

# **Marks Tey Neighbourhood Plan 2020 - 2033**

## **Submission Plan**

### **Report to Colchester Borough Council of the examination into the Marks Tey Neighbourhood Plan**

by Independent Examiner, Peter Biggers BSc Hons MRTPI

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## Summary and overall recommendation

Following my examination of the Marks Tey Neighbourhood Plan (MTNP), including a site visit to the neighbourhood area on 19 August 2021, it is my view that, subject to modifications, the MTNP reflects the views of the community and will set out a clear vision and suite of policies and proposals for the neighbourhood area.

My report highlights a number of areas where I consider the wording of the Plan as submitted is not in accordance with one or more of the Basic Conditions.

For the most part, the reason for this is that the policies do not wholly meet the requirement of the National Planning Policy Framework at paragraph 16 where it states that policies should be: “clearly written and unambiguous so it is evident how a decision maker should react to development proposals”, and the advice in the Planning Practice Guidance where it states that: “A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence”.

In addition, in respect of the employment land allocation in Policy MT15, I have recommended that an extended area is included to ensure the MTNP is in general conformity with the adopted and emerging Development Plan.

I have therefore recommended a number of modifications to the Plan that should be made before the Plan can proceed to referendum. These are intended to ensure that, first and foremost, the Plan can meet the Basic Conditions.

In proposing the modifications, I have tried to ensure that the integrity and value of the MTNP and its vision is retained and that the intention of neighbourhood planning, where the community’s wishes should be central to the Plan, is honoured.

By its nature, the examination has to be rigorous. Any criticism is not at all to undermine the significant community effort that has gone into the Plan. Rather, the purpose of the examination is to ensure that the Neighbourhood Plan meets the Basic Conditions and is as robust as possible and that it can better play its part in planning decisions and managing change in Marks Tey in the future in an effective way.

In addition to the recommended modifications, it should also be noted that there may be a number of consequential changes, for example to referencing and numbering, that will inevitably be needed as a result of making the modifications. It will also be necessary to ensure all references to current local planning documents and strategic road improvement schemes etc are up to date. I have captured some of these, but not necessarily highlighted all these consequential changes and these amendments need to be made in finalising the Plan for referendum.

Subject to the recommended modifications in the report being completed, I am satisfied that:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority;
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations;
- prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the plan.

The MTNP also complies with the legal requirements set out in paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

With the modifications in place, the MTNP will meet the Basic Conditions and can proceed to a referendum.

When that referendum takes place, I also recommend that the Marks Tey Neighbourhood Area, which covers the administrative area of the Parish, is taken as the area for the referendum.

Peter Biggers BSc Hons MRTPI AIHBC

Independent Examiner

29 October 2021

# 1. Introduction

## Background context

- 1.1. This report provides the findings of the examination into the Marks Tey Neighbourhood Plan (referred to as the MTNP throughout this report).
- 1.2. The MTNP was produced by Marks Tey Parish Council (MTPC) and its Steering Group in consultation with the local planning authority for the neighbourhood area – Colchester Borough Council (CBC). The local community, interested parties and local stakeholders were also consulted as set out in Section 3 below.
- 1.3. Marks Tey Parish comprises Marks Tey village and the hamlet of Little Tey. The Parish is in the borough of Colchester and located approximately 11km west of Colchester town centre. Marks Tey is a village which is characterised by its road and rail links. The village has a railway station which is on the Great Eastern Main Line (GEML) providing a regular and direct service into London Liverpool Street. It is also a junction for the Sudbury branch line providing direct access to Sudbury in Suffolk. The A12 is a major road which runs diagonally through the southern part of the Parish from north-east to south-west linking the east coast with London. The A120, an important trunk road, runs east to west through the Parish further north linking Colchester to Stansted Airport and the M11 and is known within the Parish as Coggeshall Road or Old Stane Street. The A12 and A120 interchange is in the eastern part of the Parish. These road and rail routes, although important to the Parish, act as physical barriers within the village splitting it into sections and restricting movement particularly by non-car modes of transport. This is identified as a major issue for the Plan.
- 1.4. Marks Tey Neighbourhood Area equates to an area of approximately 6 square kilometres covering all of the administrative area of the Parish and with a population of 2551 (2011) living in 1088 dwellings (2011), mostly in Marks Tey itself. By 2017, survey work for the Plan identified that this had increased to 1116 dwellings. Beyond the village, the countryside is a generally flat landscape of arable farmland with copse and shelterbelt woodlands and hedgerows.
- 1.5. This examiner's report provides a recommendation as to whether or not the MTNP should go forward to a referendum. Were it to go to referendum and achieve more than 50% of votes cast in favour of it, then the MTNP would be 'made' by CBC. In the event of a successful referendum result, the MTNP would immediately carry full weight in the determination of planning applications in the neighbourhood area.

## Appointment of the independent examiner

- 1.6. I was appointed (as a retained independent examiner with Penny O'Shea Consulting) by CBC, with the consent of MTPC, following a competitive procurement process, to conduct the examination and provide this report as an independent examiner. I am

independent of the qualifying body and the Local Planning Authority. I do not have any interest in any land that may be affected by the MTNP, nor do I have any professional commissions in the area currently, and I possess appropriate qualifications and experience. I have planning and development experience, gained over 40 years across the public and private planning sectors and am a Member of the Royal Town Planning Institute and an Affiliate of the Institute of Historic Building Conservation.

## Role of the independent examiner

1.7. It is the role of the independent examiner to consider whether a neighbourhood plan meets the “Basic Conditions”. The Basic Conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (TCPA) as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 (PCPA). They are that \*:

- a) Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- d) The making of the neighbourhood plan contributes to the achievement of sustainable development;
- e) The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority;
- f) The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations;
- g) Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the plan.

1.8. Pursuant to Basic Condition g) above, Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended by the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018, effective from 28 December 2018, prescribes the following additional Basic Condition for the purpose of paragraph 8(2)(g) of Schedule 4B to the TCPA 1990:

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

Regulation 106(1) of Chapter 8 states that : “a qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under Regulation 105 (that assessment is necessary where the neighbourhood plan 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) or to enable it to determine whether that assessment is required”.

\* NB Basic Conditions b) and c), relating to listed buildings and conservation areas, are also included in the Basic Conditions, but as these only concern neighbourhood development orders, they are not included in this report.

1.9. In examining the Plan, I have also considered whether the legislative requirements are met, namely:

- The Neighbourhood Plan has been prepared and submitted for examination by a qualifying body as defined in section 61F of the TCPA as applied to neighbourhood plans by section 38A of the PCPA.
- The Neighbourhood Plan has been prepared for an area that has been designated under section 61G of the TCPA as applied to neighbourhood plans by section 38A of the PCPA.
- The Neighbourhood Plan meets the requirements of section 38B of the PCPA (the Plan must specify the period to which it has effect, must not include provisions relating to 'excluded development', and must not relate to more than one neighbourhood area) and
- The policies relate to the development and use of land for a designated neighbourhood area in line with the requirements of the PCPA section 38A.

1.10. I have examined the MTNP against the Basic Conditions and legislative requirements above and, as independent examiner, I must make one of the following recommendations:

- a) that the Plan should proceed to referendum, on the basis that it meets all legal requirements;
- b) that the Plan, once modified to meet all relevant legal requirements, should proceed to referendum;
- c) that the Plan does not proceed to referendum, on the basis that it does not meet the relevant legal requirements.

1.11. If recommending that the Plan should go forward to referendum, I am also then required to consider whether or not the Referendum Area should extend beyond the Marks Tey Neighbourhood Area to which the Plan relates. I make my recommendation on the Referendum Area at the end of this report (See Section 8).

1.12. The role of the independent examiner is not to comment on whether the Plan is sound or how the Plan could be improved, but rather to focus on compliance with the Basic Conditions.

## **2. The Examination Process**

2.1. It is a general rule that neighbourhood plan examinations should be held without a public hearing; that is by written representations only. However, according to the legislation, when the examiner considers it necessary to ensure adequate



examination of an issue or to ensure a person has a fair chance to put a case, a public hearing may be held.

- 2.2. I have considered the representations received at the Regulation 16 publicity stage. Whilst there were a considerable number and, in particular, a number from prospective developers, I am satisfied that there is no need for a public hearing in respect of the MTNP and the matters are considered below. I confirm that all Regulation 16 representations on the Plan have been taken into account in undertaking this examination. Where appropriate, I have made specific reference to the person's or organisation's comments in Section 6 of this report.
- 2.3. I undertook an unaccompanied site visit around the neighbourhood area on 19 August 2021, during which I looked at its overall nature, form, character and appearance and at those areas affected by policies and proposals in the Plan in particular.
- 2.4. Subsequent to my reading for the examination and the site visit, I asked a number of factual clarifying questions of MTPC, as qualifying body, and CBC relating to the context and intent of policies and proposals of the Plan. This exchange was carried out by email and the questions and the responses received from the Councils are set out in Appendix 1 to this report and have been uploaded to the Neighbourhood Plan webpages on the CBC website. I am grateful to the Councils for responding on these matters.
- 2.5. In undertaking this examination, I have considered each of the following documents in addition to the Submission Version of the MTNP:
- National Planning Policy Framework (Jul 2021)
  - National Planning Practice Guidance 2014 (as amended)
  - Town and Country Planning Act 1990 (as amended)
  - The Planning and Compulsory Purchase Act 2004 (as amended)
  - The Localism Act 2011
  - The Neighbourhood Planning Act 2017
  - The Neighbourhood Planning (General) Regulations (2012) (as amended)
  - Strategic Plan for North Essex (Colchester Local Plan Section 1 Adopted February 2021)
  - The Colchester Local Development Framework – Focused Review Version 2014 – Comprising Core Strategy, Development Policies and Site Allocations
  - Marks Tey NP Basic Conditions Statement Dec 2020
  - Marks Tey NP Consultation Statement Jan 2021 and Appendices
  - Marks Tey NP Strategic Environmental Assessment Screening Determination Statement
  - Marks Tey NP Habitats Regulation Assessment Screening Determination Statement
  - Marks Tey Character Assessment - 2019
  - Marks Tey Masterplanning Support Document – Out Design

- Marks Tey Neighbourhood Area Designation Report – September 2015
- Representations received during the Regulation 16 publicity period post submission - 22 February to 5 April 2021.

### 3. Public Consultation

#### Background

- 3.1. An accessible and comprehensive approach to public consultation is the best way to ensure that a neighbourhood plan reflects the needs, views and priorities of the local community.
- 3.2. MTPC submitted a Consultation Statement, as required by Regulation 15 of the Neighbourhood Planning (General) Regulations, to CBC in December 2020.
- 3.3. Public consultation on the MTNP commenced with early discussions about a neighbourhood plan in 2015. This early consultation was followed by various consultation stages, including the two formal stages required by the Regulations:
  - The pre-submission consultation under Regulation 14 from 24 February to 12 July 2020 and
  - The publicity stage, as required by Regulation 16, (the consultation period post submission of the Plan) from 22 February to 5 April 2021.
- 3.4. The Regulation 16 stage resulted in consultation responses from 16 respondents raising multiple points. The representations raised are considered as necessary within my assessment of the Plan in Section 6 below.

#### Marks Tey Neighbourhood Plan Consultation

- 3.5. The MTNP Neighbourhood Planning Steering Group was set up in September 2015 and has carried out consultation with the community and stakeholders throughout the process of plan preparation. The communication methods used included the local paper, newsletters and the Parish Council's Neighbourhood Plan website, together with the CBC website, notice boards and banners, leaflets, email drops and Facebook, as well as a presence at community events, workshops/drop-ins and questionnaires. Copies of the Pre-Submission Draft Plan and Submission Plan, together with supporting documents were made available for inspection locally at a number of venues as well as being uploaded to the websites and links provided via email. During the Covid 19 pandemic restrictions, hard copies were still available, but only on request.
- 3.6. Following the early stages involving setting up the governance arrangements and designating the neighbourhood area, the development stage of the Plan commenced in December 2015 with consultation via a household survey, delivered to every

property, to gather evidence and understand community priorities and concerns. Around 150 responses were received. In March 2016 a newsletter published results and presented working group outcomes, with an open day being held in April. In December 2016 a second household survey, again delivered to every property, was carried out to explore vision and objectives for the Plan receiving 328 responses. Through 2016 and 2017 the working groups continued to carry out topic-specific surveys to help build the evidence base. In April 2017 a public meeting was held to report on the second household survey findings and progress towards a vision and objectives for the Plan. Following this the vision and eight priorities to deliver the Plan were agreed.

- 3.7. Out Design were appointed to explore and advise, through masterplanning work, on what the draft vision and eight priorities could mean in spatial terms, and a character assessment was carried out which was informed by further consultation responses on important views and local heritage assets. In August 2018 at the village fete a consultation was carried out on the vision and objectives and on the 'direction of travel' for the Plan as a result of the Out Design work. 60 questionnaire responses were received from that event and this feedback was used in neighbourhood plan drafting during late 2018 and early 2019. A draft of the Plan and a summary leaflet were prepared for the August 2019 summer fete.
- 3.8. The Consultation Statement sets out the form and content of these early consultations. It is clear that full opportunities were available to the community to be involved and that the consultations gave a good basis for the preparation of the Plan.
- 3.9. The pre-submission draft of the Plan was signed off by the Parish Council on 10 February 2020. As required by Regulation 14, the consultation was initially programmed to last six weeks from 24 February 2020, but due to the pandemic and lockdown it was eventually extended to 12 July 2020 (a total of 21 weeks).
- 3.10. The MTNP was made available online on the Parish and CBC websites, and links to the Plan were provided via email to statutory consultees, local businesses, individuals and groups. The Plan was publicised in the Colchester Gazette and Coggeshall and Marks Tey Life free magazine and by banners, posters in shops and on notice boards. Leaflets summarising the Plan were provided to every house and business, and the Plan advertised on Facebook. An open session was held in the village hall on 14 March 2020 to help explain the Plan, and special efforts were undertaken to ensure those isolating and shielding as a result of Covid had the opportunity to hear about the Plan and comment. 63 responses from the local community were received, along with 19 from statutory consultees and interested parties. The responses at this stage were generally supportive of the Plan.
- 3.11. Following the pre-submission stage and the analysis of results, the Plan was revised and approved for submission by the Parish Council on 14 December 2020.
- 3.12. The Neighbourhood Planning Regulations are part and parcel of Basic Condition a), and Regulation 15 (2) sets out clearly what the Consultation Statement should

include. Having reviewed the Consultation Statement, in particular the tables setting out the representations at the Regulation 14 stage and how these were answered, as well as the appendices to the statement, I am satisfied that the Consultation Statement is compliant with Regulation 15. It demonstrates who was consulted, how they were consulted, what the main issues and concerns were, and what action has been taken in response to these to arrive at the Submission Draft Plan.

## **4. Preparation of the Plan and legislative requirements**

4.1. In terms of the procedural tests set out above my findings are:

### **Qualifying body**

- 4.2. Marks Tey Parish Council, as the duly elected lower-tier council, is the qualifying body for preparation of the Plan.
- 4.3. I am satisfied that the requirements set out in the Localism Act (2011) and in section 61F(1) and (2) of the TCPA (as applied to neighbourhood plans by section 38A of the PCPA) have been met.

