

Tendring District Council

**Ardleigh  
Neighbourhood Plan  
2020-2033**

**Independent Examiner's Report**

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5 May 2024

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## Summary

I have been appointed as the independent examiner of the Ardleigh Neighbourhood Development Plan (the Plan).

Ardleigh Parish has a rich history with over 75 listed buildings and a Conservation Area. The village is served by a GP surgery, shop, post office, two Churches and a service station and numerous businesses. It has a reservoir and a number of protected lanes around this predominately agricultural Parish.

Close to Colchester, part of the Parish falls within the planned strategic Garden Community, a joint venture of the North Essex authorities. I have made recommendations in my report to some of the policies to make it clear, where relevant, they do not apply to the Garden Community which will be subject to a separate Development Plan Document in due course.

I have also found it necessary to recommend a number of other modifications to all six policies and the supporting text of the Plan. These range in nature from fairly minor alterations to changes that may be regarded as more significant by the local community.

As a result of these more significant changes, alongside some additional work which needed to be carried out on the Strategic Environmental and Habitats Regulation Assessments, a further period of consultation was carried out.

Despite these changes, the Plan has been written in the spirit of seeking to conserve and enhance those valued characteristics of the place against the backdrop of a strategic development site and has taken this opportunity to address existing issues of importance to the local community.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore pleased to recommend to Tendring District Council that the Ardleigh Neighbourhood Development Plan can go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers MRTPI  
Ann Skippers Planning  
5 May 2024



## 1.0 Introduction

This is the report of the independent examiner into the Ardleigh Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

I have been appointed by Tendring District Council (TDC) with the agreement of the Parish Council, to undertake this independent examination.

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over thirty years experience in planning and have worked in the public, private and academic sectors and am an experienced examiner of neighbourhood plans. I therefore have the appropriate qualifications and professional experience to carry out this independent examination.

## 2.0 The role of the independent examiner and the examination process

### *Role of the Examiner*

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The basic conditions<sup>1</sup> are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- The making of the neighbourhood plan contributes to the achievement of sustainable development
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, retained European Union (EU) obligations<sup>2</sup>

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<sup>1</sup> Set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended) and paragraph 11(2) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 (as amended)

<sup>2</sup> Substituted by the Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018/1232 which came into force on 31 December 2020

- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to in the paragraph above. Only one is applicable to neighbourhood plans and was brought into effect on 28 December 2018.<sup>3</sup> It states that:

- The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

The examiner is also required to check<sup>4</sup> whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

The examiner must also consider whether the draft neighbourhood plan is compatible with Convention rights.<sup>5</sup>

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case TDC. The

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<sup>3</sup> Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

<sup>4</sup> Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act and paragraph 11(2) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 (as amended)

<sup>5</sup> The combined effect of the Town and Country Planning Act Schedule 4B paragraph 8(6) and paragraph 10 (3)(b) and the Human Rights Act 1998

plan then becomes part of the 'development plan' for the area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

### ***Examination Process***

It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended) and paragraph 11 of Schedule A2 to the Planning and Compulsory Purchase Act 2004 (as amended).<sup>6</sup>

PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.<sup>7</sup> In addition, PPG is clear that neighbourhood plans are not obliged to include policies on all types of development.<sup>8</sup>

Often representations suggest amendments to policies or additional policies or different approaches. Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further amendments or additions are required.

Schedule A2 of the Planning and Compulsory Purchase Act 2004 (as amended) explains that the general rule is that the examination of the issues is to take the form of written representations. A hearing can be held for the purpose of oral representation about a particular issue where there are exceptional reasons for doing so or in other prescribed cases. PPG<sup>9</sup> explains that it is expected that the examination will not include a public hearing. However, where an examiner considers it necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case, then a hearing must be held.<sup>10</sup>

I sent a number of questions of clarification and a note of interim findings to the Parish Council and TDC on 18 August 2023. This is attached to this report as Appendix 2.

The Interim Note set out that I felt it necessary to make a number of modifications to policies and the supporting text. Some of these modifications were minor in nature, but others could be regarded as significant. I indicated those areas, without giving detail, which I considered would be subject to modification.

I am also grateful to both Councils who provided comprehensive answers to my queries. Those responses (all publicly available) have enabled me to examine the Plan without the need for a hearing.

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<sup>6</sup> Paragraph 11(3) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 (as amended) and PPG para 055 ref id 41-055-20180222,

<sup>7</sup> PPG para 055 ref id 41-055-20180222

<sup>8</sup> Ibid para 040 ref id 41-040-20160211

<sup>9</sup> Ibid para 056 ref id 41-056-20180222

<sup>10</sup> Ibid

However, two matters arose from this stage; naturally enough the Parish Council indicated a wish to comment on the likely changes I proposed to make.

Part 12 of the *Neighbourhood Planning Independent Examiner Referral Service Guidance to service users and Examiners* deals with changes to the Plan. Paragraph 2.12.6 indicates that “Examiners will not generally refer back to parties on these detailed revisions. But where the modification may necessitate a change which in the opinion of an examiner would be significant, there is a reasonable expectation that a description of the intended modification will be publicised on the local planning authority’s website, seeking comments, prior to recommending the change.”

Secondly, this stage highlighted a procedural matter which required action. The Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Report had not been subject to the necessary consultation with the statutory consultees. Additionally no determination of the need for either SEA or HRA had been made by TDC.

Therefore it was agreed that:

- The SEA and HRA Screening Report would be sent to the statutory consultees for consultation as a separate exercise by TDC [this was duly carried out by TDC]
- Once responses had been received from the statutory consultees, TDC would prepare a SEA and HRA Screening Determination [the determination was made by TDC on 22 December 2023]
- Notice of the significant changes likely to be proposed would be prepared [this was sent to TDC on 8 January 2024 and is attached to this report as Appendix 3]

Given this, it was decided to hold a further period of focused public consultation.

Additionally, the Government published a revised National Planning Policy Framework (NPPF) on 19 December 2023, with an update on 20 December 2023. This was also incorporated into the public consultation to allow any comments to be made on the implications of this with regard to the basic conditions.

The focused consultation was held from 22 January – 4 March 2024.

In 2018, the Neighbourhood Planning Independent Examiner Referral Service (NPIERS) published guidance to service users and examiners. Amongst other matters, the guidance indicates that the qualifying body will normally be given an opportunity to comment upon any representations made by other parties at the Regulation 16 consultation stage should they wish to do so. There is no obligation for a qualifying body to make any comments; it is only if they wish to do so. The Parish Council have been given an opportunity to make comments on the Regulation 16 stage representations and the focused consultation representations and I have taken their comments into account.

I am very grateful to everyone for ensuring that the examination has run smoothly and in particular William Fuller at TDC as my first point of contact. I must acknowledge the patience of the Parish Council whilst these matters were dealt with.

I made an unaccompanied site visit to familiarise myself with the Plan area on 16 August 2023.

### ***Modifications and how to read this report***

Where modifications are recommended they appear in a bullet point list of **bold text**. Where I have suggested specific changes to the wording of the policies or new wording these appear in ***bold italics*** in the bullet point list of recommendations. Modifications will always appear in a bullet point list.

As a result of some modifications consequential amendments may be required. These can include changing policy numbering, section headings, amending the contents page, renumbering paragraphs or pages, ensuring that supporting appendices and other documents align with the final version of the Plan and so on.

I regard these as primarily matters of final presentation and do not specifically refer to such modifications, but have an expectation that a common sense approach will be taken and any such necessary editing will be carried out and the Plan's presentation made consistent.

## **4.0 Neighbourhood plan preparation**

A Consultation Statement has been submitted.

A Steering Group and a Working Party were set up in April 2020. Meetings were held electronically. Regular reports to the Parish Council were made.

Work started on the Plan with two questionnaires; the first to establish broad topic areas and the second more detailed. Engagement coincided with the Covid 19 pandemic and so no face-to-face events were held. Questionnaires were carried out online and in hard copy which were placed in local community facilities such as the surgery. The second questionnaire attracted a response rate of about 15%. A dedicated page was created on the Parish Council's website and other social media to advertise the consultations. Details were found in the Ardleigh Advertiser, the Parish newsletter which is available online and distributed to each household.

Pre-submission (Regulation 14) consultation took place between 8 August – 23 September 2022. This stage was publicised via advert placed in the Ardleigh Advertiser, posters, online via social media including Facebook and Instagram. A drop-in event was also held. Both paper and online versions of the Plan were available.



I consider that the consultation and engagement is satisfactory given the constraints of the Covid 19 pandemic.

Submission (Regulation 16) consultation was carried out between 15 May – 26 June 2023. A total of 13 representations were received at this stage.

As explained above, a further period of focused consultation was held between 22 January – 4 March 2024. This resulted in three representations including one from the Parish Council.

Whilst I make reference to some responses and not others, I have considered all of the representations and taken them into account in preparing my report.

## **5.0 Compliance with matters other than the basic conditions**

I now check the various matters set out in section 2.0 of this report.

### **Qualifying body**

Ardleigh Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is satisfactorily met.

### **Plan area**

The Plan area is coterminous with the administrative boundary for the Parish. TDC approved the designation of the area on 8 June 2020. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements. The Plan area is shown on page 7 of the Plan.

### **Plan period**

The Plan period is 2020 – 2033. This is clearly shown on the Plan's front cover and confirmed in the Basic Conditions Statement. This requirement is therefore satisfactorily met.

### **Excluded development**

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement.

### **Development and use of land**

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community's priorities for the future of their local area, but are not related to the

development and use of land. If I consider a policy or proposal to fall within this category, I will recommend it be clearly differentiated. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable.<sup>11</sup>

## 6.0 The basic conditions

### Regard to national policy and advice

The Government revised the National Planning Policy Framework (NPPF) on 19 December 2023 and updated it on 20 December 2023. This revised NPPF replaces the previous NPPFs published in March 2012, revised in July 2018, updated in February 2019, revised in July 2021 and updated in September 2023.

The NPPF is the main document that sets out the Government's planning policies for England and how these are expected to be applied.

