

Copford with Easthorpe Neighbourhood Plan 2019-2033

A report to Colchester Borough Council

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Executive summary

I was appointed by Colchester Borough Council on 7 October 2022, with the agreement of the Copford with Easthorpe Parish Council, to carry out the independent examination of the Copford with Easthorpe Neighbourhood Plan 2019-2033.

The examination was completed solely on the basis of the written representations received, no public hearing appearing to me to have been necessary. I made an unaccompanied visit to the area covered by the Plan on 2 November 2022.

The Plan relates to the Parish of Copford with Easthorpe, a largely rural area lying about 7km to the west of Colchester and with a population of around 1900. The largest urban element is Copford itself, straddling London Road (B1408), while Copford Green and Easthorpe are smaller settlements set within open countryside. There is a primary school but only a few other local amenities. Marks Tey station, just beyond the western boundary of the Parish, provides frequent links to London, Ipswich and Colchester.

The Plan seeks to provide for a level of growth which meets local needs and retains the distinctiveness of the three urban parts of the Parish, while at the same time protecting its rich built and natural heritage.

Subject to a significant number of important recommendations, I have concluded that the Copford with Easthorpe Neighbourhood Plan is capable of meeting all the necessary legal requirements at this stage of its preparation. With that proviso, I conclude by recommending that it should proceed to referendum.

Background note

The recommendations for amendments to be made to the submitted version of the Copford with Easthorpe Neighbourhood Plan are more substantial than is common in examinations of this kind. This note is intended to explain the background.

On 9 November 2022, I wrote to the Parish Council with two questions that had implications for compliance with the “basic conditions” which neighbourhood plans are required to demonstrate. The more significant of these related to the extent to which policies in the Plan appeared unnecessarily to duplicate similar policies in the recently adopted Colchester Borough Local Plan; the second sought clarification of its stance in relation to what is known locally as “the car boot sale field”, which straddles the boundary with Marks Tey Parish.

It was agreed that some time was needed for the Parish Council to consider the issues, and I received responses to these questions on 31 January 2023. However, I concluded that these did not adequately deal with the matters I had raised, and a further note was sent to the Parish Council and Colchester Borough Council on 21 February.

These concerns were the subject of an informal discussion I held with the Parish Council and CBC on 20 March. To assist consideration of what options might be open to them, I made it clear that I was satisfied that the submitted Plan has proper regard to relevant *planning policies* both at national and local strategic level, and that it makes appropriate provision for sustainable development. These are clearly both important considerations.

However, I explained that I remained concerned at the extent of unnecessary duplication with Colchester Local Plan policies, and at the CENP's lack of clarity in a number of significant respects (including in relation to the car boot sale site). These factors had led me to conclude that insufficient account had been taken of *national planning guidance*, and that was hampering the Plan's ability to proceed satisfactorily to referendum.

During the discussion, I explained my view that a failure to fully take into account national guidance, while a significant concern, ought not to unreasonably hinder the Plan's progress if steps could be taken to address the issue without significantly changing the Plan's overall intentions. For this reason (and also giving weight to the substantial amount of work and public consultation carried out so far), I said that I would wish to avoid recommending that it not proceed to referendum unless there were no practicable alternative.

As a result of that discussion, the Parish Council asked me to complete my examination, in the knowledge that it would include substantial recommendations for recasting most (if not all) of the key policies. This report is the outcome.

It is an important test of a neighbourhood plan that it should, in plain English, "add value" to existing national policies and, more significantly in practical terms, to policies in the development plan for the area. In this case, that means the Colchester Borough Local Plan, Part 2 of which was adopted as recently as July 2022. This consideration has played a major part in my examination of the Copford and Easthorpe Neighbourhood Plan and my recommendations for modifications to be made to it.

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Introduction

1. This report sets out the findings of my examination of the Copford with Easthorpe Neighbourhood Plan (the CENP), submitted to Colchester Borough Council (CBC) by the Copford with Easthorpe Parish Council (CEPC) in June 2022. The Neighbourhood Area for these purposes is the same as that of the Parish Council's boundaries.
2. Neighbourhood plans were introduced into the planning process by the Localism Act 2011. They aim to help local communities shape the development and growth of their area, and this intention was given added weight in the National Planning Policy Framework (NPPF), first published in 2012. The current edition of the NPPF is dated July 2021, and it continues to be the principal element of national planning policy. Detailed advice is provided by national Planning Practice Guidance (PPG) on neighbourhood planning, first published in March 2014.
3. The main purpose of the independent examination is to assess whether the Plan satisfies certain "basic conditions" which must be met before it can proceed to a local referendum, and whether it is generally legally compliant. In considering the content of the Plan, recommendations may be made concerning changes to both policies and any supporting text.
4. In the present case, my examination concludes with a recommendation that, subject to a considerable number of amendments, the Plan should proceed to referendum. If this results in a positive outcome, the CENP would ultimately become a part of the statutory development plan and thus a key consideration in the determination of planning applications relating to land lying within the CENP area.
5. I am independent of the Parish Council and do not have any interest in any land that may be affected by the Plan. I have the necessary qualifications and experience to carry out the examination, having had 30 years' experience as a local authority planner (including as Acting Director of Planning and Environmental Health for the City of Manchester), followed by over 20 years' experience providing training in planning to both elected representatives and officers, for most of that time also working as a Planning Inspector. My appointment has been facilitated by the independent examination service provided by Penny O'Shea Consulting.