### **Plan Area**

- 4.4. An application was made by MTPC in 2015 to designate the Marks Tey Neighbourhood Area. The area sought covered the administrative area of the Parish. This neighbourhood area was approved by CBC on 16 September 2015.
- 4.5. This satisfies the requirement under section 61G (1) (2) and (3) of the TCPA (as applied to neighbourhood plans by section 38A of the PCPA) and Regulations 5, 6 and 7 of the Neighbourhood Planning (General) Regulations as amended.

### **Plan period**

- 4.6. A neighbourhood plan must specify the period during which it is to have effect. The MTNP clearly states on the title page and in the introduction in section 1 that it covers the period 2020-2033.
- 4.7. The plan period aligns with the end point of the emerging Colchester Local Plan (CLP), which will set out the strategic policies for the neighbourhood area once adopted. The intended time period satisfies the requirements of section 38B of the PCPA as amended.

### **Excluded development**

- 4.8. Although the Plan refers to highways proposals and minerals matters in setting the context, it does not include policies or proposals that directly relate to any of the

categories of excluded development: county matters (mineral extraction and waste development), nationally significant infrastructure, or any matters set out in Section 61K of the TCPA 1990. The MTNP, as proposed to be modified in Section 6 below, relates solely to the neighbourhood area and no other neighbourhood area, and there are no other neighbourhood development plans in place within the neighbourhood area. This satisfies the requirements of section 38B of the PCPA, as amended.

## Development and use of land

- 4.9. The Neighbourhood Plan should only contain policies relating to the development and use of land. Subject to the modifications proposed below in Section 6, the MTNP policies would be compliant with this requirement of section 38B of the PCPA, as amended.

## Plan publication following submission

- 4.10. CBC undertook a validation check of the MTNP following its submission in December 2020. The Council was satisfied that the Plan could proceed to be publicised under Regulation 16 and proceed to this independent examination.

## 5. The Basic Conditions

### National policy and advice

- 5.1. The main document that sets out national policy is the National Planning Policy Framework (the NPPF). A revised version of the NPPF was published in July 2021. The MTNP was prepared in the context of its predecessor dated July 2019. However, because the revised NPPF is being brought in with immediate effect, I have based my consideration of the extent to which the MTNP meets Basic Condition a) against NPPF 2021, along with legislation and regulations. In essence, the changes within the revised NPPF are not extensive and fundamentally its provisions and requirements in terms of the MTNP remain the same. However, any paragraph referencing to the NPPF in the MTNP will need to be updated to reflect the NPPF 2021.
- 5.2. The NPPF explains that neighbourhood plans should support the delivery of strategic policies and set out non-strategic policies and plan positively to shape, direct and help to deliver sustainable development that is outside the strategic elements of the Local Plan.
- 5.3. The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words, neighbourhood plans must be in general conformity with the strategic policies of the development plan. They should not promote less development than that set out in the strategic

policies of the development plan or undermine those strategic policies.

- 5.4. The NPPF indicates that plans should contain policies that are clearly written and unambiguous, so that it is clear how a decision maker should react to development proposals. They should serve a clear purpose and avoid unnecessary duplication of policies that apply to a particular area. This is an issue which arises as a significant matter in the assessment in Section 6 below.
- 5.5. National advice on planning is set out in the Planning Practice Guidance (PPG), which includes specific advice regarding neighbourhood plans. I have considered the advice of the PPG as part of assessing the Plan against Basic Condition a).

## Sustainable development

- 5.6. A qualifying body must demonstrate how a neighbourhood plan would contribute to the achievement of sustainable development. The NPPF as a whole constitutes the Government's view of what sustainable development means in practice for planning. The NPPF explains that there are three overarching objectives to sustainable development - economic, social and environmental.
- 5.7. There is no legal requirement for a formal Sustainability Appraisal (SA) to be carried out in respect of neighbourhood plans. However, SA is an established method of demonstrating how a neighbourhood plan will contribute to achieving sustainable development.
- 5.8. In this case, MTPC has only included in the Basic Conditions Statement a commentary in tabular form (Tables 4.1 and 4.2) on how the Plan meets the three main sustainability objectives in the NPPF. This has not been done against a suite of sustainability objectives (reflecting the environmental, social and economic dimensions of sustainability) to test the MTNP policies, which would have been the more usual procedure. However, the table includes sufficient information to confirm at a high level that the effect of the policies of the Plan would be generally positive in terms of sustainability. I consider the contribution of specific policies to sustainable development below in Section 6.

## General conformity with the development plan

- 5.9. The MTNP has been prepared in the context of the Colchester Local Development Framework (Focused Review adopted in 2014) (CLDF) comprising the Core Strategy, Site Allocations DPD and Development Policies DPD, and the MTNP must be in general conformity with the strategic policies.
- 5.10. The PPG provides the following definition of general conformity:
- 5.11. "When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:

- whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;
- the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;
- whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;
- the rationale for the approach taken in the draft neighbourhood plan or order and the evidence to justify that approach.”

5.12. In addition to the adopted CLDF, Colchester has also, in partnership with other North Essex Councils, adopted the North Essex Authorities Strategic Section 1 for Local Plans in 2021. This now forms Section 1 of the Borough Council’s new CLP. CBC is working towards the adoption of Section 2 of the new CLP, which is currently at modifications stage following examination. At the time of submission, the new CLP was not yet adopted and therefore could not be used directly to assess the MTNP against Basic Condition e). Nevertheless, MTPC wished to consider compliance of the Neighbourhood Plan against the emerging policies of the new CLP in the Basic Conditions Statement. It is clear from this that the intention is to ensure that the MTNP is also in line with the emerging CLP Sections 1 and 2 and its evidence base in order to future proof the Neighbourhood Plan so that it does not have to be immediately reviewed on adoption of the emerging CLP.

5.13. With this in mind, and given that Section 1 of the New CLP has been adopted, I consider the extent to which the policies and proposals of the MTNP are in general conformity with both the strategic policies of the CLDF and the new CLP Section 1 in detail in Section 6 below<sup>1</sup>.

## European Union (EU) obligations

5.14. A neighbourhood plan must be compatible with EU obligations, as incorporated into UK law, in order to be legally compliant. Notwithstanding the United Kingdom’s departure from the EU, these obligations continue to apply unless and until repealed or replaced in an Act of Parliament.

## Strategic Environmental Assessment and Habitat Regulations Assessment

5.15. Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment has a bearing on neighbourhood plans. This

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<sup>1</sup> The Development Plan for the area also includes the Essex Minerals Local Plan and the Essex and Southend on Sea Waste Local Plan but I have not referred to these as the MTNP cannot influence these matters.

Directive is often referred to as the Strategic Environmental Assessment (SEA) Directive. Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds (often referred to as the Habitats and Wild Birds Directives respectively) aim to protect and improve Europe's most important habitats and species and can have a bearing on neighbourhood plans.

- 5.16. Regulation 15 of the Neighbourhood Planning Regulations, as amended in 2015, requires either that a SEA is submitted with a neighbourhood plan proposal or a determination obtained from the responsible authority (CBC) that the Plan is not likely to have 'significant effects.'
- 5.17. A screening opinion was prepared by CBC in consultation with the statutory bodies in March 2020. The screening concluded that full SEA was not required because the MTNP did not allocate land for development and therefore was unlikely to have any significant adverse effects. I am satisfied that any effects from additional development beyond that allocated through the CLDF and CLP (already subject to SEA) would be small-scale and local, as it would be limited under the CLDF and CLP strategic policy approach in villages to small-scale development within settlement limits. In addition, any impacts would be offset by the positive benefits of the policies within the Neighbourhood Plan seeking to achieve more sustainable development.
- 5.18. Regarding Habitats Regulations Assessment (HRA), the test in the additional Basic Condition under Regulation 32 now essentially mirrors that in respect of SEA. It requires an Appropriate Assessment to be carried out where a plan is likely to have a significant effect on a European site (either alone or in combination with other plans or projects) or a determination obtained from the responsible authority (CBC) that the plan is not likely to have a 'significant effect'. A screening opinion was similarly carried out by CBC in March 2020 and a determination prepared.
- 5.19. European sites – Essex Estuaries SAC, Colne Estuary SPA, Blackwater Estuary SPA, Dengle Estuary SPA, Stour and Orwell Estuary SPA and Abberton Reservoir SPA, although not within or even particularly close to the neighbourhood area, are within scope in the screening given their zone of influence and the location of Marks Tey Parish. The neighbourhood area therefore lies within the Impact Risk Zone. Screening showed, however, that most effects i.e. air quality, water quality, water resources, urbanisation and loss of functional habitat could be screened out as risks. Recreational disturbance was the only risk with the potential to have impacts. However, as the Plan does not propose to introduce any significant additional development, and any sites are likely to be small in scale, centred in Marks Tey village and guided by MTNP's policies to ensure sustainable outcomes, the conclusion of the Council's determination was that the Neighbourhood Plan alone would not have a significant effect on any European sites. CBC, in carrying out the HRA on Section 2 of the emerging CLP, considered the in-combination effects of all plans and proposals within the ambit of the Local Plan and concluded that there would be no adverse effects on the integrity of habitat sites either alone or in



combination. This assessment assumed the Garden Community proposal in Marks Tey Parish was going ahead and also factored in the redevelopment of the Anderson's employment area in Marks Tey. Consequently, the MTNP is not considered to require Appropriate Assessment under Article 6 or 7 of the Habitats Directive.

- 5.20. Both the determinations regarding SEA and HRA have been confirmed by Natural England as statutory consultee. I have no reason to reach a different view to the statutory consultees.

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

- 5.21. The Human Rights Act 1998 encapsulates the Convention and its articles into UK law.
- 5.22. An Equalities and Human Rights Impact Assessment has not been specifically carried out for the MTNP. Instead, the Basic Conditions Statement briefly assesses the potential impacts of the MTNP in relation to the protected characteristics as identified in the Equality Act 2010 and concludes that the MTNP has regard to the fundamental rights and freedoms guaranteed under the ECHR. Table 6.1 of the Basic Conditions Statement finds that for most protected characteristics the MTNP would be neutral in its effect. However, in respect of the Age and Disability Protected Characteristics some of the plan policies would have a positive effect.
- 5.23. In respect of Article 1 of the first protocol - the right of everyone to the peaceful enjoyment of possessions - although the MTNP includes policies that would restrict development rights, this does not have a greater impact than the general restrictions on development rights provided for in national law. The restriction of development rights inherent in the UK's statutory planning system is demonstrably in the public interest by ensuring that land is used in the most sustainable way, avoiding or mitigating adverse impacts on the environment, community and economy.
- 5.24. In respect of Article 6 of the Convention's Rights and Freedoms - the right to a fair hearing in determination of an individual's rights and obligations - the process for preparing the MTNP is fully compatible with this Article, allowing for consultation on its proposals at various stages, and incorporating this independent examination process.
- 5.25. In respect of Article 14 of the Convention's Rights and Freedoms - the enjoyment of rights and freedoms without discrimination on any ground - the policies and proposals of the MTNP have been developed in consultation with the community and wider stakeholders to produce as inclusive a document as possible.
- 5.26. I conclude that, given the nature of the plan policies and proposals, it is unlikely there would be any detrimental impact on the 'protected characteristics' set out in the Equality Act and, as in Table 6.1 of the Basic Conditions Statement, generally the Plan would bring positive benefits. Whilst the Plan does not directly address needs in respect of particular protected characteristics within the plan area, the MTNP

generally is not prejudicial to any group in its policies.

- 5.27. No concerns or objections on the grounds of human rights or equalities have been raised during the consultation stages of the Plan. I am satisfied on the basis of the above that, across the Plan as a whole, no sectors of the community are likely to be discriminated against. The policies together would generally have public benefits and encourage the social sustainability of the neighbourhood.
- 5.28. I am satisfied therefore that the Plan does not breach, and is otherwise compatible with, the ECHR.
- 5.29. I am not aware of any other European Directives which apply to this particular neighbourhood plan and no representations at pre- or post-submission stage have drawn any others to my attention. Taking all of the above into account, I am satisfied that the MTNP is compatible with EU obligations and therefore with Basic Conditions f) and g).

## **6. The Neighbourhood Plan – Assessment**

- 6.1. The Neighbourhood Plan is considered against the Basic Conditions in this section, following the structure and headings in the Plan. Given the findings in Section 5 above that the Plan as a whole is compliant with Basic Conditions f) (EU obligations) and g) (Other prescribed conditions including that under Regulation 32), this section largely focusses on Basic Conditions a) (Having regard to national policy), d) (Contributing to the achievement of sustainable development) and e) (General conformity with strategic policies of the development plan).
- 6.2. Where modifications are recommended, they are clearly marked as such and set out in bold print.

### **The general form of the Plan**

- 6.3. The structure of the MTNP is generally logical and clear with early sections setting the context both in respect of policy and background to the neighbourhood area and the key issues facing it, before setting out the vision and objectives and the policy sections.
- 6.4. The Plan distinguishes between the policies themselves and their justification by boxing the policies. Each policy is accompanied by supporting text setting out the policy context, rationale and intent as well as the strategic policy context.
- 6.5. The NPPF at paragraph 16 requires the Plan to be “clearly written and unambiguous so it is evident how a decision maker should react to development proposals” and to “serve a clear purpose avoiding unnecessary duplication of policies that apply to a particular area”.

- 6.6. In one minor respect the general form of the Plan could be clearer: in a number of policies (MT02, MT04, MT05, and MT06) that extend over a page-divide the policy box is closed suggesting the policy ends and there is no indication that the policy continues on the following page. This needs to be resolved so that it is clear to plan users that there is additional policy content to be considered.
- 6.7. Neighbourhood plans are not to include matters that do not relate to the development and use of land. The MTNP, as with many neighbourhood plans, has in the course of its preparation attracted many comments and proposals from the community that they would like to see the Parish Council take action on, but which are not directly to do with the development and use of land. Whilst MTPC has acknowledged that these ‘community actions’ are not matters that the Neighbourhood Plan can directly address, they are nevertheless presented in the body of the Plan in Section 7 and are part of it, potentially leading to confusion. They should be separated out and relocated in an appendix to the Plan with a paragraph remaining in Section 7 simply referencing the appendix.
- 6.8. Finally, in respect of the general form of the Plan the references to the strategic road improvements to the A12 and A120 and to the emerging CLP need to be updated. I requested an update position on both matters as part of the Examiner’s questions at Appendix 1 below and the responses regarding the current situation in respect of each should be inserted in finalising the Plan for referendum.
- 6.9. I recommend the following modifications.

<b>Recommendation 1</b>	
<b>1A</b>	<b>In policies MT02, MT04, MT05 and MT06 and any others where policy text continues over a page divide the policy box should be left open at the bottom and at the end of the first page section add the words: “Continues overleaf”</b>
<b>1B</b>	<b>Delete the tables in Section 7 of the Plan on pages 99 to 101 Amend wording of the first line in paragraph 7.2 to read: “Nine community actions are identified in Appendix 1 to establish ...”</b>
<b>1C</b>	<b>Ensure all referencing to the strategic road improvements and to the emerging CLP are fully up to date.</b>

## Introduction

- 6.10. This section provides a brief introduction to the Plan and the legislative context and briefly outlines the community involvement and evidence gathering behind the Plan.
- 6.11. This is largely a factual section and for the most part there is no need for any changes. However, the last sentence of the first paragraph summarises the effect of

the MTNP in development management which, because of the wording, is ambiguous. It would be more helpful if the wording more closely reflected the legislation wording, specifically S38(6) of the 2004 Planning and Compulsory Purchase Act, so that the weight of the MTNP as part of the development plan is clearly understood.