In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the delivery of strategic policies in local plans or spatial development strategies and should shape and direct development that is outside of these strategic policies.<sup>12</sup>

Non-strategic policies are more detailed policies for specific areas, neighbourhoods or types of development.<sup>13</sup> They can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment as well as set out other development management policies.<sup>14</sup>

The NPPF also makes it clear that neighbourhood plans gives communities the power to develop a shared vision for their area.<sup>15</sup> However, neighbourhood plans should not promote less development than that set out in strategic policies or undermine those strategic policies.<sup>16</sup>

The NPPF states that all policies should be underpinned by relevant and up to date evidence; evidence should be adequate and proportionate, focused tightly on supporting and justifying policies and take into account relevant market signals.<sup>17</sup>

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<sup>11</sup> PPG para 004 ref id 41-004-20190509

<sup>12</sup> NPPF para 13

<sup>13</sup> Ibid para 28

<sup>14</sup> Ibid

<sup>15</sup> Ibid para 29

<sup>16</sup> Ibid

<sup>17</sup> Ibid para 31

Policies should be clearly written and unambiguous so that it is evident how a decision maker should react to development proposals. They should serve a clear purpose and avoid unnecessary duplication of policies that apply to a particular area including those in the NPPF.<sup>18</sup>

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at [www.gov.uk/government/collections/planning-practice-guidance](http://www.gov.uk/government/collections/planning-practice-guidance) which is regularly updated. The planning guidance contains a wealth of information relating to neighbourhood planning. I have also had regard to PPG in preparing this report.

PPG indicates that a policy should be clear and unambiguous<sup>19</sup> to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the planning context and the characteristics of the area.<sup>20</sup>

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.<sup>21</sup> It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.<sup>22</sup>

Whilst this has formed part of my own assessment, the Basic Conditions Statement sets out how the Plan's policies correspond to the most up to date NPPF at the time of submission. Consultation has been held as explained in earlier sections of this report to allow interested parties to comment in relation to the current NPPF.

### **Contribute to the achievement of sustainable development**

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development.

The NPPF confirms that the purpose of the planning system is to contribute to the achievement of sustainable development.<sup>23</sup> This means that the planning system has three overarching and interdependent objectives which should be pursued in mutually supportive ways so that opportunities can be taken to secure net gains across each of the different objectives.<sup>24</sup> The three overarching objectives are:<sup>25</sup>

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right

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<sup>18</sup> NPPF para 16

<sup>19</sup> PPG para 041 ref id 41-041-20140306

<sup>20</sup> Ibid

<sup>21</sup> Ibid para 040 ref id 41-040-20160211

<sup>22</sup> Ibid

<sup>23</sup> NPPF para 7

<sup>24</sup> Ibid para 8

<sup>25</sup> Ibid

places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and
- c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

The NPPF confirms that planning policies should play an active role in guiding development towards sustainable solutions, but should take local circumstances into account to reflect the character, needs and opportunities of each area.<sup>26</sup>

Whilst this has formed part of my own assessment, the Basic Conditions Statement explains how each Plan policy helps to achieve sustainable development as outlined in the NPPF.

### **General conformity with the strategic policies in the development plan**

The development plan consists of the Tendring District Local Plan 2013 – 2033 and Beyond: North Essex Authorities’ Shared Strategic Section 1 Plan adopted in January 2021 (LP1) and Section 2, which relates solely to Tendring District, was adopted on 25 January 2022 (LP2). The Essex Minerals Local Plan (2014), the Essex and Southend-on-Sea Waste Local Plan (2017) and the Alresford Neighbourhood Plan also form part of the development plan.

LP1 Policy SP 3 sets out the spatial strategy for North Essex. Existing settlements are the focus for growth and development is accommodated within and adjoining settlements depending on their scale, role and sustainability. The policy contains a new Tendring/Colchester Borders Garden Community (GC) showing a broad location for it on the Policies Maps.

LP1 Policy SP 4 indicates that Tendring has a minimum housing requirement of 11,000 over the plan period of LP1 to 2033. LP1 Policy SP 5 supports a strong, sustainable and diverse economy with at least 12 hectares of employment land sought in Tendring.

LP1 Policy SP 6 sets out the requirement for a Development Plan Document (DPD) for the GC and identifies the strategic transport infrastructure that requires planning permission and funding before any permission is granted for the GC.

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<sup>26</sup> NPPF para 9

LP1 Policy SP 8 identifies 2,200 – 2,500 homes, seven hectares of employment land and provision of Gypsies and Travellers that are to be provided within the permission for the GC (as part of the expected overall total of 7,000 – 9,000 new homes, 25 hectares of employment land to be delivered beyond 2033. It identifies what the DPD will cover and indicates that no part of the GC will obtain permission before the DPD is adopted. It sets out principles for the GC.

LP1 Policy SP 9 sets out further details for the DPD including the definition of the boundary and the amount of development.

Part of the GC falls within the south west of the Parish close to the hamlet of Crockleford Heath.

LP2 sets out policies for Tendring District. The Vision includes reference to the GC. LP2 helpfully sets out which policies are regarded as ‘strategic’ in nature<sup>27</sup> and it is these I have focused on. LP Policy SPL 1 states that the GC is at the top of the settlement hierarchy alongside Clacton-on-Sea and Harwich and Dovercourt. It identifies Ardleigh as a Smaller Rural Settlement.

LP Policy SPL 2 identifies settlement development boundaries, but is clear that the GC sits outside this and will be subject to a separate DPD containing its own policies designed to guide the location of development in the broad location identified on Diagram 10.2 in LP 1 and Map B.7.

The Smaller Rural Settlements are considered to be the least sustainable locations for growth. Nevertheless these villages are under pressure to grow and some small-scale development, sympathetic to the rural and often historic character of the settlement, can help to sustain these communities. To plan for this, Settlement Development Boundaries have been drawn flexibly to accommodate a range of sites within and on the edge of the villages enabling them to be considered for small-scale residential infill development. Development over 10 dwellings is only permitted where there is support from a Parish Council or an approved neighbourhood plan advocates additional growth or there is an identified local need for affordable housing that could be addressed on a rural exception site.

Whilst this has formed part of my own assessment, the Basic Conditions Statement contains an assessment of how each policy generally conforms to relevant policies. Where I have not specifically referred to a strategic policy, I have considered all strategic policies in my examination of the Plan.

### ***Emerging plans***

On 20 December 2023, TDC agreed to commence a review of the Local Plan. A ‘Call for Sites’ was carried out earlier this year.

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<sup>27</sup> LP2 page 35

A Tendring Colchester Borders Garden Community Development Plan Document (DPD) was submitted to the Secretary of State for independent examination in September 2023. Hearing sessions are scheduled for May 2024.

There is no legal requirement to examine the Plan against emerging policy. However, PPG<sup>28</sup> advises that the reasoning and evidence informing the local plan process may be relevant to the consideration of the basic conditions against which the Plan is tested.

Furthermore Parish Councils and local planning authorities should aim to agree the relationship between policies in the emerging neighbourhood plan, the emerging local plan and the adopted development plan with appropriate regard to national policy and guidance.<sup>29</sup>

### **Retained European Union Obligations**

A neighbourhood plan must be compatible with retained European Union (EU) obligations. A number of retained EU obligations may be of relevance for these purposes including those obligations in respect of Strategic Environmental Assessment, Environmental Impact Assessment, Habitats, Wild Birds, Waste, Air Quality and Water matters.

With reference to Strategic Environmental Assessment (SEA) requirements, PPG<sup>30</sup> confirms that it is the responsibility of the local planning authority, in this case TDC, to ensure that all the regulations appropriate to the nature and scope of the draft neighbourhood plan have been met. It states that it is TDC who must decide whether the draft plan is compatible with relevant retained EU obligations when it takes the decision on whether the plan should proceed to referendum and when it takes the decision on whether or not to make the plan.

### ***Strategic Environmental Assessment and Habitats Regulations Assessment***

The provisions of the Environmental Assessment of Plans and Programmes Regulations 2004 (the 'SEA Regulations') concerning the assessment of the effects of certain plans and programmes on the environment are relevant. The purpose of the SEA Regulations, which transposed into domestic law Directive 2001/42/EC ('SEA Directive'), are to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes.

The provisions of the Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations'), which transposed into domestic law Directive 92/43/EEC (the 'Habitats Directive'), are also of relevance to this examination.

Regulation 63 of the Habitats Regulations requires a Habitats Regulations Assessment (HRA) to be undertaken to determine whether a plan is likely to have a significant effect

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<sup>28</sup> PPG para 009 ref id 41-009-20190509

<sup>29</sup> Ibid

<sup>30</sup> Ibid para 031 ref id 11-031-20150209

on a European site, either alone or in combination with other plans or projects. The HRA assessment determines whether the Plan is likely to have significant effects on a European site considering the potential effects both of the Plan itself and in combination with other plans or projects. Where the potential for likely significant effects cannot be excluded, an appropriate assessment of the implications of the Plan for that European Site, in view of the Site's conservation objectives, must be carried out.

A SEA and HRA Screening Report prepared by Place Services and dated May 2022 has been submitted.

The Screening Report states that there are 14 habitats sites within 20km of the Plan area. These are the Colne Estuary, Stour and Orwell Estuaries, Hamford Water, Blackwater Estuary, Dengie, Outer Thames Estuary and Abberton Reservoir Special Protection Areas (SPA), the Essex Estuaries and Hamford Water Special Areas of Conservation (SAC) and the Colne Estuary, Stour and Orwell Estuaries, Hamford Water, Blackwater Estuary and Dengie Ramsar sites.

The Screening Report also states that the Plan area falls within the Zone of Influence (ZOI) for the Essex Coast RAMS which covers Hamford Water SPA, SAC and Ramsar, the Stour and Orwell SPA and Ramsar and the Colne Estuary SPA and Ramsar, the Blackwater Estuary SPA and Ramsar, the Dengie SPA and Ramsar and the Essex Estuaries SAC.

The Screening Report notes that the Plan does not contain any site allocations. It screens out the Plan for both SEA and HRA.

The Screening Report refers to an allocation on a former community centre.<sup>31</sup> In response to a query about this, it has been confirmed that this was an erroneous reference. I am grateful for the clarification and there is no material impact as a result.

As explained elsewhere in the report, I was concerned that consultation with the three statutory bodies (Environment Agency (EA), Natural England (NE) and Historic England (HE)) had not been undertaken as a distinct exercise.

This was duly remedied and both NE and HE responded. HE concurred that a SEA would not be required. NE responded that "...significant effects on statutorily designated nature conservation sites or landscapes are unlikely; and significant effects on Habitats sites<sup>1</sup>, either alone or in combination, are unlikely." Their reply continued that "The proposed neighbourhood plan is unlikely to significantly affect any Site of Special Scientific Interest (SSSI), Marine Conservation Zone (MCZ), Special Areas of Conservation (SAC), Special Protection Areas (SPA), Ramsar wetland or sites in the process of becoming SACs or SPAs ('candidate SACs', 'possible SACs', 'potential SPAs') or a Ramsar wetland. The plan area is unlikely to have a significant effect on a National

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<sup>31</sup> SEA and HRA Screening Report page 35

Park, Area of Outstanding Natural Beauty or Heritage Coast, and is unlikely to impact upon the purposes for which these areas are designated or defined.”

