



Colchester Borough Council

**Independent Examination – Section 2 Colchester
Borough Local Plan 2017-2033**

Hearing Statement – Local Planning Authority

**Main Matter 3 - Environmental Assets Policies (ENV1 to
ENV5 and CC1)**

April 2021

Main Matter 3 – Environmental Assets Policies (ENV1 to ENV5 and CC1)

Are the Environmental Assets Policies set out in CLP Section 2 justified by appropriate available evidence, having regard to national guidance, and local context, including meeting the requirements of the CLP Section 1?

Environmental Assets Policies ENV1 – ENV5

Background

- 3.1 The Colchester Local Plan (CLP) Section 2 will conserve and enhance the natural and historic environment through application of the Environmental Assets Policies. European sites, national sites and non-designated sites will all be conserved and enhanced. The Environmental Assets policies are all compliant with the NPPF and relevant legislation. Natural England and the Environment Agency have indicated their support to policies within the CLP Section 2 and, with the exception of Natural England's request for a soils policy, have no objections to the CLP Section 2. Natural England, and the Environment Agency have both agreed a Statement of Common Ground with the Council (ref SCG1 and SCG2) and these highlight the specific areas of support.
- 3.2 Colchester's natural and historic environment is extremely diverse and important. The countryside provides the attractive landscape setting that defines and characterises the villages and rural communities of Colchester Borough. The countryside and coastal areas also provide important agricultural, tourism and recreational opportunities that support local economies and communities. The Dedham Vale Area of Outstanding Natural Beauty (AONB) is partly located within the Borough, this has the highest level of protection in relation to its natural beauty and special qualities. Colchester is the oldest recorded town in Britain and has a rich archaeological and historical background. Further detail about protection of the historic environment is included in Policy DM16 – Historic Environment and the Place Policies where relevant.

National policy and legislation

Legislation

- 3.3 There is numerous legislation and Conventions of relevance to the environment and Policies ENV1-ENV5. European Directives are listed below, the Trade and Co-operation Agreement includes reciprocal commitments not to reduce the level of environmental or climate protection or fail to enforce its laws in a manner that has an effect on trade.
- Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora aims to promote the maintenance of biodiversity, taking account of economic, social, cultural and regional requirements (the Habitats Directive).

- The Birds Directive, which is the oldest piece of EU legislation on the environment (amended in 2009) and aims to protect all of the 500 wild bird species naturally occurring in the EU.
- The Strategic Environmental Assessment (SEA) Directive, which requires the integration of environmental assessment into plans and programmes at the earliest stages to lay down the groundwork for sustainable development.
- The Water Framework Directive, which aims to improve EU water legislation by expanding on the scope of water protection to all waters and sets out clear objectives with specified dates.
- The Convention on Biological Diversity, signed by 150 government leaders at the Rio Earth Summit in 1992 and is dedicated to promoting sustainable development and translates the principles of Agenda 21.
- The European Landscape Convention, which provides a people centred and forward looking way to reconcile management of the environment with the social and economic challenges of the future and aims to help people reconnect with place.
- The Wildlife and Countryside Act, which provides national protection for SSSIs and protected species, in addition to a range of other measures. There have been numerous amendments to the Act, most significantly through the Countryside and Rights of Way (CRoW) Act 2000 and Natural Environment and Rural Communities Act 2006 (NERC). It implements the Convention on the Conservation of European Wildlife and Natural Habitats and Council Directive 2009/147/EC on the conservation of wild birds.
- The Countryside and Rights of Way Act (CRoW Act), which provides for public access on foot to certain types of land, amends the law relating to public rights of way, increases measures for the management and protection for Sites of Special Scientific Interest (SSSI), strengthens wildlife enforcement legislation, and provides for better management of Areas of Outstanding Natural Beauty (AONB). The Act places a duty on government departments to have regard for the conservation of biodiversity.
- The Natural Environment and Rural Communities Act (NERC), which was designed to help achieve a rich and diverse natural environment and thriving rural communities. The Act implements key elements of the government's Rural Strategy (2004). Section 40 places a duty on public authorities to have regard to conserving biodiversity.
- The Conservation of Habitats and Species Regulations 2017, which consolidate the 2010 regulations with amendments and transpose Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and elements of the EU Wild Birds Directive into national law. The Habitat Regulations provide for the designation and protection of European Sites. Under the Habitat Regulations, Councils may only give consent to a plan or project where it can be ascertained that it will have no adverse effect on the integrity of a European Site, unless the exceptional requirements set out in the Regulations can be met.

- The Flood and Water Management Act 2010, which requires flood and coastal erosion risk management authorities to aim to contribute towards the achievement of sustainable development when exercising their flood and coastal erosion risk management functions.
- The Hedgerow Regulations, which protect countryside hedgerows.
- The Environment Bill, which will bring into UK law environmental protections and recovery. It includes targets, plans and policies for improving the natural environment. It includes details on creating a new governance framework for the environment, a new direction for resources and waste management, improving air quality, securing water services, enhancing green spaces and updating laws on chemicals. It introduces mandatory biodiversity net-gain. The Bill is expected to receive Royal Assent in 2021 and consultation on secondary legislation is expected in 2021.
- The 25 Year Environment Plan was published in 2018, whilst this is not legislation it is an important national document. The Environment Plan sets out the government's goals for improving the environment within a generation. It aims to leave the environment in a better state and details how government will work with communities and businesses to do this over the next 25 years.

National Planning Policy Framework (NPPF) 2012

3.4 Helping to improve biodiversity is part of the environmental role of sustainable development defined in the NPPF (paragraph 7). Section 11 of the NPPF (Conserving and enhancing the natural environment) states that:

“The planning system should contribute to and enhance the natural and local environment by:

- *protecting and enhancing valued landscapes, geological conservation interests and soils;*
- *recognising the wider benefits of ecosystem services;*
- *minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent, ecological networks that are more resilient to current and future pressures;*
- *preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability;*
- *remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.”* (paragraph 109).”

3.5 Paragraph 114 states LPAs should:

“set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure”.

3.6 Paragraph 117 states:

“To minimise impacts on biodiversity and geodiversity, planning policies should:

- *plan for biodiversity at a landscape scale across local authority boundaries;*
- *identify and map components of the local ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity, wildlife corridors and stepping stones that connect them and areas identified by local partnerships for habitat restoration or creation;*
- *promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations, linked to national and local targets, and identify suitable indicators for monitoring biodiversity in the plan;*
- *aim to prevent harm to geological interests and*
- *where Nature Improvement Areas are identified in Local Plans, consider specifying the types of development that may be appropriate in these Areas.”*

Planning Practice Guidance (PPG)

3.7 The Planning Practice Guidance refers to Section 40 of the NERC Act 2006 and refers to the duty to have regard to conserving biodiversity: *“a key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by government in its 25 Year Environment Plan.”* (8-009-20190721)

Policy ENV1 - Environment

- 3.8 Numerous modifications are proposed to Policy ENV1 - Environment, as set out in the Draft Schedule of Recommended Modifications ([CBC1.6](#)). The policy has been organised into five sections to make it clearer and aid application as policy ENV1 covers a range of environmental issues: designated sites, Essex Coast RAMS, biodiversity and geodiversity, irreplaceable habitats and countryside. The recommended modifications address representations from Natural England and the Environment Agency (agreed modifications are shown in Statements of Common Ground SCG1 and SCG2).
- 3.9 The national context for Policy ENV1 is set out in the preceding section.

Local context and evidence base

- 3.10 Policy ENV1 includes distinctions between the hierarchy of European, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks, in accordance with paragraph 113 of the NPPF. This section provides local context and evidence relating to the hierarchy of sites.