## **Recommendation 2**

<b>2</b>	<p><b>Delete the last two sentences of paragraph 1.1 and replace with the following:</b></p> <p><b>“Once made, the NP will carry the same legal weight as plans drawn up by Colchester Borough Council and will form part of the Council’s Development Plan. Applications for development must be determined in accordance with policies of the Neighbourhood Plan and other parts of the Development Plan unless material considerations indicate otherwise.<sup>1</sup>”</b></p> <p><b>(Note - Footnote 1 remains as is )</b></p>
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## **The Neighbourhood Plan Area**

- 6.12. Section 2 of the Plan sets out the geographic and socio-economic context to the neighbourhood area. It is largely factual and raises no issues in respect of the Basic Conditions. However, a Regulation 16 representation from WH Collier Ltd in respect of the Marks Tey Brick works has requested that as a primary employer in the Parish the brickworks should be mentioned in paragraph 2.12 referring to the business community. The company also requests that a factual amendment should be made to the referencing under the historic environment section at paragraph 2.17 that wrongly implies that the brickworks is still in the ownership of Chelwood Brick. I see no reason why these factual corrections and insertions cannot be made as, in addition to meeting the Basic Conditions, it is important that the MTNP is in all respects accurate.

## **Recommendation 3**

<b>3A</b>	<p><b>Add at the end of paragraph 2.12 a new sentence to read:</b></p> <p><b>“WH Collier Ltd operate the brickworks which is one of the oldest businesses in Marks Tey.”</b></p>
<b>3B</b>	<p><b>In para 2.17 delete the words ‘having been acquired by Chelwood Brick in 1988’. Add a second sentence to 2.17 to read:</b></p> <p><b>“The brickworks, having been acquired by Christian Salvesan in 1988, returned to independent ownership as WH Collier Ltd in 2005.”</b></p>

## Key Issues

- 6.13. Section 3 of the Plan sets out the key issues that have arisen out of the preparation of the Plan and in particular the community's input to the process as well as setting out the existing planning context for the NP area and the results of a SWOT analysis of the Parish carried out to inform the Neighbourhood Plan and help identify key issues. The key issues identified lead into the Neighbourhood Plan vision and the objectives designed to deliver the vision and provide the basis for the policies. Again, the section is largely factual, and I have no concerns relating to the Basic Conditions.
- 6.14. Barton Willmore raise detailed concerns regarding the wording of the SWOT analysis. However, the tabulation in the MTNP on pages 20 and 21 is a factual reporting of the results of the SWOT analysis. They do not provide a policy statement and as such I see no need for the clarifications sought to be made. The SWOT analysis, taken in the round, is just one aspect informing the choices made in preparing the Plan.

## Further Exploration of the Key Issues through the Marks Tey Masterplanning Support Work and the Marks Tey Character Assessment

- 6.15. Section 4 of the Plan sets out the main findings from the Out Design Masterplanning Support Work and from the Marks Tey Character Assessment, both of which were undertaken to help develop the thinking on the key issues and scope the Neighbourhood Plan.
- 6.16. The section is largely factual, and I have no concerns relating to the Basic Conditions.

## Neighbourhood Plan Vision and Objectives

- 6.17. Being able to demonstrate the thread from issues to vision and objectives and from objectives to policies is an important part of evidencing the Neighbourhood Plan as required in the PPG, and it is clear in the MTNP that the key issues lead into the vision for the Parish and the objectives.
- 6.18. The vision looks to deliver a sustainable community and meet the housing and employment needs whilst maintaining and strengthening the community's sense of place and countryside surroundings. The vision, in particular, stresses the importance of new development improving connectivity by sustainable modes of transport to the surrounding environment.
- 6.19. The Plan has regard to the PPG advice that it "provides the opportunity for communities to set out a positive vision for how they want their community to develop over the next 10, 15, 20 years in ways that meet identified local need and make sense for local people."

- 6.20. The vision and objectives also encapsulate and generally reflect the vision set out in the CLDF Core Strategy at Section 3.1 and the specific objectives set out in 3.2, in particular those relating to Accessibility and Transportation and Environment and Rural Communities. Similarly, the MTNP vision and objectives reflect the vision and five strategic objectives set out in the CLP Section 1 for North Essex as a whole and particularly its emphasis on sustainable development outcomes. The impact of pursuing the vision and objectives of the Neighbourhood Plan would contribute to the achievement of sustainable development in the neighbourhood area.
- 6.21. The Essex Bridleways Association, in its Regulation 16 representation, objects to the vision in that the wording is not inclusive of all vulnerable road users and requests that it includes reference to the public rights of way (PROW) network.
- 6.22. Ordinarily, as the vision and objectives have been set through discussion with the community, I would be reluctant to amend these. However, in this case the requested change is a factual one relating only to terminology, and inasmuch as this secures a more inclusive vision in line with Basic Condition f) and the ECHR a minor modification would be acceptable.

<b>Recommendation 4</b>	
<b>4</b>	<b>Amend line 3 of the vision to include after the word ‘highways’ the words “the public rights of way network, ...”</b>

- 6.23. With this modification the vision and objectives of the MTNP would meet the Basic Conditions.

## Planning policies

- 6.24. Section 6 of the Plan sets out the policies contained in the Plan.

## Getting Around

- 6.25. Generally, this section of the MTNP is aimed at ensuring development does not make current high volumes of traffic and congestion worse and securing a more connected and cohesive community. In practice, this can be a difficult area for neighbourhood plans to be effective and many plans end up dealing with this in their community projects section. However, for the most part, policies MT01-MT03 have been drafted in a way that ties the policy objective to development and therefore they pass the test of policies only being acceptable where they deal with the development and use of land.

## Policy MT01 - A12, A120 and station infrastructure improvements

- 6.26. Policy MT01 seeks to ensure that development does not exacerbate existing traffic

congestion by generating significant traffic movements and sets out the basis on which improvements to the Marks Tey railway station would be supported. The Policy has regard to section 9 of the NPPF and inasmuch as it does not preclude development, subject to capacity and mitigation measures being in place, it is not in conflict with the NPPF. Moreover, as Policy MT02 seeks sustainable transport options through development and Policy MT03 seeks environmental mitigation, the MTNP overall meets the policy requirements of the NPPF at paragraphs 104-106 and 110 to 113. Policy MT01 is also in general conformity with strategic Policy TA4 of the Core Strategy, which supports improvements to the strategic transport network and seeks to manage demand for car travel and secure contributions from development to transport infrastructure improvements. Furthermore, the Policy is in general conformity with the Development Policies at Policy DP17 which requires access to all development to be created in a manner which maintains the right of safe passage for all highway users. Development will only be allowed where there is physical and environmental capacity to accommodate the type and amount of traffic generated in a safe manner. Additionally, Policy SP6 of the CLP Part 1 requires that all development must be supported by the provision of the infrastructure, services and facilities that are identified to serve the needs arising from the development, which in essence is what Policy MT01 is seeking to achieve in transport terms.

- 6.27. However, there are a couple of areas in Policy MT01 that are not clear and unambiguous as required by the NPPF and PPG. First, the referencing in paragraph 1, which uses the word 'scheme' in relation to the A12 widening but then also the same word to mean 'development proposals', is potentially confusing. The reference to 'scheme' before the bullets needs to be replaced by the words 'development proposal'. Second, in the penultimate paragraph starting with the words 'To be supported', the phrase 'where applicable' is imprecise and needs to be modified. The intention should be that development proposals should take opportunities to secure improvements in passenger accessibility.
- 6.28. Barton Willmore in their Regulation 16 representation consider that development should not necessarily be forestalled pending the construction of the major transport infrastructure elements and that where development is restricted it should be on the basis that the traffic impacts are severe. The MTNP makes it clear that it is the intention to review the Plan and bring forward allocations once the routes of both the A12 and A120 are fixed.
- 6.29. At present, CBC has confirmed that a 'preferred route' for the A12 has been announced by Highways England and further consultation on the route design has been undertaken prior to the Development Consent Order process being undertaken. The A12 Chelmsford to A120 Widening scheme is identified in the government's 2020-2025 Road Investment Strategy 2 ([RIS2](#)) with a current anticipated start date of 2023-4. With respect to the A120, Highways England have not announced a preferred route for the A120 Braintree to A12 scheme; although Essex County Council have announced their 'favoured' route for the project. The project has now been passed over to Highways England to determine what further work needs to be done in order to progress the scheme. The A120 widening project



is identified as a 'pipeline' project in RIS2, but funding is not committed for this scheme.

- 6.30. In view of the above position and given the development plan policy context above and the fact that CBC has confirmed, in response to my examiner questions (see Appendix 1), that at present there is no problem in meeting the housing land requirement for the borough and given the status of Marks Tey as a rural centre, I find nothing inappropriate in the Neighbourhood Plan's approach to delaying allocation of land to a review. However, I accept that inclusion of a reference to the impact of traffic being severe in the introductory paragraph to the policy would have closer regard to the test in the NPPF and to Policy DP17 of the Development Policies.
- 6.31. As with their comments on the MTNP vision, the Essex Bridleways Association Regulation 16 representation is equally relevant to Policy MT01 where in paragraph 2 it should be made clear that the policy is referring to all vulnerable road users. For the same reasons of inclusivity their suggested modification should be made.
- 6.32. With these modifications, Policy MT01 meets Basic Conditions a) and e) and, given the focus on reducing the impact of traffic from new development, it will contribute to the achievement of sustainable development.

<b>Recommendation 5</b>	
<b>5A</b>	<b>Insert in Line 1 of Policy MT01 after the word 'movements' the words: “, the impact of which would be severe, ...”.</b>
<b>5B</b>	<b>Delete the word 'scheme' in Line 3 of Policy MT01 and replace with the words “development proposal”.</b>
<b>5C</b>	<b>In the penultimate paragraph of Policy MT01 delete the words 'and seek, where applicable,' and replace with the words “and seek to take opportunities to secure...”</b>
<b>5D</b>	<b>At the end of the second paragraph delete the words 'users including pedestrians and cyclists.' and replace with the words “vulnerable users including pedestrians, cyclists and equestrians.”</b>

## Policy MT02 - Creating walking and cycle friendly neighbourhoods

- 6.33. Policy MT02 seeks to ensure that new development proposals are well provided with footpath and cycle links, but also that links with the wider neighbourhood are maximised and connectivity improved. Inasmuch as a key objective of section 8 of the NPPF on promoting healthy and safe communities and section 9 promoting sustainable transport are about maximising pedestrian permeability, Policy MT02 has regard to the NPPF. However, as with other policies, MT02 is not wholly compliant with the need for policies to be clear and unambiguous.



- 6.34. Paragraph 1 of the Policy states that development should, 'where possible', increase the attractiveness of walking and cycling in the Parish as a whole. This is both unclear and imprecise and unreasonable given the scale of the Parish. What would be reasonable is for development to take opportunities to connect to the wider walking, cycling and PROW network within the Parish.
- 6.35. Paragraph 2 includes a bracketed reference to smaller schemes which is not clear. MTPC was asked as part of the examiner's questions what the intention was, and its reply is set out in Appendix 1 below. However, the explanation given is not significantly clearer and, as the bracketed section adds little to the Policy, I recommend it is removed.
- 6.36. In paragraph 4 of the Policy, introducing the specific requirements in respect of different types of development, it is unclear what is intended by the use of the word 'this'. The intention should be clearly stated i.e. that the sections following are setting out the circumstances in which support for development proposals will be forthcoming.
- 6.37. For most of the key considerations in these detailed sections of the Policy they are set out as tests. The wording of the first residential development test is not and should be reworded as a test.
- 6.38. Essex Bridleways Association, in its Regulation 16 representation, repeats its point that provision should be made for all vulnerable road users including equestrians. Whilst I accept that the Plan must be inclusive, I am not persuaded that in the case of Policy MT02, other than perhaps a general reference at the beginning in respect of improved connectivity for all, it would be appropriate to modify it as the Association requests. The intent of the policy is to improve dramatically the design of new development layouts to cater for sustainable transport modes and improve connectivity by these means across the area. Whilst I accept that riding may be a sustainable mode of transport, it would be unreasonable to place requirements on developers to make on-site provision when it is not a mass mode of travel in the way that walking or cycling is. I am satisfied that Policy MT02 is not being discriminatory and, in any event, the Association's point is perhaps better addressed in Policy MT01, where I have recommended a modification to this effect.
- 6.39. Feering Parish Council, in its Regulation 16 representation, makes the point that it would like to see the Table 6.1 priorities extended to include the development of Elm Lane as a cycleway connection between the west end of Marks Tey and Little Tey to Feering. Having viewed the lane on site, I agree that it has scope to provide such a route and the small part of the lane at its northern end on the boundary with Great Tey Parish could be added as an example of an additional route to reference 3 in Table 6.1. However, if doing so, care would need to be taken to make clear that this would only relate to the length of the lane within the neighbourhood area. This is an advisory recommendation only, as it is not directly necessary to meet the Basic Conditions and it is not therefore included in my formal recommendation below.

- 6.40. Finally, in respect of this section, the Plan at Map 6.1 needs to be modified to comply with the legal requirement that the MTNP can only relate to the neighbourhood area. The mapping here showing the Marks Tey Framework Plan includes notations, particularly relating to proposed green corridors and the Roman River corridor, that extend well beyond the neighbourhood area. These need to be pulled back so that they do not extend beyond the neighbourhood area/parish boundary.
- 6.41. With these clarifications, Basic Condition a) would be met. The policy would be in general conformity with the Core Strategy at Policy PR2 which states that the Borough Council will promote and secure attractive, safe and people-friendly streets which will encourage more walking, cycling, recreation and local shopping and sets out the means to achieve this. It also conforms with policies TA1 and TA2 of the Core Strategy which seek to improve accessibility and change travel behaviour and promote walking and cycling respectively; objectives which are carried forward in Policy SP6B of the CLP Section 1. It also reflects Policy DP17 of the Development Policies which seeks to ensure development enhances sustainable transport modes. There is some overlap of Policy MT02 with these policies, but I am satisfied that it adds to the strategic policies by being locally specific. By securing more sustainable modes of transport for new development the policy would contribute to the achievement of sustainable development. Basic Conditions d) and e) are therefore also met.