TDC then issued a determination on 22 December that neither SEA or HRA were required.

I have treated the Screening Report and the Screening Determination to be the statement of reasons that PPG advises must be prepared and submitted with the neighbourhood plan proposal and made available to the independent examiner where it is determined that the plan is unlikely to have significant environmental effects.<sup>32</sup>

Taking account of the characteristics of the Plan, the information before me and the characteristics of the areas most likely to be affected, I am of the view that retained EU obligations in respect of SEA have been satisfied.

Turning now to HRA, the Screening Report and the Screening Determination concludes that the Plan will not have any likely significant effects either alone or in combination with other plans and projects and therefore screens the Plan out.

On 28 December 2018, the basic condition prescribed in Regulation 32 and Schedule 2 (Habitats) of the Neighbourhood Planning (General) Regulations 2012 (as amended) was substituted by a new basic condition brought into force by the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 which provides that the making of the plan does not breach the requirements of Chapter 8 of Part 6 of the Habitats Regulations.

Given the distance from, the nature of and the characteristics of the European sites and the nature and contents of this Plan, I agree with the conclusions of the Screening Report and the Screening Determination and consider that the prescribed basic condition relating to the Conservation of Habitats and Species Regulations 2017 is complied with.

### ***Conclusion on retained EU obligations***

PPG establishes that the ultimate responsibility for determining whether a plan meets retained EU obligations lies with the local planning authority.<sup>33</sup> TDC does not raise any concerns in this regard.

### **European Convention on Human Rights (ECHR)**

The Basic Conditions Statement contains a basic statement in relation to human rights and equalities.<sup>34</sup> Having regard to the Basic Conditions Statement, there is nothing in the Plan that leads me to conclude there is any breach or incompatibility with Convention rights.

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<sup>32</sup> PPG para 028 ref id 11-028-20150209

<sup>33</sup> Ibid para 031 ref id 11-031-20150209

<sup>34</sup> Basic Conditions Statement page 26



## 7.0 Detailed comments on the Plan and its policies

In this section I consider the Plan and its policies against the basic conditions. As a reminder, where modifications are recommended they appear in **bold text** and where I suggest specific changes to the wording of the policies or new wording these appear in **bold italics**.

The Plan is presented with many photographs of the local area that help to give a tangible sense of place. The Plan begins with a foreword and a helpful contents page.

There is a key issue which needs discussing before any other comments are made.

### ***Key Issue***

This Plan covers the whole of the Parish. Part of the Parish falls within the Tendring Colchester Borders Garden Community (GC). The relationship and applicability of this Plan to the GC requires consideration.

It is useful for me to set out the context. The GC was included in the shared Section 1 Local Plans (LP1) for TDC and Colchester City Council (CCC) adopted by the Councils in 2021. LP1 Policy SP 3 set out the spatial strategy for North Essex and includes the GC. LP1 Policy SP 6 sets out a requirement for a Development Plan Document (DPD) to be prepared and identifies the strategic transport and infrastructure that must obtain planning permission and funding before any permission can be granted for the GC.

Policy SP 8 identifies 2,300 – 2,500 dwellings and seven hectares of employment land that are to be provided within the planning permission at the GC within the LP1 plan period (as part of the overall total of 7,000 - 9,000 homes and 25 hectares of employment land beyond 2033). It identifies what the DPD will cover and indicates that no part of the GC will obtain planning permission before the DPD is adopted. It sets out principles for the GC.

Section 2 of the Local Plan (LP2) is unique to Tendring and includes medium site allocations and development management policies. The Vision includes the GC. Ten objectives are identified.

LP2 identifies the strategic policies in Section 2 that neighbourhood plans must accord with including SPL 1, SPL 2, SPL 7, LP 1, LP 2, LP 5, LP 6 and PP 5, PP 6, PP 13 and PP 1, PPL2, PPL 4 and PPL 5.<sup>35</sup>

Policy SPL 1 shows the GC is at the top of the hierarchy “Strategic Urban Settlements and Garden Community.”

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<sup>35</sup> LP2 para 3.2.2, page 35 of the LP2

LP2 Policy LP1 identifies 1000 homes to be delivered at the GC by 31 March 2033. This aligns with the plan period for this Plan which is to 2033.

LP2 Policy SPL 2 identifies settlement development boundaries but is clear that the GC sits outside of this and will be the subject a separate DPD containing its own policies designed to guide the location of development in the broad location identified on Diagram 10.2 in section 1 of the Local Plan and Map B.7.

The Councils have now prepared the DPD which was submitted to the Secretary of State for independent examination in September 2023. Hearings are scheduled for May 2024. It can therefore be reasonably expected that the DPD is likely to be adopted sometime later this year or early next year and after this Plan is made. That being the case, the later adopted plan will take precedence should there be any conflict between policies in either plan.

The draft DPD includes this statement:

“There is also a Neighbourhood Plan for Wivenhoe and Neighbourhood Plans are being prepared for Ardleigh and Elmstead, but they will only apply to land and property outside of the Garden Community.”<sup>36</sup>

The draft DPD also indicates that requirements from development management policies in Section 2 Plans have been included in the DPD and will replace all the policies set out in both the TDC and CCC Section 2 Local Plans.<sup>37</sup>

Draft DPD Policy 1 also states that “...land within or nearby the GC location that would prejudice the comprehensive development of the GC...will not be supported by the Councils.”. Part B of the same policy identifies the three neighbourhoods one of which is Crockleford Neighbourhood.

A representation from Lichfields, on behalf of Latimer (the Master Developer, Plot Developer Partner, Housing Association and Stewardship Body for the GC), asks for a new and separate policy to be added to this Plan to specifically exclude the GC from this Plan.

On the other hand, the Parish Council consider that the GC is potentially many years away and that if this Plan excludes the GC, that area is left with a policy void in the meantime and those residents [in Crocklefield] do not have democratic representation. Let me address these points; firstly, there seems to be common ground amongst all parties that this Plan should not adversely affect the comprehensive planning or delivery of the GC.

Secondly, the submission Plan included a number of phrases in various policies excluding that policy, or a particular element of a policy, from applying to the GC. I originally felt this was clumsy and that a ‘catch all’ paragraph at the start of this Plan indicating it did not apply to the GC would be sufficient.

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<sup>36</sup> DPD Submission Version Plan page 6

<sup>37</sup> Ibid

Following the representations made at the focused consultation stage (which included a number of significant changes to some policies in the Plan as well as the 'catch all' paragraph), I do not now think that is the best way forward and I set out my thoughts below.

I now consider that there is no reason why some of the policies, or parts thereof, in this Plan, could not apply to the GC. This is because my role is to examine the Plan in relation to the basic conditions. There seems to me to be no reason why some policies could not apply to the GC to help achieve sustainable development and be in general conformity with the strategic policies I have referred to above.

Therefore I propose to insert a phrase into each policy, or part thereof, indicating which policies, or parts thereof, should not apply to the GC. This is closer to the approach taken in the submitted Plan.

In thinking about the wording to use, my interpretation of LP2 Policy SPL 2, is that, as yet, the GC is not a settlement with a settlement development boundary and so is treated as a discreet location. Given the approach of this Plan in that some policies are directed to development in and outside settlement development boundaries this is an important distinction. As a result, for the policies in this Plan which should not apply to the GC, I intend to ensure that the wording "outside of the GC" is inserted to the relevant policies.

I am also mindful that another neighbourhood plan, Elmstead Neighbourhood Plan (ENP), is currently at examination. This is being examined by another independent examiner. However, a similar issue arises and it would be helpful for the two neighbourhood plans to be as consistent as possible in the way they deal with the GC.

The ENP contains a provision that indicates not all policy provisions are intended to apply to the GC. It helpfully confirms that where this is the case, this is made clear in the policy [as well as the supporting text]. A recommendation will be made to insert a similar phrased provision into this Plan.

Alongside the recommendations to include specific provision in each policy, or part thereof, which does not apply to the GC in this Plan, this will mean there is a consistency of approach between the two neighbourhood plans.

Given the recommendations I now propose to make on a policy by policy basis, a separate, new or discreet policy to exclude the GC is not necessary. To exclude the GC from the entire Plan as a matter of principle in a negatively worded policy also may not be seen to contribute to the achievement of sustainable development.

It is however important to insert into each relevant policy or element of a policy in this Plan an explicit phrase to specifically and clearly indicate where the policy, or parts thereof, only applies outside the GC. By doing this, the elements of policies which can apply to the whole Plan area, including the GC, will apply until superseded.

In general terms, I have excluded the GC from those policies or elements of policies which will be the subject of more detailed and comprehensive planning. I have not included reasons in each and every policy, but this is the principal rationale for recommending those changes to the policies in this Plan.

This approach will also help to address the Parish Council's concerns. In fact the LP2 identifies that 1,000 new homes will be delivered in the GC by 31 March 2033; the same timescales as this Plan period. I disagree there would be a policy void and a lack of democratic representation because of the modifications I now intend to recommend and in any case, the LPs apply and, amongst other things, residents are able to take part in the planning process for the DPD.

In addition, the Parish Council would like the Plan policies to apply after the GC has been built. It could be an option for the Parish Council to develop such policies in the future once the DPD has been adopted and development commenced as part of a future update or review of this Plan.

I now turn to more detailed comments on each section of the Plan.

## **1. Introduction**

This is a helpful introduction to the Plan that sets out the purpose of the Plan.

## **2. Neighbourhood Plan Area**

A map of the Plan area is usefully included.

## **3. What is a Neighbourhood Plan and why do we need one?**

A useful explanation of the Plan. Some natural updating may be needed to this section as the Plan progresses towards referendum.

## **4. Planning Policy Context**

This section sets out the planning policy context for the Parish and makes reference to the Tendring Colchester Borders GC. As explained earlier in this report, a part of the GC falls within the southernmost part of the Plan area.

Work is progressing on a DPD for the GC. It is important given the strategic nature of the site which has support in adopted policy that this Plan does not adversely affect the delivery of the site. I note the various references throughout the Plan that indicate there is no intention to prevent or discourage any development permitted by the Local Plan and there is no reason for me to think this is not the case as I have previously noted.

Whilst this section of the Plan outlines a lot of information, I consider it could be more comprehensive. A modification to this section of the Plan is therefore made to address this point.

In addition, I have noted that the ENP is also at examination at the time of writing. As explained above, the ENP contains a very useful explanation of how the policies will relate to the GC and I intend to add a similar paragraph to this Plan. This will give clarity as to how this Plan relates to the GC and also better consistency between the two neighbourhood plans.

