

## Colchester Borough Council

### Equality Impact Assessment Form - An Analysis of the Effects on Equality

#### Section 1: screening stage

Name of policy, service or strategy to be assessed:

- **The operation of the planning process**

1. What is the main purpose of the policy, service or strategy?

- **The primary function of the Planning Service (Development Management Team (DM), Major Applications Support & Enforcement Team (MASE) & Design & Heritage Unit (DHU) is to administer the Planning System as prescribed in Statute. This includes the determination of planning applications and associated applications, investigating complaints about breaches of planning control and any subsequent enforcement action, dealing with planning appeals, preparing planning briefs/guidance and providing conservation and urban design/design advice, monitoring S106 Agreements, running the Council's Development Team as well as general enquiries from the public, Councillors and other council services. The Planning Service works within International, National, Regional, County & Local Planning Policies. The planning function involves contact with individuals, groups and communities in a range of arenas, forums and by a variety of media.**

**At various times a number of Planning Service staff may be seconded to the Council's Planning Policy Service to assist with LDF projects, The Regen Team to assist with renaissance initiatives and the Housing Service to help drive its garage regeneration project.**

**The Planning Service also takes on fee paying consultancy work where appropriate**

2. What main areas or activities does it cover?

- **The statutory management of the Development management process via the National Planning System as framed by Statute**  
**Determination of planning & related applications,**  
**Associated activities including planning appeals, planning enforcement and S106 Agreements/monitoring**  
**Conservation & Design**  
**Trees & Landscape**  
**Planning advice via a variety of media and channels**

3. Who are the main audience, users or customers who will be affected?

- **Borough Councillors**
- **Planning Portfolio Holder**
- **Cabinet**
- **Executive Management Team**
- **Parish Councils**
- **Applicants**
- **Planning agents**
- **Neighbours to development proposals**
- **The public generally**
- **External consultees**
- **Partner services and external authorities**
- **Government Departments (Dept for Communities and Local Government – DCLG)**
- **The press**
- **Benchmarking partners**
- **Fellow Essex Planning Authorities**

4. What outcomes do you want to achieve from the policy, service or strategy?

**We will manage the planning system within Colchester in a fair and equitable manner in accordance with The Council's published adopted policies and objectives and our publicised Enforcement Strategy. We also strive to provide a fair**

and equitable service to all our customers. We aim to work with applicants, their representatives/agents/advisors, neighbours to planning proposals, elected representatives, the public, amenity groups, business groups, community groups in an open a transparent way without bias seeking always to take a balanced approach to the requirements of all parties involved in the planning process and to operate the planning system without discrimination in a friendly, professional, honest and inclusive manner. We will listen and respond and will contribute to the Council's stated aims of delivering priorities and being greener and cleaner. Our aim is operate within the prescribed planning system.

Our key outcomes are that that all parties can understand how decisions are/were reached and that in reaching those decisions the planning service had regard to all views, is/was accessible, is/was informative, helpful, fair, open and that its processes and dealings with customers are operated with the highest probity and excellence in terms of service quality. It is important that all who come into contact with the planning system are treated with respect and dignity and that all customers are satisfied with the service they experienced even when decisions are ones that they hadn't hoped for. The Planning Service in managing the development process through the planning system will seek to facilitate the delivery of high quality environments. (a healthy and stimulating interaction between buildings, spaces, people, activity and opportunities which accommodates the Council's ambition for growth in harmony with protecting and enhancing the towns natural and built heritage & cultural assets)

5. Are other service areas or partner agencies involved in delivery? If so, please give details below:

- **External statutory consultees (ECC Highways, Natural England, English Heritage, Environment Agency, Highway Agency, Anglian Water)**
- **Internal/external consultees (where appropriate to scale and type of development)**

6. Does the policy, service or strategy help to further or facilitate to our 'general duty'<sup>1</sup> to:

- (a) eliminate unlawful discrimination, harassment and victimisation?
- (b) advance equality of opportunity between people who share a 'protected characteristic'<sup>2</sup> and those who do not?
- (c) foster good relations between people who share a protected characteristic and those who do not?

