. When the Plan was submitted in 2017, residual housing need across North Essex was around 4,700 dwellings. The 7,500 dwellings proposed at the GCs would therefore mean that housing supply over the Plan period would exceed the requirement by about 2,800 dwellings, or around 6% of the overall requirement.
82. By the time the ASA was published in July 2019, residual housing need had been reduced to around 2,000 dwellings⁵⁷, meaning that the 7,500 dwellings proposed at the GCs would generate a surplus in supply of about 5,500, or around 13% above the overall requirement.

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

83. Despite this, the NEAs still believe it is right to test spatial strategy alternatives with the potential to deliver 7,500 dwellings in the remainder of the Plan period to 2033. In Appendix 6, they justify this by saying that delivery of 7,500 dwellings on strategic sites would provide "a healthy level of over-allocation", thereby ensuring that the Plan's housing requirement would be met even if some of the sites allocated in the Section 2 plans fail to come forward.
84. No evidence appears to have been provided at the time to show why 7,500 dwellings, rather than some lower figure, would produce an appropriate level of over-allocation. Moreover, the latest evidence from the NEAs is that, excluding any dwellings proposed in the Section 1 Plan, there is no longer any residual housing requirement for the Plan period⁵⁸. On that basis, the addition of the 7,500 dwellings sought under Principle 1 of the ASA would represent an over-allocation of around 18%, not 13% as was the case when ASA Appendix 6 was drawn up.
85. The ASA's authors cannot be criticised for proceeding on the basis of the figures that were current at the time when it was produced. And, in my view, it is reasonable for the Plan to identify more land than may be needed to meet the NEAs' housing requirements, to help ensure that the requirements are met in the event that some of the expected provision does not come forward. The scale of any such over-allocation is a matter of planning judgment. An over-allocation of 18% against the Plan's overall housing requirement for the period would provide an even healthier level of reassurance than one of 13%. Consequently, I see no reason to find that the ASA is unsound in seeking alternative spatial strategies to deliver at least 7,500 dwellings over the Plan period.
86. Principle 3 is entitled "Reflect relative housing and commuting patterns in any alternative strategy". In explaining the principle, the NEAs say that housing need is greater in the western part of North Essex (the area west of Colchester) than in the eastern part. That is generally borne out by the respective housing requirements of the three NEAs, and by the breakdown of residual housing need across the three NEAs at the time when Appendix 6 was prepared. Differences in commuting relationships⁵⁹ and transport links between the areas to the west and east of Colchester also justify considering the two areas separately.
87. It is logical, therefore, that in accordance with Principle 3 alternative strategies were selected to deliver a greater proportion of housing to the

⁵⁸ See the NEAs' Matter 8 Further Hearing Statement, December 2019, Table 1b. In fact the figures in the table show a small surplus of 377 dwellings.

⁵⁹ See EB/018, pp9-11.

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

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

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

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

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

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

at different scales. In other words, each site was assumed to provide education, community, health and retail facilities, employment space and public transport services in proportion to its size.

94. In assessing what is likely to be provided, account was taken of site-specific information drafted by the NEAs and confirmed with the site promoters and with CAUSE⁶⁰. The Stage 1 assessments in turn informed the assessment of the alternative strategic sites at Stage 2. Provision of rapid transit services was excluded from the Stage 1c assessment, but was taken into account for the relevant spatial strategy alternatives at Stage 2.
95. The ASA was criticised for taking at face value the site-specific information on the forms drafted by the NEAs. But a great deal of additional work would have been required to interrogate that information, for example to ascertain whether or not each of the alternative sites is financially capable of delivering all the facilities attributed to it. Such detailed scrutiny is appropriate when assessing the soundness of a preferred option, but would have been disproportionate at this stage of the SA process. Asking the site promoters and CAUSE to confirm the information drafted by the NEAs ensured that sufficient information for Stage 1c was provided, on an equivalent basis for each site.
96. A broader criticism of the Stage 1 ASA was that its proximity-based approach is too crude, and so fails to make a proper assessment of each alternative site's accessibility to facilities and services, and of its environmental impacts. It is true that at Stage 1a more detailed assessment could have differentiated the quality of facilities and services accessible from each site, for example, the range of employment opportunities or the frequency of public transport. However, that would have made little difference to the outcome of the assessment, since no sites were excluded at Stage 1a. At Stage 1c the provision of facilities and services as part of the development of each site was more decisive in the appraisal of accessibility than proximity to existing facilities.
97. In assessing environmental impacts, however, in most cases a similar (albeit not necessarily identical) proximity-based approach to that used at Stage 1a was employed at Stage 1c. For example, effects on heritage assets are assessed based on whether 5% or more of each site lies within a certain distance of a designated heritage asset. In fact, every site assessed at Stage 1c is deemed to have a "significant negative effect with uncertainty", reflecting the fact that all of them lie within 500m of at least one designated heritage asset.

⁶⁰ CAUSE are a group with an alternative Local Plan strategy, known as Metro Town.

98. The ASA's approach was criticised by, among others, Historic England, who argue that the lack of detailed evidence on the likely effects of the alternative strategic sites on the **historic environment** has led to over-simplification and inadequate differentiation between them. They consider that a high-level Heritage Impact Assessment [HIA] of each site should have been undertaken to inform the ASA. In the absence of adequate assessment, Historic England say, there can be no confidence that the GC sites proposed in the Plan are capable of accommodating the proposed number of dwellings without adversely impacting on the historic environment.
99. Historic England also draw attention to the facts that the ASA does not identify (or fully identify) some of the designated heritage assets in and around the proposed GC sites, does not consider the effects of alternative sites on non-designated heritage assets, and uses a distance-based approach contrary to Historic England's published advice⁶¹.
100. There can be little doubt that a more detailed assessment of the likely effects of the alternative strategic sites on the historic environment would have enabled the ASA to differentiate more clearly between them. But I am not persuaded that the absence of such assessment is a fatal defect in the ASA. This is mainly because the Section 1 Plan does not make specific site allocations for the proposed GCs: instead it identifies broad locations, within which it is intended that the Strategic Growth DPDs will identify specific locations for development. In this context, it appears to me that Historic England's advice on site allocations is more applicable to the future DPDs than to the Section 1 Plan.
101. In taking a proximity-based approach to impacts on heritage assets, the ASA is consistent with the approach it takes to other environmental impacts. Were it to use more detailed evidence to assess impacts on one type of environmental asset, but not the others, this could run the risk of unbalancing the overall assessment. It is unfortunate that the ASA does not identify all the designated heritage assets potentially affected. But had it done so, it is highly unlikely that the outcome of the Stage 1 assessment would have been any different, since all the alternative sites (and indeed all the spatial strategy options assessed at Stage 2) are already deemed to have significant negative effects, with uncertainty, on heritage assets.
102. That said, I share Historic England's concern that, without a detailed Heritage Impact Assessment, there can be no certainty that any of the GCs proposed in the Plan are capable of accommodating the amount of development which the Plan attributes to them, without unacceptable

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

adverse impacts on the historic environment. Given the size of the broad locations proposed for the GCs, I consider it is reasonable at this stage to assume for the purposes of the ASA that they are capable of doing so. But appropriate policy safeguards need to be included in the Plan in the event that, in future, evidence shows this not to be the case. This could be achieved by main modifications to the relevant Plan policies.