Procedural matters

6. I am required to recommend that the Copford with Easthorpe Neighbourhood Plan either
 - be submitted to a local referendum; or
 - that it should proceed to referendum, but as modified in the light of my recommendations; or
 - that it not be permitted to proceed to referendum, on the grounds that it does not meet the requirements referred to in paragraph 3 above.
7. In carrying out my assessment, I have had regard to the following principal documents:
 - the submitted CENP
 - the Consultation Statement (undated)
 - the Basic Conditions Statement (undated)
 - the Habitat Regulations Assessment Screening Report (July 2022)
 - the Strategic Environmental Assessment Screening Report (July 2022)
 - the Strategic Environmental Assessment Screening Determination (August 2022)
 - the Copford with Easthorpe Design Guidance and Codes (September 2021)
 - the representations made to the CENP under Regulation 16
 - selected policies of the adopted development plan for the area

- relevant paragraphs of the NPPF
 - relevant paragraphs of national PPG.
8. I carried out an unaccompanied visit to the Plan area on 2 November 2022, when I looked at its overall character and appearance together with its setting in the wider landscape and those areas affected by specific policies or references in the Plan. Where necessary, I refer to my visit in more detail elsewhere in this report.
 9. It is expected that the examination of a draft neighbourhood plan will not include a public hearing, and that the examiner should reach a view by considering written representations¹. In the present case, I considered hearing sessions to be unnecessary. I should add that none of the representations received at the Regulation 16 stage included a request for a hearing.
 10. I have addressed the policies in the order that they appear in the submitted Plan. My recommendations for changes to the policies and any associated or free-standing changes to the text of the Plan are highlighted in ***bold italic print***.

A brief picture of the neighbourhood plan area

11. The Parish of Copford with Easthorpe is to the west of Colchester, the main built-up part of the village being about 7km from the city centre. In 2019 its population was estimated at around 1900. For the most part, it consists of flat or gently undulating agricultural land lying in a wide belt south of the main A12 road, containing scattered farms and private dwellings. Copford itself is the largest urban element: it is based on earlier development along London Road (B1408), which continues to the east to the adjoining village of Stanway, and a southern projection, largely of “ribbon” development, along School Road. There is some substantial newer housing based on Queensberry Avenue, a long cul-de-sac to the north of London Road, as well as some limited infill elsewhere. The only other built-up parts of the Parish are at Copford Green (most of which lies within a conservation area) and Easthorpe, the latter being a small but clearly separate hamlet (with its own ancient church). Apart from these, the Parish consists of an unspoiled rural landscape often affording long, open views, and with a good network of footpaths allowing public recreational access.
12. The Parish has a primary school (attractively located in the gap between Copford and Copford Green) and a village hall (which backs on to an important recreational woodland); there is also a public house, The Alma. While London Road has a number of general commercial uses spread along its length, there is no convenience store or post office (although there is one just over the border in Stanway). Marks Tey station, with frequent services to London, Ipswich and Colchester, is conveniently located for most residents, being just outside the Parish boundary.
13. The eastern and southern parts of the Parish are frequently characterised by narrow, winding lanes set within attractive areas of mixed woodland (the area around Aldercar Road and Copford Hall, with the nearby cricket ground, being a fine example). In addition, the area contains many free-standing mature trees, especially oaks. There is a rich and varied built heritage, including the lines of two Roman roads, and the Parish contains 45 listed buildings. There are few streetlights, which adds to the area’s particular identity.

¹ Paragraph 9(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended).

The basic conditions and the Basic Conditions Statement

14. I am not required to come to a view about the ‘soundness’ of the Plan (in the way which applies to the examination of local plans). Instead, I must principally address whether or not it is appropriate to make it, having regard to certain “basic conditions”, as listed at paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (as amended). The requirements are also set out in paragraph 065 of the relevant PPG. In brief, all neighbourhood plans must:
- have regard to national policy and guidance (Condition a);
 - contribute to the achievement of sustainable development (Condition d);
 - be in general conformity with the strategic policies in the development plan for the local area (Condition e);
 - not breach, and otherwise be compatible with, EU obligations, including human rights requirements (Condition f);
 - not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and
 - comply with any other prescribed matters.
15. The introduction to the Basic Conditions Statement (BCS) includes reference to the fact that a design guidance and codes document, produced by AECOM to support the Parish Council’s work, should be considered alongside the CENP itself. It also notes that the Plan does not allocate any land for housing in addition to the two sites provided for in the Local Plan (see below).
16. The main part of the BCS includes in tabular form an assessment of the CENP’s relationship with national policy as set out in the NPPF, followed by a similar exercise in relation to the strategic policies of the Local Plan. While for the most part, the material here is appropriate in principle, I have particular reservations relating to the “Car Boot Sale Field”. Under CENP Policy CE1, the BCS includes the comment that “whilst the CENP is not allocating additional homes beyond the 120 already allocated by CBC within Local Plan Part 2, there is an agreement ‘in principle’ to support development on the Car Boot Sale Field on the B1408....”. There is no explanation as to what this “agreement” is, but there follows a number of other observations about the appropriateness of developing this site (including a comment that the idea is supported in Policy CE4 - which does not in fact mention it).
17. Further reference to the land is made under the BCS’s assessment of CE4 itself, where it is said to be “brownfield” (ie previously developed): I would simply comment here that the generally accepted definition of brownfield land is that which has previously contained a permanent structure or structures, and if that is the case with the car boot sale site, it is not something which is apparent to the casual visitor.
18. Be that as it may, the principal issue here is that the BCS is an inappropriate place for what would appear to many readers a *de facto* allocation (albeit one with certain caveats). I make a specific recommendation about how the site should be dealt with in the Plan when I come to deal with Policy CE1.
19. More generally, further modifications to the BCS will be necessary where the Parish Council accept my recommendations for deleting any policies which I consider are already covered by those in the Local Plan.