- **Yes & no**

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<sup>1</sup> these 3 points summarise the 'general duty' as it applies to public sector organisations in the Equality Act 2010

<sup>2</sup> The Equality Act's 'protected characteristics' include age, disability, gender reassignment, pregnancy and maternity, race, religion or belief and sex and sexual orientation. It also covers marriage and civil partnerships, but not for all aspects of the duty.

If you have answered 'no', please give details of the reasons for this decision:

**No – The national & local planning policy on Gypsy & Traveller sites gives rise to frequent complaints from the settled community that the planning system operates in a way that is denied to them in being able to develop on green field sites where development would in nearly all other cases be refused. What this reaction does not have regard to is the fact that certain other categories also have similar alternative rules – eg: rural exception housing, agricultural development in the countryside to name but two. Some of the settled community also take exception to there being an agreed County -wide code of tolerance in respect of unauthorised gypsy & traveller encampments when the Council adopted a robust enforcement Strategy in 2010 for dealing with other planning breaches.**

7. If you answered 'yes' to any of the sections in Question 6 (above), please complete the following in order to identify how the policy, practice or strategy furthers the aim of the 'general duty':

'Protected characteristic' group		How does it help to 'eliminate unlawful discrimination, harassment and victimisation'?	How does it help to 'advance equality of opportunity between people who share a protected characteristic and those who do not'?	How does it help to 'foster good relations between those who share a protected characteristic and those who do not'?
Age	Older people (60+) Younger people (17-25) and children (0-16)	<b>The planning system is framed in Statute and local policies and guidance are subject to established processes for adoption and are subject to their own EqlA process. The planning system is available to all and is an open and transparent system with full web access to files.</b>		
Disability	Physical Sensory Learning Mental health issues	<b>The Planning Services complaints and intense customer satisfaction monitoring processes (part of the unique E&amp;PS set-up) are designed to ensure that any potential inequality is identified and tackled at a very early stage. (whether that be a process or human issue)</b>		
Ethnicity <sup>3</sup>	Other – <i>please specify</i> White Black Chinese	<b>The enforcement process (Enforcement Notices) are subject to a national appeal process with determination by an independent inspector and the Council can have costs awards made against it where the inspector judges that it has acted unreasonably in taking unwarranted action.</b>		

'Protected characteristic' group		How does it help to 'eliminate unlawful discrimination, harassment and victimisation'?	How does it help to 'advance equality of opportunity between people who share a protected characteristic and those who do not'?	How does it help to 'foster good relations between those who share a protected characteristic and those who do not'?
	Mixed Ethnic Origin Gypsies/ Travellers * Other – <i>please state</i>	<b>The Local Government Ombudsman Organisation is available for complaints of maladministration against and by the Planning Service</b>  * <b>note negative comment on integration that appears above</b>		
Language	English not first language			
Pregnancy and Maternity	Women who are pregnant or have given birth in last 26 weeks			
Religion or Belief	People with a religious belief (or none) <sup>4</sup>			
Sex	Men			
	Women			
	Transsexual / gender reassignment			
Sexual Orientation	Lesbian, gay and bisexual			
Marriage and Civil Partnership <sup>5</sup>	People who are single, married or in a civil partnership			

<sup>3</sup> Census 2011 categories are: Bangladeshi, Indian, Pakistani, Other Asian (Asian or Asian British); African, Caribbean, Other Black (Black or Black British); White and Black African, White and Asian, White and Black Caribbean (Mixed); British, Irish; Other White (White); Chinese, Other (Other ethnic group).

<sup>4</sup> For example, Buddhist, Christian, Hindu, Jewish, Muslim, Sikh or no religious belief.

<sup>5</sup> Our legal duty in respect of 'marriage or civil partnership' extends only to the need to eliminate unlawful discrimination.

8. Are there any concerns that the policy, service or strategy could have a differential impact in terms of equality?

- **yes**

Please use the table below to indicate how the policy, service or strategy could have a positive or negative effect on any of the following equality groups (known under the Equality Act as ‘protected characteristics’). Include reference to any consultation, data or information that you have used in making this assessment about positive or negative effects.