103. On the face of it, it appears surprising that the ASA finds only uncertain minor negative effects on **air quality** for some of the strategic site alternatives, and no significant effects for the majority of the spatial strategy alternatives. However, the ASA advises that without traffic modelling of each strategic site alternative, its assessment needs to be treated with a great deal of caution.
104. While I acknowledge the severe effects of air pollution on human health, I am also mindful of the need for a proportionate approach to gathering evidence for SA⁶². It would be disproportionate to require traffic modelling of each of the 23 strategic site alternatives, and all 17 alternative spatial strategies, when only three strategic sites are actually proposed in the Plan.
105. The ASA appropriately acknowledges the difficulties in compiling the information needed to assess impacts on air quality. Any differences it finds between the alternatives on this issue are so small as to make it highly unlikely that they affect the overall outcome of the assessment. For these reasons I consider that the ASA's approach to the issue is adequate at this stage.
106. The ASA finds no significant effects on **water quality** in respect of any of the strategic sites assessed, while acknowledging a degree of uncertainty given that not all scales of growth for all the sites have been covered in the Water Cycle Studies and because specific waste water infrastructure requirements will only be finalised at planning application stage. Those are reasonable findings at this stage of planning, taking into account that, with main modifications, Plan policies are capable of requiring adequate water supply and waste water treatment capacity to be provided before any dwellings are occupied.
107. At Appendix 5, paragraph 3.1173, the ASA says that the potential **noise effects** from Stansted airport flight-paths on future residents of the proposed West of Braintree GC are judged to be negligible. However, based on the assessment of the potential effects of operations at the adjacent Andrewsfield airfield, the Stage 1c scoring chart for the West of Braintree GC site [NEAGC1] shows an overall "uncertain minor negative effect" score against the noise nuisance criterion.

⁶² See PPG Ref ID 11-009-20140306

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

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

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

113. In Appendix 8 to the ASA the NEAs set out their reasons for proceeding with the spatial strategy in the submitted Plan, that is to say, the three proposed GCs, rather than any of the alternatives. They say that

a number of sites and spatial strategy options perform similarly against the sustainability objectives, but nothing arises from the [ASA] to suggest that the spatial strategy in the submitted Plan is wrong or that there are any obviously stronger-performing alternatives ...

114. To the west of Colchester, the NEAs say, the proposed West of Braintree and Colchester / Braintree Borders GCs have the genuine advantages of providing for long-term strategic growth. West of Braintree has direct access to the A120 and the proposed rapid transit system [RTS], and is well-located to Stansted airport which is a centre of employment and provides opportunities for new business growth. Colchester / Braintree Borders is close to Marks Tey station which has regular services to London, Colchester and beyond, is well located at the intersection of the A12 and A120 with good opportunities for integration with other transport modes, including the RTS, and has opportunities for sustainable travel into Colchester which is a regional centre for employment and has major health, shopping and cultural facilities.

115. To the east of Colchester, the NEAs consider that the Tendring / Colchester Borders GC offers benefits to Colchester and Tendring in terms of housing delivery, improved accessibility through rapid transit and the A120/A133 link road, and unlocking the economic potential for expansion of the University of Essex and the Knowledge Gateway.

116. It is clear from this that, apart from any specific locational advantages, many of the benefits which the NEAs ascribe to the proposed GCs depend on the delivery of strategic transport infrastructure, for example the RTS and the A120/A133 link road. Similarly, the advantages which the proposed GCs offer in providing for long-term strategic growth would only be realised if the GCs are actually capable of being delivered over the long term. Accordingly, deliverability is critical to the justification of the Plan's spatial strategy, including the proposed GCs. I consider the issue of deliverability in the next section.

Deliverability of the proposed GCs

Infrastructure needed to support the proposed GCs

Trunk road improvements

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

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

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

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

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

119. The publication of RIS2 and the Spring 2020 budget mean that it is now reasonable to assume that the A12 widening scheme will go ahead, including the realignment between junctions 24 and 25, with a good prospect of completion by Highways England's expected date of 2028.

120. On the other hand, notwithstanding its inclusion in the RIS3 pipeline, there is still no certainty on whether or not the A120 dualling scheme will go ahead. However, the fact that it would support development at two of the three proposed GCs, and that contributions towards it are expected from the GC developers, are strong factors in its favour. If funding for the scheme is confirmed, there is a good prospect that it will also be completed by 2028.
121. The implications for the two GCs to the west of Colchester are as follows.
122. Both Highways England and ECC consider that completion of the A120 dualling scheme is necessary to support the full build-out of 10,000 dwellings at the West of Braintree GC⁶³. However, partial build-out in advance of the A120 scheme could be achieved without severe detriment to the road network, when account is taken of other committed road improvements, including those to M11 junction 8, the A131 between Braintree and Chelmsford, and the A120 / B1018 junction at Braintree.
123. At the Matter 6 hearing session, the NEAs' representative indicated that at least 2,000 dwellings could come forward at the West of Braintree GC in advance of the A120 scheme, but that the scheme would become necessary at some point between the completion of 2,000 and 10,000 dwellings. I do not read ECC's application to the National Productivity Investment Fund for funding for road improvements at Braintree as contradicting that view.
124. Promoters of the West of Braintree GC contend on the basis of census data that only a small proportion of journey-to-work trips to and from the West of Braintree GC would use the A120 to the east of Braintree, and consequently that the feasibility and deliverability of the GC does not rely on delivery of the A120 dualling scheme. However, in the absence of detailed modelling to support that conclusion, I give more weight to the views of Highways England and the local highway authority.
125. Taking into account likely future improvements to M11 junction 8, I see no reason to consider that development at the proposed West of Braintree GC would be constrained by capacity issues on the A120 to the west.
126. Turning to the Colchester / Braintree Borders GC, there is no substantial evidence to contradict the NEAs' position that completion of both the A12 widening scheme, including one of the alternative route options between

⁶³ While submitted Plan policies SP7 & SP10 propose an overall total of between 7,000 and 10,000 dwellings, the NEAs' viability appraisal assumes a total of 10,000.

junctions 24 and 25, and of the A120 dualling scheme are needed to support the full build-out of 21,000 dwellings at the GC⁶⁴.

127. Consequently, notwithstanding the decision to proceed with the A12 widening as part of RIS2, full build-out of the Colchester / Braintree Borders GC is dependent on confirmation of funding for the A120 scheme.
128. The promoters of the Colchester / Braintree Borders GC say that their technical evidence demonstrates that it would be possible to build up to about 2,500 dwellings without the need for either the A12 widening or the A120 dualling scheme. However, a 2,500-dwelling development at Colchester / Braintree Borders would be very different from the GC proposal in the Plan. If funding for the A120 scheme were to be confirmed, it might in principle be appropriate to allow some development to proceed before the A12 and A120 schemes are complete. But for the reasons given in paragraphs 28 and 116 above, it would be entirely inappropriate to find that the proposed GC is deliverable if the available infrastructure would allow only a small fraction of it to be built.

A120-A133 link road

129. ECC have secured £65 million [M] from the Housing Infrastructure Fund [HIF] to build a dual-carriageway link road between the A120 and A133 to the east of Colchester⁶⁵. The cost breakdown provided by ECC [in EXD/082] indicates that £65M would cover all the costs of the road and would include a contingency allowance of around 21%. Other participants provided alternative costings, but I have no reason to consider that the figures prepared by the local highway authority, ECC, which were subject to scrutiny through the HIF bid process, are unreasonable. Having said that, a contingency allowance of 21% appears low at this stage of planning, especially when compared with the 44% contingency allowance which ECC considered appropriate for the RTS (see below).
130. ECC undertook consultation on route options in Autumn 2019. Each route option is located towards the eastern edge of the broad location for the proposed Tendring / Colchester Borders GC. They vary in the extent to which they impinge on the potential development areas within the broad location. While at least one of the options appears likely to have a significant severance effect within the broad location, the range of options available means that there is the opportunity to minimise any such effect. However, it will also be important to ensure that there is adequate access,

⁶⁴ Full build-out at Colchester / Braintree Borders is now considered by the NEAs to comprise 21,000 dwellings, and viability appraisal has been carried out on that basis, notwithstanding that submitted Plan policies SP7 & SP9 propose a total of between 15,000 and 24,000 dwellings.