European sites/ habitats sites

- 3.11 Colchester Borough includes a number of European nature conservation sites: Abberton Reservoir Special Protection Area (SPA) and Ramsar, the Colne Estuary Special Protection Area (SPA) and Ramsar, the Blackwater Estuary Special Protection Area (SPA) and Ramsar, the Essex Estuaries Special Area of Conservation (SAC) and a small part of the Stour and Orwell Estuaries Special Protection Area and Ramsar.
- 3.12 The NPPF 2019 offers the following definition of a habitats site: *“Any site which would be included within the definition at regulation 8 of the Conservation of Habitats and Species Regulations 2017 for the purpose of those regulations, including candidate Special Areas of Conservation, Sites of Community Importance, Special Areas of Conservation, Special Protection Areas and any relevant Marine Sites.”*
- 3.13 Whilst the CLP Section 2 is being examined under the NPPF 2012, for consistency with the NPPF 2019 and to future proof the plan, references in the CLP Section 2 to ‘European sites’ are recommended to be modified to ‘habitats sites’.
- 3.14 Regulation 105 of the Habitats Regulations states:
- (1)“Where a land use plan—*
(a)is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
(b)is not directly connected with or necessary to the management of the site,

the plan-making authority for that plan must, before the plan is given effect, make an appropriate assessment of the implications for the site in view of that site's conservation objectives.

2) The plan-making authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies.

(3) The plan-making authority must also, if it considers it appropriate, take the opinion of the general public, and if it does so, it must take such steps for that purpose as it considers appropriate.(4) In the light of the conclusions of the assessment, and subject to regulation 107, the plan-making authority must give effect to the land use plan only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be)."

- 3.15 The Council commissioned Land Use Consultants (LUC) to carry out an Updated Habitat Regulations Assessment (HRA), which includes an Appropriate Assessment, given the time expired since preparing the Habitat Regulations Assessment 2017, the update to the CLP Section 1 HRA and the Inspectors conclusions on this, and in light of updates in case law, including Sweetman II and Holohan. This Updated HRA ([EBC4.70](#)) replaces all previous HRA drafts.
- 3.16 The Council has concluded that no adverse effects on integrity (AEol) will occur for any European sites subject to the provision of safeguarding and mitigation measures as detailed in Chapter 5 of the HRA, which have been included in the Draft Schedule of Recommended Modifications ([CBC1.6](#)). Natural England agree with this conclusion (see SCG1). The RSPB were also consulted on the Updated HRA report. Their response said: "*The RSPB recognises that amendments have been made based on our previous comments and therefore have no further representations to make.*"
- 3.17 One of the mitigation measures was to develop a mitigation strategy for the Essex Coast. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) ([EBC4.69](#)) will deliver the mitigation necessary to avoid significant adverse effects from the in-combination impacts of residential development that is anticipated across Essex; thus protecting the European sites on the Essex coast from AEol. The Essex Coast RAMS was considered as part of the examination of the CLP Section 1 and the Inspector concluded that:

"Taking into account the mitigation measures, which as well as the RAMS include the proposed modifications to the Plan's policies, the NEAs are satisfied that there is sufficient certainty that the Plan would not adversely affect the integrity of any European site, alone or in combination. In the light of all the above points, I consider that they are justified in taking that view." (Paragraph 59 of the North

- 3.18 A modification is proposed to policy ENV1 and supporting text, to refer to the adopted Essex Coast RAMS and require contributions to be secured from residential development towards mitigation measures identified in the Essex Coast RAMS.

National sites

- 3.19 There are nine Sites of Special Scientific Interest (SSSI) in Colchester Borough: Abberton Reservoir, Blackwater Estuary, Marks Tey Brickpit, Wivenhoe Gravel Pit, Colne Estuary, Bullock Wood, Tiptree Heath, Upper Colne Marshes and Roman River.
- 3.20 The Blackwater Estuary National Nature Reserve and Colne Estuary National Nature Reserve are located within the borough.
- 3.21 The Dedham Vale Area of Outstanding Natural Beauty is partly located within the borough.
- 3.22 Policy ENV1 protects SSSIs and the Dedham Vale AONB through section A of Policy ENV1. Policy ENV4 provides further detail for proposals affecting the AONB.

Local Wildlife Sites

- 3.23 Local Wildlife Sites are areas of substantive nature conservation value and make an important contribution to ecological networks in the local landscape. They were selected and assessed following recognised criteria and Defra guidance.
- 3.24 The Council commissioned EECOS, the ecological consultancy arm of Essex Wildlife Trust, to carry out a review of Local Wildlife Sites as part of the evidence base for the Local Plan (February 2016, CBC/0033/1/5). Non-statutory, local sites, were first identified in the Borough in 1991 by the Essex Wildlife Trust (then known as Sites of Importance for Nature Conservation). Sites were selected on the basis of being the most important wildlife habitats in the borough. EECOS reviewed the network of local sites in 2008 and the name changed from Sites of Importance for Nature Conservation to Local Wildlife Sites, in line with national guidance. The 2008 Review looked at all the original sites and judged their validity against an emerging set of selection criteria, which were based on the UK Biodiversity Action Plan (BAP). 14 sites were deleted as they no longer met the criteria and 48 sites were added. The 2015 review (carried out in 2015, with the report published in 2016), focused on areas likely to come under pressure for development in the plan period. Local Wildlife Sites were assessed against the selection criteria to determine whether or not they should remain designated. As part of the review, new candidate sites were assessed against the selection criteria.

- 3.25 Six sites totalling 41 hectares were added to the network of Local Wildlife Sites, two sites totalling 1.5 hectares were deleted, nineteen sites were extended by a total of 151.3 hectares and nineteen sites were reduced by a total of 55.5 hectares, leaving 127 sites unchanged. The end result is that there are now 170 LoWS in Colchester Borough totalling 2049.6 hectares. The boundaries which reflect the 2016 Review are shown on the policies maps. Updated policies maps will be provided to reflect a few of these LWS boundaries which need to be corrected.
- 3.26 Local nature reserves and local sites are protected through section C of policy ENV1: Biodiversity and geodiversity. The criteria in section C of policy ENV1 require appropriate ecological surveys where necessary, which will ensure that any effects to Local Wildlife Sites are identified. Criteria in the policy requires the biodiversity value of sites to be conserved or enhanced and fragmentation of habitats to be minimised and opportunities for preservation, restoration, enhancement and connection to be maximised.

CLP Section 1

- 3.27 The adopted Colchester Local Plan (CLP) Section 1 includes references to biodiversity in three policies: SP 7, SP 8 and SP 9.
- 3.28 Policy SP 7 – Place Shaping Principles includes the criteria: *“Incorporate biodiversity creation and enhancement measures”*.
- 3.29 Policy SP 8 - Development & Delivery of a New Garden Community in North Essex includes the following criteria:

“(x). Create distinctive environments which are based on comprehensive assessments of the surrounding environment and that celebrate natural and historic environments and systems, utilise a multi-functional green-grid to create significant networks of new green infrastructure including a new country park at the garden community, provide a high degree of connectivity to existing corridors and networks and enhance biodiversity.

(xi). Secure a smart and sustainable approach that fosters climate resilience and a 21st century environment in the design and construction of the garden community to secure net gains in local biodiversity, highest standards of energy efficiency and innovation in technology to reduce the impact of climate change, the incorporation of innovative water efficiency/re-use measures (with the aim of being water neutral in areas of serious water stress), and sustainable waste and mineral management.”

- 3.30 Policy SP 9 - Tendring/Colchester Borders Garden Community includes the following criteria:

“(20). Avoidance, protection and/or enhancement of biodiversity assets within and surrounding the site; including Bullock Wood SSSI, Ardleigh Gravel Pits SSSI,

Wivenhoe Pits SSSI and Upper Colne Marshes SSSI and relevant European protected sites. Contributions will be secured towards mitigation measures in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy. Wintering bird surveys will be undertaken at the appropriate time of year as part of the DPD preparation to identify any offsite functional habitat. Should any be identified, development must firstly avoid impacts. Where this is not possible, development must be phased to deliver habitat creation and management either on- or off-site to mitigate any significant impacts. Any such habitat must be provided and fully functional before any development takes place which would affect significant numbers of SPA birds.”

- 3.31 Policy ENV1 is consistent with the requirements of the adopted CLP Section 1. Both CLP Section 1 and policy ENV1 require biodiversity enhancement and net gain. Both refer to connectivity and both refer to the Essex Coast RAMS.