‘Protected characteristic’ group		Positive Impact	Explain how it could benefit the group	Negative Impact	Explain how it could disadvantage the group
Age	Older people (60+)	<b>yes</b>	<p><b>It is open to all and operates within a tightly prescribed system by Govt and is open and transparent</b></p> <p><b>It ensures that decisions are made based on all material considerations and is less prone to decision making by prejudice</b></p> <p><b>Information about planning service/system available via many mediums and channels</b></p> <p><b>Public meetings organised corporately to ensure easy access to decision making process- interpretation facilities are available</b></p> <p><b>The planning process looks to ensure dda compliance where appropriate</b></p> <p><b>The planning system has policies to</b></p>	<b>yes</b>	<b>Planning system can be complex and technical and if care is not taken to explain the processes it can be confusing</b>
	Younger people (17-25) and children (0-16)			<b>yes</b>	<b>The planning process tends to leave younger people and children on the side lines because it is driven by land/property ownership although the impacts can be far wider. Eg school development, leisure opportunities, career prospects through employment wellbeing safety</b>
Disability	Physical			<b>yes</b>	<b>The planning process involves physically shaping an environment and failure to have regard to disability issues can create environments that are difficult to access and enjoy</b>
	Sensory			<b>yes</b>	<b>Planning system can be complex and technical and if care is not taken to explain the processes it can be confusing</b>
	Learning				
	Mental health issues				

'Protected characteristic' group		Positive Impact	Explain how it could benefit the group	Negative Impact	Explain how it could disadvantage the group
Ethnicity	Other – <i>please specify</i>		<b>support health developments that may be resisted by some sectors of the community particularly in the sphere of mental health care</b>	<b>no</b>	
	White				
	Black				
	Chinese				
	Mixed Ethnic Origin				
	Gypsies/ Travellers	<b>yes</b>	<b>It can give G&amp;T communities the certainty that a site is authorised and that they will not be subject to enforcement or similar action to move them.</b>	<b>yes</b>	<b>The specific approach to G&amp;T sites can cause dissatisfaction within the settled community that the planning system operates (or is perceived to operate) in a way that favours gypsy &amp; traveller related development in locations denied to others.</b>
	Other – <i>please state</i>	<b>yes</b>	<b>It is open to all and operates within a tightly prescribed system by Govt and is open and transparent</b>  <b>It ensures that decision are made based on all material considerations and is less prone to decision making by prejudice</b>  <b>Local policies subject to scrutiny before adoption and their own EqlAs</b>  <b>Information about planning service/system available via many mediums and channels</b>  <b>Public meetings organised corporately to ensure easy access to decision making process- interpretation facilities are available</b>	<b>n/a</b>	<b>Planning system can be complex and technical and if care is not taken to explain the processes it can be confusing</b>
Language	English not first language			<b>yes</b>	
Pregnancy and Maternity	Women who are pregnant or have given birth in last 26 weeks			<b>n/a</b>	
Religion or Belief	People with a religious belief (or none)				
Sex	Men				
	Women				
	Transsexual / gender reassignment				
Sexual Orientation	Lesbian, gay and bisexual				
Marriage and Civil Partnership	People who are single, married or in a civil partnership				

9. Could the policy, service or strategy discriminate<sup>6</sup> against any 'protected characteristic', either directly or indirectly?

**Yes- through misapplication of policy or individual officer prejudice**

10. If you have identified any negative impacts above, have you been able to minimise or remove them, and if so, how?

Planning system can be complex and technical and if care is not taken to explain the processes it can be confusing

**Minimised by:**

- **Duty phone system to offer general planning advice by a planner**
- **Publication of advisory material (web/paper)**
- **Training all staff in customer excellence techniques /requirements**
- **Operating an open & transparent system**
- **Operating planning workshops for some key users (eg Parish Councils)**
- **Providing officer contact details for every application to allow personal contact for further discussion, explanation and support**
- **Operating a sophisticated complaints & satisfaction review and monitoring process with learning points, changed ways of working arising from analysis and feedback (to user, staff and general public)**
- **Interpretation facilities available**
- **Hearing loops available**
- **Access to Planning Aid available where appropriate**

- *Cont.....*

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<sup>6</sup> Direct discrimination occurs when a person is treated less favourably than another in a comparable situation because of their 'protected characteristic' whether on grounds of age, disability, pregnancy and maternity, ethnicity; religion or belief; sex (gender), sexual orientation, or Marriage and Civil Partnership. Indirect discrimination occurs when an apparently neutral provision or practice would nevertheless disadvantage people on the grounds of their 'protected characteristic' unless the practice can be objectively justified by a legitimate aim.