Furthermore, I have, in revising the text for this chapter of the Plan, set out the importance, as I see it, of the issue of the settlement development boundary. Again I have explained this point in the discussion of the key issue.

- **Revise Section 1 to read:**

**“Section 1 of the 2013-2033 Local Plan was jointly prepared by Braintree, Colchester, Essex and Tendring Councils (known collectively as the North Essex authorities) and covers broad strategic matters. It was adopted on 26/01/2021.**

**Section 1 of the Local Plan takes bold steps to provide for the housing, employment and social needs of existing and future residents up to and beyond the plan period. A key focus of this part of the Plan is the creation of a new garden community.**

***LP1 Policy SP 3 sets out the spatial strategy for North Essex. Existing settlements are the focus for growth and development is accommodated within and adjoining settlements depending on their scale, role and sustainability. It is this policy which contains the new Tendring/Colchester Borders Garden Community (GC) proposal.***

***LP1 Policy SP 4 indicates that Tendring has a minimum housing requirement of 11,000 over the plan period of LP1 to 2033. LP1 Policy SP 5 supports a strong, sustainable and diverse economy with at least 12 hectares of employment land sought in Tendring.***

***LP1 Policy SP 6 sets out the requirement for a Development Plan Document (DPD) for the GC and identifies the strategic transport infrastructure that***

*requires planning permission and funding before any permission is granted for the GC.*

*LP1 Policy SP 8 identifies 2,200 – 2,500 homes, seven hectares of employment land and provision of Gypsies and Travellers that are to be provided within the permission for the GC within this Plan period (as part of the expected overall total of 7,000 – 9,000 new homes, 25 hectares of employment land to be delivered beyond 2033. It identifies what the DPD will cover and indicates that no part of the GC will obtain permission before the DPD is adopted. It sets out principles for the GC.*

*LP1 Policy SP 9 sets out further details for the DPD including the definition of the boundary and the amount of development.*

The new community is proposed to be sited on the Tendring/Colchester border, extending into the southernmost portion of Ardleigh Parish where the small historic hamlet of Crockleford Heath<sup>1</sup> is located.

*The DPD has now been prepared by TDC and Colchester City Council. The draft DPD includes the identification of an “Area of Special Character” at and around the settlement of Crockleford Heath, aimed at safeguarding its distinctive rural character.*

*The DPD has been subject to two formal periods of consultation. The DPD, and other accompanying documents, was submitted to the Secretary of State for examination on 21 September 2023. Hearing sessions are, at the time of writing, currently being held.”*

- **Revise Section 2 to read:**

**“Section 2 of the 2013-2033 Local Plan contains policies relating solely to Tendring District. It was adopted on 25/01/2022. Section 2 allocates the homes and jobs required for the plan *period*. It also contains place-shaping policies. These policies steer and guide development to ensure that Tendring’s natural and built assets are enhanced and protected, its communities are well connected both by broadband and travel choices, and new development is designed to promote healthy living, adaptability of homes and safety from flood risk.**

*The Vision includes reference to the GC. LP2 helpfully sets out which policies are regarded as ‘strategic’ in nature.<sup>38</sup> LP Policy SPL 1 states that the GC is at the top of the settlement hierarchy alongside Clacton-on-Sea and Harwich and Dovercourt. It identifies Ardleigh as a Smaller Rural Settlement.*

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<sup>38</sup> LP2 page 35

***LP2 Policy LP1 identifies 1000 homes to be delivered at the GC by 31 March 2033. This aligns with the plan period for this Plan which is to 2033.”***

- **Delete Figure 3**
- **Revise Local Plan Strategy for Ardleigh section to read:**

***“Ardleigh village is defined as a Smaller Rural Settlement. It sits at the lowest tier of the settlement hierarchy.***

***The Smaller Rural Settlements are considered to be the least sustainable locations for growth. Nevertheless these villages are under pressure to grow and some small-scale development, sympathetic to the rural and often historic character of the settlement, can help to sustain these communities.***

***To plan for this, Settlement Development Boundaries have been drawn flexibly to accommodate a range of sites within and on the edge of the villages enabling them to be considered for small-scale residential infill development.***

***LP2 Policy SPL 2 identifies settlement development boundaries including one for Ardleigh village. It is clear that the GC sits outside this and will be subject to a separate DPD containing its own policies designed to guide the location of development in the broad location identified on Diagram 10.2 in LP 1 and Map B.7.***

***This is important because some of the policies in this Plan refer to the settlement development boundary. As yet the GC is not a settlement with a settlement development boundary and is treated as a discreet location in LP2 Policy SPL 2. Therefore it is important for those policies, or elements of those policies, in this Plan which do not apply to the GC, that this is made explicit on a policy by policy basis.***

***LP2 Policy SPL 2 states there is a general presumption in favour of new development subject to detail consideration within the Settlement Development Boundary.***

***Outside the Settlement Development Boundary, planning applications will be considered in relation to the pattern and scales of growth in the settlement hierarchy and relevant policies. For instance LP2 Policy PP 13 sets out a number of specific circumstances where, in the interest of supporting growth in the rural economy, planning permission may be granted in the countryside.***

***Development over 10 dwellings is only permitted where there is support from a Parish Council or an approved neighbourhood plan advocates additional growth or there is an identified local need for affordable housing that could be addressed on a rural exception site, subject of Policy LP 6 (section 3.3.1.4.4).***

***Rural Exception Sites will be permitted on sites adjoining Ardleigh's defined Settlement Boundary provided:***

- i. Sufficient evidence is provided of a shortage of council/affordable housing within the Parish; and**
- ii. The scheme is supported by Ardleigh Parish Council.**

**The Plan also provides a flexible policy for self-build houses. These schemes may be permitted in the countryside subject to meeting specific criteria (policy LP 7).**

**The development of new care homes and extra care housing is also promoted by the Plan (policy LP 10).**

**Retail growth in Ardleigh is expected to be limited to small-scale developments intended to serve the day-to-day needs of the local community only (policy PP3).**

**In terms of employment growth, the Plan encourages sustainable development proposals for farm and other land-based diversification schemes that would benefit the rural area. *Further* support for rural-based enterprises is provided by local policy PP 13.**

**Tourism-related proposals of the right kind are also strongly encouraged, including the provision of appropriate outdoor recreational facilities that would strengthen the function and protection of the undeveloped countryside (policy PP 8).**

**In terms of visitor accommodation, any growth in hotels or guesthouses should be limited to established sites or to ancillary accommodation at appropriate venues such as public houses (upper floors), residential health and beauty facilities and function/conference centres (policy PP 9). New or extended camping and touring caravan sites are also encouraged but will be subject to holiday occupancy restrictions (policy PP 10).**

**The policies of this Neighbourhood Plan are intended to support and complement the general spatial strategy outlined above.**

***Not all policies or some elements of policies will apply to the Tendring/Colchester Borders Garden Community. Where this is the case, it has been made clear in the policy itself. Ardleigh Parish Council intends to work closely and proactively with the partner councils to progress the design and development of the GC."***



## 5. Background to the Parish

This section covers a vast array of information about the Plan area and its history and characteristics.

Reference is made to the Dedham Vale Area of Outstanding Natural Beauty in paragraph 5.32. This should now be updated.

Reference is made to LP Policy HP 4 and Safeguarded Open Spaces. It indicates that seven areas are designated in the LP and shows these on page 33 of the Plan. The footnote to paragraph 5.43 refers to local green spaces as well; these are different and a correction is made to the footnote.

In addition paragraph 5.45 refers to additional Local Green Spaces being identified through the Plan indicating that the Safeguarded Open Spaces are the same; they are not. A correction is therefore made to the supporting text.

I discuss the issue and the difference between Safeguarded Open Spaces and Local Green Spaces in more detail in the discussion on Policy LGP on page 30 of this report.

- **Update the reference to the Dedham Vale AONB in paragraph 5.32 on page 29 of the Plan to reflect the new name for AONBs of “National Landscape”**
- **Delete the words “local green and” from footnote 14 on page 32 of the Plan**
- **Delete the word “Additional” from paragraph 5.45 on page 33**

## 6. Consultation & Evidence Base

This is a useful section that describes the consultation.

Paragraph 6.33 contains a long footnote; unfortunately it is not clear to me where the quotation is from despite a query to this effect. Therefore it should be removed from the Plan in the interests of clarity.

- **Remove footnote 16 from page 47 of the Plan**

## 7. Vision and 8. Objectives

The vision is written as a series of statements which set out the aspirations for the Parish in 2033.

One of the statements requires correction to avoid confusion.

The vision is supported by two objectives; one is to achieve the vision and the second is to achieve sustainable development based on the three interarching objectives found in the NPPF.

The vision and objectives are articulated well and relate to the development and use of land.

- **Amend paragraph 7.6 to read:**

**“Existing community facilities, including Safeguarded *Open Spaces and Local Green Spaces* have been retained and new leisure.....” [retain as existing to end]**

## Neighbourhood Plan Policies

### Policy GDP - General Approach to Development

I recommend some changes to the supporting text to this policy to make it clear where the Plan does not apply to the GC site and to correct references to LP2 policies.

The policy sets out a general approach to development. It refers to the Settlement Development Boundary; the one for Ardleigh shown on page 56 of the Plan is the same as the one found in the LP2. Given the relatively recent adoption of the LP2, this is acceptable and in any case there is no compulsion to revise the boundary through work on a neighbourhood plan.

The policy refers to a number of LP2 policies including LP 6 and LP 7. LP2 Policy LP 6 refers to rural exception sites. LP2 Policy LP 7 refers to self-build and custom build homes, but is not a strategic policy.

The policy makes reference to consistency with neighbourhood plan policies. As the Plan itself ably points out, the neighbourhood plan forms one element of the development plan which often is comprised of a number of different documents. For this reason and because reference only to policies in the neighbourhood plan would be too narrow a focus, a modification is made to refer to development plan policies rather than neighbourhood plan policies.

The LP identifies Ardleigh village as a Smaller Rural Settlement. These are the least sustainable locations for growth. However, these settlements remain under pressure to grow and some small-scale growth is accepted. This is because this might help young people to remain in the local area and help keep local services and facilities viable.

The LP therefore identifies a Settlement Development Boundary which accommodates a range of sites within and on the edge of the villages enabling small-scale residential infill development to occur. The LP2 states that development over 10 dwellings will not be supported unless the Parish Council supports this or a made neighbourhood plan advocates further growth. Whilst I appreciate the Parish Council do not consider 10 units to be small scale and would prefer a smaller number, little evidence is available to indicate why a smaller number than in the LP2 would be appropriate in the Parish. However, given the nature of the village, it seems likely that smaller schemes would come forward.