Purpose and application of Policy ENV1

- 3.32 The purpose of Policy ENV1 is to protect and enhance Colchester’s natural and historic environment, countryside and coast, and ensure that consideration of biodiversity is an integral part of decision making. A core principle for planning is that it should contribute to protecting and enhancing the natural environment and helping to improve biodiversity (NPPF paragraph 7).
- 3.33 Policy ENV1 includes criteria against which any proposals for development affecting wildlife or geodiversity sites or landscape areas or development within the countryside will be judged. The policy makes distinctions between the hierarchies of designated sites as required by paragraph 113 of the NPPF. The protection afforded to the different sites in the policy is commensurate with the status of each of the sites and ensures that appropriate weight is given to their importance. Policy ENV1 includes criteria to assist development management in assessing proposals.
- 3.34 Through the application of Policy ENV1, the Council will help protect and enhance the natural and historic environment, countryside and coast. Policy ENV1 plans positively for the protection and enhancement of the environment and is clear on what will or will not be permitted and where, having regard to legislation and the hierarchy of European, national and locally designated sites. Policy ENV1 complies with the NPPF, it will ensure that the natural and local environment is protected and enhanced. Valued landscapes, the intrinsic character and beauty of the countryside and visual amenity will be protected. Application of ENV1 will minimise impacts on biodiversity and require provision of biodiversity net gain, in line with the 10% minimum set out in the Environment Bill.
- 3.35 Modifications are recommended to Policy ENV1 to respond to representations, including representations from Natural England and Environment Agency (see Statements of Common Ground SCG1 and SCG2), to refer to the Essex Coast

RAMS, improve the clarity of the policy which will aid application and future proof the policy regarding biodiversity net gain. The recommended modifications to Policy ENV1 propose splitting the policy into the following five sections: designated sites, Essex Coast RAMS, biodiversity and geodiversity, irreplaceable habitats and countryside.

A. Designated sites

- 3.36 Policy ENV1 is clear that development proposals that adversely affect habitats sites (European sites) and nationally designated sites will not be supported. The wording is slightly different for habitats sites, SSSIs and the Dedham Vale AONB, reflecting the nature and status of these sites.

B. Essex Coast RAMS

- 3.37 Since the CLP Section 2 was submitted, the Council has formed a partnership with 11 Essex Councils and have adopted the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Strategy Document ([EBC4.69](#)) and Supplementary Planning Document (SPD) ([EBC4.68](#)). Contributions are collected to fund the mitigation measures described in the RAMS Strategy Document. Natural England and the RSPB made representations concerning the Essex Coast RAMS and the Council agrees that reference to the Essex Coast RAMS should be included in policy ENV1, as illustrated in the SCG1.

C. Biodiversity and geodiversity

- 3.38 Paragraph 113 of the NPPF requires LPAs to set: “*criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged.*” Policy ENV1 does this by including criteria against which development proposals affecting wildlife will be judged.
- 3.39 Paragraph 118 of the NPPF states that: “*when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:*
- *if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
 - *opportunities to incorporate biodiversity in and around developments should be encouraged.*” (Other principles are included in paragraph 118 but are not directly relevant to this part of Policy ENV1.)
- 3.40 This part of Policy ENV1 begins by including criteria (i) – (v) that applies to all development proposals. These criteria relate to ecological surveys, biodiversity enhancement, opportunities for the preservation, restoration, enhancement and connection of natural habitats, and measurable biodiversity net gain.

Recommended Modifications regarding measurable biodiversity net gain ensure that the policy is future proofed but remains compliant with NPPF 2012, which refers to biodiversity net gain and recognises that this is a means to contribute to and enhance the natural environment. Recommended modifications include reference to 'measurable' biodiversity net gain and refers to the principles outlined in the Natural England Biodiversity Metric. This proposed modification is supported by the Environment Agency (SCG2) and will ensure that measurable biodiversity net gain can be required. Paragraph 109 of the NPPF states: "*The planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity....*"

- 3.41 This section of Policy ENV1 then includes criteria (i) – (iii) that are relevant to proposals that would cause significant harm to designated sites, protected species or habitats and species of principle importance. These criteria help to ensure that the mitigation hierarchy is followed. In the first instance, alternative sites that would cause less harm should be considered (avoidance), next the benefits should clearly outweigh the impacts taking into account the site and also the wider network to justify the harm. Lastly, mitigation measures, or, as a last resort, compensation measures, are provided.
- 3.42 These criteria are compliant with paragraph 118 of the NPPF, which states that: "*if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused*".

D. Irreplaceable habitats

- 3.43 The recommended modifications to Policy ENV1 modify the wording related to irreplaceable habitats and differentiates policy for irreplaceable habitats to policy for designated sites and habitats and species of principle importance, to ensure that it complies with the NPPF.
- 3.44 Paragraph 118 of the NPPF states that: "*planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss*".
- 3.45 The recommended modifications to Policy ENV1 ensure that the loss of irreplaceable habitats will only be justified under wholly exceptional reasons. In the event that the loss of irreplaceable habitats is justified, the policy requires a suitable compensation strategy. This is consistent with paragraph 118 of the NPPF, which includes the principle of compensation as a last resort.

E. Countryside

- 3.46 Recommended modifications to Policy ENV1 propose introducing a section on countryside into the policy. The submitted policy begins with the sentence: *“The LPA will conserve and enhance Colchester’s natural and historic environment, countryside and coastline”* and supporting paragraph 13.13 states: *“Policy ENV1 aims to control development outside of settlements to protect open stretches of countryside around and between existing settlements to prevent coalescence and retain settlement identity.”* However, the submitted policy does not include the detail to allow this to be applied.
- 3.47 Recommended modifications make reference to the core planning principle in the NPPF of recognising the intrinsic character and beauty of the countryside (paragraph 17) and refers to valued landscapes (paragraph 109). The modifications explain how the Council will conserve and enhance Colchester’s countryside, thereby enabling this opening sentence of Policy ENV1 to be applied. The recommended modifications are consistent with Policy OV2: Countryside.
- 3.48 Policy ENV1 embeds consideration of biodiversity as an integral part of policy and decision making. Policy ENV1 is a detailed policy that includes a number of issues. In accordance with paragraph 114 of the NPPF, Policy ENV1 sets out a strategic approach and plans positively for the creation, protection and enhancement of biodiversity. Separating the policy into five sections makes it clearer and simpler for applicants to understand and development management to apply. Policy ENV1 is justified by appropriate available evidence, has regard to national policy and local context, including meeting the requirements of the CLP Section 1.

Policy ENV2: Coastal Areas

National policy

3.49 NPPF paragraphs 105-108: National Planning Policy Section 10 of the National Planning Policy Framework sets out the Government's policy on '*Meeting the challenge of climate change, flooding and coastal change*'. The accompanying Planning Policy Guidance (PPG) on Flood Risk and Coastal Change provides guidance to Local Planning Authorities (LPAs). The aim of the policy on coastal change, as set out in paragraphs 105-108 of the NPPF, is to take account of the UK Marine Policy Statement, under which marine plans are developed, and apply an Integrated Coastal Zone Management approach across local authority and land/sea boundaries in coastal areas, reduce risk from coastal change, and identify Coastal Change Management Areas in their Local Plans where rates of physical changes to the shoreline are likely to be significant over the next 100 years, taking into consideration shoreline management plans. NPPF paragraph 114 states that local planning authorities should:

: "... maintain the character of the undeveloped coast, protecting and enhancing its distinctive landscapes, particularly in areas defined as Heritage Coast, and improve public access to and enjoyment of the coast".