<b>Recommendation 6</b>	
<b>6A</b>	<b>Delete the rest of paragraph 1 to the Policy after the word ‘site’. Replace with the words: “...and take opportunities to connect to the wider public rights of way, walking and cycling route networks in the Parish.”</b>
<b>6B</b>	<b>Delete the bracketed section in paragraph 2 of the Policy.</b>
<b>6C</b>	<b>In paragraph 4 of the Policy delete the words ‘In determining this...’ and replace with the words “In determining whether development proposals can be supported ....”</b>
<b>6D</b>	<b>Delete the start of clause 1 under ‘Residential development proposals’ up to the word ‘development’. Replace with the words “Whether the proposed development would be within walking distance...”</b>  <b>In clause 3 delete the words ‘Specific ways in which the proposed development’ . Replace with the words “Whether the proposed development ...”</b>
<b>6E</b>	<b>In Map 6.1 amend green corridor and Roman River corridor annotations to ensure these do not extend beyond the neighbourhood area/parish boundary.</b>

## Policy MT03 - A120 Coggeshall Road: A quality street for all

- 6.42. The A120 (Coggeshall Road) passes through virtually the entire east-west extent of the Parish and is a heavily trafficked road from Braintree to Marks Tey, where it joins the A12. The intention of Policy MT03 is to ensure that new development within the parish that will lead to additional traffic is assessed according to its further impact on residential amenity and the environment of the road and that appropriate mitigation measures are in place. Again, given the focus of the NPPF at section 9 and Core Strategy Policy PR2 promoting people-friendly streets, the objective of the policy has regard to the NPPF and is in general conformity with the strategic policies. Core Strategy Policy TA4 is also particularly relevant as it looks to manage the impact of roads and traffic. Policy MT03 sets out how this will be done for the A120 Coggeshall Road and is directly complementary to Policy TA4. The Policy will secure improvements in the quality of life for those living along Coggeshall Road and using it as a transport corridor and will secure environmental improvements, and as such the policy will contribute to sustainable development.
- 6.43. Essex Bridleways Association, and others in their Regulation 16 representations, make similar points regarding Policy MT03 as before that enhancements on Coggeshall Road should be made for all vulnerable road users including equestrians and not simply pedestrians and cyclists. They point out that significant severance of the PROW network has occurred over the years and that, following the strategic improvements proposed, the opportunity should be taken to reverse some of this severance. The enhancements set out in paragraph 6.3.3 (wrongly referenced in Policy MT03 as 6.3.4) and on Map 6.1 are wide ranging. The aspiration to reduce the severing effect of Coggeshall Road for all users is in line with the objectives of paragraph 6.3.3 and in the interests of inclusivity and Basic Condition f) and the European Human Rights Directive I agree there is a need to insert a reference in paragraph 6.3.3.
- 6.44. Otherwise, Policy MT03 itself, save for the paragraph reference, (see typographical modifications at Appendix 3 below), meets the Basic Conditions and there is no need for any modification.

<b>Recommendation 7</b>	
<b>7A</b>	<b>Add to the table title on Page 47 after the word ‘Measures’ the words “(See Map 6.1)”.</b>
<b>7B</b>	<b>Add new bullet point at end of table on Page 47 to read:</b> <ul style="list-style-type: none"><li><b>“introduction of safe crossing facilities catering for all vulnerable road users including pedestrians, cyclists, and equestrians.”</b></li></ul>

## Sense of Place

- 6.45. Policies MT04 to MT08 seek to enhance the sense of place in Marks Tey Parish by protecting its countryside setting, in particular the separation between Marks Tey

and Little Tey, protecting views and distinctive character and ensuring high standards of design.

## Policy MT04 - Village settlement boundaries

- 6.46. The CLDF Core Strategy at Policy ENV2 sets out the basis of development in the rural communities which include Marks Tey. It essentially restricts residential development to within settlement boundaries whilst allowing sustainable employment leisure and tourism uses outside settlements. The policy encourages neighbourhood plans to develop locally specific approaches to development within this framework. Due to the nature of Marks Tey Parish, five individual settlement boundaries have been defined in the Development Plan given the separating effects of the strategic transport corridors. The MTNP adopts these and, although the emerging CLP Section 2 proposes removing the settlement boundary around Little Tey, for the time being, and given the importance to the landscape character of the Parish of maintaining the separation between the two settlements, the boundary is retained.
- 6.47. Although the new CLP Section 1 originally proposed Marks Tey as part of the area of search for the Colchester Braintree Borders Garden Community (CBBGC), this proposal is now deleted from the plan, which restores the previous spatial strategy as it related to Marks Tey. I note that only one proposed garden community now remains in the adopted CLP Section 1: that located to the east of Colchester, which is not within the neighbourhood area.
- 6.48. A number of Regulation 16 representations from developers owning land or with options in the previous area of search consider that larger development sites should be brought forward now and in doing so would facilitate the achievement of some of the MTNP objectives around better connectivity. CBC, in accordance with the decision to remove the CBBGC proposal, has confirmed that there is no expectation or requirement that Marks Tey should accommodate more than minor development within settlement boundaries at the present time. (See examiner's questions at Appendix 1).
- 6.49. MTPC and the community, as already stated above, consider that any allocation of sites at the present time, as they are not required to meet housing targets, would be problematic pending further progress regarding the strategic transport improvements. However, Policy MT04 has been drafted in a way that is sufficiently flexible to accommodate residential development proposals outside, but well related to, settlement boundaries in a number of specific circumstances. These are: sensitively designed minor development achieving high standards; larger schemes delivering significant community benefits for the settlements; and any proposals coming forward as strategic development allocated in the emerging Local Plan, subject to these preserving or enhancing the landscape character and setting of Marks Tey. In this way, the MTNP demonstrates that, although its starting point is restricting development principally to within the settlements, there is flexibility for other development to take place without this being formally allocated at the present time. As such, the policy accords with the NPPF, in particular paragraphs 78 and 79,

and with strategic Policy ENV2 of the CLDF Core Strategy. What is set out in the policy will also help to promote more sustainable development. The policy therefore meets Basic Conditions a), d) and e).

- 6.50. Boyer Planning, in its Regulation 16 representation, considers that the policy simply replicates emerging Local Plan policy and should be more flexible to allow adjustment to settlement boundaries to accommodate development. However, the emerging CLP Section 2 is not yet in place and, as stated above, Policy MT04 has been deliberately drafted to introduce the necessary flexibility. I am satisfied there is no need for modification or any justification to delete.
- 6.51. The only minor modification necessary to the policy is the need to clarify that the section at the end that sets out significant community benefits relates back to the fourth bullet (exceptional circumstance 2 - line 3) where reference is made to 'significant community benefits'.

<b>Recommendation 8</b>	
<b>8</b>	<b>Insert in 4<sup>th</sup> bullet – 2<sup>nd</sup> exceptional circumstance - line 3 - after the words 'significant community benefits' the words "(see definition below)"</b>

## Policy MT05 - Local character and design

- 6.52. Policy MT05 seeks to ensure that development contributes in a positive way to local character and design. It has been informed by both the Marks Tey Character Assessment and the Masterplanning Support Work carried out by Out Design. The latter has established eight design principles that are set out in the Plan to be followed by developers. This supporting text defines the principle and sets out the outcome(s) that can be expected. However, this has been handled inconsistently and principles 3, 6, 7 and 8 do not have a definition. This was raised with MTPC as part of the examiner's clarifying questions (see Appendix 1) and MTPC has provided suggested inserts to complete the text. This additional text should be added to the Plan.
- 6.53. In respect of Policy MT05 itself, the purpose is to ensure that development contributes in a positive way to the quality of the built environment and the landscape setting to each character area. Inasmuch as the NPPF at section 12 sets out similar policy objectives regarding quality of design, the Policy has regard to national policy.
- 6.54. In respect of the relevant strategic policies, CLDF Core Strategy Policy SD1 seeks to ensure that development sustains the character and vitality of small towns, villages and the countryside, and development will be expected to achieve a high standard of design, sustainability and compatibility with local character. Policy UR2 on built design and character seeks to secure high quality and inclusive design in all developments to make better places for both residents and visitors. In addition, the new CLP Part 1 at Policy SP7 which sets out place shaping principles is also

reflected by Policy MT05. Finally, CLDF Development Policies Policy DP1 requires development to respect and enhance the character of the site, its context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, proportions, materials, townscape and/or landscape setting, and detailed design features. Policy MT05 generally conforms to these strategic policies and develops design guidance to be applied locally. Moreover, the outcome of applying the Policy will secure more sustainable development. As such the principle of the Policy meets Basic Conditions a), d) and e).

- 6.55. The PPG in respect of neighbourhood plans requires that policies are clear and unambiguous and with Policy MT05, as with other policies, I have a slight concern in this regard. The specific guidelines for the specific character areas are not set out consistently. Most are set out as instructions, but some are simply set out as statements from which it is not necessarily clear what a developer should do. The last bullet in the section relating to Little Tey is a case in point where it is entirely unclear what a developer is to do. I therefore recommend that each guideline can be read as an instruction.
- 6.56. The Essex Bridleways Association, in its Regulation 16 representation, again requests that Policy MT05 should include an aspiration to connect development to the PROW network. However, this is addressed in my recommended modifications to policies above and, in any event, the general point regarding connectivity is already covered in respect of a number of the character areas in policy MT05. There is no need for additional referencing in Policy MT05.

<b>Recommendation 9</b>	
<b>9A</b>	<p><b>Insert the following definitions (or similar) to Principles 3, 6, 7 and 8 on pages 55 and 56 of the Plan.</b></p> <p><b>3. Being fit for purpose, accommodate uses well</b></p> <p><b>“(A place that works well for the people who live or work there, who use it and who pass by.)”</b></p> <p><b>6. An appealing place that is easy to understand</b></p> <p><b>“(A place where functional and aesthetic characteristics are closely related to one another).”</b></p> <p><b>7. A place with a mix of uses and activities</b></p> <p><b>“(A place where the activities, occupations, businesses or operations carried out in building or on a tract of land determine the life of the place)”</b></p> <p><b>8. Being efficient in how land and other resources are used.</b></p> <p><b>“(A place where there is efficient use of resources including space, energy, materials and water and where development does not</b></p>

	<b>waste land, water or energy, or create unnecessary requirements for people to travel.)”</b>
<b>9B</b>	<b>Rephrase each of the guidelines in the character area sections in Policy MT05 in the form of a clear instruction e.g. For Little Tey:</b>  <b>1st Bullet - “Protect the tranquil and rural environment along Church Lane.” ...</b>  <b>4<sup>th</sup> Bullet - “Mitigate the residential amenity and traffic management issues as a result of the busy and congested A120 as the principal access corridor.” (or similar)</b>

## Policy MT06 - Landscape character, views and setting

- 6.57. Policy MT06 seeks to maintain and enhance landscape character and local views that are important to the community and that contribute to the character and setting of Marks Tey and Little Tey. Inasmuch as the NPPF at paragraph 174 states that planning policies should protect and enhance valued landscapes and recognise the intrinsic character and beauty of the countryside, Policy MT06 has regard to national policy. The CLDF Core Strategy at Policy ENV1 seeks to ensure that development protects the environment, including landscape character and Policy DP1 of the CLDF Development Policies similarly requires development to respect landscape setting. In seeking to protect local landscape character and local views of importance, the MTNP is in general conformity with the Core Strategy and Development Policies and adds local detail to the strategic policies.
- 6.58. Notwithstanding the fact that the principle of Policy MT06 is acceptable, the Policy does not comply with either the requirement that it should be clear and unambiguous or the requirement that it should be properly evidenced. It is by no means clear what aspects of the named views in Policy MT06 are important and should be protected and it is therefore very difficult for a developer to determine how to design a proposal.
- 6.59. Whilst the MTNP identifies on a map base the local views and names and locates them in Table 6.9, there is no description as to why they are important or what the characteristic is that is important to retain. The Policy, whilst it is referenced back to the maps, is not referenced back to Table 6.9. It is therefore difficult for a decision maker to operate the policy and protect the views. As such, the policy is in conflict with Basic Condition a). I have given the Parish Council the opportunity to provide this justification and amend Table 6.9 in order that the policy can be implemented. Additional justification has been provided in response to Examiner’s Question 3 and it is attached at Appendix 1 to this report. With this, I am satisfied that the protection of the views is appropriately evidenced and justified.



<b>Recommendation 10</b>	
<b>10A</b>	<b>Incorporate the additional justification in relation to the local views provided by MTPC in response to Examiner’s Question 3 (set out at Appendix 1 below) into Table 6.9 of the MTNP to ensure that each view is named, located, described and its significance set out.</b>
<b>10B</b>	<b>Amend the bracketed text in the 2<sup>nd</sup> bullet in Policy MT06 to read: “(described in Table 6.9 and identified in Maps 4.3 to 4.7)”.</b>

- 6.60. With this modification the Policy would meet Basic Condition a). Ensuring that development maintains and enhances landscape character and local views will contribute to sustainable development and thus Basic Condition d) is also met.

### **Policy MT07 - Non-designated heritage assets**

- 6.61. The Neighbourhood Plan, at section 6.9, considers the matter of conserving and enhancing heritage assets. Given that the NPPF and local development plan policies provide effective control in respect of designated assets, the Plan does not seek to replicate this but does acknowledge that there are locally important non-designated heritage assets (NDHA) in the Parish that should be afforded protection. Policy MT07 sets out the NDHA identified through the Marks Tey Character Assessment. The identification of local heritage assets is advantageous and has regard to the NPPF at section 16 giving local property owners and developers (who are often oblivious to any heritage value) advance notice of the significance of the assets and assisting decision makers to understand impacts of development on the assets.
- 6.62. The supporting text in the MTNP implies that these assets had not been identified or included in CBC’s List of Local Heritage Assets. However, CBC has confirmed that 10 of the 11 assets listed in Policy MT07 (excluding Hammer Farm House) were incorporated into the Local List in August 2020. As a result, the supporting text at paragraphs 6.9.3 and 6.9.5 needs to be updated.
- 6.63. Notwithstanding the fact that the Local List includes some detail, I am not satisfied that the Policy itself as worded is currently workable. This is because a developer or property owner with proposals affecting a locally important building or structure would not be able to assess any development proposal in the light of a building’s significance, as there is no evidence within the Plan itself about what is significant about the assets. This is only available in the Marks Tey Character Assessment and is not easily accessible within that or from the Local List. The Plan itself does not make it clear what the significance or importance of the buildings is or why they have been selected for the local heritage list. The impact of development on them cannot therefore be adequately assessed.
- 6.64. Concerns have also been raised by Andrew Martin Planning in their Regulation 16 representation that the Policy leaves it open for NDHA to be added over time which would be inappropriate. I accept that the existing identified assets have been



identified and researched through the plan preparation process and have been subject to consultation and that ideally additions/changes should be brought forward through any future review of the MTNP. However, given the thoroughness of the Marks Tey Character Assessment it is unlikely that any significant NDHA would have been missed. Moreover, as the Local Listing process allows candidate NDHA meeting the adopted criteria to be brought forward and ratified by CBC Planning Committee from time to time, it would be confusing and illogical for the protection implicit in Policy MT07 not to also apply to these.

- 6.65. To resolve the issue regarding evidence, and as a supplementary to the examiner's clarifying questions and requests, the Parish Council were asked to produce additional supporting evidence to the policy in the form of an appendix including an identifying photograph, name, location, description, and significance for each of the 11 NDHA.
- 6.66. In response, MTPC has submitted text for an appendix setting out the requested information drawn from the Marks Tey Character Assessment. I have reviewed the information and am satisfied that it meets the requirements of presenting the necessary information in a clear and unambiguous manner. This information is set out at Appendix 2 to this report and should be incorporated as an appendix into the modified MTNP going forward to the referendum. As a consequence of this, Policy MT07 needs to be related to the appendix where the information regarding the NDHA is located.
- 6.67. I recommend the following modifications to Policy and text.