LP2 Policy PP 13 supports growth in the rural economy outside the Settlement Development Boundaries including through the reuse of rural buildings, business related activities and farm and other land based diversification.

In many ways, Policy GDP refers or replicates existing development plan policies and so unarguably does not add a great deal to the existing policy context. However, I consider it important for this Plan to set out an approach to development and it can be made clear the Parish Council does not support significant additional housing growth.

Therefore with modification, the policy will meet the basic conditions despite some repetition and overlap with LP2 policies as it has regard to the NPPF insofar that it shapes and directs development,<sup>39</sup> is in general conformity with LP2 especially LP2 Policies LP 6 and PP 13 and will help to achieve sustainable development.

Natural England also recommends that reference is included to the Essex Coast Recreational disturbance and Mitigation Strategy (RAMS) as the Plan area lies within the Zone of Influence (ZOI) of a number of European sites.

The RAMS has been undertaken to address the impact of increased recreational disturbance arising from new housing on Habitats sites and requires mitigation. I consider it would be helpful to include a reference to it within the policy in the interests of completeness and clarity. This element of the policy will apply to the GC as appropriate and I see a similar clause is proposed for inclusion in the draft DPD.

- **Change references from “Neighbourhood Plan policies” to “Development Plan policies in paragraph 9.3**
- **Add the words “and outside of the Tendring Colchester Borders Garden Community” after both references to “...Development Boundaries” in paragraph 9.4**
- **Remove the references to policy PP 6 in the first two bullet points of paragraph 9.5**

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<sup>39</sup> NPPF paras 13, 29

- Change the policy to read:

***“Within the Settlement Development Boundary, small scale development for no more than 10 dwellings or for community and employment uses will be supported in line with policies in the development plan.***

***Outside the Settlement Development Boundary and outside of the Tendring Colchester Borders Garden Community, new development will not generally be permitted unless it is consistent with all other relevant Development Plan policies and:***

***Housing development***

- a. It is a Rural Exception Site in full accordance with local *plan* policy LP 6;
- b. It is a small development of Self/Custom Build Homes in full accordance with local *plan* policy LP 7; or
- c. It is for the 1:1 replacement of an existing dwelling that would both enhance local character and improve the site’s overall energy efficiency and/or sustainability.

***All other development***

- d. The proposal is *appropriate* in scale and impact to its location and context; and
- e. It would provide necessary support for a new or existing business that is appropriate to the rural area; or
- f. It would directly provide for the conservation, enhancement or appropriate enjoyment of the countryside.

***All new residential development should also accord with any requirements specified in the Essex RAMS Supplementary Planning Document and local plan policy PPL 4.”***

## **Policy CFP – Community Facilities**

To support a prosperous rural economy, the NPPF expects planning policies to enable the retention and development of accessible local services and community facilities.<sup>40</sup> It also states that policies should guard against the unnecessary loss of valued facilities and services as part of its drive to promote healthy and safe communities.<sup>41</sup>

The NPPF cites open space and sports venues as part of the local services and community facilities which planning policies should retain and enable.<sup>42</sup> In addition, the NPPF recognises that planning policies should help to achieve healthy, inclusive and safe

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<sup>40</sup> NPPF para 88

<sup>41</sup> Ibid para 97

<sup>42</sup> Ibid

places which enable and support healthy lifestyles.<sup>43</sup> It also encourages policies to provide recreational facilities and to guard against their unnecessary loss.<sup>44</sup>

The Plan explains that the Parish has a number of services and facilities including a primary school, surgery and shop.

This is a long policy which seeks to achieve a number of things. Firstly, it supports new or improved community facilities citing exercise based facilities and redress of an existing play and open space deficit. It also refers to small, independent businesses with a clear community role or function. Then this element of the policy refers to the development of the Village Hall as a community hub. This element of the policy as currently written would support development of this nature anywhere. I assume this is intentional, but some modification is needed to ensure that the location is appropriate. To make it clear that each of these particular developments is not mutually exclusive the word “or” is inserted. Further modification is made to make the policy clearer.

The second element of the policy refers to accessibility and the needs of young people.

The third element of the policy talks about the loss of facilities. It cross references LP2 Policy HP 2 and seeks to add local detail to it. LP2 Policy HP 2 refers to replacement facilities being on site or in the vicinity. A modification is made to make it clearer that criterion 3. a. is referring to that policy and to add flexibility recognising the wording of LP2 Policy HP 2.

The b. part of this criterion sets out that substantial weight will be given to evidence provided by the Parish Council or the local community in relation to the need and demand evidence LP2 Policy HP 2 requires. Whilst this evidence would be useful, it is not possible to determine the amount of weight placed upon it as this is a matter for the decision taker. A modification is therefore made to this part of the policy.

Finally, in relation to this criterion, the word “plan” is also added for clarity to references to the local plan policies.

The fourth element seeks to ensure that any new development is accompanied by appropriate medical and educational facilities or that capacity is shown to be available within existing provision.

The last element refers to the relocation of the existing GP Surgery and Primary School. It resists their relocation outside of the Parish. This is a difficult dilemma often faced by communities. Whilst it is understandable that both facilities, perhaps unusually are found to be within the Parish at the current time and the community does not wish to lose these valued facilities, the provision of new or improved facilities could nevertheless be convenient if outside the Plan area. However, the policy sets out a stance reflecting the community’s wishes and can be retained with modification.

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<sup>43</sup> NPPF para 96

<sup>44</sup> Ibid para 97

Much of this policy can apply to the GC. These elements would not prejudice the development or delivery of the GC because of their requirements which would be regarded as good design and planning anyway in the achievement of sustainable development and because of the flexible wording in the policy itself.

There are some more minor corrections to make to paragraphs 10.3 and 10.16.

With these modifications, the policy will meet the basic conditions. It will have regard to the NPPF's stance on community facilities, be in general conformity with LP2 and help to achieve sustainable development.

- **Change "...Safeguarded Local Greenspace..." in paragraph 10.3 on page 59 of the Plan to "Safeguarded *Open Space*"**
- **Delete paragraph 10.16 on page 61**
- **Change the policy to read:**

**"1. Applications for new or enhanced community facilities will be *supported in appropriate locations* where the proposal:**

- a. **Provides a gym, swimming pool, squash/tennis/badminton courts and/or *exercise related or leisure facilities; or***
- b. **Provides on site enhancement of the Village Hall *that would develop its role as a Community Hub; or***
- c. ***Is for a business with a clear community role or function such as meeting rooms, restaurant or café, shop, pub, dog training facility/walking area; or***
- d. ***Would contribute to meeting any identified deficiency in Ardleigh's equipped play/open space."***

**2. New or improved community facilities should be designed to be accessible to all, including those with mobility restrictions. *Community facilities that are intended or able to meet the needs of young people are particularly welcomed.***

**3. Proposals that would cause the loss or closure of existing community facilities will be refused unless they are in full accordance with local *plan* policy HP 2. In order to meet this policy, it will be *expected* that:**

- a. **In relation to part b. of *local plan policy HP 2*, any existing community facility located within the Settlement Development Boundaries should be replaced by a facility also located within *or within convenient walking distance of* the Settlement Development Boundaries;**
- b. **In relation to part c. of *local plan policy HP 2*, evidence provided by the Parish Council and/or members of the local community *demonstrating that regular community use is made of a facility and/or the facility meets a clear community need, will be taken into account."***

**4. All housing applications *outside of the Tendring Colchester Borders Garden Community* that would result in a net addition of housing must be accompanied by:**

- a. Evidence that there is sufficient capacity at the GP Surgery and Primary School to meet the needs arising from the new household(s); or
- b. A proportionate financial contribution towards the enhancement or new provision of appropriate medical and primary education facilities within the parish confines.

**5. Development (including cumulatively) that would lead to the closure or relocation of Ardleigh's GP Surgery or Primary School outside of the parish confines will be resisted *unless satisfactory replacement or improved provision is provided.***"

## Policy HP – Housing

This policy consists of a number of parts.

The first part resists development outside the Settlement Development Boundary and cross-references Policy GDP which in turn cross-references a number of LP policies. Given the overlap with Policy GDP, this part of the policy is not necessary. For these reasons, a modification is made to delete criterion 1.

The second part of the policy supports infill development of no more than 10 dwellings in the Settlement Development Boundary.

The third part details a number of criteria for housing development. It seeks to encourage development to incorporate these features by indicating the development would be looked on more favourably. This is a difficult argument; either the proposal would comply with policy or it would not.

In addition, some of the criteria seek to set standards including going beyond sustainable design and construction or affordable housing minimum policy requirements or deal with matters such as fire safety which are generally dealt with through the building regulations regime.

A general rule of thumb is that policies which propose standards or requirements that go beyond current or proposed standards should be rejected at examination if they do not have a well-reasoned and robustly costed rationale. This is embedded in a Government Statement on Planning – Local Energy Efficiency Standards Update<sup>45</sup> and I consider the principle is applicable here.

Therefore the third part of the policy is subject to modification to reflect these matters.

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<sup>45</sup> Statement made on 13 December 2023

Turning now to the fourth part, this supports granny annex type accommodation throughout the Parish. The rationale behind this is to support the changing needs of households including the provision of multi-generational living and the need to care for family. I consider this to be in general conformity with LP2 Policy LP 2 which supports housing choice including for older people.

Lastly, the policy seeks affordable housing to be dispersed and indistinguishable from market housing. This is in general conformity with LP1 Policy LP 5 which indicates there should be no material difference in the appearance and quality between open market housing and affordable housing and both tenures of housing should be integrated. A modification is made to make this part of the policy less ambiguous.

Essex County Council has indicated that information in the Plan regarding the primary school capacity is incorrect. A modification to delete the relevant paragraph is therefore made in the interests of accuracy and a further modification to reflect that the text reports the comments of the community rather than hard facts.

With these modifications, the policy will meet the basic conditions. It takes account of the NPPF, is in general conformity with LP2 Policies SPL 1, SPL 2, LP 2 and LP 5 in particular and will help to achieve sustainable development.