Local context

3.50 The CBC Landscape Character Assessment 2005 ([EB4.67](#)) identifies a range of generic Landscape Character Types (LCTs) throughout the Borough. As observed in the Colchester Coastal Protection Belt Review (2016) ([EBC4.4](#) and [EBC4.5](#)), these are '*...broad tracts of land that share common characteristics of geology, landform, vegetation, land-use and settlement*'. Within the Coastal Protection Belt, the Landscape Character Types that represent areas of coastal/estuarine landscape character within the Borough include:

- Estuarine Marsh/Mudflats (LCT C)
- Drained Estuarine Marsh (LCT D)
- Coastal Farmland (LCT E)

3.51 These character types share characteristics of '*Open, undeveloped and rural areas (terrestrial and inter-tidal) that have a distinctive coastal/estuarine character and sense of place...*' They are also characterized by '*... designated sites of nature conservation value associated with coastal habitats such as saltings, marshes and mudflats; and designated sites of cultural heritage value associated with the Borough's coastal/maritime history...*' and '*are likely to experience significant physical changes as a result of permanent/temporary inundation.*' [Colchester Coastal Protection Review ([EBC4.4](#) and [EBC4.5](#))].

- 3.52 The current Essex and South Suffolk Shoreline Management Plan¹ identifies policies for managing the flood and coastal erosion risks to the coastline within Colchester Borough. The policies for the Colne Estuary (Unit D), Mersea Island (Unit E) and the Blackwater Estuary (Unit F) include managed realignment of the coastal defences between 2025 and 2055. The landscape in these areas of the coast is therefore likely to experience significant physical changes as the shoreline is restored to a more natural coastal and estuarine character during the lifetime of the emerging Colchester Local Plan. The sites are shown on the policies map and will be safeguarded over the lifetime of the Local Plan for the delivery of setback schemes in accordance with the Shoreline Management Plan timetable.
- 3.53 Colchester's coastline lies within the plan area of the draft South East (Inshore) Marine Plan² developed by the Marine Management Organisation (MMO). The south east inshore marine plan area stretches from Felixstowe in Suffolk to near Folkestone in Kent. The draft Marine Plan covers the area up to Mean High Water Springs, the Borough's coastline and the tidal reaches of the Colne Estuary/ River Colne. The draft Marine Plan's jurisdiction will overlap with the Council's responsibilities (which extend to mean low water) and due regard must be paid to the draft Marine Plan. The Marine Plan will be implemented at a local level in accordance with the national Marine Policy Statements.
- 3.54 The South East (Inshore) Marine Plan will introduce a strategic approach to planning providing an evidence-based approach to inform decision-making by marine users and regulators on where activities might take place within the inshore marine plan area. The draft South East (Inshore) Marine Plan recognises the importance of smaller fishing vessels operating out of ports such as West Mersea, the local importance of aquaculture particularly for shellfish species, the role of tourism and recreation, in particular boating activity with recreational Royal Yachting Association cruising routes, mooring facilities as well as sites designated for environmental protection. The Local Plan will be integrated with the South East (Inshore) Marine Plan, once it is complete, to provide a consistent approach for planning on land, and within the Borough's inter-tidal and marine environment.
- 3.55 A new coastal path is currently being planned around the whole of England's coastline. The delivery of the England Coast Path is embedded in the Marine and Coastal Access Act and Natural England is charged with its delivery. Once completed in addition to delivering a new long distance walking route, areas of

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/857296/DRAFT_SE_Marine_Plan.pdf#:~:text=The%20South%20East%20Marine%20Plan%20will%20help%20to,within%20and%20adjacent%20to%20the%20marine%20plan%20area.

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/857296/DRAFT_SE_Marine_Plan.pdf#:~:text=The%20South%20East%20Marine%20Plan%20will%20help%20to,within%20and%20adjacent%20to%20the%20marine%20plan%20area.

'spreading room' may also be delivered beside the route where people can explore and relax.

- 3.56 The Salcott to Jaywick³ and Mersea Island⁴ stretches of the England Coast Path fall within Colchester Borough. Designating these routes as part of the England Coast Path will contribute to coastal regeneration by supporting coastal businesses and services, through increased visitor spending where additional visits are made. This aligns well with the Council's aspirations to support coastal communities and sustainable coastal tourism initiatives in the Borough. The England Coast Path will avoid private houses and gardens and major ports.
- 3.57 The path will also avoid sensitive habitats and areas important for sensitive species. This is important in Colchester as much of the Borough's coast is designated under national, European and international designations.
- 3.58 The Colchester stretches of the England Coast Path are currently awaiting approval by the Secretary of State under Section 52 of the National Parks and Access to the Countryside Act 1949.

Justified by evidence

- 3.59 Policy ENV2 is justified by evidence with the key relevant documents listed below.
- [EBC 4.67](#) CBC Landscape Character Assessment 2005
 - [EBC 4.4](#) Colchester Coastal Protection Belt Review Report 2016
 - [EBC 4.5](#) Colchester Coastal Protection Belt Review Figures
 - [EBC 4.33](#) CBC Level 2 Strategic Flood Risk Assessment (SFRA) Report Final
 - [EBC 4.32](#) Level 1 SFRA Update 2015
 - [EBC 4.25 – 4.31](#) Level 1 SFRA Appendix A all figures

CLP Section 1

- 3.60 Paragraph 1.23 of the Colchester Local Plan Section 1 outlines the importance of character within the authorities of Braintree, Colchester and Tendring, including the coast, where '*... there are large areas of open countryside, including protected natural and historic landscapes. Areas of importance for nature conservation are to be found particularly along the coast and river estuaries, while the villages and towns include many built heritage assets*'.

³

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/925734/salcott-jaywick-report-3.PDF

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/622128/mersea-island-overview.PDF

Purpose of policy

- 3.61 The purpose of Policy ENV2 is to “... *protect the rural and undeveloped coastline in the Borough from inappropriate development that would adversely affect its rural, undeveloped and open character and irreplaceable assets...*” and thereby help protect the character of the Coastal Protection Belt by preventing urban sprawl into the more open and undeveloped stretches of the Borough's coastline. Policy ENV2 recognises exceptions where development requires a coastal location or is needed to help sustain the socio-economic base of the coastal area or serves the needs of the local coastal community.

Application of policy

- 3.62 Policy ENV2 recognises that some forms of development require a coastal location and cannot be located elsewhere or are needed to help sustain the local socio-economic base of the coastal area or serve the needs of the local coastal community. It therefore identifies a criteria-based approach to development management.
- 3.63 It is recommended that ‘*and seascape*’ is included in criterion (iii) of the policy, after the word landscape (page 99), in response to Natural England representation and included in the Statement of Common Ground (SCG1).
- 3.64 Policy ENV2 Coastal Areas, is justified by appropriate available evidence, has regard to national policy and guidance, and local context, including meeting the requirements of the CLP Section 1.
- 3.65 It is proposed that the wording of Policy ENV2 and the supporting text is amended to acknowledge that the South East Marine Plan has reached draft stage and has been submitted to the Secretary of State for approval.

Policy ENV3: Green Infrastructure

3.66 Green Infrastructure is defined by Natural England as “... a *strategically planned and delivered network...of high-quality green spaces and other environmental features.*”⁵ It is envisaged to be designed and managed as a multifunctional resource delivering ecological services and quality of life benefits for local communities where design and management respects and enhances the character and distinctiveness of an area. Green Infrastructure can include existing green spaces and new sites threading through and around the built environment connecting an urban area to the rural landscape. It encompasses both accessible natural green spaces within local communities and larger sites in the urban fringe and wider countryside.

National policy

3.67 National Policy (NPPF, paragraph 7) identifies that part of sustainable development is the protection and enhancement of our natural, built and historic environment, as well as improving biodiversity. In relation to the landscape and biodiversity elements of green infrastructure, Paragraph 109 of the NPPF recognises the importance of ‘...*establishing coherent ecological networks...*’ to which green infrastructure can contribute. Paragraph 113 recognises the importance that protected sites can make towards wider ecological networks. Paragraph 114 further requires local planning authorities to:

‘... set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure’

3.68 Paragraph 117 in addition identifies that impacts on biodiversity and geodiversity should be minimised through the identification and mapping of the:

‘... components of the local ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity, wildlife corridors and stepping stones that connect them, and areas identified by local partnerships for habitat restoration or creation’ and ‘... promote the preservation, restoration and re-creation of priority habitats, ecological networks’

3.69 In relation to the access requirements of green infrastructure in new development, Section 7 (Requiring good design) identifies in paragraph 58 that planning policies and decisions should aim to ensure that developments ‘... *create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) ...*’.