Other statutory requirements

20. A number of other statutory requirements apply to the preparation of neighbourhood plans, all of which I consider have been met in this case. These are:
- that the Parish Council is the appropriate qualifying body (Localism Act 2011) able to lead preparation of a neighbourhood plan;
 - that what has been prepared is a Neighbourhood Development Plan, as formally defined by the Localism Act; that the plan area does not relate to more than one Neighbourhood Area; and that there are no other neighbourhood plans in place within the area covered by the plan;
 - that the plan period must be stated. In the case of the CENP is 2019 to 2033;
 - that no “excluded development” is involved (this primarily relates to development involving minerals and waste and nationally significant infrastructure projects).
21. I have also borne in mind the particular duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of “preserving or enhancing the character or appearance” of any conservation area (a small conservation area has been designated around the attractive centre of Copford Green).
22. A screening report is required in order to determine whether a neighbourhood plan needs to be accompanied by a Strategic Environmental Assessment (SEA), under the terms of the Environmental Assessment of Plans and Programmes Regulations 2004. It is the qualifying body’s responsibility to undertake any necessary environmental assessments, but it is the local planning authority’s responsibility to engage with the statutory consultees.
23. An SEA Screening Determination statement was published by CBC in August 2022, following the publication of a screening report the previous month. In the formal determination, they conclude that the CENP effectively constitutes a minor modification to the Local Plan and that it is unlikely to have any significant environmental impacts, meaning that an SEA is not required. The same applies in relation to the Habitat Regulations. Full details of the considerations which support the assessment are set out in the statement, and I have been given no reasons to question any of the conclusions reached. They are also supported by Natural England and Historic England (the Environment Agency had no comment to make), as statutory consultees in the process.
24. It is a requirement under the Planning Acts that policies in neighbourhood plans must relate to “the development and use of land”, whether within the Plan area as a whole or in some specified part(s) of it. Subject to some detailed reservations, I am satisfied that that requirement is generally met.

National policy

25. National policy is set out primarily in the NPPF, a key theme being the need to achieve sustainable development. The NPPF is supported by PPG on neighbourhood planning, an online resource which is continually updated by Government. I have borne particularly in mind the advice in paragraph 041 of the PPG that a policy in a neighbourhood plan should be clear and unambiguous, concise, precise and supported by appropriate evidence. In addition, and of particular significance in this case, is the requirement set out in the NPPF itself, at paragraph 16f), that “plans should ... serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area” [for example, those already in place in the relevant local plan].

The existing development plan for the area

26. The current development plan for the area is in two parts: Section 1 is a Strategic Plan for North Essex which has been prepared jointly with Braintree and Tendring District Councils to form the strategic element of their respective local plans to cover the period 2013-2033. It was formally adopted by CBC on 1 February 2021.
27. Local Plan Section 2, while also containing some strategic elements, primarily consists of the detailed development management policies and site allocations specific to Colchester, and this was adopted in July 2022. The spatial hierarchy for Colchester is set out in Policy SG1, in which Copford and Copford Green are identified as sustainable settlements where an appropriate level of growth should occur.
28. On this basis, Policy SG2 allocates 120 new dwellings for the Parish for the Plan period. Paragraphs 6.145 to 6.152 set out a description of the Parish in terms of its capacity and appropriateness for this level of growth, and Policy SS4 allocates two sites to accommodate it: these are land east of Queensbury Avenue (70 new dwellings) and west of Hall Road (up to 50), in each case with the mix and type of housing “to be compatible with surrounding development”.
29. Other than a brief comment in the preamble to Policy CE2b, there is no specific reference to these allocations in the Neighbourhood Plan. ***I recommend that, in order to assist public understanding, this context should be provided either somewhere in the introductory material or in support of Policy CE4. If it is the position of the Parish Council that the LP allocations are such that no further sites need be identified in the NP, which I take to be the case, then this should be made clear.***
30. Easthorpe is designated an “other village” and is therefore subject to LP section 2 Policy OV1, which supports high quality infill and “brownfield” development. Policy OV2 makes it clear that land beyond settlement boundaries would constitute “countryside”, where development is to be strictly controlled (see paragraph 6.242 of LP Section 2).
31. I will refer to LP Policy SP3 when discussing CENP Policy CE1.