- **Amend the policy to read:**

**“1. Housing development will be supported within the Settlement Development *Boundary* where:**

**a. The proposal is for limited infilling\* of no more than 10 dwellings.**

**\*For the purposes of this policy, infilling means the development of a plot with buildings on both sides, usually a plot in an otherwise continuously built up road frontage.**

**2. *New housing development outside the Tendring Colchester Borders Garden Community, is encouraged to incorporate:***

**a. *Smaller units of 1 – 3 bedrooms to address local need;***

**b. *Sustainable design and construction features; and***

**c. *Accessibility features which would allow occupiers to remain in their homes over their lifetimes.*”**

**3. The creation of ancillary residential accommodation (e.g. granny annexes) within the curtilage of existing dwellings will be supported throughout the parish *but outside the Tendring Colchester Borders Garden Community* provided:**

**a. Evidence is supplied that the accommodation is required to provide necessary care and/or support to a member of the site’s immediate family or household; and**



- b. A restrictive condition to prevent the future use of the ancillary accommodation as a separate or self-contained dwelling is applied to any grant of planning permission.**

**4. For developments that include the provision of affordable housing, it will *be* expected that affordable homes are interspersed *appropriately* throughout the market housing and are indistinguishable from the market housing in terms of their external appearance, design, standards and build quality.“**

- **Delete paragraph 11.8 on page 67 of the Plan**
- **Delete the last sentence of paragraph 11.13 on page 68 of the Plan**

## **Policy EP – Natural, Built and Historic Environment**

Policy EP is a long policy with numerous and varied criteria covering a wide range of issues.

The NPPF states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.<sup>46</sup> Being clear about design expectations is essential for achieving this.<sup>47</sup>

It continues that neighbourhood planning groups can play an important role in identifying the special qualities of an area and explaining how this should be reflected in development.<sup>48</sup> It refers to design guides and codes to help provide a local framework for creating beautiful and distinctive places with a consistent and high quality standard of design.<sup>49</sup>

It continues that planning policies should ensure developments function well and add to the overall quality of the area, are visually attractive, are sympathetic to local character and history whilst not preventing change or innovation, establish or maintain a strong sense of place, optimise site potential and create places that are safe, inclusive and accessible.<sup>50</sup>

The NPPF states that policies should contribute to and enhance the natural and local environment including through the protection of valued landscapes and sites of biodiversity value, recognising the intrinsic character and beauty of the countryside and, minimising impacts on, and providing net gains for, biodiversity.<sup>51</sup>

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<sup>46</sup> NPPF para 131

<sup>47</sup> Ibid

<sup>48</sup> NPPF para 132

<sup>49</sup> Ibid para 133

<sup>50</sup> Ibid para 135

<sup>51</sup> Ibid para 180

In relation to heritage assets, the Plan area boasts a Conservation Area and a large number of listed buildings.

The NPPF explains that heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance.<sup>52</sup> In relation to non-designated heritage assets, the NPPF is clear that the effect of any development on its significance should be taken into account and that a balanced judgment will be needed having regard to the scale of any harm or loss and the significance of the heritage asset.<sup>53</sup>

In essence, Policy EP seeks to deliver locally distinctive development of a high quality that protects, reflects and enhances local character, both built and natural and historical, taking account of the NPPF and leading on from LP1 Policy SP 7 in particular. LP1 Policy SP 7 requires all new development to meet high standards of design and reflect a number of place shaping principles set out in that policy. Policy EP refers to the Village Design Statement or any successor document.

Some changes to wording are recommended to add more precision to the policy. For example, the phrase “pays due regard” may be difficult to comply with for both applicants and decision takers.

The second part of the policy seeks to give support on an exceptional basis to proposals which would bring benefits to the natural, built or historic environment. Such benefits must outweigh any disbenefits. In my view this type of policy can be risky as it can lend support for developments which otherwise would not be acceptable. In addition, the policy indicates that it would be the Parish Council’s view that would determine this, but that body is not, as yet, the decision maker for planning applications or appeals.

Lastly, the policy indicates that this balance might conflict with strategic policies. This is an inappropriate stance to take within policy and in any case other material considerations can be taken into account in determining a planning application. The NPPF confirms this position in a discussion on enabling development where it indicates that local planning authorities should assess whether the benefits of a proposal for enabling development which would otherwise conflict with planning policy would outweigh the disbenefits of departing from those policies because the development would secure the future conservation of a heritage asset.<sup>54</sup>

I do not consider the last part of the policy is necessary or desirable. The intent of this part of the policy can be achieved by the decision maker now.

There are also a number of modifications to be made to the supporting text. The more major of these is firstly the inclusion of some of the contents of the Village Design Statement. Whilst I appreciate it might not be practicable to include long extracts from it, the inclusion of some aspects but not others appears to me to place a false emphasis on some features and not others. This will also result in a consequential modification.

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<sup>52</sup> Ibid para 195

<sup>53</sup> Ibid para 209

<sup>54</sup> NPPF para 214

Secondly, paragraph 12.11 indicates that the Village Design Statement has equal weight to the Plan. This is part of a wider argument about the Plan which states right at the start on the table of contents page that the Plan includes appendices which are included at the end of the Plan to provide clarity or understanding and two annexes which are standalone documents, but support the Plan.

In this case, the annexes are the Local Green Spaces Assessment and the Village Design Statement.

Village Design Statements are usually regarded as supplementary guidance documents. They do not have equal weight to the Plan policies. The modifications recommended to the policy ensure it is taken into account. The Village Design Statement itself describes it as guidance.

It is not my role to recommend modifications to supporting documents. However, there are a number of references in the Village Design Statement which need correction in relation to safeguarded Local Green Spaces, the Garden Community (pages 49 and 50 of the Village Design Statement) and to Plains Farm Close (page 74 of the Village Design Statement) which I consider should be removed because they are either incorrect or seek to set out a policy position in this guidance document.

Reference is made in paragraph 12.14 to LP2 Policy PPL 3 in relation to agricultural land. I cannot see a reference to this in that LP2 policy. A modification is therefore made to change this.

With these modifications, the policy will meet the basic conditions by supporting locally distinctive development of a high quality having regard to the NPPF, leading on from, and being in general conformity with, LP1 Policy SP 7 in particular, and achieving sustainable development.

▪ **Amend the policy to read:**

***“1. Outside of the Tendring Colchester Borders Garden Community, development will be supported provided:***

***a. Its design is of a high quality and takes account of the Village Design Statement or any successor document, paying particular attention to appropriate:***

***i. Siting;***

***ii. Layout;***

***iii. Form and scale;***

***iv. Architectural style***

***v. Materials;***

***vi. Relationship to surrounding development;***

***vii. Impact on *important* built *and* landscape features;***

***viii. Landscaping and boundary treatments;***

***ix. Car parking *provision*; and***

***x. Accessibility.***

- b. It does not result in a harmful urbanising effect on a rural lane or street (for example, as a result of *hedgerow removal* or loss of an open view);**
- c. There is no urban intrusion (including as a result of light or noise pollution or increased vehicular traffic) into currently tranquil rural areas;**
- d. There is no net loss of good quality green landscape features (including trees, hedges and shrubs) and all new green landscape features are of appropriate local or native species;**
- e. Appropriate opportunities are incorporated to support local biodiversity and wildlife *including net gain*;**
- f. There is no *unnecessary* loss of best and most versatile agricultural land to non compatible uses (the onus will be on the developer to establish the quality of any agricultural land proposed for other uses);**
- g. Development in the Conservation Area or within its setting preserves or enhances its *character or appearance* and *takes the* Conservation Area Appraisal *into account*; and**
- h. Development affecting a Listed Building or its setting preserves or enhances its significance and is supported by a proportionate Heritage Impact Assessment.” [delete existing criterion 2. of the policy]**

- **Change the second bullet point on page 74 of the Plan to read: “Policy PPL 8 which expects new development to preserve *or* enhance Conservation Areas...” [retain as existing to end of the bullet point]**
- **Correct the spelling of “medieval” in the fourth bullet point in paragraph 12.3 on page 74**
- **Include all of the contents of the desirable and undesirable design features from the Village Design Statement (page 85 of the VDS onwards) in Tables 3, 4, 5 and 6 on pages 76 – 78 of the Plan**
- **Change paragraph 12.10 on page 76 of the Plan to read:  
  
“*The desirable and undesirable* design features for new development in *Ardleigh outside the Tendring Colchester Borders Garden Community* are set out in the tables below.”**
- **Delete the words “...and attracts equal weight...” from paragraph 12.11 on page 78 of the Plan**
- **Delete the words “...in accordance with local policy PPL 3...” from paragraph 12.14 on page 79**

## Policy LGP – Local Green Spaces

The supporting text to this policy refers to LP Policy HP 4 and safeguarded open spaces. It indicates that seven areas are designated as Local Green Spaces (LGS) in the LP. I do not find that to be the case. These spaces are designated as safeguarded open spaces not as LGSs. There is a significant difference between safeguarded open spaces and LGSs which is that LP Policy HP 4 allows the loss of these spaces in certain circumstances. In contrast the LGS designation would not permit their loss and in fact the designation should endure beyond the Plan period.

A modification is made to delete the incorrect supporting text. I have considered whether to amend it, but given the section is on LGS and these paragraphs refer to something different, their retention could potentially cause confusion.

I also realise that the local community might have chosen to designate the spaces which are safeguarded open spaces in the LP as LGS, but this would require consultation and is therefore for any future review of the Plan.

The Plan proposes 10 areas as Local Green Space (LGS). They are shown on the Proposals Maps. A separate Local Green Spaces Assessment has been carried out.

The NPPF explains that LGSs are green areas of particular importance to local communities.<sup>55</sup>

The designation of LGSs should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.<sup>56</sup> It is only possible to designate LGSs when a plan is prepared or updated and LGSs should be capable of enduring beyond the end of the plan period.<sup>57</sup>

The NPPF sets out three criteria for green spaces.<sup>58</sup> These are that the green space should be in reasonably close proximity to the community it serves, be demonstrably special to the local community and hold a particular local significance and be local in character and not be an extensive tract of land. Further guidance about LGSs is given in PPG.

I saw the proposed areas on my site visit.

1. Fishing Lake and Footpaths north of Colchester Road is valued for its lake, footpaths and views. Used for recreational purposes, it is also rich in wildlife and provides a tranquil space. (Space 3).