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

including for pedestrians and cyclists, from the proposed GC across the link road into the countryside to the east. It is unclear to what extent that requirement has been taken into account in the costings.

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

Rapid transit system

132. Plan policy SP7 requires the new communities to be planned around a "step change" in integrated and sustainable transport systems. To fulfil that requirement, it is necessary for it to be shown that high-quality public transport services linking each of the proposed GCs to key destinations are capable of being provided. Without that, the GCs would not comply with NPPF's advice that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice over how they travel⁶⁶. Moreover, in order to meet that advice and the Plan's policy aspirations, the service must be available from early on in the life of the GCs, both to provide transport for residents without a car, and to influence the travel choices of residents with cars.
133. The NEAs' intention is that the RTS will be the primary public transport service for the proposed GCs. Since June 2018 planning for the RTS has continued, and in July 2019 ECC and their consultants published their report *Rapid Transit System For North Essex – From vision to plan* [EB/079] [hereafter, "Vision to Plan"]. The report firms up a number of issues that had been left open in the previous RTS report⁶⁷ which I considered in 2018:
- For the foreseeable future, the RTS will use high-quality buses. The options of using trams or guided buses have been discarded. The possibility of trackless trams (a technology currently on trial in China) being used at an undefined point in the future is contemplated, but the Plan does not rely on this.

⁶⁶ 2012 NPPF, para 29

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

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

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

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

136. I agree with that analysis. Even in the higher-investment scenario, it is by no means clear that the forecast end-to-end journey times for the RTS routes would offer any significant advantage over car journey times in current peak traffic conditions, while in current off-peak conditions the car would almost certainly be quicker for many journeys. In the lower-investment scenario, it is likely that the RTS would be considerably slower

than the car for most if not all journeys, at all times of day. In this context, I consider that only in the higher-investment scenario would the RTS have any prospect of meeting Plan policy SP5's aspiration for sustainable modes of transport that can compete effectively with private vehicles, and of giving people a real choice over how they travel, as the NPPF advises.

137. Vision to Plan gives higher- and lower-bound capital costs for the higher-investment scenario, with the lower bound representing the base cost and the higher bound representing the base cost plus a 44% contingency allowance. When benchmarking the capital costs of the RTS routes against two similar schemes elsewhere, Vision to Plan used the midpoint between the lower and higher bounds. The corrected table in the NEAs' post-hearing note [EXD/082] indicates that, for the higher-investment scenario, those midpoint costs are comparable with the £4.6M/km out-turn costs for the Bristol Metrobus scheme, but significantly lower than the £5.5M/km out-turn costs for the Leigh-Salford busway.
138. This benchmarking exercise does not present the full picture, however, because Vision to Plan's out-turn costs for the comparator schemes do not allow for inflation since those schemes were completed, meaning that they do not provide a like-for-like comparison at current cost levels. Credible figures based on an assumed civil engineering inflation figure of 3.5% per annum produce inflation-adjusted out-turn costs of £5.3M/km for Bristol and £6.6M/km for Leigh-Salford, both substantially higher than the mid-point costs of the North Essex higher-investment scenario.
139. In hearing statements reference was made by way of comparison to other RTS schemes, including Fastrack in Kent, Fastway in Sussex and the Belfast Glider system. In some cases these indicate higher per-km costs than for the comparator schemes in Vision to Plan, and other cases lower costs. Taken as whole, these references indicate that the inflation-adjusted out-turn costs of the comparator schemes used in Vision to Plan provide a reasonable sense-check for the RTS cost estimates.
140. Moreover, the costs given for the RTS schemes do not include the cost of structures such as a bridge over the railway at the Colchester / Braintree Borders GC, or the cost of any necessary land acquisition.
141. All these points lead me to the view that the capital costs given for the RTS in Vision to Plan need to be treated with caution. At the very least, the upper-bound costs for the higher-investment scenario should be used in carrying out viability assessment. Those upper-bound costs, rather than the mid-point costs, represent a realistic comparison with the inflation-

adjusted costs of the comparator schemes used in Vision to Plan⁶⁸. Even then, it may well be that for Routes 2 and 3 they underestimate the likely capital cost of the RTS, given that they exclude the costs of structures and land acquisition, and I have no clear evidence on what proportions of the comparator scheme out-turn costs relate to structures and land acquisition.

142. Somewhat different considerations apply to Route 1, since the capital costs for that route were subject to further refinement during the preparation of ECC's HIF bid. As a result, I have a reasonable degree of confidence that the upper bound of the higher-investment scenario is likely to reflect the full capital cost of Route 1.
143. As regards **timing of provision**, Vision to Plan envisages that the RTS routes will be developed on a phased basis. That is a realistic approach, given the scale of the project and the fact that the timing of expected development varies at each GC.
144. However, although Table 5-6 in Vision to Plan indicates that RTS Route 4 will be developed between 2034 and 2051, no capital funding for Route 4 is identified in the NEAs' viability appraisals, and there is no specific evidence that it is available from other sources. Consequently, it has not been shown that Route 4 is deliverable.
145. **Commercial viability** is considered in sections 5.2 to 5.4 of Vision to Plan. Section 5.3 makes generally reasonable assumptions about operating costs, including service frequencies and leasing costs for high-quality vehicles to operate the services.
146. Section 5.2 derives revenue estimates for each route, based on demand forecasts which in turn are based on the outputs from a multi-modal transport model. It is likely that a more refined model using more up-to-date survey data would have produced more accurate results. Nonetheless, I consider that the method used has produced demand forecasts that are adequate for the purposes of demonstrating commercial viability at this stage of planning for the RTS.
147. However, I have concerns about the assumptions on the level of investment in the RTS which inform the revenue estimates. As the NEAs' response to my clarification question 3 in EXD/075 makes clear, in section 5.2 the "higher-investment" revenue forecasts for 2033 are based on an "aspirational" level of capital spending: only the "lower-investment" forecasts reflect the expected level of investment by 2033.

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

148. The NEAs go on to say in EXD/075 that “the extent of investment in Routes 1, 2 and 3 is likely to lie between those two levels”. But no clear evidence is given to support that statement. It would be imprudent to rely, for example, on the prospect of Government grant funding without specific evidence that it is likely to be forthcoming.
149. Of greater concern is that the revenue forecasts for Route 3 are based on the assumption that a significant proportion of demand will come from proposed developments in the former emerging Uttlesford Local Plan: the Easton Park GC and the part of West of Braintree GC in Uttlesford district⁶⁹. For the reasons given in paragraphs 18-20 above, this is not a reliable assumption. As a result, I can have no confidence that Route 3 is deliverable.
150. In section 5.4.1, Vision to Plan makes it clear that an element of “pump-priming” should be assumed to be necessary, both to support the RTS services when they are first introduced, and to subsidise traditional bus services at the very early stage of GC development. Although a modest annual allowance is made for “investment in early phase public transport” in the NEAs’ viability appraisals for each of the GCs, I have seen no clear evidence that it is sufficient to meet those purposes.
151. Drawing all these points together, I find that there is sufficient evidence to demonstrate that construction of the RTS is physically feasible. However, it has not been demonstrated that Routes 3 and 4 are deliverable in financial terms. It may well be that even the upper-bound estimates in Vision to Plan’s higher-investment scenario underestimate the likely capital costs of Routes 2, 3 and 4, and there is some uncertainty over the revenue forecasts for Routes 1 and 2. There is no clear evidence to show that the NEAs’ viability appraisals make adequate provision for “pump-priming”.
152. I consider the consequences of these findings in the section on viability below.

Marks Tey station

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

⁶⁹ See EXD/089.