The consultation exercise (Regulation 14)

32. Regulation 14 requires the Parish Council to publicise details of their proposals “in a way that is likely to bring [them] to the attention of people who live, work or carry on business in the area”, and to provide details of how representations about them can be made. Regulation 15 requires the submission to the local planning authority of a statement setting out the details of what was done in this respect, and how the qualifying body responded to any matters which arose as a result of the consultation process.
33. The Consultation Statement begins by explaining the statutory context for involving residents and other interests, and records the comprehensive process of engagement, year by year, since the Neighbourhood Plan Group was set up in 2014. Notes of the Group’s many meetings are to be found on the Parish Council’s website. The members of the Group are to be congratulated for progressing their work on the Plan despite the difficulties associated with the Covid pandemic, and I am satisfied that the requirements of Regulation 14 have been met.
34. I note here that the Consultation Statement, like the BCS, also contains references to the “in principle” support for the development of the Car Boot Sale site (pp 17-18).

General observations about the Plan

35. The Plan document is profusely illustrated with photographs, and it has one modified aerial image showing the principal physical features of the Parish. Clear maps on page 28 show the settlement boundaries of Copford and Copford Green, with a separate one for the minor hamlet of Easthorpe. ***The source of these maps is not given. I recommend that this be included in the text.*** There is no proposals map as such, no doubt reflecting the absence of any specific site allocations or designations.
36. [As a general point, I would draw attention to a number of drafting errors in the policies in terms of grammar or syntax. These are beyond my brief, but the Parish Council may wish to give some additional attention to proofreading before the final version of the Plan is published. I make no specific recommendations here (if only because the wording of some of the policies may well change as a result of my recommendations), but examples are: “*New development must ... large scale development of land will not be supported*” (Policy CE1), and “*All future development must promote ... that it is first offered to existing residents ...*” (Policy CE4b)].
37. The Plan begins with a short explanation of the role of neighbourhood plans in the planning system, before setting out the Vision for the Parish. This can be summarised as a focus on conserving and enhancing the area’s distinctive character; addressing climate change issues; and “taking a sustainable and optimistic view of future development”. This last is to be achieved by maintaining the separate identities of the settlements; ensuring growth is proportionate and retains the sense of space and community well-being, while meeting a broad range of local housing needs; supporting sustainable forms of building; and supporting the local economy. The overall vision is expanded later in the Plan document into seven objectives, which are then themselves enlarged upon. All of this material is designed to provide a context for the policies which follow and is helpfully cross-referenced to them.
38. This introductory part of the Plan also includes a brief history of the area (which goes back to pre-Roman times). It is followed by the policies themselves, each of which is prefaced by a short introduction. ***It would greatly assist access to the contents of the Plan if the paragraphs were numbered, and I recommend that this be done. In addition, there is insufficient distinction in the text between the policies themselves and the supporting material which generally precedes them: this might be addressed by using boxes around text or a different colour of type (or a combination of the two).*** I also point out that the list of contents includes references to pages 32-37, but these do not actually appear in the Plan, (presumably because the two topics they refer to have been deleted from an earlier version).
39. I will refer to the remaining pages of the Plan document after my consideration of the policies.

Representations received (Regulation 16)

40. Of the statutory consultees, no relevant observations were made by National Highways, Natural England or the Forestry Commission. Anglian Water had some comments which I deal with under Policies CE3 and CE7a. I will respond to those from Colchester Borough Council under the relevant policy heads (NB: I do not comment on the more minor observations of CBC and am content for the Parish Council to respond to them as they see fit).
41. Essex County Council made a large number of detailed recommendations, the majority of which I would describe as “suggested improvements” to the Plan which go beyond what I am required to consider in terms of my statutory role as examiner. The Parish Council should feel

free to consider these on their merits, in the light of my individual recommendations.

42. The only other representations were from Edward Gittens & Associates, who are promoting development on the Car Boot Sale site (see below), and from a member of the public who had some very broad concerns about the approach taken to the generation of the Plan, and which I have concluded do not need a considered response from me.

The policies

43. As I explained in the background note, my assessment of the Plan's policies in their present form has concluded that they involve an unacceptable degree of duplication with policies in the recently adopted Colchester Borough Local Plan (CBLP). In the majority of cases, this has resulted in my recommending that they should be deleted and replaced with a less detailed one; however, the effect of this would be that users of the Plan would need to consult appropriate references in the CBLP in order fully to understand the policy's purpose. ***I therefore recommend that the Parish Council consider expanding the explanatory preambles to each of the Plan's policies to include a summary of the ground already covered by the Local Plan, together with a brief note about how the CENP policy is intended to add necessary local detail.***