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<sup>55</sup> NPPF para 105

<sup>56</sup> Ibid

<sup>57</sup> Ibid

<sup>58</sup> Ibid para 106

2. Field south of Mary Warner Estate is valued for its recreational function and for providing a backdrop to the green spaces in the heart of the village as a landscape and historic feature. Views of the transition between settlement edge and countryside are also important. (Space 4).
3. Reservoir Land is next to Ardleigh reservoir and consists of woodlands with wildlife and an agricultural field. It informally provides close access to the water. (Space 5).
4. Manor House Meadow is an amenity space with ancient woodland and part of a local wildlife site. (Space 7)
5. Woodlands, attached to Birch Wood comprises two small sections of woodland on the historic Hart's Lane. The two spaces are valued for their contribution to Hart's Lane and landscape and biodiversity. (Spaces 8 and 12)
6. Green Island Gardens is a landscaped garden with historic associations and makes a contribution to the setting of Ardleigh Park, a Grade II listed building. It provides educational facilities.
7. Hart's Lane Orchard is an apple orchard with a footpath running along its boundary. Orchards are important historically in the local area and the Plan indicates this is one of the few remaining areas. (Space 13).
8. Car Park Land lies adjacent to the village's car park. It consists of undulating grasses land with trees and a walkway through. It is located within the Conservation Area. (Space 22).
9. Glebe Corner Land is historically associated with the Church at one of the entrances to the village. It is valued for its history, visual appearance and biodiversity. I saw at my visit that the space is distinguishable from surrounding land. (Space 23).
10. Harwich Road Allotments are valued as a place to grow food and so on and produce is sold to the local community. This space was well tended and popular at the time of my visit. (Space 24).

In my view, all except three of the proposed LGSs meet the criteria in the NPPF satisfactorily and two others require some amendment.

I do not consider that Field south of Mary Warner Estate, Reservoir Land or Green Island Gardens satisfactorily meet the criteria.

The Field south of Mary Warner Estate is a large, flat and featureless agricultural field. It is not distinguishable from its adjoining land to the west and is separated from the recreation ground and the Millennium Green to its east by a tree line. Although it could be regarded as a pleasant rural backdrop to these spaces and the housing in Gernon

Road, this is not in itself sufficient to justify this designation. Whilst it is on the edge of the village, any views, unremarkable in themselves as they are fairly typical of the area, are largely available from the nearby public footpaths.

With regard to Reservoir Land, the car park area would not meet the criteria as it is not green space and the field which forms part of the designation appears to be in agricultural use and may affect operations. Whilst I do not doubt the enjoyment this scenic area next to the water gives, Anglian Water has also raised concerns about operational land issues. Therefore, based on the current delineation and information before me, on balance, it does not meet the criteria.

Green Island Gardens is a commercial gardens with plant shop and café. It also includes a large car park and residential accommodation. Whilst I can understand the community's desire to protect this important amenity, a LGS designation on this land could potentially mean the opposite as this would limit what the enterprise could do in the future. I do not consider LGS designation is appropriate for this space; it might have been preferable to have a specific, bespoke policy for this site.

Additionally, PPG is clear there is no need to designate linear corridors as LGS to simply protect rights of way which are already protected under other legislation.<sup>59</sup> In respect of the Fishing Lake and Footpaths north of Colchester Road, the footpaths should be removed from the proposed designation.

I consider this modified LGS and all the other proposed LGSs are demonstrably important to the local community, all are capable of enduring beyond the Plan period, all meet the criteria in paragraph 106 of the NPPF and their designation is consistent with the local planning of sustainable development and investment in sufficient homes, jobs and other essential services given other policies in the development plan and this Plan.

I have also considered whether any additional local benefit would be gained by LGS designation for the space which also falls within the CA. Different designations often achieve different purposes and I consider that the LGS will send a signal and recognise the particular importance this space has for the local community.

Turning now to the wording of the policy, the policy does not designate the proposed LGSs although it is clear from the Plan that this is the intention. I do not consider any interested party would be prejudiced by basing my examination on the designation of these proposed LGSs.

However, the policy is relatively long and cross-references the supporting text and the LGS Assessment. In addition, it refers to inappropriate development, very special circumstances and supports development on or adjacent to the LGS. This is to misunderstand the purpose of the designation and over complicates the stance taken in the NPPF which is clear that policies for managing development within a Local Green

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<sup>59</sup> PPG para 018 ref id 37-018-20140306

Space should be consistent with those for Green Belts.<sup>60</sup>

Therefore modifications are recommended. With these modifications, the policy will meet the basic conditions by having regard to the NPPF and helping to achieve sustainable development.

I also found it confusing that the proposed LGSs retain their original assessment number. At this stage of plan making it would be preferable to update the Assessment document to only include those LGSs that are carried forward and to renumber and simplify them.

- **Delete paragraphs 13.5 and 13.6 on page 84 of the Plan**
- **Amend paragraph 13.7 to read: “*This Neighbourhood Plan is able to designate Local Green Spaces (LGS) provided the national criteria are met.*”**
- **Delete Field south of Mary Warner Estate, Reservoir Land and Green Island Gardens as proposed LGSs from the policy and all associated maps and figures**
- **Remove the footpaths from the fishing lake and footpaths north of Colchester Road proposed LGS**
- **Remove the area of car park and agricultural field from the Reservoir land proposed LGS**
- **Reword Policy LGP to read:**

***“The following spaces are designated as Local Green Spaces:  
[list the retained LGSs]***

***In the LGSs, new development will be managed in a way that is consistent with national policy on Green Belts.***

***Development adjacent to a LGS will be supported provided it is compatible with the LGS.”***

- **Delete paragraphs 13.31, 13.32, 13.33, 13.34, 13.35, 13.36 on page 96 and Table 7 on page 97 of the Plan**
- **Consequential amendments will be required, for example to the supporting text where it explains that the footpaths are included in the proposed designations and to the Proposals Maps**

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<sup>60</sup> NPPF para 107



## Policy TP – Transport and Planning

The NPPF promotes sustainable transport indicating that transport issues should be considered from the earliest stages of plan making.<sup>61</sup>

The first part of this long policy seeks to resist development that would cause significant amounts of traffic movement. The NPPF is clear that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.<sup>62</sup> A modification is made to word this more closely in line with the NPPF.

The second part of the policy supports development which improves road safety, parking, traffic control and enhance footpaths and cycleways. The NPPF is clear that planning policies should protect and enhance public rights of way and access including taking opportunities to provide better facilities for users.<sup>63</sup> Such networks can also help with providing opportunities and options for sustainable transport modes. So this latter issue has regard to the NPPF, but some of the other matters are not planning related and so a modification is recommended to this element of the policy.

The third element of the policy resists development that makes the existing situation worse. It is generally considered that new development can only be asked to address the impacts arising from it rather than redress existing problems. Whilst I note this is about exacerbation, the changes recommended to the first criterion will cover this point and deal with the issue throughout the applicable Plan area including those locations of particular concern.

The fourth criterion refers to the GC. A modification is made to remove this element from the policy.

The fifth and sixth criteria relate to car parking. With some modification, it is clear that both the amount of parking provided and how it is provided is a source of local concern. These criteria can be usefully amalgamated.

The supporting text also refers to the GC. Given their content, I consider these paragraphs should be removed in the interests of clarity as none of Policy TP applies to the GC.

With these modifications, the policy will meet the basic conditions by having regard to the NPPF, being in general conformity with LP2 and helping to achieve sustainable development.

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<sup>61</sup> NPPF para 108

<sup>62</sup> Ibid para 115

<sup>63</sup> Ibid para 104

- **Reword the policy to read:**

***“1. Outside the Tendring Colchester Borders Garden Community, new development that has an unacceptable impact on highway safety or have residual cumulative impacts on the local road network will be resisted.***

***2. Outside the Tendring Colchester Borders Garden Community, development that otherwise complies with the development plan will be supported where it:***

***a. Improves highway safety;***

***b. Takes every available opportunity to improve parking provision including through innovative approaches to parking that contribute to modal shift;***

***c. Retains and enhances the existing footpath and cycleway networks including through the provision of new routes or connections.***

***3. Outside the Tendring Colchester Borders Garden Community, parking provision should be designed as an integral feature of a development’s layout. New development should provide parking in accordance with the Essex Parking Standards and the Essex Design Guide or any successor guidance as well as considering modal shift opportunities.”***

- **Delete paragraphs 14.6, 14.7 and 14.8 on pages 100 and 101 of the Plan**

## **Implementation, Monitoring and Review**

Whilst monitoring is not a statutory requirement for neighbourhood plans, I welcome this section on monitoring and review and regard this action as good practice.

## **Appendices**

Appendix A is the Proposals Maps. This set of maps consists of a map of the Plan area. This has already been included on page 7 of the Plan. It can therefore be removed.

The next map shows the settlement development boundary which is useful.

Maps 3 to 7 show the detailed boundaries of the proposed LGSs subject to Policy LGP. I have already recommended some modifications in relation to the LGSs which will also need to be actioned here.

Appendix B is a list of policies. I do not consider this to be necessary given the relatively small number of policies and the contents page at the start of the Plan.

Appendices C and D are the consultation questionnaire. Given the stage the Plan has now reached, I do not think the inclusion of these appendices is necessary or desirable. Readers can be signposted to the Consultation Statement for further information within the Plan.

- **Remove Map 1 from Appendix A**
- **Remove Appendices B, C and D from the Plan**

## **8.0 Conclusions and recommendations**

I am satisfied that the Ardleigh Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.

I am therefore pleased to recommend to Tendring District Council that, subject to the modifications proposed in this report, the Ardleigh Neighbourhood Development Plan can proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion.

I therefore consider that the Ardleigh Neighbourhood Development Plan should proceed to a referendum based on the Ardleigh Neighbourhood Plan area as approved by Tendring District Council on 8 June 2020.

*Ann Skippers* MRTPI  
Ann Skippers Planning  
5 May 2024

## **Appendix 1 List of key documents specific to this examination**

Ardleigh Neighbourhood Plan 2020 – 2033 December 2022

Basic Conditions Statement 30 March 2022 (Planning Direct)

Regulation 14 Consultation Statement 6 April 2023 and Appendices (Planning Direct)

Strategic Environmental Assessment (SEA) and Habitat Regulations Assessment (HRA) Screening Report May 2022 (Place Services)

Ardleigh Village Design Statement Updated January 2022

Local Green Spaces Assessment Last updated March 2022

Community Engagement Report 22 April 2021 (Planning Direct)

Tendring District Local Plan 2013-2033 and Beyond Section 1 adopted January 2021

Tendring District Local Plan 2013 – 2033 and Beyond Section 2 adopted 25 January 2022

Tendring Colchester Borders Garden Community Development Plan Document Submission Version Plan (Regulation 19 Consultation) May – June 2023 and Policies Map

**List ends**

## Appendix 2 Questions of Clarification and Note of Interim Findings

### **Ardleigh Neighbourhood Plan Examination**

#### **Questions of Clarification and Note of Interim Findings from the Examiner to the Parish Council and Tendring District Council (TDC)**

Having completed my initial review of the Neighbourhood Plan (the Plan), I would be grateful if both Councils (as appropriate) could kindly assist me as appropriate in answering the following questions which either relate to matters of fact or are areas in which I seek clarification or further information. Please do not send or direct me to evidence that is not already publicly available. I also set out some interim findings.