Water supply and waste water infrastructure

154. The North Essex Integrated Water Management Strategy follows a staged approach to planning for water supply and waste water treatment for the proposed GCs. The existing Stage 1 identifies a series of options, which would then be refined in Stage 2 to determine specific solutions for each GC. This is a conventional approach and I see no reason to consider that it is inappropriate here.
155. In a statement of common ground, the NEAs, Anglian Water and the Environment Agency agree that modifications to Plan policies are needed to require the necessary water supply and waste water treatment capacity to be provided before any dwellings are occupied at the proposed GCs. However, in order to show that the proposed GCs are deliverable, it is also necessary to establish whether or not that provision is capable of being funded.
156. There are statutory responsibilities on the water supply companies (Anglian Water and Affinity Water) to plan to meet future growth in demand, and on Anglian Water to provide waste water treatment capacity. Allocations are made in the NEAs' viability assessment to fund connecting infrastructure at each of the proposed GCs. However, those allocations are inevitably subject to a degree of uncertainty given that specific solutions have yet to be identified. I consider the consequences of this in the section on viability below.

Deliverability of the proposed GCs

Housing build-out rates

157. In IED/011 I reviewed the evidence then before me on housing build-out rates and concluded that, while it is not impossible that one or more of the GCs could deliver at rates of around 300 dwellings per annum [dpa], it would be more prudent to plan, and carry out viability appraisal, on the basis of an annual average of 250dpa.
158. The NEAs subsequently prepared the topic paper *Build out rates in the Garden Communities*, July 2019 [EB/082], which concludes that adopting that 250dpa figure would be overly cautious based on the evidence available and the context and attributes of the Garden Communities themselves. In the NEAs' view, what they regard as an achievable, albeit conservative, build-out rate of 300dpa is appropriate for the purposes of modelling, although they consider that this figure could be substantially increased over time.

159. From the literature review of other reports on build-out rates, EB/082 identifies a number of factors which promote higher delivery rates. These include the size of the development (bigger sites tend to achieve higher delivery rates), the ability to diversify the type, size and tenure of the dwellings provided, and the strength of the local housing market. I agree that all these factors would tend to promote higher delivery rates at the proposed GCs.
160. An important section of EB/082 focusses on the NLP report *Start to Finish* (November 2016), which I considered in IED/011. *Start to Finish* is the most comprehensive study of actual, achieved build-out rates available to me. It found that the 10 greenfield sites providing more than 2,000 dwellings that were studied delivered around 170dpa on average, with substantial variation around that mean figure.
161. EB/082 points out that the delivery periods for most of the sites studied in *Start to Finish* include the period of deep economic recession which began in 2007/08. The recession led to a steep decline in housebuilding nationally from which it took several years for significant recovery to begin. It is reasonable to infer that the average build-out rates identified in *Start to Finish* might have been affected by these events, which went well beyond the normal fluctuations of the business cycle.
162. However, NLP have carried out further analysis of build-out rates excluding the five years from 2008 to 2013, thereby effectively excluding the effects of the recession. (It is reasonable to regard fluctuations outside this exceptional period as typical of the normal business cycle.) NLP's analysis showed that the average build-out rate on the same 10 greenfield sites of 2,000 dwellings or more was 184dpa. That is still well below the 250dpa rate which I recommended in IED/011 as a prudent basis for planning, let alone the 300dpa rate which the NEAs now regard as a conservative figure.
163. NLP also analysed the pre-recession period. Only two greenfield sites of more than 2,000 dwellings were available to inform that analysis: too small a sample from which to draw any reliable conclusions. For all sites of 500 dwellings or more, however, the average pre-recession delivery rate was 116dpa, compared with 109dpa for the whole period including the recession and post-recession.
164. NLP's further analysis, therefore, demonstrates that while the recession and its aftermath had some effect on build-out rates, the effect was not that great. Average build-out rates on comparable sites increase only a little if the effects of the recession are excluded.
165. The Homes & Communities Agency [HCA] *Notes on Build out rates from Strategic Sites*, which is also referenced in EB/082, claims that "forecast

trajectories for the very largest sites (say 4,000 units+) may be in the range of 300-500[dpa]". However, the evidential basis for this claim is unclear, despite the fact that the report is based on actual build-out rates. Only one of the four developments of 4,000 dwellings or more for which average figures are given achieved an average delivery rate of more than 300dpa (in fact, 321dpa), with the other three ranging between 205dpa and 281dpa.

166. The HCA report also gives average actual build-out figures for eight developments of between 2,000 and 4,000 dwellings. According to those figures, only one of the eight achieved an average delivery rate of more than 300dpa. The next highest figure was 234dpa, while at the other end of the scale, four delivered less than 100dpa on average. Taking all this into account, I consider that the findings of the HCA report do not contradict those of the more recent NLP analysis, nor do they support an average delivery rate of 300dpa at the proposed GCs.
167. EB/082 also includes a table taken from the Letwin *Independent Review of Build Out* (June / October 2018), showing average build-out rates on 15 sites ranging between 572 and 86 dpa. However, unlike *Start to Finish*, these averages combine actual and forecast delivery rates. Examination of the detailed annual delivery figures for 12 of those 15 sites⁷⁰ shows that there are more than twice as many years for which forecast rates are given, than years for which actual build-out rates are given.
168. Three of those 12 sites are high-density brownfield developments in London, very different in character from the proposed GCs. On the other nine, there were more than twice as many years in which actual delivery levels fell below 250dpa, than years in which they exceeded 300dpa. Even after allowing for some inaccuracy in the Letwin figures, for example at the Great Kneighton site, they show that, for the relevant sites studied, build-out rates of 250dpa or less have been achieved considerably less often than rates of 300dpa or more.
169. EB/082 suggests that the three sites on the Bicester ring road which were assessed by Letwin should be viewed as phases of a single, larger development for the purposes of calculating build-out rates. But only two of those sites are close to one another: the other is on the opposite side of the town. Moreover, I have no clear evidence on the extent to which the three sites have delivered housing simultaneously, and the only one for which actual delivery figures are given by Letwin has achieved an average rate of only about 140dpa.

⁷⁰ The Letwin *Independent Review of Build Out Rates, Draft Analysis* (June 2018), pp AX38-AX49. Letwin does not provide annual delivery figures for the other three sites.

170. The two adjacent sites in Colchester referenced in EB/082 have delivered some 260-270dpa, but over a period of only two years. Examples of other developments given by other participants, including at Chelmsford, Aylesbury and Didcot, provide no clear evidence that average delivery rates of more than 250dpa can be sustained over a long period. Nor is there any robust evidence before me to demonstrate that the use of modern methods of construction significantly boosts delivery rates.
171. EB/082 draws on examples of build-out rates at other strategic-scale developments in Milton Keynes, at Otterpool Park in Kent and at Harlow and Gilston Garden Town. Most of these are expected to achieve build-out rates of 300dpa or more, and in some cases considerably more. However, almost all those figures are future projections rather than actual build-out rates. The Milton Keynes projections, which were endorsed by the Local Plan Inspector, extend only over the next 10 years, in contrast to the much longer timescales of the proposed GCs.
172. This is not to suggest that projected delivery figures on sites elsewhere should be disregarded when assessing the likely rate of delivery at the proposed GCs. But in my view they carry considerably less weight than evidence of actual achieved delivery, when considering the GCs' delivery prospects and their financial viability. It would be unwise to embark on these very long-term projects on the basis of delivery assumptions that have not been shown to be achievable in practice.
173. EB/082 draws attention to the significantly higher average housing delivery rate in Milton Keynes achieved by the Development Corporation [MKDC] from 1971 to 1992, compared with the average rate since its dissolution. But, given the very different social, economic and institutional arrangements prevailing at that time, it would be misleading to assume that the past achievements of MKDC and other development corporations would be replicated at the proposed GCs. Nor is there yet any clear evidence that the Ebbsfleet Development Corporation, established by the government in 2015, will be successful in achieving the high delivery rates projected for it.
174. In conclusion, evidence shows that some large housing sites are capable of delivering 300 dwellings or more in a single year, and in some cases for a number of years in succession. But I find that there is no evidence to support the view that the proposed GC sites are capable of delivering at that annual level consistently, throughout the normal peaks and troughs of the business cycle, over the decades that it will take to build them. Over that timescale, the best evidence on likely delivery rates at the proposed GCs remains *Start to Finish's* annual average figure (adjusted to exclude the effects of the 2007/08 recession) of under 200dpa for greenfield sites of more than 2,000 dwellings.