<b>Recommendation 11</b>	
<b>11A</b>	<b>Provide an appendix to the MTNP setting out the information at Appendix 2 below identifying and defining the significance of the non-designated heritage assets listed in Policy MT07.</b>
<b>11B</b>	<b>Insert into the introductory line to Policy MT07 between the words 'assets' and 'have' the words:</b>  <b>"as described in Appendix X to the Plan..."</b>
<b>11C</b>	<b>Revise the supporting text at paragraph 6.9.3 to delete the last sentence of the paragraph.</b>  <b>In paragraph 6.9.5 delete the first two sentences.</b>  <b>Add at the end of the paragraph: "It is intended that the list of NDHA in Marks Tey will be reviewed as necessary as part of any future review of the MTNP."</b>

- 6.68. Policy MT07 as modified would be in general conformity with CLDF Core Strategy Policy UR2, which seeks to safeguard the historic environment and also with Policy DP14 of the CLDF Development Policies, which looks to protect and enhance undesignated assets amongst other things. The protection of NDHA and their contribution to the character of the area will contribute to sustainable outcomes in the Parish and therefore Basic Conditions d) and e) are also met.

### Policy MT08 - Rural lanes

- 6.69. A number of rural lanes remain in Marks Tey Parish and are important in helping maintain connectivity where the strategic transport network has made travel within the Parish particularly difficult for residents. As well as assisting connectivity, the lanes have an important amenity and biodiversity function and accordingly Policy MT08 seeks to protect and enhance them. As such the Policy has regard to the NPPF in section 8 promoting healthy and safe communities, in section 15 protecting the natural environment and biodiversity and in section 9 promoting sustainable transport. The policy is in general conformity with CLDF Core Strategy Policies PR2 and TA1 promoting people-friendly streets and accessibility respectively. It also conforms in particular with Policy DP21 of the CLDF Development Policies which looks to protect rural lanes from development where it would adversely affect their physical appearance or would give rise to a material increase in the amount of traffic using them. Although the Development Policies Proposals Map does not identify any protected lanes in Marks Tey, it is open to neighbourhood plans to add local detail to the strategic policy: indeed that is one of their purposes. Therefore, the identification of rural lanes for protection within the Parish is not contrary to the Development Policies.
- 6.70. Although the principle of the Policy meets Basic Conditions a) and e) and, in helping to promote sustainable lifestyles will also meet Basic Condition d), Policy MT08 in one respect is not clear and unambiguous. The last paragraph of the policy is non-specific in that it uses the phrase 'where applicable'. It will by no means be clear either to a developer or to a decision maker where it would be applicable, and this must be clarified.
- 6.71. Feering Parish Council, in its Regulation 16 representation, makes the point that it would like to see the list of lanes extended to include Elm Lane, given its amenity and biodiversity value. Having viewed the lane on site, I agree that it has some similar characteristics to a number of the other lanes listed; although it plays a role as more of a through-route to Feering than is the case with some of the other lanes. Moreover, only a small part of it is within the neighbourhood area. Its inclusion is primarily a local decision, and whether it is included or excluded would not raise issues in respect of the Basic Conditions. I therefore make no formal recommendation.
- 6.72. Essex Bridleways Association, in its Regulation 16 representation, makes a similar point as before that the rural lanes do not just play a role in assisting pedestrian access but assist connectivity for all vulnerable road users including equestrians and

cyclists and not simply pedestrians. The aspiration to protect rural lanes for all vulnerable users and non-motorised modes of transport is in line with policy objectives and, in the interests of inclusivity and Basic Condition f) and the European Human Rights Directive, I agree there is a need for modification.

<b>Recommendation 12</b>	
<b>12A</b>	<b>In Policy MT08 revise the start of the last paragraph to read: “Where development is proposed adjacent or close to these rural lanes it is expected that all opportunities will be taken to increase their amenity ...”</b>
<b>12B</b>	<b>In Policy MT08 last paragraph delete the words ‘pedestrian access’ and replace with “access for non-motorised modes of transport”</b>
<b>12C</b>	<b>In paragraph 6.10.1 of the supporting text to Policy MT08 line 4 delete the words ‘rural walking routes’ and replace with the words: “routes for non-motorised modes of transport”</b>

6.73. With these modifications in place Policy MT08 will meet the Basic Conditions.

## **A Stronger Community**

### **Policy MT09 - Local green spaces**

6.74. The MTNP at Policy MT09 takes up the opportunity offered in the NPPF to identify and designate Local Green Space (LGS) in accordance with NPPF paragraphs 101-103. Such spaces can only be designated at the time the Neighbourhood Plan is being prepared, and development within them will be treated in the same way as development within the Green Belt i.e. only permitted where very special circumstances apply.

6.75. The four sites considered and proposed to be designated as LGS (two of which are interlinked) are mapped in Maps 6.3-6.5. Although the supporting text implies that the LGS have been assessed against the tests in the NPPF, no analysis is provided to demonstrate this. The tests are:

- Is the green space in reasonably close proximity to the community it serves?
- Is the green space demonstrably special to the local community and of local significance?
- Is the green space local in character and not an extensive tract of land?

6.76. I took the opportunity to assess for myself the four sites proposed for designation as LGS and agree they could meet the tests, but I am not entirely satisfied that the MTNP adequately sets out how the four are ‘demonstrably special’ to the

community. In line with the requirement of the PPG that policies should be adequately evidenced, there should be an assessment provided as to what is demonstrably special about the LGS.

- 6.77. Whilst the principle of designation would have regard to the NPPF, in one particular respect the policy does not meet Basic Condition a). The purpose of identifying LGS is to protect the spaces for their special role. It is not for the neighbourhood plan to rehearse possible ‘very special circumstances’ in which they could be developed. Moreover, LGS are protected as important for where they are; it is not the intention of the NPPF that development could be justified on the grounds that provision could be better made elsewhere. This particular scenario is provided for under NPPF paragraph 99 and the general protection of open space. If the view is that the village hall site and recreation ground really could be relocated, it is not a site that should be protected by the LGS designation.
- 6.78. I assume, particularly given the role the recreation ground is given in the following section of the Plan and at Map 6.6, that it is not the intention that it could or should be relocated and therefore the last paragraph of Policy MT08 needs to be removed.
- 6.79. There is a further minor matter where the policy is not clear and that is in respect of the first line. For the avoidance of doubt, the maps identifying the LGS should be referenced in the policy itself.
- 6.80. I recommend the following modifications to resolve these points.

<b>Recommendation 13</b>	
<b>13A</b>	<b>In Policy MT09 Line 1 delete the words ‘also shown on the maps below’ and replace with the words:  “identified on Maps 6.3-6.5”.</b>
<b>13B</b>	<b>In the last paragraph of the policy delete everything after the first sentence.</b>
<b>13C</b>	<b>In paragraph 6.12.2 in respect of each site insert the outcome of the assessment against the NPPF test and in particular how the sites are ‘demonstrably special’ to the local community.</b>

- 6.81. With these modifications, Policy MT09 would meet Basic Condition a). It is in general conformity with CLDF Core Strategy Policy ENV1, New CLP Section 1 Policy SP7 and CLDF Development Policies DP15, all of which seek to protect green infrastructure and open space; although none of the strategic policies directly relate to the particularities of LGS. The policy will also help to maintain a sustainable settlement and quality of life in the community and therefore Basic Conditions d) and e) will be met.

## Policy MT10 - Protecting and enhancing the quality and quantity of our green infrastructure

- 6.82. This section of the Plan is aimed at requiring new developments to maintain and enhance the green infrastructure network of Marks Tey. As such, Policy MT10 has regard to section 8 of the NPPF which, at paragraph 92, requires planning policies to provide safe and accessible green infrastructure because of the benefits this brings for local health and wellbeing. The principle of the Policy therefore has regard to this part of the NPPF.
- 6.83. Policy PR1 of the CLDF Core Strategy seeks to secure a network of open space and Policy ENV1 seeks to protect and enhance the green infrastructure network. Policy DP15 of the CLDF Development Policies looks to ensure development does not adversely affect green infrastructure networks. Policy MT10 is in general conformity with these and adds local policy value by setting out the requirements of development locally to further these strategic objectives. A strong green infrastructure network will contribute significantly to achieving more sustainable development and therefore the principle of the Policy meets Basic Conditions a), d) and e).
- 6.84. There are, however, a couple of minor matters where the Policy is not completely clear and unambiguous. The introduction to the first set of bullets should not introduce different terminology by introducing 'open space' when the Policy is set up to deal with 'green infrastructure'. The first set of bullets in the Policy is clearly to deal with new green infrastructure whilst the second set is presumably to enhance the quality of existing green infrastructure. This should be made clear in the introductory line to the second set of bullets. In addition, Braintree District Council in its Regulation 16 representation suggests that, for clarity, the specific green infrastructure corridors proposed should be described more fully in bullet iii and in respect of bullets iii and iv cross referenced to the maps at 6.6 and 6.7. These are sensible clarifying additions to the Policy and should be incorporated.
- 6.85. As with a number of policies, the Essex Bridleway Association, in their Regulation 16 representation, takes issue with Policy MT10 and the fact that it is too focused on pedestrian access. The Association argues that new routes should be to bridleway standard. Whilst I agree that the reference in bullet ii to new public footpaths could be expressed more generally, I do not accept that in all cases bridleway provision would be necessary or appropriate. This is because the requirement includes the provision of footpaths within new housing areas and, in the case of bullet vii, specific links from residential areas to the recreation ground where provision to bridleway standard would not be necessary. I am satisfied that Policy MT10 does not preclude provision of bridleways and multi-modal routes where appropriate.
- 6.86. As with Map 6.1, Map 6.7 needs to be adjusted to ensure the Roman River corridor proposal does not extend beyond the neighbourhood area boundary otherwise it conflicts with the legal requirement that neighbourhood plans cannot relate to land beyond the neighbourhood area.

6.87. I recommend the following modifications.

<b>Recommendation 14</b>	
<b>14A</b>	<b>In the introductory line to the first set of bullets in Policy MT10 delete the words ‘open space’ and replace with the words “green infrastructure”.</b>
<b>14B</b>	<b>In bullet ii in Policy MT10 remove the words ‘public footpaths’ and replace with the word “routes”.</b>
<b>14C</b>	<b>Add at the end of bullet iii the words: “...incorporating historic landscapes of Long Green and Potts Green as indicated in Map 6.6”.</b>
<b>14D</b>	<b>Extend the area covered by Map 6.6 to ensure it shows the historic landscapes of Long Green and Potts Green.</b>
<b>14E</b>	<b>In bullet iv change the word ‘east’ to “north” and add at end of the bullet the words “as indicted in Map 6.7”.</b>
<b>14F</b>	<b>Amend Map 6.7 to reduce the extent to which the proposed Roman River corridor strays outside the neighbourhood area. Arrow heads could still be used to indicate the corridor continues but these should be tight on the edge of the neighbourhood area.</b>
<b>14G</b>	<b>In the introductory line to the second set of bullets in Policy MT10 add the word “existing” before the words ‘green infrastructure’.</b>

## **A Healthier Environment**

### **Policy MT11 - Protecting and enhancing our natural environment**

- 6.88. Policy MT11 sets out what is expected of development schemes to protect and enhance biodiversity and protect water source protection zones from contamination.
- 6.89. The NPPF at section 15, particularly paragraphs 174 and 179, encourages plans to promote the conservation, restoration and enhancement of priority habitats, to pursue measurable net gains for biodiversity and to prevent development contributing to pollution, which Policy MT11 has had regard to.
- 6.90. Policy ENV1 of the CLDF Core Strategy seeks to protect and enhance the borough’s biodiversity and minimise and mitigate impacts on ground water quality amongst other things. Similarly, Policy SP7 on place shaping in the new CLP Section 1 seeks to protect and enhance biodiversity. Policy DP21 of the CLDF Development Policies sets out the principles to ensure biodiversity is protected. Policy DP21 is specific in its requirements, but the Neighbourhood Plan does not duplicate this policy cover, instead focusing on setting out the sites and areas of habitat that should be protected and setting out how net gain can be achieved. Policy MT11 is therefore



complementary to the strategic policies and in general conformity.

- 6.91. However, the way in which Policy MT11 is expressed is not clear and unambiguous. The second sentence of the Policy appears to imply that all development proposals, regardless of where they are sited in the Parish, must protect or enhance the biodiversity value of the four named sites. This is an unreasonable requirement for, say, a single dwelling which is not located anywhere near one of the four sites. This second sentence needs to be redrafted to apply to development proposals adjacent or in close proximity to these sites.
- 6.92. For a similar reason, the introduction to the second set of bullets should be made more specific to relate to existing features of biodiversity value on site or likely to be affected by the development.
- 6.93. I recommend the following modifications.

<b>Recommendation 15</b>	
<b>15A</b>	<b>Delete the second sentence of Policy MT11 and replace with: “To be supported, development proposals adjacent or in close proximity to the wildlife sites must protect or enhance their biodiversity value.”</b>
<b>15B</b>	<b>In the introductory sentence to the second set of bullets in Policy MT11 add after the word ‘value’ in line 1 the words “on site or likely to be affected by the development... and provide”</b>

- 6.94. With these modifications, Policy MT11 will meet the requirement to be clear and unambiguous and therefore meet Basic Condition a). As above, the modified policy will remain in general conformity with the strategic policies and will contribute to sustainable development by protecting and enhancing biodiversity. Basic Conditions d) and e) will therefore also be met.

## **Policy MT12 - Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)**

- 6.95. Policy MT12 seeks to ensure that any additional dwellings coming forward in Marks Tey meet the requirement of the RAMS and contribute to measures to mitigate the effect of recreational disturbance from new residents on Essex Coastal habitat sites. The principle of the Policy therefore has regard to the NPPF at section 15 and the Habitat Regulations and Habitats Directive, and as such it would meet Basic Conditions a), f) and g).
- 6.96. However, the Policy and text in the submission MTNP was written before the RAMS was adopted in 2020, and in the interim (pending adoption) the Policy required development proposals to be accompanied by a project-level Habitats Regulation Assessment. Now that RAMS has been adopted, the preference of the Local

Planning Authorities is for developers to simply pay developer contributions as set out in the RAMS, Policy SP2 of the new CLP Section 1 and in the supporting Supplementary Planning Document. However, technically, I understand there is still an option for developers to carry out a project-level HRA to demonstrate how impacts will be mitigated. Moreover, Natural England, in its Regulation 16 representation, makes the point that the Policy should refer to avoidance strategies in development such as provision of on-site greenspace and links to footpath networks and not simply depend on mitigation through eg coastal wardening. There is therefore a need for the Policy to be modified both to ensure referencing to the RAMS is up to date and to reflect Natural England's concerns.

- 6.97. In view of the cross boundary integrated approach Essex authorities have adopted on this matter, I asked CBC a supplementary examiner's question set out at Appendix 1. CBC provided a form of words (essentially the first sentence of Policy MT12 along with amended supporting text). I have used this as the basis for my recommendation. However, to cover the point regarding project-level HRA, I have recommended a modification to the second sentence of the Policy.