Policy CE1: Settlement boundaries and development

44. The second paragraph of Local Plan Policy SP3 (Section 1) states: "Future growth will be planned to ensure existing settlements maintain their distinctive character and role, to avoid coalescence between them and to conserve their setting". The Local Plan's proposals maps show defined settlement boundaries for Copford and Copford Green, in each case drawn tightly around existing development (with allowance made for the two housing allocations). There is therefore a presumption against the development (other than that which would be acceptable in a rural area) of land beyond the existing settlement boundaries.
45. More detail specific to the CENP area is contained in paragraph 6.146 of Section 2 of the LP: "Copford's close proximity to Marks Tey means that it is important to seek to prevent coalescence between the two settlements to ensure that both villages retain their individual identities. Development that would not represent a logical extension to the existing built-up areas of Copford will be discouraged to prevent coalescence between settlements ...".
46. The introductory material to CENP Policy CE1 clearly acknowledges this strategic context, and for similar reasons to those set out in the Local Plan. The first two bullet points of the policy itself effectively duplicate Local Plan policies; however, because of the particular importance of this issue locally, and the fact that the policy is a little more detailed, I do not propose to recommend that they be removed. The other three bullet points are more problematic. They say that (1) "large scale development of land will not be supported within the Parish which impacts on its rural character and sense of place"; and that (2) "development must avoid the loss of greenfield agricultural land" and must (3) "protect vulnerable Grade 2 listed buildings such as Copford Place and see them returned to housing".
47. The first of these requirements is too vague to have much practical value in development management terms and is in any event covered by other policies in the Plan (such as CE3), as well as Local Plan policies; the second is also too unspecific, and is not supported by any strategic justification or explanation; and the first part of the third requirement is superfluous (given the status of listed buildings), while the second element is wholly unclear.

48. More generally, the policy should explain the significance of the settlement boundaries for the location of new development in the Parish, which at present it fails to do. ***I recommend that the policy as it stands be deleted and replaced with the following: “New development within the settlement boundaries as shown on Maps.....and....will be supported in principle, subject to compliance with other relevant policies of this Plan. Land outside the defined settlements will be treated as open countryside, where new development will be restricted to that which is appropriate in a rural location, and will therefore be subject to Local Plan Policies ENV1, OV1 and OV2 as appropriate. Development which would tend to result in the coalescence of the individual settlements of Copford, Copford Green and Easthorpe, or the Parish of Copford with Easthorpe and any adjoining parishes, will not be supported”.***

The “Car Boot Sale Field”

49. Given the stated purpose of Policy CE1, it is convenient to address this issue here.
50. The Parish Council accept that there is an apparent contradiction between the objectives of Policy CE1 and what the Plan says, in various places, about the land north of the B1408 which separates Copford from Marks Tey, and which lies across the boundary between the two parishes. This is known locally as the Car Boot Sale Field (it was actually being used for that purpose on the day of my visit).
51. I have already mentioned the references to this land in both the BCS and the Consultation Statement. There is a further one in the Plan itself, in the introductory material to Policy CE7e (whose title is actually “Pollution”). It says: "In the possible event of the car boot sale field site coming forward in the future, (off the B1408, London Road between Copford and Marks Tey) then it would be an aspiration for this to be developed subject to discussion and agreement with Marks Tey parish. This site was the most popular site for development in the 2015 and 2017 Copford with Easthorpe residents’ questionnaire responses”. While not appearing under the heading of “policies” in the text, taken together these references could understandably be interpreted as such by users of the Plan, especially given the use of the word “aspiration”.
52. In responding to my concerns about the lack of clarity in relation to this land (before the informal discussion referred to), the Parish Council explained that they “want the Plan to support the aspiration” for its development (notwithstanding the strategic planning context). They suggested three criteria to provide “clarity for circumstances where development may be considered acceptable as an exception” – which appears to recognise that there is effectively a presumption against building on this land, since it could result in the coalescence of Copford and Marks Tey. I was able to see from my visit to the area that it is an undeveloped green space no more than about 300m in width, and that it spans the border between the two parishes, with around a third of it lying within the CENP area. The criteria the Parish Council proposed were that:
- the proposal clearly and significantly defines the boundary to avoid coalescence
 - such development provides amenity for the residents of Copford with Easthorpe
 - there is strong local support.
53. This qualified support for the development of the site in principle appeared to take no account of the present position in relation to the recently finalised Marks Tey Neighbourhood Plan (MTNP), with which the CENP is contiguous. I have ascertained from a web search that the MTNP does not allocate any of the Car Boot Sale Field within Marks Tey for housing - indeed, Map 6.7 shows that it is intended to contribute towards “the creation of a continuous accessible green corridor to the north of Marks Tey, broadly following the Roman River Corridor and the surrounding countryside [intended] to function as a visual and physical

separation from Copford”.

54. The necessity for additional housing in Marks Tey, and the suitability of this site (and others) to accommodate it, were specifically addressed by the MTNP Examiner, Mr Biggers, who said at paragraph 7.3 of his report: *“There is not, therefore, a need at the present time for additional allocations of land in Marks Tey ... Moreover, there are, in any event, a number of fundamental reasons why it would be inappropriate and procedurally impossible to do so at this stage. First, two of the proposed sites (The Car Boot Field and the largest site - Land South of Marks Tey) involve land outside Marks Tey Parish within Copford with Easthorpe Parish, and therefore an allocation would have to be arranged jointly with an adjacent neighbourhood plan or restricted solely to land within Marks Tey. Second, two of the sites (the Car Boot Field and Land adjacent to Motts Lane) if developed would directly contradict the stated intention of the Plan to avoid the coalescence of settlements (Marks Tey to Copford ...)”*. This last remark could, of course, apply equally well to the development of land on the Copford side of the boundary.
55. Edward Gittins and Associates, acting for Granville Property Solutions (who have an interest in the Car Boot Sale Field and wish to promote its development) say that they have had significant engagement with both Parish Councils and with CBC to discuss their aspirations for the land, resulting in an outline planning application for up to 50 dwellings being submitted. A web search reveals that this application was restricted to the part of the site within Marks Tey and that it was submitted in October 2022 but withdrawn in December 2022. The company had earlier made representations in support of their proposals to the MTNP, and I have taken it that these were taken into account by Mr Biggers in his examination report.
56. Given the planning context which I have described, I have concluded that the wording suggested by the Parish Council would only add to the uncertainty about the Plan’s stance in relation to this land. ***For this reason, I recommend that all reference to the Car Boot Sale site be removed from the Plan, other than (if the Parish Council so wish) a note at an appropriate point to explain why it is no longer appropriate to suggest that it has potential for development, at least at the present time.*** It would be open to the Parish Council to provide more explanation as they think fit, in the light of my principal recommendation on the matter.