175. It is appropriate to adjust that figure upwards to 250dpa to take account of the fact that the GCs meet most of the factors identified in EB/082 which promote higher delivery rates. But it would be imprudent to base the Plan's housing trajectory, or the viability appraisal of the proposed GCs, on any higher figure.

Lead-in times

176. None of the evidence I have seen or heard since June 2018 leads me to alter my view, set out with reasons in IED/011, that, in general terms, it is reasonable to assume that the planning approval process would allow housing delivery at any GC to start within four or five years from the adoption date of the plan (or plan revision) which establishes the GC in principle. The NEAs' latest housing trajectory [EXD/070], which shows housing delivery at the Tendring / Colchester Borders and West of Braintree GCs beginning in 2024, is broadly consistent with this finding, albeit that the trajectory will need to be kept under review.

177. However, I advised in IED/011 that the four- to five-year timescale could alter depending on how long it takes to put the necessary infrastructure in place. In this context the NEAs' trajectory now anticipates that delivery of housing at the Colchester / Braintree Borders GC will start in 2029, after completion of the A12 widening and A120 dualling schemes (assuming the latter is included in RIS3).

Employment provision

178. Policy SP7(vi) requires that each proposed GC should provide and promote opportunities for employment within each new community and within sustainable commuting distance of it. In that context I observed in IED/011 that it is surprising that the GC policies contain no specific figures for the amount of employment land or floorspace to be provided at each of the GCs. I acknowledged the difficulty of predicting requirements for employment land and floorspace at this early stage of planning, but advised that indicative requirement figures could be set which could then be reviewed each time the Plan itself is reviewed.

179. In response, the NEAs commissioned Cebr to produce the report *Employment provision for the North Essex Garden Communities* [EB/081]. It sets out estimates of employment floorspace and employment land requirements for each GC. At my request, Cebr subsequently provided adjusted requirement figures for the West of Braintree GC that are commensurate with the GC land within Braintree district only⁷¹.

⁷¹ For the reasons given in paras 18 to 20 above

180. EB/081 forecasts employment numbers at each GC for three future dates – 2033, 2050 and at completion of construction, estimates the breakdown of those numbers by employment sector, and then follows HCA guidance on employment densities to convert them into floorspace and finally employment land requirements. In principle this is a sound methodology, as long as the forecasts of employment numbers and the sectoral breakdown estimates are themselves sound.
181. The employment number forecasts are based on two scenarios, which produce almost identical results. In the “reference case” scenario, total employment at each GC is assumed to be exactly equal to the number of completed dwellings at each forecast date. This is a highly ambitious assumption, which exceeds both the requirements of policy SP7(ii) and the more demanding goal of the NEGC Charter’s Principle 3 to provide access to one job per household within each new GC or within a short distance by public transport.
182. The “investment case” scenario draws on work in an earlier report by Cebr, *Economic Vision and Strategy for the North Essex Sub-Region* (August 2018), commissioned by NEGC Ltd. In this scenario, the employment-to-population ratio in North Essex as a whole (including at each GC) gradually increases so that by 2036 it converges on the ratio for a set of comparator areas, and remains constant thereafter.
183. The comparator areas are all located in what Cebr describe as an “arc of prosperity” to the north, west and south-west of London. Both employment-to-population ratio and GVA per capita in North Essex are currently well below the average for the comparator areas. Cebr’s investment case scenario therefore essentially depends on the success of an ambitious economic development programme to raise North Essex’s economic performance to match that of the comparator areas.
184. Cebr’s projected employment figures for the GCs are similar to, and indeed in some cases somewhat lower than, those in the upper end of the range estimated in a report by Cambridge Econometrics and SQW: *North Essex Garden Communities Employment & Demographic Studies* [EB/009], published in April 2017. Having said that, EB/009’s upper-end estimates are based on similarly ambitious assumptions as regards economic development, and I was shown no evidence of any development programmes that have achieved that degree of improvement in economic performance.
185. Economic forecasting is notoriously difficult, and especially so over the long development timescales of the proposed GCs. The ambitions for economic growth that inform the Cebr forecasts may or may not be realised in

practice. But in my view it would be wrong, particularly at this early planning stage, to constrain the potential for achieving that level of growth by limiting the availability of employment land. Consequently, I consider that it would be appropriate to use the figures in EB/081⁷² as the basis for setting employment land requirements for the GCs in the Plan, with the proviso that the requirements for all the GCs are reviewed each time the Plan and/or the Strategic Growth DPDs are reviewed, to ensure that they continue to reflect up-to-date evidence.

186. In reaching that view I have had regard to the representations about the way in which Cebr arrived at their sectoral breakdown of the employment numbers for each GC. While in most cases the sectoral shares at the GCs reflect those for the comparator areas, there are a few apparent anomalies, most notably the 30% share for information and communication activities forecast for the Tendring / Colchester Borders GC. But any such anomalies have only a small effect on the calculation of the overall employment land requirements for each GC.

Delivery mechanisms

187. The NEAs' intention is that the Plan should be "delivery model-blind": that is to say, it should make no specific requirements about whether development of the proposed GCs is led by the public sector, the private sector, or a partnership between the two. In principle that is a sound position which allows for appropriate flexibility at this early stage of planning the GCs.

188. In IED/011 I advised that submitted Plan policy SP7 should be modified to remove the reference to "sharing risk and reward". That does not mean that I consider it would be unlawful for the public and private sectors voluntarily to enter into an arrangement in which they would share the risks and rewards of development. However, for the reasons I gave in IED/011, it would be inappropriate and potentially unlawful to make that a policy requirement.

189. The *North Essex Garden Communities Charter* envisages that Local Delivery Vehicle(s) [LDVs], accountable to the NEAs with both private and public sector representation, will be responsible for leading the delivery of the proposed GCs. Three LDVs, together with a holding company known as NEGC Ltd, have been incorporated in readiness to perform this role. Subsequently, in response to consultation on the *New Towns Act 1981 [Local Authority Oversight] Regulations*, the NEAs indicated an interest in

⁷² Subject to the West of Braintree adjustment discussed above.

the formation of a locally-led new town development corporation, overseen by the NEAs, to perform the lead role.

190. At the hearings the NEAs explained that the LDVs (or a future locally-led development corporation) are in effect being held in reserve to lead the delivery of the GCs, should it become apparent through the planning application process that the private sector is unable to do so in accordance with the Plan's policies.
191. The role of the Plan is to set out policies and criteria to guide the further planning of the proposed GCs, and to provide part of the framework against which planning applications to develop the GCs would be assessed. Provided that there is evidence that the GC proposals are justified and are capable of being delivered, it is not necessary for the Plan to specify that any particular delivery model must be followed.

Viability

National policy and guidance

192. At paragraph 173 the 2012 NPPF advises that, to ensure viability, the costs of any requirements likely to be applied to development should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing landowner and willing developer. It also cautions that the sites and scale of development in the plan should not be subject to such a scale of policy obligations and policy burdens that their ability to be developed viably is threatened.
193. The PPG on viability makes it clear that understanding Local Plan viability is critical to the overall assessment of deliverability. The plan's vision for the area should be presented in the context of local economic conditions and market realities. This should not undermine ambition for high-quality design and wider social and environmental benefit, but such ambition should be tested against the realistic likelihood of delivery. Viability assessment should not compromise the quality of development but should ensure that the vision and policies are realistic and provide high-level assurance that plan policies are viable⁷³.
194. As has been seen in the foregoing sections, the GC proposals in the Plan are predicated on their meeting policy requirements which reflect garden city principles. In this way the Plan seeks to achieve sustainable development in accordance with national planning policy⁷⁴. The ASA – which provides the principal justification for the inclusion of the GCs in the

⁷³ PPG Ref ID 10-001-20140306 & 10-005-20140306

⁷⁴ See paras 12-13 above.