3.70 Further in Section 8, Paragraph 69, the NPPF identifies that planning policies and decisions should aim to achieve places which promote: ‘... *safe and accessible*

⁵ Green Infrastructure Guidance, Natural England, 2014.

developments, containing clear and legible pedestrian routes, and high-quality public space, which encourage the active and continual use of public areas.’ In paragraph 73 it is also identified that: *‘Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities...’* and paragraph 75 emphasises that: *‘Planning policies should protect and enhance public rights of way and access.’*

Local context

- 3.71 Colchester Town’s location between the rivers Colne and Roman, based on the riverine sands and gravels and the history of army activity, has preserved many large tracts of unimproved land and meant that there are many important sites and habitats within and around the urban area.
- 3.72 The wider Borough provides a home for a number of protected species, with large areas of estuarine, coastal, and wetland habitats (see above). There are several Local Nature Reserves (LNRs) in the Borough, most of which are clustered within or adjacent to the urban area of Colchester. There are 170 LoWS in Colchester, spread throughout the Borough with a strong concentration along the Colne, Roman and Stour River Valleys. There are several areas of ancient woodland in the Borough, scattered broadly through the central and northern areas of the Borough.
- 3.73 There is a broad range of open spaces within and around the urban area of Colchester. The town itself is served by several large green spaces, including High Woods Country Park, Castle Park in the town centre and Abbey Fields to the south. A number of nature reserves and wetland areas are also close to the town centre, such as Cymbeline Meadows.
- 3.74 There is a range of varied environments within and on the edge of the Borough which attract significant numbers of visitors, including Dedham Vale Area of Outstanding Natural Beauty (AONB), the Saltmarshes and coastline around West Mersea, Abberton and Ardleigh Reservoirs, Tiptree Heath and Fordham Woods.
- 3.75 The community-based action group, Colchester Green Links and Open Spaces (CGLOS), including Walk Colchester, has developed a 14–15-mile length, circular multi-user route around the town’s periphery, the Colchester Orbital, connecting with cycle routes and bridleways, and aiming to appeal to the widest range of walkers and non-motorised users. The route has been chosen to connect some of the town’s green spaces and off-road Public Rights off Way (PRoW) network along its urban fringe, whilst also connecting with key walking routes into and out of the town centre. It follows existing PRoW over most of its course.
- 3.76 The Green Infrastructure Strategy (2011) (EBC [4.20](#), [4.21](#), [4.22](#), [4.23](#)) identifies a range of action zones with shared characteristics within which strategic projects such as accessible natural greenspace, green corridors, linear routes, land

management, educational and interpretative projects are identified. Protected Lanes, as important historic landscape features, form part of this green network, encouraging local journeys to be made on bicycle or foot, and for recreation, and thereby maintaining local character.

Justified by evidence

3.77 Policy ENV3 is justified by evidence with the key relevant documents listed below.

- [EBC4.2](#) and 4.7-4.10 Colchester Borough LoWS Review 2015 Final Version November 2017
- [EBC 4.20](#), [4.21](#), [4.22](#), [4.23](#) Colchester Borough Green Infrastructure Strategy
- [EBC 2.3](#) (Adopted Local Plan Evidence Base 2004-2020) Colchester Borough Council Provision of Open Space Sport and Recreational facilities SPD
- [EBC 4.11](#) Colchester Orbital Aims and Objectives-Nov 2016
- [EBC 4.12](#) Colchester Protected Lanes Report March 2017
- [EBC 4.13](#) Dark Skies Dedham Vale Society Magazine Summer 2016

CLP Section 1

3.78 Policy ENV3 is justified by the Vision for North Essex identified in CLP 1 that states '*Green and blue infrastructure ... will be planned and provided along with other facilities to support the development of substantial new growth*'. One of the strategic objectives is 'Ensuring High Quality Outcomes' which includes that '*... new development must secure high standards of urban design and green infrastructure which creates attractive and sustainable places where people want to live and spend time.*' Policy SP7, Place Shaping Principles requires all new development to '*Provide an integrated and connected network of biodiverse public open space and green and blue infrastructure, thereby helping to alleviate recreational pressure on designated sites.*' Also, that the New Garden Community in North Essex should, under Policy SP8 '*... utilise a multi-functional green-grid to create significant networks of new green infrastructure including a new country park at the garden community, provide a high degree of connectivity to existing corridors and networks and enhance biodiversity*'.

Purpose of policy

3.79 The purpose of the Policy ENV3 is to seek to protect and enhance the existing network of green and blue infrastructure and to secure the delivery of new green infrastructure where deficiencies and gaps are identified that will benefit communities, wildlife and the environment.

Application of policy

3.80 Policy ENV3 recognises that '*Development proposals that contribute to the delivery of projects identified in the Colchester Green Infrastructure Strategy...* ' ,

as well as those that contribute to the enhancement of the Colchester Orbital and improved public rights of way will be positively supported. Colchester Borough Council will seek opportunities from developments to improve the connectivity between the Colchester Orbital route, new developments and the wider countryside, including links between existing green infrastructure and development, and new development. The policy seeks to improve the healthy choices available to residents to access and participate more easily in activities such as walking, cycling and horse riding.

- 3.81 A modification is recommended which adds a new paragraph to policy ENV3 as a result of a representation from the Environment Agency as set out in SCG2, as follows: **‘Green infrastructure that contributes to the protection and enhancement of water bodies will be supported, including de - culverting, creation and management of ecological buffer strips and new wetland areas to help manage flood risk and reduce diffuse pollution’.**
- 3.82 An audit of the Orbital Route has been completed by the Orbital Access Group and this information will be used to inform improvements that need to be made from development contributions where appropriate. A factual correction is to be made recognizing that one main route with supplementary loops is programmed for the Orbital. The route of the Orbital will be updated and shown on the policies maps.
- 3.83 Policy ENV3 is justified by appropriate available evidence, has regard to national policy and guidance, and local context, including the meeting the requirements of the CLP Section 1.

Policy ENV4: Dedham Vale Area of Outstanding Natural Beauty

- 3.84 The Dedham Vale Area of Outstanding Natural Beauty (AONB) has been designated for its national importance in terms of landscape quality and is further enhanced through its close association with the works of artist John Constable. The quality of the landscape is defined by its natural beauty and special qualities and the integration of the man-made elements within it, and the primary aim of the designation is to conserve and enhance its natural beauty.

National policy

- 3.85 An area of outstanding natural beauty (AONB) is land protected by the Countryside and Rights of Way Act 2000 (CROW Act). AONBs in England and Wales were originally created under the National Parks and Access to the Countryside Act 1949. Whilst the primary purpose of the designation is to conserve and enhance natural beauty, in pursuing this purpose, account should be taken of the needs of agriculture, forestry and other rural industries and of the economic and social needs of local communities. Regard should also be paid to promoting sustainable forms of social and economic development that in themselves conserve and enhance the environment.
- 3.86 NPPF 2012 specifically identifies that the presumption in favour of sustainable development allows for specific policies in the Framework to indicate development should be restricted in certain situations. This includes within Areas of Outstanding Natural Beauty. Chapter 11, Conserving and enhancing the natural environment. Paragraph 115 identifies that: *'Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.'*

European Policy

- 3.87 The European Landscape Convention⁶, concerns landscapes that might be considered outstanding as well as everyday or degraded landscapes. The Convention is aimed at the protection, management and planning of all landscapes and raising awareness of the value of a living landscape. The Convention was adopted on 20 October 2000 and came into force on 1 March 2004 (Council of Europe Treaty Series no. 176). The Convention was signed by the UK government on 24th February 2006, and became binding in this country on 1st March 2007. It seeks to promote landscape protection, management and planning across Europe, and to organise European-wide co-operation on landscape issues.