Policy CE2a: Natural and ecological environment, open spaces and views

57. The second bullet point of this policy requires [all?] new development to “maintain existing views and environmental features identified in Map 1, which contribute to the unique character of the villages”. The introduction to the policy says that it applies “mainly but not exclusively” to those identified on the map which is unhelpful. More importantly, while the map shows the location of woodlands, sites of special scientific interest and local wildlife sites, it does not depict any areas of open space or views to be protected.
58. Many other requirements of the policy are too imprecise or generalised to have practical value in development management terms or are too prescriptive and wide-ranging. Many of them read more like “objectives” than policies – examples are for new development to support and promote biodiversity; the need to retain indigenous and other trees, hedgerows, boundaries and other natural features; and the requirement to “incorporate ... features which preserve the balance of environmental types”, which is much too vague. It would be extremely difficult for an applicant to know what was expected of them in any particular case, as it would for the local planning authority to determine whether or not the requirements of the policy had been met.

59. In addition, and in any event, some elements of Policy CE2a add very little to Local Plan Policies ENV1, ENV3, DM17 and DM18. This applies in particular to the first, third, fourth and ninth bullet points. I have already referred to the second bullet point: if the intention is to identify specific sites or areas which require protection, this should be completely clear and related to an appropriate map. In the eighth bullet point, three other locations are identified whose amenity and diversity are said to require protection and enhancement but, again, these are not shown on any map.
60. Taking all these matters into consideration, ***I recommend that Policy CE2a be deleted and replaced with the following: “Proposals for new development should take account of Local Plan Policies ENV1 (Environment), ENV3 (Green Infrastructure), DM17 (Retention of Open Space and Recreation Facilities) and DM18 (Provision of Public Open Space) as appropriate.” Any specific sites which the Plan considers should be afforded protection from development under this policy should be clearly identified and located on a map.***

Policy CE2b: Essex Coast RAMS Policy (Recreational Disturbance Avoidance Mitigation Strategy)

61. This policy, and its supporting text, covers identical ground to Local Plan Policies SP2 and ENV1B (albeit expressed in a different way). However, CBC have explained that agreement has been reached locally that a standard form of words dealing with RAMS should be included in all neighbourhood plans within Colchester, and I am therefore content that, despite the apparent duplication, Policy CE2b should remain as it is.

Policy CE3: Design and character

62. This policy seeks to ensure that all new development meets the highest standards of design. It contains eight criteria which will be taken into account when proposals are submitted. Some of these cover strategic issues, such as tackling climate change, whereas others concern specific and detailed matters, such as standards of amenity space. As a result, the policy lacks focus and also fails to recognise the extent to which the ground it covers is already provided for in the Local Plan, in particular Policies SP7, CC1, DM9 and DM15.
63. The introduction to the policy states that “Copford Design Guidance and Codes provides clear principles for new developments”, but there is no indication of the status of this significant document, prepared for the Parish Council in September 2021 by AECOM. It deals with the three character areas which constitute the built-up part of the Parish, and its scope is cross-referenced to relevant policies of the Local Plan. A comment under the last bullet point of Policy CE4a (see below) says that it is “*the premier source of design guidance for village developments and accompanies the Neighbourhood Plan as an integral technical section*”. It is therefore clearly meant to be an important material consideration for decisions on planning applications, and its role in this respect needs to be made explicit.
64. In the light of the above, ***I recommend that Policy CE3 be deleted and replaced with the following: “Proposals for new development should take account of Local Plan Policies SP7 (Creating Quality Spaces), CC1 (Climate Change), DM9 (Development Density) and DM15 (Design and Amenity), as appropriate. In addition, regard should be had to Copford’s Design Guidance and Codes document 2021, which should be seen as an essential supporting resource in the implementation of this Neighbourhood Plan***. I note here that the issues raised in relation to water efficiency and the minimization of flood risk appear to be adequately covered by CBLP Policies DM23 and DM24.