#### ***Questions of clarification***

1. Please could TDC confirm that the Plan area map shown on page 7 and again on page 107 of the Plan correctly shows the Plan/Parish boundary as designated by TDC? Please send me a map of the designated area.
2. Please could the PC confirm whether it wishes to make any comments on all or any of the representations received at Regulation 16 stage and send any such comments to me as part of its response to this stage of the examination. There is no obligation to do so; it is only if the PC wishes to. Please note that no new evidence can be submitted as part of the response.
3. Please could you direct me to the specific source of the footnote at the bottom of page 47?
4. Please confirm that no representations from interested parties on proposed Local Green Spaces i) Reservoir Land is next to Ardleigh reservoir or ii) Manor House Meadow have been received at submission stage. I am simply checking I have not missed anything.
5. A SEA and HRA Screening Report has been submitted. The following queries arise:
  - a) The Screening Report indicates that a former community centre is allocated for redevelopment as a small housing scheme (page 35 of the Screening Report refers). I cannot find any reference to this in the Plan; has this allocation now been removed from the Plan?
  - b) Was the Screening Report subject to the requisite consultation with the statutory bodies? Assuming it was, please forward a copy of their responses to me (or confirm no responses were received).
  - c) Please can TDC confirm they are satisfied in relation to SEA and HRA requirements?

#### ***Interim Findings and Likely Recommended Modifications to the Plan and its policies***

##### **A The relationship of the Plan with the Tendring/Colchester Borders Garden Community**

As we know, some of the land earmarked for the proposed Garden Community falls within the Plan area. It is important given the strategic nature of the site which has support in adopted policy that this Plan does not adversely affect the delivery of the site. I note the various references throughout the Plan that there is no intention to prevent or discourage any development permitted by the Local Plan and there is no reason for me to think this is not the

case. I am also mindful of the Development Plan Document which is currently at a latter stage of its production, but not yet adopted.

I note and welcome that various elements of some policies exclude the Garden Community, but I consider that this Plan should make it clear without any doubt that it does not apply to the Garden Community. There is precedent for this in that Local Plan Section 2 makes it clear that it applies to the areas outside of the Garden Community. I intend to add a paragraph to this effect. This will of course create various consequential amendments throughout the Plan including to the section on planning policy context.

I invite comments on this proposed course of action from the Parish Council and TDC.

### **B Potential Changes to the Plan**

At this stage, I would like to make the Parish Council aware that unfortunately I have found that it will be necessary to make quite a lot of modifications to policies and the supporting text. In some cases, I regard these changes to be minor revisions, but others may be regarded as more significant by those involved in the production of the Plan and of course by the local community.

In essence the policies subject to more rigorous modification are HP, EP, LGP (including deletion of some of the proposed Local Green Spaces) and TP.

In relation to the supporting text, modifications are recommended in the main to correct inaccuracies. An example of this is that Safeguarded Open Spaces identified in the Local Plan are not the same as Local Green Spaces.

A further example of a likely modification is to the status of Village Design Statement as put forward in the Plan. Documents of this nature would usually be regarded as guidance which can be referred to in a policy and taken into account, but would not have the same status as the Plan itself.

I understand this will be disappointing news to those involved in the production of the Plan. I am drawing the Parish Council's attention to this scenario now as recommending numerous changes can come as an unpleasant surprise on receipt of my report and mean that community ownership of the Plan becomes diluted. I must also ensure I am not rewriting the Plan (and indeed would not wish to, or be appropriate for me to, do so) in making modifications.

I am not inviting any comments on Point B. I am also not seeking, and will not accept, any representations from other parties regarding any of the matters covered in this Note at this stage.

I would be grateful to receive a response to the queries by Friday 1 September. If the completed responses can be sent to me earlier, then I will be able to progress the examination more quickly.

This note will be a matter of public record and should be placed on the relevant websites at earliest convenience.

With many thanks,  
Ann Skippers MRTPI  
Independent Examiner  
18 August 2023

## Appendix 3 Notice and Schedule of Significant Changes from the Examiner

### **Ardleigh Neighbourhood Plan Examination Notice of Significant Changes from the Examiner**

I have completed my initial review of the Neighbourhood Plan (the Plan). I informed the Parish Council that I was likely to make a number of what could be regarded as significant changes to the Plan. The Parish Council responded indicating they would like to be invited to comment on these changes.

Part 12 of the *Neighbourhood Planning Independent Examiner Referral Service Guidance to service users and Examiners* deals with changes to the Plan. Paragraph 2.12.6 indicates that “Examiners will not generally refer back to parties on these detailed revisions. But where the modification may necessitate a change which in the opinion of an examiner would be significant, there is a reasonable expectation that a description of the intended modification will be publicised on the local planning authority’s website, seeking comments, prior to recommending the change.”

In accordance with guidance to examiners in the *NPIERS Guidance to service users and Examiners*, and because the Parish Council has specifically requested to comment on those changes, I therefore seek comments from interested parties on these proposed modifications to the Plan. I request that this note be placed on TDC’s website and that **comments on the significant changes are sought from interested parties for the period specified** on TDC’s website.

Only comments on the proposed significant change are sought. All parties are reassured that any previous representations made at the submission stage are carried forward and there is no need to repeat them or resubmit them.

It should also be noted that these are not a complete list of likely recommended modifications; they represent the most significant.

### **Notice of Significant Changes**

The significant changes that I intend to recommend are shown in the attached Schedule of Proposed Significant Changes.

Please note that this Notice is a public document and any comments received will also be in the public domain. This note should be placed on the Councils’ websites as appropriate.

With many thanks,

Ann Skippers MRTPI  
Independent Examiner  
January 2024



#### Section 4 Planning Policy Context

- Add a new paragraph which reads: *“The policies in this Neighbourhood Plan do not apply to the Garden Community site which partly falls within the Plan and Parish area.”* to this section and to Section 2. of the Plan

#### Policy GDP - General Approach to Development

- Change the policy to read:

*“Within the Settlement Development Boundary, small scale development for no more than 10 dwellings or for community and employment uses will be supported in line with policies in the development plan.*

*Outside the Settlement Development Boundary, new development will not generally be permitted unless it is consistent with all other relevant Development Plan policies and:*

*Housing development*

- a. It is a Rural Exception Site in full accordance with local *plan* policy LP 6;
- b. It is a small development of Self/Custom Build Homes in full accordance with local *plan* policy LP 7; or
- c. It is for the 1:1 replacement of an existing dwelling that would both enhance local character and improve the site’s overall energy efficiency and/or sustainability.

*All other development*

- d. The proposal is *appropriate* in scale and impact to its location and context; and
- e. It would provide necessary support for a new or existing business that is appropriate to the rural area; or
- f. It would directly provide for the conservation, enhancement or appropriate enjoyment of the countryside.

*All new residential development should also accord with any requirements specified in the Essex RAMS Supplementary Planning Document and local plan policy PPL 4.”*

#### Policy CFP – Community Facilities

- Change criterion 1. of the policy to read:

*“Applications for new or enhanced community facilities will be supported in appropriate locations where the proposal:*

- a. Provides a gym, swimming pool, squash/tennis/badminton courts and/or exercise related facilities; or
- b. Provides on site enhancement of the Village Hall *that would develop its role as a Community Hub; or*
- c. *Is for a business with a clear community role or function such as meeting rooms, restaurant or café, shop, pub, dog training facility/walking area; or*



- d. *Would contribute to meeting any identified deficiency in Ardleigh's equipped play/open space."*
- Change criterion 3. of the policy to read:
  - "Proposals that would cause the loss or closure of existing community facilities will be refused unless they are in full accordance with local *plan* policy HP 2. In order to meet this policy, it will generally be expected that:
    - a. In relation to part b. of *local plan policy HP 2*, any existing community facility located within the Settlement Development *Boundary* should be replaced by a facility also located within or *convenient to* the Settlement Development *Boundary*;
    - b. In relation to part c. of *local plan policy HP 2*, *evidence provided by the Parish Council and/or members of the local community demonstrating that regular community use is made of a facility and/or the facility meets a clear community need, will be taken into account."*

#### Policy HP – Housing

- Delete part 1. of the policy
- Change part 3. of the policy to read:
  - "*New housing development is encouraged to incorporate:*
    - a. *Smaller units of 1 – 3 bedrooms to address local need;*
    - b. *Sustainable design and construction features; and*
    - c. *Accessibility to allow occupiers to remain in their homes over their lifetimes."*

#### Policy EP – Natural, Built and Historic Environment

- Amend the policy to read:
  - "1. Development *will* be supported provided:
    - a. *Its design is of a high quality and takes account of the Village Design Statement or any successor document, paying particular attention to appropriate:*
      - i. Siting;
      - ii. Layout;
      - iii. Form and scale;
      - iv. Architectural style
      - v. Materials;
      - vi. Relationship to surrounding development;
      - vii. Impact on *important* built and landscape features;
      - viii. Landscaping and boundary treatments;
      - ix. Car parking *provision; and*
      - x. *Accessibility.*
    - b. *It does not result in a harmful urbanising effect on a rural lane or street (for example,*

- as a result of *hedgerow removal* or loss of an open view);
- c. There is no urban intrusion (including as a result of light or noise pollution or increased vehicular traffic) into currently tranquil rural areas;
- d. There is no net loss of good quality green landscape features (including trees, hedges and shrubs) and all new green landscape features are of appropriate local or native species;
- e. Appropriate opportunities are incorporated to support local biodiversity and wildlife *including net gain*;
- f. There is no *unnecessary* loss of best and most versatile agricultural land to non compatible uses (the onus will be on the developer to establish the quality of any agricultural land proposed for other uses);
- g. Development in the Conservation Area or within its setting preserves or enhances its *character or appearance* and *takes the Conservation Area Appraisal into account*; and
- h. Development affecting a Listed Building or its setting preserves or enhances its significance and is supported by a proportionate Heritage Impact Assessment.” [delete existing criterion 2. of the policy]

#### Policy TP – Transport and Planning

- Reword the policy to read:

**“1. With the exception of the Tendring/Colchester Borders Garden Community, new development that has an unacceptable impact on highway safety or have residual cumulative impacts on the local road network will be resisted.**

**2. Development that otherwise complies with the development plan will be supported where it:**

- a. Improves *highway safety*;
- b. Takes every available opportunity to improve parking provision;
- c. Retains and enhances the existing footpath and cycleway networks including through the provision of new routes or connections.

**3. Parking provision should be designed as an integral feature of a development’s layout. New development should provide parking in accordance with the Essex Parking Standards and the Essex Design Guide or any successor guidance.”**

Schedule ends