<b>Recommendation 16</b>	
<b>16A</b>	<p><b>Delete the 2<sup>nd</sup> sentence of Policy MT12. Replace with the following:</b></p> <p><b>“In circumstances where the preferred approach of a developer contribution is not secured, residential development within the zones of influence will need to deliver all necessary measures (including strategic measures) in accordance with a project-level Habitats Regulations Assessment setting out how any recreational disturbance impacts will be avoided and/or mitigated in compliance with the Habitat Regulations and Habitats Directive.”</b></p>
<b>16B</b>	<p><b>Delete paragraphs 6.15.3 and 6.15.4 of the supporting text to Policy MT12 and replace with the following:</b></p> <p><b>“6.15.3 The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) was adopted by the Borough Council in 2019 and a Supplementary Planning Document was adopted in August 2020 and covers the whole area of Marks Tey Parish. The RAMS comprises a package of strategic mitigation measures necessary to avoid the likely significant effects on the Essex Coast from the ‘in-combination’ impacts of residential development that is anticipated across Essex and particularly from recreational disturbance. All new planning consents for housing in the Neighbourhood Area will be required to pay the tariff in line with the RAMS and its supporting Supplementary Planning Document.</b></p> <p><b>6.15.4 Although the preference of the Essex Authorities is for developers to make this financial contribution, the RAMS does allow for developers to instead carry out a project-level HRA and apply recreational disturbance avoidance and mitigation measures directly eg through provision of well-designed open space/green infrastructure. Thus, policy MT12 makes provision for this.</b></p>



<b>Policy Intent</b>
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<b>6.15.5 The intent of Policy MT12 is to ensure that any additional dwellings coming forward in Marks Tey Parish make appropriate provision to avoid and/or mitigate recreational disturbance impacts on habitat sites either through direct financial contributions or exceptionally by direct measures.”</b>
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6.98. With these modifications, Policy MT12 and the supporting text will meet Basic Conditions a), f) and g), as well as reflecting the strategic approach to development within the zones of influence and will contribute to sustainability. Basic Conditions d) and e) would therefore also be met.

## Housing

### Policy MT13 - Housing mix and housing choice

6.99. Policy MT13 looks to secure a mix of housing that reflects the latest evidence in respect of size and tenure needed, as well as provision for self-build and custom-built homes and for accessible and adaptable dwellings.

6.100. The policy has regard to the NPPF objective in section 5 to secure an appropriate mix of housing and housing choice. CLDF Core Strategy Policy H3 on housing diversity seeks a mix of housing, including provision of affordable housing and for those with special needs. Policy MT13 is in general conformity with this strategic policy and whilst it seeks adaptable and accessible housing to the Building Regulation M4(2) standard this is expressed flexibly in the Policy where it is encouraged rather than required. Ensuring a mix of housing provision will help achieve a sustainable community and therefore in principle the Policy meets Basic Conditions a), d) and e).

6.101. There is, however, a minor issue with the Policy in terms of it being clear and unambiguous. The second paragraph states that over-concentration of particular types of housing should be avoided in the interests of thriving and **safe** neighbourhoods. It is not clear what is meant by this and it seemed an odd choice of word in the context, seeming to imply, in a pejorative way, that an over-concentration of a housing type could result in an unsafe environment prone to civil unrest etc. I therefore asked MTPC to clarify the intention as part of the examiner's questions. The reply is set out in Appendix 1 to this report and MTPC have confirmed that 'thriving and viable neighbourhoods' would more accurately reflect the intention.

6.102. Boyer Planning and Andrew Martin Planning, in their Regulation 16 representations, whilst accepting the need for a housing mix, note that needs will change over time. The Strategic Housing Market Assessment 2015 is now dated and both respondents request that Policy MT13 is expressed with sufficient flexibility. I accept that much of the evidence base dates from 2017 or earlier. However, the first paragraph of Policy

MT13 already states that the housing mix should reflect the latest evidence on existing local needs. There is therefore sufficient flexibility in the Policy, and I see no need to modify it in this respect.

<b>Recommendation 17</b>	
<b>17A</b>	<b>Delete the word ‘safe’ from the second paragraph line 1 of Policy MT13 and replace with the word “viable”.</b>

6.103. With this modification in place, Policy MT13 would comply with the need for policies to be expressed in a clear and unambiguous way and Basic Condition a) would be met.

## **Business and Employment**

6.104. This section of the Plan sets out two policies in respect of business and employment.

6.105. Barton Willmore, in its Regulation 16 representation, is concerned at the absence of any policy which encourages new employment opportunities in Marks Tey. However, this is not a justifiable criticism. Policy MT14 encourages business development in the context of the London Road Centre and policy MT15 proposes an area of land at the former Anderson site and former Bypass Nurseries site for business and employment purposes. This allows sufficient provision for possible future employment-related development.

### **Policy MT14 - London Road Centre**

6.106. Policy MT14 seeks to encourage new uses that will maintain and enhance the London Road Centre whilst seeking its enhancement as the main commercial/business centre in the neighbourhood area. As such, the Policy has regard to sections 6 and 8 of the NPPF encouraging business development (particularly paragraphs 84 and 85 - Supporting a Rural Economy) and promoting community facilities and services respectively.

6.107. The London Road Parade is identified and protected as a neighbourhood centre under Policy DP7 of the CLDF Development Policies in which the intention is to protect retail services. Although the London Road Centre as defined in the MTNP extends further east and west of the London Road Parade neighbourhood centre as defined in the Development Policies, I am satisfied that the variance does not amount to a general conformity issue. In the main this is because, as made clear in the supporting text, the introduction of Use Class E (the commercial and business class) now incorporates a wider range of uses than the previous Use Class A. The incidence of such uses in the London Road area of Marks Tey extends further both east and west than the parade as defined in the Development Policies, and it is appropriate that this more extensive area is included in the Neighbourhood Plan Policy. In any event, Policy MT14 is not at odds with the objective of Policy DP7, nor

does it undermine its intent; rather it reflects the local circumstances and needs more precisely.

- 6.108. In view of what is acknowledged by MTPC to be an area of tension between the Neighbourhood Plan and the Development Plan, as part of the examiner's clarifying questions, I sought clarification from CBC that it accepted that the designation of the extended area did not raise issues of general conformity. The Council's reply is set out in Appendix 1. It accepts the rationale above for a more extensive area and accepts that this does not put the MTNP into a position of conflict. It is suggested however, that the distinction could be drawn by retitling the London Road Centre for example the "London Road Neighbourhood Centre". I would support such a change, but as it is not necessary in order to meet the Basic Conditions I make no formal recommendation.
- 6.109. Boyer Planning, in its Regulation 16 representation, are concerned that the extent of the London Road Centre also extends beyond that proposed in the emerging CLP Section 2 and includes part of the Livelands area belonging to their client. It is requested that this is removed and the MTNP designation reflect that of the emerging plan. However, the emerging CLP makes it clear, at Policy SG8, that the preparation of neighbourhood plans is supported to help determine development and change at a local level. Provided therefore that there is evidence to support a wider area, there will be no Basic Conditions issue.
- 6.110. The proposed extent of the London Road Centre is warranted by the fact that the MTNP is seeking to encourage all commercial and business use falling within Class E and compatible with residential use in the vicinity. Having assessed the area on site, I am satisfied that the eastern extensions north and south of London Road are justified. With respect to the western extension, which Boyer Planning object to, I accept that, because the focus of Policy MT14 is more about the frontage and environment of London Road and less about the backland such as the section of Livelands which has been included, there may be a case to reduce the western extent of the London Road Centre. However, the section of the Livelands site included is currently in the type of use specifically envisaged in the Policy and therefore its inclusion is supported by the evidence. I note the respondent's aspiration to see the Livelands site developed for housing which, as set out elsewhere in this report, may be admissible in the future under Policy MT04. However, I am satisfied that the terms of Policy MT14 would not necessarily preclude a mixed-use development of the part of the Livelands site within the London Road Centre boundary, provided it contributed to achieving the Policy MT14 objectives and, indeed, CBC has confirmed this would be the case. I find no compelling reason, therefore, in terms of the Basic Conditions to recommend that the MT14 designation is reduced in extent.

## Policy MT15 - Anderson employment site and former Bypass Nurseries site

- 6.111. Policy MT15 allocates the former Anderson site between the railway and the A12 for employment uses and also safeguards the former Bypass Nurseries site for employment use. The Anderson site appears to have been redeveloped/refurbished in part over recent years to provide modern industrial and office floorspace and a revised road infrastructure constructed for the site.
- 6.112. The site is designated as a local employment zone in the adopted CLDF Development Policies and Site Allocations documents under Policy DP5. However, the allocation in the CLDF extends eastwards to include the parcel of land between the former Andersons Yard and the Recreation Ground, whereas the MTNP allocation is restricted to the former Andersons Yard site. This variance is objected to by Strutt and Parker in its Regulation 16 representation on behalf of their clients who purchased the extension site on the basis of the existing allocation in the adopted CLDF. Strutt and Parker make the point that the MTNP should be in general conformity with the adopted Development Plan and therefore request that the whole site is allocated in the MTNP. The matter is further confused by the fact that the emerging CLP Section 2 allocates only the former Anderson site as a local employment zone. Strutt and Parker, on behalf of their clients, have objected to this allocation in the emerging plan and, as a result, the modifications to the emerging CLP now at examination propose that the full site is included in the new CLP Section 2. In view of the inconsistency, I asked CBC, as part of the examiner's clarifying questions, to confirm its view as to whether the MTNP allocation should be changed to align with the larger site in the interests of general conformity. CBC's reply is set out in Appendix 1 below and it has confirmed that, in view of the fact that both the adopted and emerging plans allocate, or are likely to allocate, the larger site, the MTNP should be brought into alignment. Accordingly, the extended site should be included in the MTNP. I am aware that consultation on the Main Modifications to the emerging CLP Section 2 is currently underway and that a final decision to extend the site may be influenced by the outcome of that consultation.
- 6.113. Given the other aspirations included in Policy MT15, in particular seeking the pedestrian/cycleway connection east from Dobbies Lane and the willingness to accept some residential development to assist viability, the incorporation of the extended site would actually facilitate the Policy objectives. I am satisfied that the proposed change does not materially change the intent of Policy MT15 (which remains to provide for employment-generating development in the Parish) and only the extent of the allocation is changed to align with the adopted and emerging development plans. As such, I am satisfied that there is no need for re-consultation with the community.
- 6.114. The matter of general conformity being resolved in this way and as the modified Policy MT15 will have regard to national policy to encourage economic growth and given that the provision of employment opportunities locally will promote a more sustainable community, the policy meets the Basic Conditions.

<b>Recommendation 18</b>	
<b>18A</b>	<b>Extend the Policy MT15 Employment Zone identified in Map 6.10 north-eastwards to include the land between the Anderson site and the Recreation Ground in accordance with the adopted and emerging Development Plan allocations. <i>(Note this recommendation may be influenced by the outcome of the consultation on Main Modifications to the emerging CLP Section 2 ongoing at the time of writing this report.)</i></b>
<b>18B</b>	<b>Make a consequential change to the supporting text at paragraph 6.20.3 to delete the second sentence in its entirety.</b>
<b>18C</b>	<b>Update or delete the text at paragraph 6.20.6 to reflect the fact that recent redevelopment/refurbishment has occurred at the Anderson site.</b>

## 7. Other Matters

### Other housing proposals put forward in Regulation 16 representations

7.1. A number of representations at the Regulation 16 stage (Edward Gittens Associates, Andrew Martin Planning, Boyer Planning, CDS Planning and Dandara Strategic Land Management) raise concerns that in the light of the CBBGC proposal in Marks Tey Parish being withdrawn from the new CLP Section 1 and, given there is now certainty over the strategic transport corridor improvements, additional housing land should be allocated through the MTNP. They propose that land in the Parish should be brought forward now at:

- The Car Boot Field North of London Road
- Land South of Marks Tey around Marks Tey Hall
- Livelihoods - south of London Road
- Land to the north of Coggeshall Road adjacent Motts Lane
- Land to the north of Coggeshall Road Long Green.

7.2. In view of these representations seeking additional housing supply through the MTNP, and as part of the examiner's clarifying questions, I asked CBC to confirm whether there was any need for specific allocations in the Neighbourhood Plan and whether CBC was on track to deliver housing to target. The Council's reply at Appendix 1 below confirms that CBC's housing requirement up to 2033 is not dependent on site allocations in Marks Tey at this time. Furthermore, it is clear from the responses from both CBC and the Parish that whilst there is some emerging clarity about proposals in respect of the A12 there is still no commitment or clarity regarding improvements to the A120.

7.3. There is not, therefore, a need at the present time for additional allocations of land in Marks Tey, nor would it be advisable in the light of the continued lack of certainty regarding the strategic transport improvements. 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 and in particular Marks Tey to Little Tey).
- Third, it would be procedurally impossible at this stage to recommend the allocation of additional sites without the current MTNP being withdrawn and revised proposals, as well as a Strategic Environmental Assessment Report and Appropriate Assessment, being taken back through pre-submission consultation. As there is no other reason to warrant this course of action it would be entirely unjustified.
- Fourth, in any event, if there proved to be evidence that, exceptionally, additional housing was required, Policy MT04 allows for the possibility of development taking place outside settlement boundaries provided all the criteria set out in the Policy can be met.

7.4. Although all five representations argue that development of these sites could assist in the implementation of the MTNP's proposals and policies (for example in respect of improved connectivity, design and landscape, green infrastructure, open space provision and the future of Marks Tey Hall, etc.), which I acknowledge could be the case, this would not of itself warrant allocating the sites now in the Plan. This is primarily because they could, as stated, come forward under Policy MT04. Moreover, MTPC has made it clear in the Plan that they will review the MTNP once there is greater certainty over the strategic transport works and following adoption of the new CLP. Accordingly, for the reasons stated I do not recommend any change to the MTNP now in response to these representations requesting the allocation of additional sites.

## Typographical and formatting corrections

7.5. There are a number of typographical/grammatical errors in the Plan which ought to be corrected. In addition to proposing modifications to ensure the Plan meets the Basic Conditions the only other area of amendment that is open to me as the examiner is to correct such errors. I have identified these in Appendix 3, and, in

modifying the Plan as set out above and finalising it for the referendum, these typographical amendments should be made.

<b>Recommendation 19</b>	
<b>19</b>	<b>Make typographical and grammatical corrections as set out in Appendix 3 at the end of this report.</b>

## **8. Referendum**

- 8.1. Subject to the recommended modifications set out above being completed, it is appropriate that the Marks Tey Neighbourhood Plan should proceed to a referendum.
- 8.2. I am required to consider whether the Referendum Area should be synonymous with the Marks Tey Neighbourhood Area or extended beyond it.
- 8.3. The neighbourhood area covers the administrative area of Marks Tey Parish. The MTNP proposals themselves will not affect surrounding areas to any degree and therefore I do not consider that extension of the area would be warranted.
- 8.4. Accordingly, I consider that it is unnecessary to recommend any other Referendum Area than the neighbourhood area and no representations have been submitted seeking an alternative approach.

<b>Recommendation 20</b>	
<b>20</b>	<b>I recommend to Colchester Borough Council that the Marks Tey Neighbourhood Plan, modified as specified above, should proceed to a referendum based on the Marks Tey Neighbourhood Area as approved by the Borough Council on 16 September 2015.</b>

Peter D Biggers MRTPI AIHBC - Independent Examiner – 29 October 2021



## Appendix 1 - Examiner's Clarifying Questions and Information Requests put to Marks Tey Parish Council and Colchester Borough Council

### Questions and Information Requests to Parish Council (August 2021)

**Question 1:** In Policy MT02 para 2 the intention of the bracketed section of the clause is not clear. What is meant to be the intent here?

#### Marks Tey PC response:

**1.1** For very small proposals such as infill schemes, pedestrian and cycle access may already be provided as part of existing street infrastructure. The text is intended to refer to such scenarios.

**Question 2:** Is the reference to the Local Plan in paragraph 4 of Policy MT04 (starting 'development proposals in Marks Tey Parish coming forward...') intended to mean both the adopted and emerging Local Plan?

