

Colchester Borough Council's response to Inspector's Questions:

6. Other Matters

Affordable Housing

6.1 Is the proposed change from 35% to 20% likely to make a significant practical difference to the delivery of affordable housing over, say, the next 5 years compared with leaving the policy unchanged? In other words, is it regularising what is occurring and likely to occur in any case because developments are unviable with 35% provision such that there would be no actual substantial reduction in affordable housing provision in the short term?

CBC Response

The current policy threshold of 35% has been in use since 2008 and has encouraged the delivery of affordable housing across the Borough. Due to the economic climate and viability of residential developments in recent years the target of 35% has rarely been achieved on individual sites.

The Housing Trajectory shows a 5 year supply of 4631 dwellings of which approximately 3800 already have planning permission. Many of the larger sites have an agreed position regarding affordable housing although some S106 agreements are being renegotiated on viability grounds.

It is important that the Council has a policy which encourages developers to bring sites forward. In accordance with the NPPF, allocated sites should be approved without delay and should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. Reducing the percentage of affordable housing and increasing the threshold represents a realistic position in Colchester at the current time and reflects the evidence in the Affordable Housing Viability report (ED17a).

The need to have a policy which accurately reflects current circumstances is also important as the Council will be implementing the Community Infrastructure Levy. The charging schedule should not undermine delivery of the plan and evidence has shown that introducing CIL at a meaningful level would not permit delivery of 35% affordable housing. The importance of this issue is demonstrated by the example of the Mid-Devon Charging Schedule, which was not approved by the Inspector. He considered that 'the rate proposed for residential development does not reflect the Council's target for the provision of affordable housing (as set out in the Development Plan) and because the rate is set too high, there is a serious risk to affordable housing provision and thus the overall development of the area'.

In addition, Keith Holland, the Inspector of the Greater Norwich Development Partnerships Charging Schedules, commented that the Council's 'should have taken all of their policy requirements, including affordable housing, into account when setting the CIL rate.' He concluded that the CIL rates should be reduced.

Accordingly, while the Council cannot precisely assess the practical difference to affordable housing delivery rates by lowering the target from 35% to 20%, the proposed reduction is considered justified as an essential prerequisite to the introduction of a CIL charging schedule.

6.2 Over, say, the last 3 years what proportion of affordable housing has been secured by the policy from new residential planning permissions (assuming the information is readily available to the Council)?

CBC Response

The information below is taken from the Annual Monitoring Reports for the various years since the adoption of the Core Strategy.

Year	Affordable Housing
2007/08	21.3%
2008/09	11.5%
2009/10	30.1%
2010/11	28.5%
2011/12	36.0%
2012/13	21.6%

These figures, however, include all affordable housing units secured through a variety of funding/grant arrangements rather than just those secured through planning obligations. The Council's success in securing grant funding accordingly obscures the greater difficulties it has had in securing affordable housing through planning obligations. This is better illustrated by the following table which shows the affordable housing percentage rates achieved by developments over 10 units over the last 3 years.

Site	Application Number	Planning Permission/ Cmtee Date	Total Units	Total AH Units	% AH
St. Allbrights, London Rd	101524	2010	64	7	11
Garrison Area A1 Area J2b	101059 111001	2010 2011	436 80	22 + 44 for first time buyers 13	5 + 10 16
Layer Road Football Ground	111302	2011	58	20	35
Halstead Rd Railway Sidings	120848	2012	120	24	20
Jarmin Road	112183	2012	57	4	7
Cannock Mill Old Heath	111672	2012	23	8	35
Betts, Ipswich Rd	121444	2012	128 + care home	26	20
Northern Growth Area	121272	2013	1600	240	15 (subject to reviews)
Grange Road Tiptree	122134	2013	103	10	10
Tiptree Jam Factory	130245	2013	126	16 plus commuted sum	12.5
Lakelands, Stanway	121040	2013	400	77	19.2

While the Council was successful in securing the target figure of 35% on two sites, this was for a total of only 28 affordable units. In the other cases, the percentage of affordable housing secured ranged from 7-20%. This reflects the need for the Council to accept packages agreed through the open book scrutiny process that resulted in lower affordable housing figures in order to secure the delivery of housing units, meet other community needs/infrastructure costs, and to address site constraints.