Policy CE4: Housing

65. Policy CE4a sets out four requirements for all new housing development. Some of this is already addressed by other policies, both in the Local Plan and CENP itself, and some is too generalised to be of practical value in development management terms. An example of the latter is that “new development must promote [*sic*] small-scale development appropriately located on brown field sites”. (What does “appropriately located” mean in this context? And is the intention that development would *only* be permitted on brown field sites? If so, this would be impracticable and overly restrictive). One element of the policy appears to be mis-located since it relates not to housing per se but to the promotion of “work hubs close to where people live”.
66. Policy CE4b deals specifically with affordable housing and says that its intention is to be “in line with CBC Policy H4” on the issue (this is a reference to the superseded version of the Local Plan - the replacement is Policy DM8). CBC question the wording of the requirement in Policy CE4b for “a mixture of tenure with a minimum of 30% of rented properties ...”, which departs from that set out in the first paragraph of LP Policy DM8. As CBC say, a different approach locally could be acceptable if there were some justification for it based on the evidence, but that does not seem to be the case here, especially given what the preamble says about the limited need for affordable housing within the Parish. The only element of Policy CE4b not already covered by LP Policy DM8 is reference to the tenure regime and occupation requirements applicable to rural exception sites, but those matters are covered by the definition of such sites, as set out in the LP glossary (and in the NPPF).
67. There is little in Policy CE4 which is not already provided for elsewhere. ***I therefore recommend that both parts of it be deleted and replaced with the following: “Proposals for new housing development within the Parish will be supported where other relevant policies in the Colchester Borough Local Plan and in this Neighbourhood Plan are complied with, including those dealing with the sustainability of development and its impact on the natural and built environment (such as ENV1 and DM15). Particular account must be taken of Local Plan Policies DM9 (Development Density), DM8 (Affordable Housing) and DM10 (Housing Diversity). Encouragement will be given to housing schemes which enable home working”.***

Policy CE5: Transport and getting around

68. Policy CE5 acknowledges that, for many residents of the Parish, the inadequacies of public transport provision are such that there is little alternative but to use the car for most trips. While all of the policy’s intentions clearly align with national and strategic local planning policies, again there is nothing in its six component parts which is not already dealt with elsewhere, and there are no proposals which have land-use implications specific to Copford.
69. There are some elements of the policy as currently drafted which would need to be explained or removed (for example, the requirement to “take account of Healthy Streets guidance and advice in the Essex Design Guide”: is this still expected to have any weight in decision-making given the existence of the Copford Design Guidance and Codes?). In addition, it would be unrealistic to expect small-scale building projects to comply with some of the requirements, such as delivering measures “to reduce car usage by promoting alternatives” or enhancing and connecting to a network of “green” transport.
70. ***I recommend that Policy CE5 be deleted and replaced with the following: “This Neighbourhood Plan supports policies in the Colchester Borough Local Plan to move towards more sustainable patterns of transport, in particular Policies SP6B (Infrastructure and***

Connectivity: Transportation and Travel); ENV3 (Green Infrastructure); DM20 (Promoting Sustainable Transport and Changing Travel Behaviour); DM21 (Sustainable Access to Development); and DM 22 (Parking). In addition, and as appropriate to the scale and nature of the development, proposals will be required to have regard to relevant sections of Copford's Design Guidance and Codes document, 2021."

Policy CE6: Infrastructure and local community facilities

71. Policy CE6 deals with a mixture of issues, some of which are already covered by CBLP policies: these include access to high-speed broadband (CBLP Policy DM1); the need for reliable water supply (CBLP Policy PP1); and the promotion of sustainable low-carbon energy (CBLP Policy DM25). Two of its bullet points (one relating to the way s.106 monies are spent, the other about the need for effective collaboration between health and education authorities) are advocacy statements rather than land-use policies.
72. The policy starts out with the general statement "Local community facilities to be protected, retained and enhanced. Any loss or harm to an Asset of Community Value (ACVs) will be strongly resisted". There is no definition or identification of "community facilities", nor is there any explanation as to how the development management process might help to deliver the objective of preventing loss or harm to them. The issue is dealt with in some detail under CBLP Policy DM2.
73. There is a list on page 38 of the Plan which has the principal heading "Assets of Community Value", showing that the only registered asset (which I take to mean one which has been formally registered under the Localism Act 2011) is the Alma public house, with consideration for inclusion being given to five other buildings. There are then two sub-headings (or at least they read as sub-headings) which list three structures described as "non-heritage sites of historic value" and 15 local views and other areas of land (some involving multiple sites) "which have high local value and contribute to the nature of the Parish". Taken as a whole, this package of locally important assets results in some uncertainty over which buildings or other land the policy itself is meant to cover.
74. NPPF paragraphs 101-2 allow communities, after appropriate assessments have been made, to identify and protect open areas of particular importance to them by designating them as "Local Green Spaces". Many neighbourhood plans have done this, although they are not in any way required to do so. While I am not in a position to come to a view about the value of any of the sites or areas listed on page 38, on the face of it some might well have the characteristics of LGS; although it is hard to tell because there is no detailed description with any of them, nor are they located on any map. There is a risk that, given the terms of Policy CE6, some users of the Plan might assume that the simple mention of these sites would be sufficient to ensure their protection – which would not be the case. While acknowledging the importance of its objectives, ***I recommend that Policy CE6 in its present form be deleted.***
75. If, as part of their consideration of this issue, the Parish Council decide formally to designate any of the locations named on page 38 as Local Green Spaces, they should note two points. Firstly, each proposal would need to be supported by a systematic assessment designed to demonstrate that the criteria for designation set out in the NPPF are met; and, secondly, that public consultation is likely to be required on the matter as a result (best practice also suggests specific engagement with the relevant landowners). The Parish Council should feel free to include references in an appropriate place in the Plan to the CBLP policies which deal with the issues CE6 is designed to address, if they consider that that would be of value to readers.