Plan's spatial strategy – is based on the assumption that the Plan's policy requirements for the facilities and infrastructure needed to support them will be met. Demonstrating that the GCs can be viably delivered in accordance with the Plan's policies is, therefore, critical to establishing their overall deliverability.

195. The PPG also advises that there is no single approach for assessing viability, and sets out a number of principles that viability assessments should follow, including evidence-based judgment, collaboration, transparency and consistency. Plan-makers should not plan to the margin of viability, but instead should allow for a buffer to respond to changing markets and to avoid the need for frequent plan updating⁷⁵.

Viability assessments produced for the examination

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

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

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

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

⁷⁵ PPG Ref ID 10-002-20140306, 10-004-20140306 & 10-008-20140306

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

199. The NEAs now rely principally on the 2019 Update and Supplementary Information to demonstrate the viability of the proposed GCs. Separate viability assessments were submitted by NEGC Ltd, and by promoters of the Colchester / Braintree Borders and West of Braintree GCs. Below I consider, first, the 2019 Update and Supplementary Information, and then the other viability appraisals.
200. In considering the appraisals, I am mindful of the PPG's advice that evidence should be proportionate and should demonstrate viability in a broad sense⁷⁶. While the PPG also calls for greater detail when assessing strategic sites (such as the GCs) which require high infrastructure investment, at this early stage of planning many costs and values cannot be known exactly. What is important is not that the appraisals achieve an unrealistically high degree of precision or certainty, but that they provide a robust indication that the proposed GCs are capable of being viably delivered.

Competitive return to a willing landowner

201. The PPG advises that a competitive return for the landowner is the price at which a reasonable landowner would be willing to sell their land for the development. The price will need to provide an incentive for the landowner to sell in comparison with the other options available, which may include its current use value or its value for a realistic alternative use⁷⁷. Most of the land in each proposed GC's area is currently in agricultural use, with a current use value of around £10,000/acre.
202. Many participants suggested that a price of around £100,000/acre is the minimum needed to provide a competitive return. They included promoters of two of the three GC sites and others with knowledge of the local land market. While there is only limited evidence to support that figure, it appears likely that it is indicative of current market expectations. Care needs to be taken not to base viability assessment on a land price which is too far below such expectations, if landowners are to be persuaded to sell.
203. On the other hand, as a RICS research document⁷⁸ points out, basing land values on comparable evidence without adjustment to reflect policy requirements can lead to developers overpaying for land. This may in turn

⁷⁶ PPG ID Ref 10-005-20140306

⁷⁷ PPG ID Ref 10-015-20140306

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

compromise the achievement of the policy requirements, if the developer then seeks to recover the overpayment by seeking a reduction in their planning obligations.

204. Taking these points and the other relevant evidence into account, there seems little doubt that a land price of around £100,000/acre on any of the proposed GC sites would provide sufficient incentive for a landowner to sell. In my view, it is also reasonable to assume that a price below £100,000/acre could be capable of providing a competitive return to a willing landowner, when account is taken of the necessarily substantial requirements of the Plan's policies.
205. In the absence of clear local evidence, it is difficult to estimate the minimum land price that would constitute a competitive return. The price achieved for development land in other places and in other circumstances is unlikely to provide a reliable guide. In my judgment, however, it is extremely doubtful that, for the proposed GCs, a land price below £50,000/acre – half the figure that appears likely to reflect current market expectations – would provide a sufficient incentive to a landowner. The margin of viability is therefore likely to lie somewhere between a price of £50,000 and £100,000 per acre.

Hyas's 2019 Update and Supplementary Information

206. Like Hyas's 2017 Report, the 2019 Update follows the residual valuation method. Its methodology is similar to that of the 2017 Report, but with a number of changes to the inputs and assumptions. It presents summaries and cashflows for three different scenarios:
- Reference scenario (no grant, no inflation) – all three GCs;
 - Grant scenario (including HIF grant) – Colchester / Braintree Borders and Tendring / Colchester Borders GCs;
 - Inflation scenario – all three GCs.
207. Each of these scenarios was subject to sensitivity testing of contingency allowances at 10%, 20% and 40% on certain infrastructure items. The Supplementary Information is presented for the same ranges of scenarios and contingency allowances as the 2019 Update.

Land purchase

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

209. The assumption is made that the land for the GCs is purchased in tranches throughout the development period, each tranche being purchased two years before it is required for development. This is a necessarily simplified assumption for the purposes of viability appraisal, and it may well be that the actual pattern of land purchases is more irregular than this. Nonetheless, the assumption is justified by the evidence that phased draw-down of land is common practice in large-scale development schemes.
210. Accordingly, it is appropriate for the 2019 Update and Supplementary Information to assume that land payments are staged throughout the development period. In the Reference and Grant scenarios those payments are set at current values, consistent with the approach taken to all other costs and returns. I consider the Inflation scenarios separately below.

Infrastructure costs

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

Contingency allowances

214. In the 2019 Update and Supplementary Information's 10% contingency scenarios, a 10% contingency allowance applies to all infrastructure items. In the 20% and 40% contingency scenarios, the higher contingency allowance is applied only to the base costs of those infrastructure items in the Scheme Wide Other Itemised category (transport and utilities), with the contingency allowance on the other items remaining at 10%. This

approach appropriately reflects the fact that it is the items in that category which are most likely to be subject to unknown additional costs.

215. In considering what is an appropriate level of contingency allowance, it is necessary to recognise that the Section 1 Plan represents the initial stage of planning for the proposed GCs, setting out broad parameters and high-level infrastructure requirements for them. The exact amount of development that each GC will contain, and the precise nature and scale of its infrastructure requirements, will be established through Strategic Growth DPDs and masterplans which have yet to be drawn up.
216. In general terms, the level of contingency allowance that is appropriate varies according to the stage of planning that a development project has reached. Costs are likely to be underestimated (a phenomenon known as "optimism bias") if an adequate allowance for contingencies is not made at each stage. In the early stages, when the project is less well-defined and there is greater uncertainty over the factors influencing the eventual outturn costs, a higher level of contingency allowance is usually appropriate. As planning progresses and uncertainties reduce, the level of contingency allowance may be reduced accordingly.
217. The Treasury's *Supplementary Green Book Guidance* on optimism bias (April 2013) advises that an upper-bound optimism bias allowance of 44% for capital expenditure on standard civil engineering projects provides a first starting point and reasonable benchmark. It reflects the average historic optimism bias which research found to occur at the outline business case stage.
218. While the Green Book guidance specifically applies to public-sector commissions, in my view similar considerations apply at the stage of planning that the GCs have reached. At this early stage, and particularly when account is taken of their large scale and very long build periods, it is inevitable that many uncertainties remain over the infrastructure requirements of the proposed GCs. As discussed above⁷⁹, for example, decisions have yet to be made on which of the options for water supply and waste water treatment will be pursued at each GC. Nor has there been any significant analysis of the risks to infrastructure delivery.
219. Moreover, as I have set out above, the base costs allowed for the RTS in the 2019 Update and Supplementary Information fall well below the minimum figure I consider necessary. Adding a 40% contingency allowance to the base costs for the RTS would only bring it up to around that minimum figure, with no significant margin for any additional costs that may well arise, such as for structures or land acquisition. The RTS

⁷⁹ At paras 106 and 154-156

costs represent a substantial proportion of the costs in the Scheme Wide Other Itemised Infrastructure category.