⁶ https://www.iflaeurope.eu/assets/docs/European_Landscape_Convention-Txt-Ref_en.pdf .pdf

Local context

- 3.88 The Dedham Vale Area of Outstanding Natural Beauty (AONB) and Stour Valley Project area make up around 117 square miles of the Essex/Suffolk border in the East of England. It was designated as an AONB in 1970. The Dedham Vale AONB is the fourth smallest AONB in England and Wales. It was designated to ensure the natural beauty and special qualities of the area are conserved and enhanced for future generations. Much of the eastern end of the AONB is associated with the celebrated landscape artist, John Constable, and many of the views he painted remain recognisable today. Much of the middle section of the Stour Valley is associated with the nationally recognised artist Thomas Gainsborough. The Stour Valley project area does not benefit from the same level of policy protection relating to the AONB. However, the Stour Valley project area is deemed to be a 'valued landscape' as defined by the National Planning Policy Framework (2019), following a study carried out in 2019.
- 3.89 The AONB covers the lower reaches of the River Stour and is bounded to the east by the Cattawade Marshes where the river becomes tidal. The western boundary runs between Bures and Wormingford. The northern and southern boundaries are situated a few kilometres either side of the river, at times following tributaries of the Stour. It is essentially a farmed landscape, characterised by picturesque villages, rolling farmland, rivers, meadows, ancient woodlands and a wide variety of local wildlife. The overall character is of a gently undulating plateau, caused by the numerous small-scale river valleys that dissect the plateau, with a complex network of old species-rich hedgerows, ancient woods and parklands, meadows with streams and rivers that flow eastwards. Traditional irregular field patterns are still discernible over much of the area, despite field enlargements in the second half of the 20th century. The soils consist of widespread moderately fertile, chalky clay.
- 3.90 The special qualities of the AONB are summarised in the proposed Dedham Vale AONB and Stour Valley management plan⁷.

Justified by evidence

- 3.91 Policy ENV4 is justified by evidence with the key relevant documents listed below.
- [EBC 4.67](#) CBC Landscape Character Assessment 2005
 - [EBC 4.66](#) Colchester Historic Characterisation Report 2009
 - [EBC 4.2](#) Colchester Borough LoWS Review 2015 Final Version November 2017
 - [EBC 4.12](#) Colchester Protected Lanes Report March 2017
 - [EBC 4.13](#) Dark Skies Dedham Vale Society Magazine Summer 2016

⁷ <https://www.dedhamvalestourvalley.org/wp-content/uploads/2021/01/Management-Plan-2021-26-Public-Consultation-Draft.pdf>

- Dedham Vale AONB and Stour Valley Management Plan 2021-26 ⁸
- [EBC 4.21](#) Green infrastructure Final Report Part 1
- [EBC 4.22](#) Green infrastructure Final Report Part 2
- [EBC 4.23](#) Green Infrastructure Strategy Final Appendices

CLP Section 1

3.92 Policy ENV4 is justified by the Vision for North Essex identified in CLP 1 that states: *‘the undeveloped countryside and the natural and historic environment will be conserved and enhanced. Key to delivering sustainable development is that new development will address the requirement to protect and enhance the historic environment and settlement character.’*

Purpose of policy

3.93 Policy ENV4 is intended to ensure that the natural beauty and special qualities of the AONB and its setting are conserved.

Application of policy

3.94 Policy ENV4 is clear that development will only be supported in or on land within the setting of the Dedham Vale Area of Outstanding Natural Beauty (AONB) where it makes a positive contribution to its natural beauty and the special qualities. This is to ensure avoidance of adverse effects on character and distinctiveness, the quality of views or the public enjoyment of the AONB, as well as the AONB setting. Major development will only be supported in exceptional circumstances, if it is in the public interest and this outweighs other material considerations, and any harm to the natural beauty and special qualities can be suitably mitigated through landscape enhancements, mitigation or compensation measures.

3.95 There have been no modifications suggested to Policy ENV4. It is recommended however that the supporting text is updated to reflect that the Stour Valley area has now been identified as Valued Landscape.

3.96 Policy ENV4: Dedham Vale Area of Outstanding Natural Beauty is justified by appropriate available evidence, has regard to national policy and guidance, and local context, including meeting the requirements of the CLP Section 1.

⁸ <https://www.dedhamvalestourvalley.org/wp-content/uploads/2021/01/Management-Plan-2021-26-Public-Consultation-Draft.pdf>

Policy ENV5: Pollution and Contaminated Land

National policy

3.97 Land and air pollution are subject to regulatory controls under Environmental Health Legislation including the Environmental Protection Act 1990, Pollution Prevention Act 1999 and the Environment Act 1995. Local Authorities have a duty to review and assess local air quality under Part IV of the Environment Act 1995. Where a Local Authority considers that one or more of the objectives are unlikely to be met and there is relevant exposure, an Air Quality Management Areas (AQMA) must be declared.

National Planning Policy Framework (NPPF) 2012

3.98 NPPF paragraph 109 identifies that:

'The planning system should contribute to and enhance the natural and local environment by... preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability;'

and '...remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.'

3.99 NPPF paragraph 110 identifies that:

'In preparing plans to meet development needs, the aim should be to minimise pollution and other adverse effects on the local and natural environment.'

3.100 NPPF paragraph 120 is clear that:

'To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location.' And that *'... the effects (including cumulative effects) of pollution on health, the natural environment or general amenity... should be taken into account.'*

Local context

3.101 Within Colchester there are four Air Quality Management Areas (AQMA) designated areas, including Brook Street, where applications may be required to submit an air quality impact assessment, to assess and quantify the impact on local air quality and to identify appropriate mitigation measures or contributions for air quality.

3.102 Policy ENV5 is supported by criteria (v) of policy DM15 (Design and Amenity) which builds in additional safeguards to protect and promotes public and residential amenity against a range of issues including disturbance, light and odour pollution.

3.103 The Council is aware of contamination issues at Middlewick Ranges, and this is dealt with in the appropriate [Topic Paper](#) and Hearing Statement.

CLP Section 1

3.104 The Key Strategic Issues in the CLP Section 1 notes the need to reduce health inequalities, which could include issues in relation to air quality. As part of Chapter 6 on Infrastructure and Connectivity, paragraph 6.7 identifies that Local Plans providing sustainable forms of transport and enabling more active travel choices will help to enhance air quality and improve health and well-being.

Purpose of policy

3.105 The purpose of ENV5 is to ensure that development proposals will not result in an unacceptable risk to the health and safety of the public, the environment, general amenity or existing uses.

Application of policy

3.106 The Council has developed an Air Quality Action Management Plan and requires developments within AQMA areas or major developments to submit air quality impact assessments setting out the mitigation needed to address air quality impacts. Contributions may also be required towards the cost of air quality mitigation measures.

3.107 A minor amendment is proposed to policy ENV5 in response to NPPF paragraph 124: "... Permission will only be granted where the Council is satisfied that after selection of appropriate mitigation the development, **alone and cumulatively**, will not have an unacceptable significant impact on air quality, health and well-being...".

3.108 Policy ENV5 is sound and seeks to ensure that pollution and contamination are properly considered as part of the planning process. It is justified by appropriate available evidence, has regard to national policy and guidance, and local context, including the meeting the requirements of the CLP Section 1.

Policy CC1: Climate Change

3.109 Climate change is a global issue affecting everyone. Co-ordinated action from all sectors, national and local governments, and individuals is needed to mitigate and adapt to climate change. The science tells us that to avoid catastrophic effects we need to limit the increase in global temperature to 1.5°C. Mitigation measures are required to significantly reduce greenhouse gas emissions and limit global temperature rise. However, even with efforts to limit the cause of global warming, further climatic changes are inevitable in the future and the UK will need to adapt to the growing risks from climate change.

National context

3.110 In December 2015, the UK joined 195 countries in signing an historic global deal to tackle climate change. The Paris Agreement commits the international community to reduce greenhouse gas emissions in order to avoid some of the most severe impacts of climate change.

3.111 The UK has long-term, legally-binding targets for reducing its greenhouse gas emissions. The Climate Change Act 2008 required that net carbon emissions are 80% lower than the 1990 baseline level by 2050 and set a series of five-year carbon budgets as milestones along the way. This target has now been strengthened, through legislation, to bring greenhouse gas emissions⁹ to net zero by 2050 (July 2019).

3.112 In accordance with the requirements of the Climate Change Act, the UK Climate Change Risk Assessment was published in 2017. A National Adaptation Programme was published in 2018. This is the government's strategy to address the main risks and opportunities identified in the risk assessment for England, both are produced every five years.