#### Marks Tey PC response:

**2.1** Yes.

**Question 3:** In Policy MT06 and Table 6.9, for the policy to operate correctly the table should include straplines for each view indicating what is important – what is the element to be respected?

#### Marks Tey PC response:

**3.1** The views are mapped on Maps 4.3, 4.4, 4.5, 4.6 and 4.7. Proposed straplines for each view indicating what is important is provided in red font below. Photographs of the views are provided in Appendix G to the Character Assessment. These could be appended to the Neighbourhood Plan?

**3.2**

**Table 6.9 - Viewpoints identified in Marks Tey Character Assessment and West Colchester Growth Option Environment Audit, 2015**

<b>Locally Important Views</b>	<b>Viewpoint in the West Colchester Growth Area Option Environmental Audit 2015</b>
<b>View 1a) – Long Green</b>  (This is a locally valued view shown on Map 4.4 View from the railway line pedestrian bridge looking out towards Long Green. Key contributing features to sense of place and to be respected are:	Viewpoints 16a and 16b



<b>Locally Important Views</b>	<b>Viewpoint in the West Colchester Growth Area Option Environmental Audit 2015</b>
<p>a) the site of the historic village green at Long Green. This is now listed as a monument and connects the listed buildings of “The Green” and “Samsons Cottage” and</p> <p>b) the locally valued landscape feature of Granger’s Lane (a tree and hedgerow-lined ancient lane and (since April 2021) also a public right of way. <del>(a historic site of the village green)</del></p> <p><b>View 1b)</b> – looking south of railway line. This is a locally valued view shown on Map 4.5. A key contributing feature to sense of place and to be respected is the view of the Fields looking towards Potts Green &amp; Easthorpe. These fields were once part of an area that was classed as the seed producing capital of the world.</p> <p>Resident quote during consultation work: <i>“A typical Essex landscape. Brilliant area for both train spotting and dog walking.”</i></p>	
<p><b>View 2</b> – Wilsons Lane - footpath to Elm Lane (View from Wilsons Lane looking out over the footpath towards Elm Lane)</p> <p>This is a locally valued landscape view shown on map.</p> <p>4.4. The view is enjoyed from the public footpath across the fields from Wilsons Lane towards Elm Lane. Key contributing features to sense of place and to be respected are the open space and sky, alongside the hedges which line the fields which are all clearly marked on the 1843 Tithe Map.</p> <p>Resident quote during consultation work: <i>“We have always appreciated the view, the open space and sky. This is a very popular place.”</i></p>	Viewpoint 15
<b>Locally Important Views</b>	<b>Viewpoint in the West Colchester Growth Area Option Environmental Audit 2015</b>

<p><b>View 3a)– Little Tey</b></p> <p>A wide landscape view looking north, east and west from Church Lane <del>the northern point of Little Tey</del></p> <p>This is a locally valued landscape view shown on Map 4.3. The viewpoint is along Church Lane close to the car park (a little further north from View 3b (below)). This is a landscape view looking westwards and eastwards. The key contributing feature to sense of place and to be respected is the vast open countryside, representing Little Tey’s rural background.</p>	<p>View 10 is view from Little Tey looking east towards open countryside</p>
<p><b>View 3b) – Little Tey towards St. James the Less Church</b></p> <p>A view taken on Church Lane looking towards the Grade 4I listed church</p> <p>This is a locally valued view towards an important heritage asset in the parish shown on Map 4.3. The key contributing features to sense of place and to be respected is the view of the Grade 1 listed St. James the Less Church, together with the characterful lane, the pond and trees which are all part of the setting of this important heritage asset. Resident quote during consultation work: <i>“This has been the focus of village life for centuries. A village view of a lovely historic church”</i></p>	
<p><b>View 4 – Motts Lane bridleway</b></p> <p>A wide landscape view looking north, east and west from Mott’s Lane Bridleway</p> <p>This is a locally valued view across open landscape and also encompassing heritage assets. The view is shown on Map 4.4. Key contributing features to sense of place and to be respected are</p> <ul style="list-style-type: none"> <li>a) the Motts Lane bridleway itself</li> <li>b) views across the fields to a small copse which are enjoyed from the bridleway.</li> <li>c) views towards the three Tey Churches (Grade I listed St. James the Less, Grade I listed St Andrews Church and the Grade I listed St. Barnabas Church</li> </ul>	<p>Not assessed</p> <p>Resident quote during consultation work: <i>“The three Tey churches viewed from one spot. Priceless.”</i></p>
<p><b>Locally Important Views</b></p>	<p><b>Viewpoint in the West Colchester Growth Area Option Environmental Audit 2015</b></p>

<p><b>View 5</b> – St. Andrews Church from the A120 Coggeshall Road</p> <p>From Ashbury Drive roundabout on A120 looking north towards Aldham and towards the Grade 4-IIisted church</p>	<p>Views 12, 13 and 14 look at views northwards from Coggeshall Road where view 14 matches as the view towards St Andrews Church</p>
<p>This is a locally valued view towards open landscape and towards a key heritage asset, the Grade I listed St Andrews Church. Key contributing features to sense of place and to be respected are:</p> <ul style="list-style-type: none"> <li>a) the rolling countryside of Aldham,</li> <li>b) the Grade I listed St. Andrew's Church Marks Tey.</li> <li>c) the view of the Site of Special Scientific Interest (SSSI) at the brickpit which is described as a unique site in the UK and one of 'World Heritage' importance.</li> </ul> <p>Resident quote during consultation work: <i>"Probably the most unspoilt and uplifting view in Marks Tey. It's an open view and probably the only one everyone can enjoy".</i></p>	
<p><b>Locally Important Views</b></p>	<p><b>Viewpoint in the West Colchester Growth Area Option Environmental Audit 2015</b></p>

<p><b>View 6a</b> –St. Andrews Church from road bridge</p> <p>This view is enjoyed from the road bridge that crosses over the railway line looking north towards the Grade I listed church. It is also enjoyed from trains pulling out of the station, just before going under the A120 road bridge.</p> <p>This is a locally valued view towards an important heritage asset in the parish, the Grade I listed St. Andrew's Church</p> <p>Key contributing features to sense of place and to be respected are the:</p> <ul style="list-style-type: none"> <li>a) Grade I listed St Andrews Church in the foreground</li> <li>b) the open rural landscape against which the church is framed and</li> <li>c) the rolling countryside of Aldham in the background Marks Tey.</li> </ul> <p>Resident quote during consultation: <i>"Beautiful view of the church with distant views of countryside &amp; farming activity."</i></p>	<p>Not assessed</p>
<p><b>View 7</b> – Aldham</p> <p>This view is enjoyed from the railway station footbridge looking north towards Aldham</p>	<p>Viewpoint 9</p>
<p>This is a locally valued landscape view shown on Map 4.6. Key contributing features to sense of place and therefore to be respected are:</p> <ul style="list-style-type: none"> <li>a) the view northward to the Roman River Valley</li> <li>b) the rolling countryside of Aldham</li> <li>c) the hedges which can be found on the 1843 title map</li> </ul>	
<p><b>View 8</b> - Roman River Valley</p> <p>This is a view looking east and west from the little bridge over the Roman River on North Lane.</p> <p>This is a locally valued landscape view shown on Map 4.6. Key contributing features to sense of place and therefore to be respected are the Roman River Valley and the farmland in which it is set.</p>	<p>Viewpoint 7</p>
<p><b>Locally Important Views</b></p>	<p><b>Viewpoint in the West Colchester Growth Area Option Environmental Audit 2015</b></p>

<p><b>View 9</b> – Wooded area south of Methodist church This is view on <del>Point Chase</del> is to the south of the Methodist Church looking south over wooded <u>area</u>.</p> <p>This is a locally valued landscape view shown on Map 4.7. Key contributing features to sense of place and therefore to be respected are the wooded landscape. It is the last remaining wooded area in the parish.</p> <p>Resident quote during consultation <i>“This was an old orchard. It has wonderful drifts of snowdrops. A truly natural area”</i>.</p>	<p>Outside scope of the West Colchester Growth Area Option Environmental Audit</p>
<p><b>View 10</b> – Marks Tey Hall</p> <p>This is a view from the public footpath looking west towards the Grade II listed building.</p> <p>This is a locally valued view towards a heritage feature, the Grade II listed Marks Tey Hall. Key contributing features to sense of place and therefore to be respected is Marks Tey Hall and its setting.</p>	<p>Not assessed</p>
<p><b>View 11</b> - Potts Green - site of village green</p> <p>This is a wide landscape view taken from the publicfootpath on Doggetts Lane towards the south overlooking the historic village green .</p> <p>This is a locally valued landscape view shown on Map 4.5. Key contributing features to sense of place andtherefore to be respected are:</p>	<p>Not assessed</p>
<p>a) the open views looking southeast across fieldstowards Eastthorpe</p> <p>b) the site of the historic green itself</p> <p>c) the remaining hedges which can still be foundon the 1843 tithe maps giving them ancient status.</p>	

**3.3** Please note, we have also spotted typographical errors in the Policy text for views 3a, 6a and view 9 which we would like to correct. St. Andrew’s Church is Grade I listed and not Grade II listed. The text under View 9 should not be referring to Point Chase.

#### **View 3a)-Little Tey (See Map 4.3)**

A wide landscape view looking ~~north~~, east and west from the Church Lane

#### **View 6a** –St. Andrews Church from road bridge (See Map 4.6)

This view is enjoyed from the road bridge that crosses over the railway line looking north towards the Grade 2 I listed church. It is also enjoyed from trains pulling out of the station, just before going under the A120 road bridge.

**View 9 – Wooded area south of Methodist church (see Map 4.7)**

This is view ~~a on Point Chase~~ is to the south of the Methodist Church looking south over wooded area

**3.4** Further, we have spotted an error on Map 4.3 which we would like the opportunity to correct. The locally valued landscape view is in the wrong place. It is currently located north of the church when in fact it should be placed south of the church along Church Lane at the point at which the church car park is located. Here, there are long distance views to the west and east.

**Question 4:** In Policy MT13 Para 2 is 'safe' the right word – what is the intention - would 'viable' more accurately reflect the intention?

**Marks Tey PC response:**

**4.1** We would be comfortable with this.

**Question 5:** What is the justification for including part of the Livelihoods site in the London Road Centre boundary – given the owner's objection? Is it simply that there are businesses currently occupying that strip of land?

**Marks Tey PC response:**

**5.1** This was included as part of a wider mix of retail, and business activities that spreads along London Road. If the A12 southern junction still runs along London Road and past these facilities it is important to encourage such uses. However, the whole road is a mix of commercial and residential and this is seen as advantageous with use of future sites for either purpose but always in the village centre context.

**Question 6:** Was a formal call for housing sites carried out as part of preparing the plan and was the need for sites reconsidered after the 'plug was pulled' on the CBB Garden Community proposal? Or was the view that there was still too much uncertainty in terms of the possible routes of the A12 and A120, such that any question of further housing provision would be better left to a review of the MTNP?

**Marks Tey PC response:**

**6.1** The latter. There is still too much uncertainty in terms of possible routes of the A12 and the A120 *and* the implications that this will have on traffic congestion in and around Marks Tey. Furthermore, there is little known about delivery timescales for the A120 improvements. What we do know is that traffic volumes through Marks Tey will continue to be high. This is indicated by the A120 Feasibility Study which predicts that 82% of current traffic will still move through Marks Tey with the A120 rerouted – please see site reference 14 on page 44 of Essex County Council's 2017 consultation document '*A120 Braintree to A12 Consultation on Route Options 17 January – 14 March 2017*', available to download here: [http://a120essex.co.uk/wp-content/uploads/2017/01/A120\\_Consultation\\_web\\_170130.pdf](http://a120essex.co.uk/wp-content/uploads/2017/01/A120_Consultation_web_170130.pdf)  
A pdf of this document is attached as Appendix 1 to this response. Meanwhile, according to a figure shown on page 39 of Highways England's June to August 2021 consultation brochure (See Appendix 4 and discussed further below), traffic volumes along the A120 are predicted to increase by a further 7% and 6% in the morning and afternoon peak respectively at the opening of the proposed new A12 (2027).

**6.2** Work on the Marks Tey Neighbourhood Plan began in 2015. In the same year, Colchester Borough Council had received submissions from landowners and agents in response to a borough-level call for sites. Nearly all the land surrounding the Marks Tey settlement was submitted by various parties as part of this exercise. As information on the potentially available sites in the parish was known from the outset there was no need to undertake a parish-level call for sites in the early stages of plan development.

**6.3** The Local Plan was submitted in 2017 and included the Colchester/Braintree Borders Garden Community for which the entirety of Marks Tey parish had been identified as an area of search. Whilst, against this previously emerging strategic context, the Marks Tey NP had an important role to play in articulating clearly what the priorities for future development are, there was little support for further development from Marks Tey residents.

**6.4** The reason for this lack of support was a combination of strategic growth coming forward as part of the previously emerging strategic plan but also the significant constraints placed on the community through the existing strategic road infrastructure (two railway lines, the A12 and the A120) and well-established issues relating to capacity on the A12 and A120.

**6.5** As per paragraph 5.3 of the NP, *“the NP steering group do not consider it prudent to identify development sites until the implications of the planned strategic transport infrastructure measures are understood in more detail. For instance, it is unknown how Highways England’s proposals for a revised Junction 25 on the A12 will impact land around the London Road centre and the Parish Hall recreation ground.”*

**6.6** The extent of the problem on the A12 and A120 is recognised by Highways England who specifically stated in response to our Regulation 14 consultation: *“We recognise the current A120 between Braintree and Marks Tey is running close to capacity and suffers from congestion and flow breakdown can occur at times. Similarly, the A12 is also suffering from capacity issues these are to be addressed by the scheme to widen, the most stressed parts, between J19 and J25, this work is currently scheduled to commence in 2023; subject to completion of statutory process and funding.”*

Furthermore, as noted (see page 3 and 4) in the Regulation 14 consultation response from Essex County Council, traffic volume along the A120 is expected to increase even without any additional development coming forward in Marks Tey parish.

The responses from Highways England and Essex County Council to our regulation 14 consultation is appended to this document as Appendix 2 and 3 respectively

**Question 7:** P55 (3), (6), (7) and (8) – the bracketed definition present in the other paragraphs is missing in these – please supply.

### **Marks Tey Parish Council response:**

**7.1** The bracketed definitions provided in some of the paragraphs is taken from the definitions applied in the Out Design report by way of explanation. The Out Design report does not provide definitions for characteristics 3, 6, 7 and 8. If it is useful the text shown in italics below could be used. The text is taken from the Design Companion for Planning and

Place Making (RIBA 2017).

3. Being fit for purpose, accommodate uses well

A basic yet vital question is to consider how well a place works – for the people who live or work there, who use it and who pass by.

6. An appealing place that is easy to understand

*The functional and aesthetic characteristics of a place are closely related to one another. Planners will be concerned with the visual appearance of places at a variety of scales. These will relate to townscapes, skylines, distant views, landmarks, local streetscape, relationship with neighbours, close-up views, proportions and buildings details.*

7. A place with a mix of uses and activities

*Uses - the activities, occupations, businesses or operations carried out in building or on a tract of land – determine the life of the place*

8. Being efficient in how land and other resources are used.

*The efficient use of resources (including space, energy, materials and water) is an essential element of design quality. Irrespective of climate change, well-designed places are efficient. They do not waste land, water or energy, or create unnecessary requirements for people to travel.*

## **Questions to Colchester Borough Council (August 2021)**

**Question 8:** What is the up-to-date position regarding the emerging Local Plan now? I note from one of the Regulation 16 representations that Section 1 of the Local Plan has now been adopted.