220. For all these reasons, I consider that at this stage of planning it would be reasonable to expect a contingency allowance of at least 40% to be applied to the items in the Scheme Wide Other Itemised category. Any lower figure would, in my view, provide insufficient reassurance that all the necessary infrastructure requirements of the proposed GCs would be met.

Rate of housing delivery

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

Interest on strategic investment borrowing

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

Grant scenarios

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

Inflation scenarios

224. The 2017 Hyas Report made no allowance for inflation in its modelling, and in IED/011 I endorsed that approach. However, the 2019 Update and Supplementary Information include Inflation scenarios for all three GCs.
225. The assumptions made by Hyas in modelling the Inflation scenarios are that building costs and property sale values increase at an annual rate of 4%,

while strategic infrastructure costs increase at 3.5% annually. This produces a small additional margin year-on-year, but over the GCs' long development periods it results in dramatic increases in residual land values [RLVs], up to 10 or even 20 times the RLVs in the corresponding non-inflation scenarios.

226. The PPG advises that current costs and values should be considered when assessing the viability of plan policy. Policies should be deliverable and should not be based on an expectation of future rises in values for at least the first five years of the plan period. This will help to ensure realism and avoid complicating the assessment with uncertain judgments about the future⁸⁰.
227. The Harman Report *Viability Testing Local Plans*⁸¹, while not Government policy, also provides helpful advice on this topic. It says that the most straightforward way to assess plan policies for the first five years is to work on the basis of current costs and values, and that
- for the period beyond the first five years (ie. the 6-15 year period) a more flexible approach may be taken, recognising the impact of economic cycles and policy changes over time. Forecasting things like house prices or costs is notoriously difficult over the shorter term, and subject to wider inaccuracies over the medium and longer term. The best a council can realistically seek to do is to make some very cautious and transparent assumptions with sensitivity testing of the robustness of those assumptions.
228. Neither the PPG nor the Harman Report consider the approach to assessing viability beyond 15 years. But the latter's advice about the uncertainty and difficulty of forecasting in the 6- to 15-year period applies with even greater force to attempts to forecast price and cost changes over the much longer timeframes of the proposed GC developments. Hyas themselves acknowledge in the Update that there are difficulties inherent in forecasting, especially over such long timeframes, and that there are no potential references or market projections published over such long-term periods.
229. Even if the average annual growth in house prices over the last 20 years is significantly greater than the 4% rate assumed in the Inflation scenarios, that is no guarantee that an average 4% growth rate will be sustained throughout the decades that it would take to build the proposed GCs. Similar uncertainty applies to changes in building and infrastructure costs. Notwithstanding these substantial uncertainties, Hyas did not carry out sensitivity testing of different potential inflation rates as recommended by Harman.

⁸⁰ PPG Ref ID 10-008-20140306

⁸¹ Produced by the Local Housing Delivery Group, June 2012

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

Conclusions on the 2019 Update and Supplementary Information

231. For the above reasons, I consider that the Inflation scenarios, the scenarios based on average housing delivery of 300dpa, and the scenarios for the proposed West of Braintree GC including land in Uttlesford district do not provide a reliable indication of the viability of the proposed GCs. It is appropriate to consider the viability of the proposed Tendring / Colchester Borders and Colchester / Braintree Borders GCs based on the Grant scenarios, since their associated HIF grants have been confirmed. The Reference scenario is the appropriate basis for considering the proposed West of Braintree GC. Based on my findings above on contingency allowances, in each of these scenarios a contingency allowance of at least 40% needs to be applied to all the items in the Scheme Wide Other Itemised category

232. As noted above, the 2019 Update and Supplementary Information follows the residual valuation method, in which all the costs of development are subtracted from the value of the development in order to arrive at a residual land value. The costs of development include the infrastructure requirements for the GCs, which (in accordance with national policy) appropriately reflect the garden city principles that underpin them. In order to demonstrate the viability of each proposed GC, the residual land value produced by the appropriate assessment scenario must achieve a competitive return to a willing landowner that is above the margin of viability⁸². Should this not be achieved, the viability of the GC will not have been demonstrated.

233. For the proposed Tendring / Colchester Borders GC, the Grant scenario assessment in the 2019 Supplementary Information, based on average delivery of 250dpa with a 40% contingency allowance, gives a residual land value of over £175,000/acre. That is well above the figure that I consider would constitute a competitive return to a willing landowner. This would allow sufficient financial headroom to overcome any concerns about the contingency allowance for the A120/A133 link road, or any additional costs associated with the link road or with RTS Route 1. I therefore consider that the viability of the Tendring / Colchester Borders GC has been demonstrated.

234. For the Colchester / Braintree Borders GC, on the other hand, the Grant scenario assessment, based on average delivery of 250dpa with a 40% contingency allowance, gives a residual land value of only around

⁸² PPG ID Ref 10-015-20140306 & 10-008-20140306

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

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

The NEGC viability assessment

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

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

238. Compulsory purchase order [CPO] powers are available to the NEAs as local planning authorities, and would also be available to a locally-led new town development corporation, should the NEAs establish one. In either case, one of the matters which the Secretary of State is required to take into account when deciding whether to confirm a CPO is whether the purpose for which the land is being acquired could be achieved by any other means. This may include considering the appropriateness of any alternative development proposals put forward by the owners of the land, or any other persons⁸³.

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

240. In the NEGC appraisal, interest rates are assumed to be 2.5% for land purchase and 3.5% for infrastructure borrowing, well below the 6% rate assumed by Hyas. A statement from Homes England indicates that in recent years they have made £2,500M worth of infrastructure loans at

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

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

241. Even if the issues of land purchase and interest rates could be resolved, the NEGC viability appraisals also assume average housing delivery at each of the proposed GCs at rates of 300dpa and 500dpa. I consider these to be unsound assumptions, for the reasons set out above.
242. Moreover, while the NEGC appraisals use infrastructure base costs derived from the same source as Hyas (EB/087), they apply a 44% optimism bias allowance to some transport and utility items, but only 10% to others. For the West of Braintree GC nine items⁸⁴ receive a 44% allowance, for Colchester / Braintree Borders GC three items, and for Tendring / Colchester Borders one item. No explicit rationale for these distinctions is provided, and it is at odds with my finding that it a 40% contingency allowance should be applied to all the items in the Scheme Wide Other Infrastructure category.
243. In the light of these points, I consider that the NEGC appraisals do not provide a reliable indication of the viability of each of the proposed GCs.

The viability assessments submitted by the GC site promoters

244. Some of the assessments submitted by promoters of the GC sites assume average housing delivery rates of 300dpa or above throughout the GCs' development period. For the reasons given above, I consider that reliance cannot be placed on viability assessment based on that assumption.
245. Two viability assessments were, however, provided for average delivery rates of 250dpa. The assessment for the Andrewsfield New Settlement Consortium [ANSC] is for a development including some 8,300 dwellings on land in Braintree district within the broad location of the proposed West of Braintree GC. It includes infrastructure costs based on a per-dwelling figure of around £53,200. There is no detailed explanation of how that figure was arrived at. But when explaining the £51,000 per-dwelling figure used in their earlier appraisal (based on average delivery of 300dpa), the authors of the assessment say that they consider the Hyas infrastructure allowance of £53,000 per dwelling, informed by the Gleeds costs estimates [EB/087] to be reasonable.

⁸⁴ Counting the various phases of the RTS off-site network as one item.