The proposed 20% target is thus considered to reflect a realistic and deliverable figure in the current economic climate.

6.3 If the change would make a significant difference to the delivery of affordable housing to that previously expected in the Core Strategy, are any consequential changes required within the development plan?

CBC Response

The revised 20% target is expected to further promote the delivery of affordable housing and help meet the affordable housing need across the Borough. The target broadly relates to the current rate of delivery and is not considered to be detrimental to viability as detailed in the Affordable Housing Viability Report (ED17a).

The revised policy is considered to be in accordance with the NPPF and is consistent with the other Focused Review policies as well as those policies (not subject to review) in the Core Strategy, Site Allocations and Development Policies DPDs already adopted by the Council. The Council do not consider any consequential changes to be appropriate at this time and further policy changes will be considered as part of the Local Plan Full Review in coming years.

S106/CIL

6.4 Do proposed changes MAJ9 and MAJ11 in CD23 ensure a clear and consistent explanation of the use of CIL and S106 contributions? Are these changes needed for soundness? *(It seems to me that the Focussed Review is essentially seeking to reflect the practical, factual position which flows directly from the Regulations, rather than being primarily local policy on the matter.)*

CBC Response

The Council considers that MAJ9 and MAJ11, in CD23, contribute to a clear and consistent explanation of the use of CIL and S106 contributions. The Council acknowledges that these changes are not necessary for soundness, but considers them to be useful changes that help provide clarity and consistency.

Energy policy ER1

6.5 What is the justification for requiring residential dwellings to attain Code for Sustainable Homes level 4, bearing in mind that the Building Regulations will incorporate the energy requirement relating to that level (which is most relevant for energy use) and that demonstrating compliance with Code requires additional compliance work to be done by the developer and assessed by the Council?

CBC Response

Whilst Building Regulations will incorporate the energy requirement of level 4 of the Code for Sustainable Homes, the Code covers eight other sustainability issues. It aims to reduce carbon emissions and promote higher standards of sustainable design and is a proven mechanism for driving incremental improvements in sustainable building. The following nine categories are included in the Code for Sustainable Homes: water, surface water, materials, ecology, waste, pollution, health and wellbeing, management and energy.

The Council agrees with the House of Commons Audit Committee that 'compliance with the Code for Sustainable Homes incentivises developers to think about sustainability from the outset and throughout the development process and ultimately results in the development of more sustainable buildings'. (Code for Sustainable Homes and the Housing Standards Review, para 6) These benefits are considered to warrant the Council's encouragement for level 4 homes, given that the planning application process would allow the costs and benefits of additional sustainability compliance measures to be analysed in terms of overall project viability.

The Council's support for level 4 homes is considered to be in compliance with para 93 of the NPPF: 'Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development'.

6.6 Is the proposed wording of ER1 consistent with the direction of travel signalled in the Government's consultation on national building standards? Should the policy refer to the Code if this might be phased out? I will need to have regard to any changes in national policy which are published before the close of the Examination.

The Council's response to question 6.5 justifies the requirement for sustainable buildings. The Council acknowledges that the government's Housing Standards Review Consultation (August 2013) states that the government proposes to wind down the role of the Code. However, this is a consultation document and there is no indication of timescales. The House of Commons Environmental Audit Committee published a report in November 2013 urging the government not to wind down the Code (paragraph 41). The report recognises that the Code for Sustainable Homes is a proven mechanism for driving incremental improvements in sustainable buildings and it has delivered continuous improvements in energy efficiency and other aspects of sustainable construction (paragraph 41).

It is clear that the future of the Code for Sustainable Homes is uncertain and reference in Policy ER1 to compliance with a successor to the Code for Sustainable Homes and BREEAM ensures that if the government replaces or updates either of these national building standards before the Local Plan Full

Review is adopted Policy ER1 will still be relevant and importantly will achieve its aim of delivering sustainable buildings throughout Colchester.

6.7 The last sentence regarding the urban extensions to the north and south west of Colchester is unchanged from the adopted plan and the underlining in the Focused Review was an error. This is corrected in the updated version of CD7 v2 (MIN3). What is the factual position in relation to planning permissions for those developments and what any such permissions require in relation to zero carbon homes from 2016?