Policy CE7: Environment

76. This is not one policy, but five different ones grouped under the “Environment” heading. To summarise them, they seek to ensure the conservation of water (CE7a); promote the efficient and effective use of energy (CE7b); include a “dark sky” policy (CE7c); encourage adequate recycling (CE7d); and introduce measures to reduce noise and air pollution (CE7e). The first, second and fourth of these are covered in CBLP Policy DM25 (Renewable Energy), and the last (in different ways) by ENV5 (Pollution and Contaminated Land) and DM15 (Design and Amenity). The only issue which appears to me to be in need of a separate reference in the CENP is the wish to control or limit light pollution.
77. Some aspects of CE7 go into more detail than related CBLP policies (for example CE7b); however, given the strategic nature of the issues being dealt with here, in the absence of any Copford-specific evidence to the contrary, there appears to be no justification for departing from the adopted borough/city-wide approach. Indeed, to do so would be to create confusion. I take a similar view of Anglian Water’s suggestions in relation to the approach to water conservation.
78. ***I therefore recommend that Policy CE7 be deleted and replaced with a single policy along the lines of the existing CE7c, dealing solely with “dark skies”. As with the CE6, the Parish Council would be free to include references in the Plan to the relevant CBLP policies if they wished. (I note here that, as it stands, Policy CE7e includes references to the Car Boot Sale site, the subject of a recommendation I have dealt with under Policy CE1).***

Policy CE8: Existing, new and expanding businesses

79. The preamble to this policy says that the aim of the Plan is to encourage a successful, mixed economy, including provision for homeworking. The policy itself simply seeks high quality broadband connections and “a mix of workplaces in co-operation with existing community assets”. No other development management criteria are included in the policy, and there are no site-specific proposals. In this respect, it provides nothing which adds to CBLP Policy DM6 (Economic Development in Rural Areas and the Countryside), and ***I therefore recommend that it be deleted.***

Other matters

80. The remaining sections of the Plan document consist of an illustrated description of the history and landscape of the Parish, including a detailed evaluation of its different physical elements, and a schedule of all the listed buildings, existing and possible future assets of community value, and non-heritage sites of historic value (referred to earlier in my comments on Policy CE6).
81. This part of the document is interesting and has value in informing judgements about the impact of future development; however, for clarity, ***I recommend that it be separated out from the policy sections of the Plan, for example by treating each element as an appendix. If there are any particular factors which have clear implications for the application or interpretation of the Plan’s policies, references to them should be made under the appropriate policy so that it is clear what weight is intended to be given to them in decision-making, as mentioned in my comment on Policy CE2a.***

Conclusions on the basic conditions

82. I am satisfied that the Copford and Easthorpe Neighbourhood Plan makes appropriate provision for sustainable development. I conclude that in this and in all other material respects, subject to my recommended modifications, it has appropriate regard to national policy. Similarly, and again subject to my recommended modifications, I conclude that the Plan is in general conformity with the strategic policies in the development plan for the local area. There is no evidence before me to suggest that the Plan is not compatible with EU obligations, including human rights requirements.
83. However, for the reasons set out in detail in the body of this report, I conclude that steps should be taken to modify the Plan in order to secure compliance with certain aspects of national Planning Practice Guidance before it proceeds to referendum.

Formal recommendation

84. I have concluded that, provided that the recommendations set out above are followed, the Copford with Easthorpe Neighbourhood Plan would meet the basic conditions, and therefore recommend that, as modified, it should proceed to a referendum. Finally, I am required to consider whether the referendum area should be extended beyond the neighbourhood plan area, but I have been given no reason to think this is necessary.

David Kaiserman

David Kaiserman BA DipTP MRTPI
Independent Examiner

8 May 2023

APPENDIX 1 – SUMMARY TABLE OF RECOMMENDATIONS

| Examiner's report paragraph | NP reference | Recommendation |
|-----------------------------|-----------------------|---|
| 29 | | Include contextual information regarding the two housing allocations made in CBLP Section 2 |
| 35 | Page 28 | Maps to show the source |
| 38 | Whole Plan | Add individual paragraph numbers and improve distinction between policies and other text |
| 43 | Whole Plan | Under each policy, summarise ground already covered by CBLP |
| 48 | Policy CE1 | Delete and replace as recommended |
| 56 | "Car Boot Sale" site | Delete all reference to this site, other than historical comment if required |
| 60 | Policy CE2a | Delete and replace as recommended |
| 64 | Policy CE3 | Delete and replace as recommended |
| 67 | Policy CE4 | Delete and replace as recommended |
| 70 | Policy CE5 | Delete and replace as recommended |
| 74 | Policy CE6 | Delete the policy, but note comment on Local Green Spaces |
| 78 | Policy CE7 | Delete and replace as recommended |
| 79 | Policy CE8 | Delete the policy |
| 81 | History and Landscape | Move the history and landscape section (page 17 onwards) into an appendix. |