The planning process tends to leave younger people and children on the side lines because it is driven by land/property ownership although the impacts can be far wider. Eg school development, leisure opportunities, career prospects through employment wellbeing safety

Minimised by:

- **The Planning Service works with primary and secondary schools to deliver shared learning around the national curriculum on planning issues**
- **The Planning Service delivers one-day planning roll-play sessions for Colchester sixth forms**
- **The Planning Service works with local councillors who undertake outreach work to engage younger people in community leisure projects**
- **The Planning Service actively encourages work experience students to join it to take part in organised and structured learning with feedback and assessment**

The planning process involves physically shaping an environment and failure to have regard to disability issues can create environments that are difficult to access and enjoy.

Minimised by:

- **Liaison with disability access officer\* where appropriate on planning applications (\*within sister Building Control service)**
- **Application of relevant agreed standards (eg disabled parking space provision standards) where these are not already subject to control through the Building Regulations**
- **Launching a design quality audit process for officers to assess overall quality of schemes in early 2012. Criteria for assessing accessibility will be included**

The specific approach to G&T sites can cause dissatisfaction within the settled community that the planning system operates (or is perceived to operate) in a way that favours gypsy & traveller related development in locations denied to others.

**Minimised by:**

- **Adoption of Site Allocations document via LDF process identifying chosen Gypsy and traveller site allocations after public consultation (planning policy team)**
- **By operating an open and transparent planning application processing regime with information freely available on the web**
- **By engaging in dialogue with community representatives where appropriate**
- **By running planning workshops to inform**
- **By working with colleagues across the Council to enforce the law where expedient and in the public interest to do so in an open manner**
- **By building relationships with the gypsy and traveller community on a site by site basis**

misapplication of policy/process or individual officer prejudice

**Minimised by:**

- **The Scheme of delegation to officers is prescribed in the Councils Formal Written 'Constitution' which needs to approval of the Council and Legal Services manager/Monitoring Officer**
- **The Planning Service operates in accordance with Corporate Equality policies**
- **The technical consideration of the merits of a proposal are presented in line with prescribed report formats agreed centrally**
- **No officer can take/make a delegated decision on a planning application on her or his own and every recommendation is subject to scrutiny and checking by a more senior officer. Where the person who is making the recommendation is herself/himself a senior officer that recommendation is subject to approval by a peer of similar seniority or higher**
- **Comprehensive complaint monitoring system in operation within the service requires any complaint or any sort to be investigated by a senior officer. Complaints are closely monitored and every complainant is contacted via a survey by the service's Customer Relationship Officer to assess whether the actions taken were reasonable. Trends are followed as are specific complaints relating to individual officers.**
- **Committee decisions are made after consideration of a full report and recommendation by the Planning Service (subject to prior internal scrutiny). The meetings are public and representations are possible by the public at the meeting. The**

decisions are formally recorded. All reports and decisions are made available on the web. (reports 5 days before the meeting)

- Officers and members work to an adopted code of conduct that requires interests to be declared
- Planning officers who are chartered members of the Royal Town Planning Institute (RTPI) have a professional code to adhere to.
- The refusal of planning permission is subject to an appeal process and costs awards against the Council where it has been held to have acted unreasonably in refusing that application.
- Claims of maladministration can be made to and investigated by the Local Government Organisation (LGO)
- Committee reports required to identify equality issues and implications that arise
  
- **Summary and findings of Initial Equality Impact Assessment – screening stage**

11. Please put a tick in the relevant box to confirm your findings, and what the next step is:

Findings	Action required
No likely negative impacts have been identified and this has been justified with reference to consultation, data or information. <input type="checkbox"/> N/A	Sign off screening and finish.
Likely negative impacts have been identified but have been minimised or removed. <input type="checkbox"/> <b>YES</b>	Sign off screening and finish.
Likely negative impacts were identified but have not been minimised or removed. <input type="checkbox"/> N/A	Sign off screening and complete a full impact assessment – Section 2.
There is insufficient evidence to make a judgement. <input type="checkbox"/> N/A	Sign off screening and complete a full impact assessment – Section 2.