3.113 The Climate Change Committee recognise that local authorities have a critical role to play in climate change adaptation. The first National Adaptation Plan set out the aim: *to provide a clear local planning framework to enable participants in the planning system to deliver sustainable new development.*

3.114 At the Global Climate Talks in Poland in December 2018, the UK along with over 200 nations agreed action on climate change with a much greater role strongly implied for local and regional authorities in assisting governments to achieve their carbon emission savings.

3.115 In June 2020, the Committee on Climate Change set out in their annual report ways in which the government can incorporate climate policies into its economic

⁹ Not all greenhouse gas emissions are included, for example, greenhouse gas emissions related to international aviation and the consumption of goods we use in the UK are exported to other countries. The approach used by the UK is a territorial based emissions approach.

recovery. The foreword states that the: *“most effective and decisive action to secure our recovery from COVID-19 will also accelerate the transition to Net Zero and strengthen our resilience to the changing climate. Unifying these aims is absolutely necessary and entirely possible.”*

- 3.116 Section 19(1A) of the Planning and Compulsory Purchase Act 2004 requires local planning authorities to include in their Local Plans: *“policies designed to secure that the development and use of land in the local planning authority’s area contribute to the mitigation of, and adaptation to, climate change”*.

National Planning Policy Framework (NPPF) 2012

- 3.117 Local plans should be prepared with the objective of contributing to the achievement of sustainable development (which is a legal requirement of LPAs exercising their plan making functions) and be prepared positively, in a way that it aspirational but deliverable.

- 3.118 Addressing climate change is one of the core land use planning principles which the NPPF expects to underpin both plan-making and decision-taking. Section 10 of the NPPF (paragraphs 93-108): Meeting the challenge of climate change, flooding and coastal change is most relevant.

- 3.119 The NPPF exhorts local planning authorities to adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations (paragraph 94).

- 3.120 One of the statements of core principles in the NPPF in paragraph 7 states that planning should be:

“helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy”.

- 3.121 The NPPF (paragraph 17) also states in the core principles that planning should:

“support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy)”.

- 3.122 The UK is bound to targets to reduce greenhouse gas emissions and it is recognised at national level that planning should contribute to climate change mitigation and adaptation. Indeed, Section 19(1A) of the Planning and Compulsory Purchase Act 2004 requires local planning authorities to include policies to mitigate and adapt to climate change in their Local Plans.

Local context

3.123 The Council declared a climate emergency in 2019 and since this time a significant amount of cross-service work has followed. This has been principally focused on the Council's roadmap to become net carbon zero by 2030, but work has also looked at how the Borough can continue to grow more sustainably and reflect the climate emergency.

Colchester's Climate Emergency Declaration

3.124 The Council declared a climate emergency on 17 July 2019. The Council noted the United Nations Intergovernmental Panel on Climate Change's (IPCC) warning that we have 12 years to make the necessary changes to limit a rise in global temperatures to 1.5°C. Failure to act will see a marked increase in sea levels and flooding, extreme and abrupt changes to weather patterns, crop failures, extinctions of plant, insect and animal species, and global economic disruption and crisis. Total populations of mammals, birds, fish and reptiles have declined globally by 60% since 1970, and all of the 20 warmest years on record, have occurred in the past 22 years. Failure to take immediate and decisive action on this will detrimentally impact on the wellbeing of the people of Colchester Borough and billions of people around the world.

3.125 The Council believes that it is everyone's duty to do what they can to stop this existential threat to our planet. Through declaring a climate emergency, it has become a priority of the Council to spur urgent action to reduce our carbon footprint and promote sustainable urban environments and economies. One of the five themes in Colchester's Strategic Plan 2020-2023 is 'Tackling the climate challenge and leading sustainability'.

3.126 The local context has changed since the CLP Section 2 was prepared and submitted and the CLP Section 2 is recommended to be modified to reflect the declaration of a climate emergency in Colchester. The introduction to Policy CC1 and paragraph 13.55 are now out of date and the Draft Schedule of Recommended Modifications ([CBC1.6](#)) recommends the following modification: **Colchester Borough Council made a Climate Emergency declaration in 2019. An Action Plan, Environment and Sustainability Strategy and a Carbon Management Plan will be prepared and regularly updated.**

3.127 Following through on the climate emergency declaration, the Council intends to take a radical step forward in tackling climate change and conservation as a local authority. Colchester Borough Council has pledged to ensure that future Council housing and community development projects meet a carbon-neutral standard by 2030.

3.128 The first Colchester Climate Emergency Action Plan ([EBC4.71](#)) was reported to Cabinet in January 2020. The Action Plan is a 10 year journey for the Council to

become net carbon zero by 2030. The Action Plan includes six areas of work and one of these areas is 'Planning, Development and Sustainable Travel'. The Climate Emergency Action Plan is a live document and work has taken place since January 2020, including the drafting of a Planning Sustainability Checklist, which will become a local validation requirement.

Baseline greenhouse gas emissions for Colchester Borough Council

- 3.129 The Council initially set a target to reduce greenhouse gas emissions by 40% by 2020 relative to 2008/09 levels. Figures for 2018/19 show that the Council's carbon footprint of 6009 tonnes of CO₂e¹⁰ was 40.8% lower than that in 2008 (10,150 tonnes of CO₂e) and in line to meet the target set for 2020. The Council's baseline greenhouse gas emissions have been taken as 6009 tonnes of CO₂e and this is the level from which the Council will aim to meet its target of becoming carbon neutral in its operations and services. The emissions included in this target refer to those from fuels used in Council fleet operations, gas used to heat Council owned buildings and offices, and emissions associated with the generation of electricity that the Council uses in its owned buildings and other service operations e.g. car parks, street lighting.
- 3.130 The Council is aiming to include other emission sources within the carbon neutral target such as those from the disposal and treatment of water consumed in Council operations, disposal and treatment of waste produced from Council services, business travel conducted by Council employees and employee commuting. However, this has not yet been formally agreed and is an emerging aspiration.

CLP Section 1

- 3.131 Criteria (xi) of Policy SP 8 - Development & Delivery of a New Garden Community in North Essex of the CLP Section 1 states:
- “Secure a smart and sustainable approach that fosters climate resilience and a 21st century environment in the design and construction of the garden community to secure net gains in local biodiversity, highest standards of energy efficiency and innovation in technology to reduce the impact of climate change, the incorporation of innovative water efficiency/re-use measures (with the aim of being water neutral in areas of serious water stress), and sustainable waste and mineral management.”*
- 3.132 Criteria 22 of Policy SP 9 Tendring/Colchester Borders Garden Community of the CLP Section 1 states:

¹⁰ This means CO₂ equivalent, i.e. it takes into account the production of other greenhouse gases that have different global warming potentials. For example 1 tonne of methane produced is equal to 25 tonnes of CO₂ produced and this will have been accounted for in the calculation. Using the CO₂ equivalent unit makes it easier to combine all these types of emissions together.

“Provision of appropriate design and infrastructure that incorporates the highest standards of innovation in energy efficiency and technology to reduce impact of climate change, water efficiency (with the aim of being water neutral in areas of serious water stress), and sustainable waste / recycling management facilities.”

Purpose of Policy CC1

3.133 Policy CC1 is the overarching climate change policy and sets out how a low carbon future for Colchester will be achieved. It includes both mitigation and adaptation measures. But it is not just policy CC1 that meets the NPPF principles, sustainable development and climate change mitigation and adaptation is at the heart of the Local Plan. The CLP Section 2 as a whole contributes to climate change mitigation and adaptation by directing development to the most sustainable locations, avoiding development in areas of flood risk and promoting sustainable travel. The Vision for Colchester states that: *“Colchester will be acclaimed for the creative, innovative and sustainable ways in which it addresses the wide range of challenges facing the Borough, including climate change...”*. The CLP Section 2 includes policies to preserve and enhance biodiversity (ENV1), deliver a comprehensive green infrastructure network (ENV3), promote efficient use of energy and resources and minimise waste and pollution (DM25 and ENV5), direct development away from land at risk of flooding (DM23) and encourage sustainable construction, water efficiencies and renewable energy (DM25).