246. The Hyas allowance of £53,000 per dwelling was for a 12,500-dwelling scheme including land in Uttlesford district. When assessing a 10,000-dwelling scheme wholly within Braintree district as proposed in the Plan, Hyas used a figure of £57,000 per dwelling, significantly higher than the circa £53,000 figure in the ANSC assessment. Since the Hyas scheme is also some 1,700 dwellings larger, this means that its total infrastructure allowance, excluding contingencies, is £570M, as against around £442M for the ANSC scheme.
247. While some of this discrepancy can be explained by infrastructure costs (such as education and community facilities) which vary on a per-dwelling basis, there are also substantial fixed costs, including for transport infrastructure such as the RTS. Without a breakdown of how the ANSC infrastructure allowance was arrived at, it seems likely that it is an underestimate.
248. Of even greater concern is that in the ANSC assessment, infrastructure spending is assumed to occur at a constant annual rate throughout the GC's five-decade build programme. That is an unrealistic assumption, at odds with the phasing in EB/087, which more realistically allocates 100% of many of the large transport and utility infrastructure costs to the first one or two phases of the build programme.
249. In addition, the ANSC assessment applies a contingency rate of 10% to all infrastructure costs. In my view that is wholly inadequate for transport and utility infrastructure, for the reasons discussed above.
250. The other viability assessment said to be based on delivery of 250dpa was prepared for the promoters of the larger part of the Colchester / Braintree Borders GC [CBBGC]. It is for a scheme including 17,000 dwellings and includes a per-dwelling infrastructure cost similar that used in the Hyas Grant scenario. (The Grant scenario is the appropriate comparison because it excludes the cost of the A12 realignment, which is unnecessary for the CBBGC promoters' 17,000-dwelling scheme).
251. In the CBBGC assessment the first dwellings are assumed to be delivered in 2023. At an average rate of 250dpa, a 17,000-dwelling scheme should take 68 years to deliver. However, the submitted spreadsheets [EXD/085] appear to show the last dwellings completed in 2079, some 11 or 12 years early. The reason seems to be that, whereas for most of the build period delivery is shown as taking place at the rate of 20 dwellings per month (240dpa), for several years in the middle of the build period a rate of 40 dwellings per month (480dpa) is shown. It is not clear, therefore, that the assessment is in fact based on average delivery of 250dpa as intended.

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

Conclusions on soundness

255. The ASA is unable to conclude that any of the spatial strategy options, to the west or east of Colchester, is the most sustainable option. It says that the advantage of the strategy in the submitted Section 1 Plan is that it provides clear direction to accommodate strategic development over many decades to come. For the NEAs, the ability of the proposed GCs to provide for long-term strategic growth is one of the key reasons for pursuing the Section 1 Plan strategy in preference to the alternatives, notwithstanding that the ASA finds that some of the alternative options offer opportunities to deliver similar benefits.
256. Consequently, the Plan's spatial strategy, which includes the three proposed GCs, would only be justified as the most appropriate strategy if it can be shown that each GC is deliverable, not just over the Plan period but over the long term. And in order to meet both the NPPF's guidance on infrastructure provision and the Plan's policy requirements, which in accordance with national policy reflect garden city principles, the infrastructure necessary to support the GC's development must also be shown to be deliverable. An assessment of deliverability is also central to the question of whether or not the Plan is effective.
257. Viability appraisal shows that, with an appropriate 40% contingency allowance on transport and utilities infrastructure, the proposed

Colchester / Braintree Borders GC would not achieve a viable land price, and that the proposed **West of Braintree GC** is below, or at best is at the very margin of, financial viability, contrary to advice in the PPG. On this basis, neither GC is deliverable.

258. For separate reasons, given in paras 143-151 above, neither RTS Route 3 nor RTS Route 4 has been shown to be deliverable. The proposed West of Braintree GC depends on Route 3 for its public transport links to destinations outside the GC, and on Route 4 for links to places east of Braintree. Without those routes, apart from the few journeys that might be possible on foot or bicycle, the car would be the only realistic choice for travel beyond the GC itself.
259. Housing development at the proposed Colchester / Braintree Borders GC is intended to help meet the housing needs of both Colchester borough and Braintree district, and there is a strong commuting relationship between the two local authority areas. Notwithstanding the links to other destinations offered by RTS Route 2 and by rail services from Marks Tey station, the GC would depend on Route 4 for its public transport links westwards to Braintree.
260. In these circumstances, the fact that RTS Routes 3 and 4 have not been shown to be deliverable is entirely at odds with the Plan's aspirations for integrated and sustainable transport networks. Even if the A120 dualling scheme has a good prospect of being delivered as part of the RIS3 programme, not to provide the necessary public transport connections from these two GCs would directly conflict with the NPPF's advice that the transport system needs to be balanced in favour of sustainable transport modes.
261. For the foregoing reasons, therefore, I find that the proposed Colchester / Braintree Borders and West of Braintree GCs are not justified or deliverable. Consequently, the Plan's spatial strategy, and thus the Plan itself as submitted, are unsound.
262. On the other hand, the financial viability of the proposed **Tendring / Colchester Borders GC** is very strong. With an appropriate 40% contingency allowance on transport and utilities infrastructure, it would enable a competitive land price to be paid, while leaving substantial headroom to meet any additional costs that might arise. This provides assurance that the necessary infrastructure, including RTS Route 1, the A120/A133 link road and local highway improvements, are deliverable in the time-frame necessary to support the GC's development. The evidence therefore shows that the GC is deliverable over its lifetime.

263. The broad location for the proposed Tendring / Colchester Borders GC is close to Colchester, the largest town in North Essex, to which it would be connected by RTS Route 1. The GC would have access to the wide range of employment, retail, leisure, healthcare and other facilities in Colchester, in addition to those that would be provided within the GC itself, and to employment opportunities at the adjacent University of Essex and Knowledge Gateway. Tendring district has a very strong commuting relationship with Colchester, and weaker relationships with Braintree and other destinations to the west of Colchester. As a result, the accessibility of the proposed GC is not critically dependent on the delivery of the other RTS routes.
264. Based on the NEAs' current housing trajectory, and taking into account my conclusions on the rate of housing delivery, the Tendring / Colchester Borders GC would deliver over 2,000 dwellings during the Plan period. That would make a worthwhile contribution to meeting the Plan's overall housing requirement. Based on the latest housing supply figures⁸⁵, it would represent an over-allocation of approximately 5% against the overall requirement. Whether that level of over-allocation is sufficient, and whether the other sources of housing supply will come forward as the NEAs expect, are matters to be considered in the Section 2 plan examinations.
265. As I have discussed above, the ASA made separate assessments of alternative spatial strategies for the areas to the west and east of Colchester. For the above reasons, I consider that the evidence supports the NEAs' view that the proposed Tendring / Colchester Borders GC is the most appropriate of the alternative spatial strategies for the area to the east of Colchester.
266. I therefore conclude that development of the Tendring / Colchester Borders GC would enable the delivery of sustainable development in accordance with the NPPF's policies. If the unsound Colchester / Braintree Borders and West of Braintree GC proposals are removed from the Plan, the Plan is capable of being made sound.

Advice on the way forward

267. In the light of this conclusion it appears to me that the NEAs have two main options:
- To propose and consult on main modifications to remove the Colchester / Braintree Borders and West of Braintree GC proposals from the Plan; or

⁸⁵ See para 84 above.

- To withdraw the Plan from examination.

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

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

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

It is up to the plan-making body to decide whether the sustainability appraisal report should be amended following proposed changes to an emerging plan ... If the plan-making body assesses that necessary changes are significant, and were not previously subject to sustainability appraisal, then further sustainability appraisal may be required and the sustainability report should be updated and amended accordingly⁸⁶.

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

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

272. In addition, if the official 2018-based household projections are published while the examination is still in progress, consideration will need to be given to any implications the projections may have for the soundness of the housing requirement figures in the Plan.

⁸⁶ PPG Ref ID 11-023-20140306

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

Yours sincerely

Roger Clews

Inspector