12. Name and job title of person completing this form:

- **Vincent Pearce, Planning Service Manager**

13. Date of completion:

- **21 September 2011**

14. Date for update or review of this screening:

- **1 April 2013 unless likely service re-structure (2012) or significant legislative changes to the national planning process or analysis of the Service's internal customer satisfaction/complaints monitoring system/s prompt the need for an earlier review.**

*If you have now signed off this screening form, Section Two is not required and you should remove Section Two from this document, along with these two paragraphs in italics. Please send a copy to the relevant Head of Service and the Equality and Diversity Officer. You also need to arrange for it to be published on the Council's website [here](#) – under the relevant service area heading.*

*If you have identified any negative impact which and has not been minimised or removed, or if there is insufficient evidence - you must complete Section Two, Full Impact Assessment. The policy, service or strategy should not be implemented until the Full Impact Assessment has been completed and approved as it is potentially discriminatory.*

## Section 2: Full Equality Impact Assessment

### Where there is a negative impact which has not been minimised or removed

15. If you have identified negative impact(s) on equality group(s) that have not been minimised or removed, can this be objectively justified by a legitimate aim<sup>7</sup>? If yes, state how:

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*If a negative impact cannot be minimised or removed and cannot be objectively justified by a legitimate aim, the policy, service or strategy should not be implemented as it is potentially discriminatory.*

### Where there is insufficient evidence to make a judgement

*If you identified that there was insufficient evidence to make a judgement on whether there was a negative impact on an equality group, please complete the first column of the Action Plan below.*

#### Engagement and Consultation Action Plan

		Details of Planned Engagement	Date for Review	Summary of findings
Age	Older people (60+)			
	Younger people (17-25) and children (0-16)			
Disability	Physical			
	Sensory			
	Learning			
	Mental health issues			
	Other – <i>please specify</i>			

<sup>7</sup> For example, a negative equality impacts may sometimes be 'objectively justified by a legitimate aim' where the policy is specifically designed to meet the aims of the 'general duty' for those people with a specific protected characteristic.

		Details of Planned Engagement	Date for Review	Summary of findings
Ethnicity	White			
	Black			
	Chinese			
	Mixed Ethnic Origin			
	Gypsies/ Travellers			
	Other – <i>please state</i>			
Language	English not first language			
Pregnancy and Maternity	Women who are pregnant or have given birth in last 26 weeks			
Religion or Belief	People with a religious belief (or none)			
Sex	Men			
	Women			
	Transsexual / gender reassignment			
Sexual Orientation	Lesbian, gay and bisexual			
Marriage and Civil Partnership	People who are single, married or in a civil partnership			

*If you confirmed in question 8 above that this policy could be discriminatory against a 'protected characteristic', you should not implement the policy.*

*Otherwise, you may implement the policy, taking care to review its impact based on planned engagement. The Review should be carried out within 6 months from the date of this Full Impact Assessment, at which point a further Review may or may not be required depending on whether you have collected sufficient evidence.*

## Summary and findings of Full Equality Impact Assessment

16. Please put a tick in the relevant box to confirm your findings, and what the next step is:

Findings	Action required
Likely negative impacts have been identified but are considered to be objectively justified by a legitimate aim. <input type="checkbox"/>	Sign off and finish.
Planned engagement with equality target groups will take place in order to gain sufficient evidence to make a judgement on impact. <input type="checkbox"/>	Sign off and review within 6 months.
The policy could be discriminatory and will not be implemented. <input type="checkbox"/>	Finish without signing off.

17. Name and job title of person completing this form:

- 

18. Date of completion:

- 

19. Date for update or review of this screening:

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*If you have now signed off this full assessment, please send a copy to the relevant Head of Service and the Equality and Diversity Officer. You also need to arrange for it to be published on the Council's website [here](#) – under the relevant service area heading.*