3.134 The purpose of Policy CC1 is to secure that the development and use of land in the borough contributes to the mitigation of, and adaptation to, climate change in accordance with Section 19(1A) of the Planning and Compulsory Purchase Act 2004.

3.135 Modifications are recommended to Policy CC1 to reflect the Council’s climate emergency declaration. The Environment Agency agree with modified Policy CC1 (SCG2).

3.136 Policy CC1 complies with NPPF paragraph 94 by providing a proactive strategy to mitigate and adapt to climate change, taking account of the wide range of climate change issues.

Application of policy

3.137 The Council can and should contribute to the roadmap to net zero carbon set by national government and the Council as a response to the declaration of a climate emergency. The CLP Section 2 covers the period until 2033 and, in accordance with paragraph 93 of the NPPF, it:

“plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions”.

- 3.138 Buildings built during the plan period should be designed to be ready for the future. It is accepted that there is uncertainty over the severity of climate change impacts, but the science tells us that our climate is changing. All development in the local plan period should be flexible, adaptable and deliver multiple benefits.
- 3.139 For buildings, the Council will secure radical reductions in greenhouse gas emissions by encouraging energy efficiency measures that go beyond building regulations requirements, for both new buildings and existing buildings within the borough. The Council does not have the evidence base to set a target requiring energy efficiency improvements that go beyond Building Regulations, nor has this been viability tested. Government consulted on changes to Parts F and L of the Building Regulations (ventilation and energy efficiency) and the Future Homes Standard from October 2019 – February 2020. The consultation set out the government's plans for the Future Homes Standard, including proposed options to increase the energy efficiency requirements for new homes. The Future Homes Standard will require new build homes to be future-proofed with low carbon heating and improved levels of energy efficiency; it will be introduced by 2025. The capital cost of sustainable buildings is likely to decrease over time as legislation improves, our electricity grid decarbonises, our supply chain upsills, and as cost of technology decreases. Policy CC1 criteria (iii) encourages design and construction techniques which contribute to climate change mitigation and adaptation. Applicants will be expected to demonstrate how the scheme mitigates and adapts to climate change (CLP Section 2 paragraph 13.48), and this should include details of whether energy efficiency measures will exceed current Building Regulations.
- 3.140 Innovative design and technologies will be required within the garden community (criteria iv) and this will be explored as part of the development plan document for the garden community. It is appropriate to use the word 'require' in criteria (iv). Other criteria begin with 'encourage', which is appropriate as these criteria apply to all development across the borough. This provides flexibility to ensure that measures are not required in all cases. Criteria (iv) solely relates to the garden community and it is wholly appropriate that innovative design and technologies that reduce the impacts of climate change will be required in the garden community. This is consistent with CLP Section 1 policies SP 8 and SP 9.
- 3.141 The Council believes that it is necessary to improve the energy efficiency of existing buildings in the borough to secure radical reductions in greenhouse gas emissions. Criteria (vii) of policy CC1 supports energy efficiency improvements to existing buildings in the borough where appropriate. Paragraph 13.54 explains that householders and businesses will be encouraged to make energy efficiency improvements to existing buildings as part of proposals for extensions/ alterations. When a building is extended it will release more carbon emissions. If energy efficiency measures are made to the existing building this can mitigate the impact

of the enlarged building, with the overall aim of resulting in no net increase in carbon emissions. A leaflet outlining sustainability and energy efficiency measures for householders was published on the Council's website in 2020 and a link to this is sent out with all householder decision notices.

- 3.142 The Council is supporting the development of a low carbon district heating system using an open loop ground source heat pump at Colchester Northern Gateway for a mixed used development in conjunction with the Department of Business Energy and Industrial Strategy Heat Network Investment Project. The Council is exploring other opportunities for low carbon district heating. Policy CC1 requires that where there is potential for connection to a decentralised energy system development will be expected to connect to or be capable of connecting to a future scheme where there are proposals for such a system.
- 3.143 The Council has a target of 60% recycling of household waste. Criteria (viii) of Policy CC1 and Policy DM25 recognise that the Council's commitment to carbon reduction includes waste minimization and recycling. To support the Council's recycling target, development will be expected to optimize the opportunities for recycling and minimizing waste and through the provision of better recycling facilities. It may be appropriate to prepare a site waste management plan to outline how construction waste will be recycled.
- 3.144 Development is directed to locations with the least impact on flooding. As part of the site allocations selection process, the SHLAA ([EBC 2.17](#)) ensured that any sites at medium or high risk of flooding were discounted as part of the first sieve. A Water Cycle Study ([EBC 4.3](#)) forms part of the evidence base for the Local Plan and this demonstrates that water can be provided and wastewater treated for the development allocated in the plan. Sustainable urban drainage systems (SuDS) should be incorporated into all development proposals and policy DM24 sets out requirements for SuDS. SuDS should be multifunctional to maximise the benefits.
- 3.145 Green infrastructure is a strategic network of multifunctional green and blue spaces and the connections between them. Green infrastructure has multiple benefits and offers benefits in terms of both climate change mitigation and adaptation. Criteria (x) of Policy CC1 and Policy ENV3 refers to green infrastructure. The Council aims to protect, enhance and deliver a comprehensive green infrastructure network across the borough.
- 3.146 Properly managed trees and woodlands in urban and semi urban areas make a significant contribution to planning, design and management of sustainable, resilient landscapes. The value trees add to the urban and semi urban environment are multiple but can briefly be listed (non-exhaustible) as:
- Reducing the risk of flooding by intercepting and slowing rainfall
 - Removing air pollution

- Alleviating heat stress
- Boosting activity levels
- Reducing mental stress
- Make streets safer and more walkable
- Provide wildlife habitat.

3.147 Increasing tree cover worldwide is one of the quickest and cheapest ways of mitigating climate change. Work was undertaken with community groups in early 2020, which established that current canopy cover in the borough is approximately 18%. To maintain an understanding of canopy cover and improve this, applicants of major development should provide a Canopy Cover Assessment. Applicants should increase the canopy cover onsite by 10%, thereby increasing the overall canopy cover of the borough through each site that is developed.

3.148 A modification is recommended in the Draft Schedule of Recommended Modifications ([CBC1.6](#)) to add the following additional criteria to policy CC1:

A Canopy Cover Assessment will be required for all major applications. The level of canopy cover on site must be increased by a minimum of 10%.

3.149 A Planning Sustainability Checklist was presented to the Council's Environmental Sustainability Panel in January 2021 and, following consultation, this will become a local validation requirement. The Checklist will demonstrate how a scheme mitigates and adapts to climate change through applicants answering questions on a range of issues that are linked to the Climate Emergency Action Plan and includes the criteria in Policy CC1. The completed Checklist will assist Development Management Officers and Planning Committee in understanding the sustainability credentials of a scheme and the extent to which a scheme complies with the criteria in Policy CC1. To further progress the Planning Sustainability Checklist, the Council's Environmental Sustainability Panel have requested that a Supplementary Planning Document (SPD) is prepared to add further guidance to Policy CC1 and the Checklist. Work will commence on an SPD after the CLP Section 2 Examination. The SPD will expand upon the criteria in the policy and how the criteria can be achieved. It is anticipated that a range of different targets/requirements will be presented in the SPD to provide guidance and encourage ambitious applicants who want to deliver sustainable schemes that go beyond current requirements.

3.150 The Council has declared a climate emergency and has a Climate Emergency Action Plan ([EBC4.71](#)). There are numerous active workstreams across the Council to mitigate and adapt to climate change and ensure that the Council will be net zero carbon by 2030. The CLP Section 2 provides the policy framework to facilitate the planning measures in the Climate Emergency Action Plan. The

Council will encourage and support all the measures in Policy CC1 to achieve a low carbon future. Measures are not listed in order of preference. The energy hierarchy and the importance of reducing the need for energy is recognised in the policy. The Planning Sustainability Checklist and future SPD will assist in implementing Policy CC1 by providing further guidance and support to applicants.