The sentence regarding the urban extensions to the north and south west of Colchester was in fact an additional sentence added in at the Focused Review stage and the change proposed in MIN3 was made in error.

The Council now considers that it is not appropriate to pursue the point at this stage and would propose to delete the sentence.

Dwelling alterations extensions and replacement dwellings - policy DP13

6.8 The position of the new text relating to Annexes would apply in both urban and rural areas. Is this the intention, since some of the criteria would seem justified in a rural area only? In the adopted policy, the section on Annexes applies only outside settlements - what is the justification for moving it?

- **In urban areas why are annexes, in principle, only supported where additional space cannot be met within an existing dwelling or buildings suitable for conversion (provided that there are suitable criteria for the acceptability of any detached annexes)?**
- **Why does criterion (iv) refer only to the surrounding rural area? (My emphasis.)**
- **Why are isolated annexes unacceptable in an urban area? How is *isolated* to be judged in an urban area?**

CBC Response

The justification for moving the section of the policy relating to annexes in the Focused Review was to address an issue highlighted by appeal report APP/A1530/A/12/2175678. The appeal report highlighted the fact that the wording and layout of the policy was such that it related specifically to developments in the countryside. In order to address this issue and provide clarity for annexes within the development boundary, the Council changed the layout of the policy.

However, the Council agrees that simply moving the paragraph within the policy, as proposed in the Focused Review document, does not address the issue adequately; so amendments to the policy wording are required. Proposed alternative wording is set out below.

The additional change to the proposed policy text below, in relation to the text previously contained under criterion v, is a change proposed as a result of the

appeal decision referenced above (APP/A1530/A/12/2175678). The appeal report highlighted the fact that criterion v did not follow logically and should be a stand alone point. For this reason, criterion v has been removed as a criterion in the proposed text below, and included as a stand alone point.

Current wording in Focused Review

For annexes, development will be supported only where the need for additional space cannot be met within an existing dwelling or buildings suitable for conversion on the site in the first instance, if the development:

- (i) Is physically attached or closely related to the main dwelling so that it cannot be subdivided from the main dwelling;
- (ii) Retains some form of demonstrable dependence on the main dwelling, such as shared access (including both vehicular access and doorways) and communal amenity spaces;
- (iii) Does not incorporate facilities that make the annexe capable of use as a separate dwelling
- (iv) Respects and enhances both the character of the original dwelling and the context of the surrounding rural area through regard to site characteristics, design, scale, height, form, massing, materials and layout within the wider landscape setting.
- (v) The desire for annexe occupants to remain independent from existing residents will not be considered as adequate justification to allow isolated annexes.

Proposed amended wording

Move the text relating to annexes back to its original position in the Development Policies DPD - under the introduction text that explains that the policy relates to developments in the open countryside - and amend as follows:

‘For annexes, development will be supported only where the need for additional space cannot be met within an existing dwelling or buildings suitable for conversion on the site in the first instance, if the development:

- (i) Is physically attached or closely related to the main dwelling so that it cannot be subdivided from the main dwelling;
- (ii) Retains some form of demonstrable dependence on the main dwelling, such as shared access (including both vehicular access and doorways) and communal amenity spaces;
- (iii) Does not incorporate facilities that make the annexe capable of use as a separate dwelling
- (iv) Respects and enhances both the character of the original dwelling and the context of the surrounding rural area through regard to site characteristics, design, scale, height, form, massing, materials and layout within the wider landscape setting.
- ~~(v) The desire for annexe occupants to remain independent from existing residents will not be considered as adequate justification to allow isolated annexes.~~

The desire for annexe occupants to remain independent from existing residents will not be considered as adequate justification to allow isolated annexes.

For annexes within the development boundary, the development should:

- (i) Be physically attached or closely related to the main dwelling so that it cannot be subdivided from the main dwelling;**
- (ii) Retain some form of demonstrable dependence on the main dwelling, such as shared access (including both vehicular access and doorways) and communal amenity spaces;**
- (iii) Not incorporate facilities that make the annexe capable of use as a separate dwelling**
- (iv) Respect and enhance both the character of the original dwelling and the context of the surrounding area through regard to site characteristics, design, scale, height, form, massing, materials and layout within the wider setting.'**