### **CBC Response:**

8.1 The Strategic Plan for North Essex (Section One of the emerging Local Plan) – this part of the Plan is shared with Braintree District Council and Tendring District Council. The Strategic Plan for North Essex was formally adopted by a decision at Colchester Council's Full Council meeting on Monday 1 February 2021.

8.2 Section Two of the Colchester Local Plan hearing sessions took place between 20 and 30<sup>th</sup> April 2021. An initial draft Schedule of Recommended Modifications to Section 2 was published on CBC website in March 2021. The proposed Main Modifications, as agreed with the Inspector, are due to be published by CBC on Monday September 13<sup>th</sup>, as part of the upcoming Local Plan Committee reports, although to date we have not received the Inspector's letter. These will be subject to consultation in the Autumn and are accompanied by a Sustainability Appraisal.

**Question 9:** Has the Essex RAMS been formally adopted yet?

### **CBC Response:**

9.1 The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) strategy Document was adopted in 2019 and SPD was adopted in 2020. The Essex Coast



RAMS, which has the brand name Bird Aware Essex Coast, aims to deliver the mitigation necessary to avoid adverse effects on the integrity of habitats sites from the in-combination impacts of residential development in Essex.

**Question 10:** Does the Borough Council accept the interpretation re general conformity in the Basic Conditions Statement re the 'areas of tension'. i.e.: London Road Neighbourhood Centre as defined in the Local Plan versus Policy MT14

**CBC Response:**

10.1 Policy MT14 and adopted Local Plan policy CE2: CBC understands the NHP (Neighbourhood Plan) has identified a wider area as being suitable for designation as the London Road Centre that is informed by an up-to-date analysis of the units and includes employment as well as shop use following the new land use class E introduced in July 2020. The Basic Conditions Statement identifies this is to reflect the variety of land uses in this part of the plan area and to reflect the importance of the area to the wider parish, to encourage new uses to strengthen the commercial viability of the London Road centre, to encourage improvements to the quality of the pedestrian environment in the area.

10.2 CBC accepts that there are valid reasons for the NHP to seek a wider spatial area for support in the instance of the London Road Centre which is outside the scope of CE2. CBC suggests the NHP selection might be better described by a distinct name to avoid confusion with the emerging Local Plan designation, however, such as London Road Neighbourhood Centre.

10.3 Policy MT14 and Policy DP7: Local Centres and Individual Shops - Policy MT14 is identified as applying to an area larger than the London Road Parade, supporting proposals where these will help strengthen the commercial viability of the area, securing the provision of essential services such as the post office, and seeks environmental and street scene improvements across the area.

10.4 CBC accepts that there are valid reasons for the NHP to seek a wider spatial area for support in the instance of the London Road Centre, However, suggests the NHP selection might be better described by a distinct name to avoid confusion with the Local Plan designation such as London Road Neighbourhood Centre.

10.5 Policy MT04: Village Settlement Boundaries and Policy ENV2 - CBC is generally agreed that Policy MT04 is consistent with or complements Policy ENV2, even though Policy MT04 takes a more flexible approach towards development than ENV02. CBC agrees the departure from the Local Plan is slight and does not undermine the strategic objective underpinning ENV02 rural communities and is considered appropriate considering the specific circumstances in Marks Tey, including the potential for the built environment to be improved around the transport interchanges and the London Road centre.

10.6 Neighbourhood Plan Policy MT15 – Anderson Employment Site and Local Plan Site Allocations document 2010 (Anderson Employment site)

10.7 CBC acknowledges some tension created by the ambition for the Anderson's site in terms of access and uses but believes the policy wording of MT15 itself is still in general conformity with the adopted and emerging Local Plans. However, this policy needs to be applied to the wider site area, identified by Strutt and Parker in their submission and recognised by CBC in Topic Paper 3 Economic Growth, drawn up for the Local Plan

examination hearings in April 2021. CBC also acknowledges that the Anderson Employment Site within the Adopted Local Plan includes the extended site which remains the relevant Local Plan at this time. Therefore, CBC agrees that, to remain in conformity with the adopted and emerging Local Plans, the Policy MT15 map needs to be revised to include the extended site (See question 16 below).

Is the Council's view that despite these tensions the NP is still in general conformity?

10.8 Yes, CBC agrees the additional criteria and requirements in the NP policy is in broad conformity with the adopted Local Plan

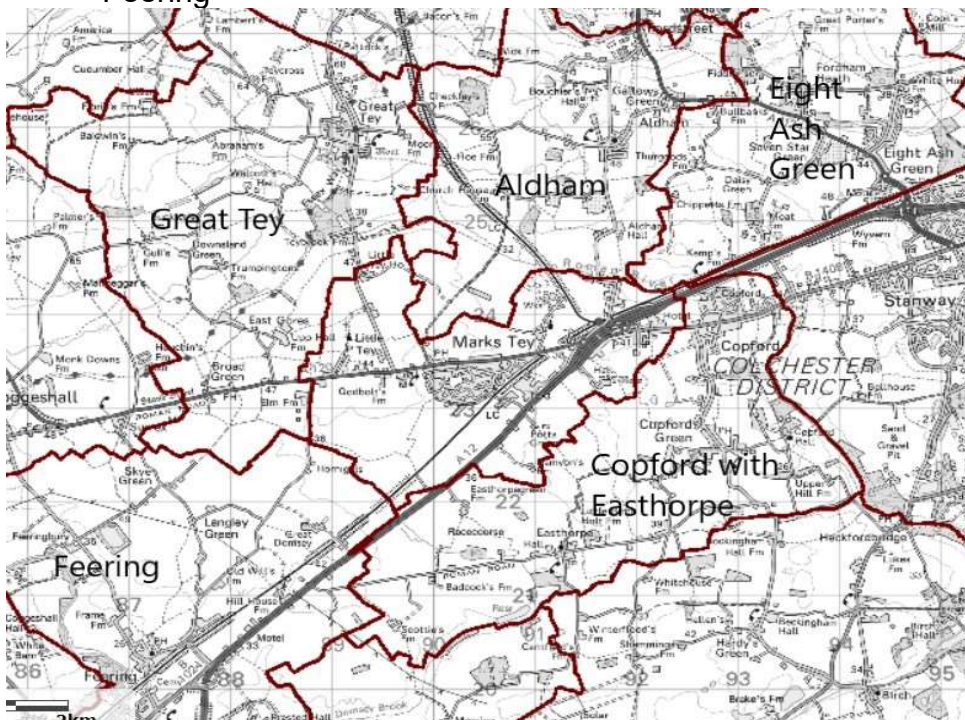
### Question 11:

Which are the Parishes to north and south of Marks Tey Parish?

### CBC Response:

11.1 The parishes that abut Marks Tey are:

- Great Tey
- Aldham
- Eight Ash Green
- Copford with Easthorpe
- Feering



**Question 12:** Is it possible to send a diagrammatic representation of the current proposed route of the A12 and A120 and position of Junction 25, given that some of the Regulation 16 representations are stating that the preferred routes are now fixed?

### CBC Response:

12.1 See references to documentation in response to question 15.

## **Marks Tey Parish Council response:**

12.2 Whilst we note this is a question directed to Colchester Borough Council, we can provide some information which could be helpful. The following is a link to Highways England's recent consultation brochure for the current proposed widening of the A12 from Chelmsford to Marks Tey: [A12 Chelmsford to A120 Widening Scheme Preliminary Design Public Consultation Brochure June 2021.PDF \(citizenspace.com\)](#). Proposals relating to Junction 25 is illustrated on pages 16, 48 and 49.

12.3 To assist we append a copy of Highways England recent consultation brochure. See Appendix 4 to this response. See Appendix 5 for an enlarged image (extracted by Marks Tey Parish Council) of Junction 25 as shown on page 16 of the Highways England 2021 document.

**Question 13:** The Regulation 16 representation from Historic England in the summary table states they want to make detailed comments on the plan but none were attached. Can I confirm this was a typo and it should have said 'do not wish to make any detailed comment'?

## **CBC Response:**

13.1 Yes, this is a typo inadvertently transcribed from the Historic England response on April 1<sup>st</sup> 2021. The full text of their response is as follows:

*'Marks Tey Neighbourhood Plan Regulation 16 Consultation*

*Thank you for inviting Historic England to comment on the Regulation 16 Submission version of this Neighbourhood Plan. We welcome the production of this neighbourhood plan, but do consider it necessary for Historic England to provide detailed comments at this time. We would refer you to any previous comments submitted at Regulation 14 stage, and for any further information to our detailed advice on successfully incorporating historic environment considerations into your neighbourhood plan, which can be found here:*

*<https://historicengland.org.uk/advice/planning/plan-making/improve-yourneighbourhood/>*

*I would be grateful if you would notify me if and when the Neighbourhood Plan is made by the district council. To avoid any doubt, this letter does not reflect our obligation to provide further advice on or, potentially, object to specific proposals which may subsequently arise as a result of the proposed NP, where we consider these would have an adverse effect on the historic environment.*

**Question 14:** I would like CBC's view on the Granville Developments point in their Regulation 16 representation (in para 2) that a housing figure should have been provided for the neighbourhood area on withdrawal of the CBBGC proposal. Is CBC satisfied that the Borough's housing requirement can be met to 2033 without any further housing provision (beyond existing commitments) from Marks Tey?

## **CBC Response:**

14.1 CBC accepts that Marks Tey NHP has not identified a strategy for new residential sites due to the current constraints on the highway network (A120 and A12) and confirms that CBC's housing requirement up to 2033 is not dependent on site allocations in Marks Tey at this time (see comments above at question 6). This is further supported by the

Topic Paper and Hearing Statements prepared to support the Local Plan Examination (Section 2). For further clarity CBC advises that a housing requirement figure has been provided to those Parishes / (Qualifying Bodies) preparing a NHP where they have indicated the scope includes the desire to allocate land for housing provision. Where NHPs choose not to allocate land, there is no need to provide a housing requirement. The NHP regulations do not prevent a NHP from allocating land additional to that planned in another Plan (Local Plan) or greater than, or in the absence of, any requirement provided.

**Question 15:** Is Andrew Martin's point in their Regulation 16 representation correct that there is now certainty regarding the A12 /A120 routes?

**CBC Response:**

**A12 Chelmsford to A120 Widening**

15.1 A 'Preferred Route' announcement was made by Highways England (HE) for the A12 Chelmsford to A120 Widening scheme following consultation on route options. HE's Preferred Route Announcement for Junctions 23 to 25 can be seen in this [document](#). As the A12 scheme is classed as a Nationally Significant Infrastructure Project, HE is required to make an application for a Development Consent Order (DCO). Prior to that, they are required to formally consult on the scheme proposals in preparation for submission of the DCO application. That consultation finished on 16 August 2021. The details of the recent consultation and the route can also be seen in this brochure: [A12 Chelmsford to A120 widening: Public consultation June 2021](#). So, the 'preferred route' has been announced by HE and further consultation on the route design has been undertaken, prior to the DCO process being undertaken.

15.2 The A12 Chelmsford to A120 Widening scheme is identified in the Governments 2020-2025 Road Investment Strategy 2 ([RIS2](#)). Funding is committed to deliver schemes in RIS2 and schemes in RIS2 are expected to start by 2025 (noting assumptions such as the scheme continues to remain deliverable, obtain planning consents etc). The start date on the HE website for the A12 scheme is 2023-24.

**A120 Braintree to A12**

15.3 In March 2020, the government announced details of the second Road Investment Strategy (RIS2) covering April 2020 to March 2025. The A120 Braintree to A12 was one of the 'pipeline projects' announced in RIS2 that will undergo further analysis and design work for consideration for potential future investment beyond 2025.

15.4 Highways England have not announced a preferred route for the A120 Braintree to A12 scheme. The proposals for improving this stretch of road were initially developed by Essex County Council (ECC announced their 'favoured' route for the project in June 2018). This project has now been passed over to Highways England and the HE website states they are '*currently carrying out a validation exercise of all the work that has been done. Once completed, the validation will establish if further work needs to be done in order to progress the scheme.*'

15.5 The A120 widening project is identified as a 'pipeline' project in RIS2. Funding is not committed for this scheme.

**Marks Tey Parish Response:**

15.6 No. Highways England have just concluded consulting on the A12 prior to

applying for a Development Consent Order. <https://highwaysengland.co.uk/our-work/east/a12-chelmsford-to-a120-widening-scheme/> Thus significant detail and some layout could still change.

15.7 On the A120, as mentioned above (under question 6), Highways England commissioned Essex County Council to do a feasibility for the various routes for a replacement dualled A120 between the A12 and Braintree. This feasibility study was published in 2017 and is available to view at Appendix 1 to this document or at the link shown above under question 6.

15.8 In June 2018, Essex County Council made a decision in Cabinet to choose route D (out of routes A to D) as the Essex County Council 'favoured' route (only Highways England and the Government can formally select a 'preferred' route). The work was then passed back to Highways England in the hope that the A120 improvement would be included in the 2020-25 RIS2 construction programme. This it failed to do, only gaining funding to continue investigation.

15.9 No possible junctions are shown for the proposed route D for the A120 on the current A12 improvement scheme.

**Question 16:** Does CBC agree with Strutt and Parker's point in their Regulation 16 representation that the land omitted from the employment site at Andersons Yard in Policy MT15 means that the policy is at odds with the CLP?

### **CBC Response:**

16.1 CBC recognised in Topic Paper 3 Economic Growth, for the Local Plan examination hearings in April 2021, that there was an omission in the total area of employment land identified for the Anderson Employment Site allocation in the Policy Map for SS11 in the emerging Local Plan. *'Increase in the Other Areas category to reflect reinstatement of employment land in Marks Tey at the Andersons timber yard site allocation of 3ha that was included in the 2010 Proposals Map but not included in the Submission Policies Map...'* CBC also acknowledges that the Anderson Employment Site within the Adopted Local Plan includes the extended site. Therefore, CBC agrees that, to remain in conformity with the adopted and emerging Local Plans, the Policy MT15 map needs to be revised to include the extended site. However, CBC believes the policy wording itself is still in general conformity with the adopted and emerging Local Plans but needs to be applied to the wider area.

### **Supplementary Questions**

**Question 17 Regarding Policy MT07:** Can the Parish provide an assessment justifying the list of non-designated heritage assets to include in an appendix to the plan to support policy MT07. I realise there is descriptive content in the character assessment but there is no supporting evidence in the plan itself. For ease this could be in tabular form setting out:

*Identifying photo/Name of asset/Location/Description/Significance.*

As this information is largely in the Character Assessment it should be relatively straightforward to export into a summary table.

Can CBC Conservation Team please set out their opinion regarding the list of non-designated heritage assets and whether these are likely to be added to Colchester Borough Council's local list.

**Marks Tey Parish Response:**

MTPC have provided the necessary information in response to this question which is set out at Appendix 2.

**CBC Response:**

All the list of non-designated heritage assets in Marks Tey Neighbourhood Plan Policy MT07 have already been added to Colchester Borough Council's local list. Attached a copy of the committee report recommending their addition.

**Question 18 Regarding RAMS and Policy MT12:** Could CBC confirm, following adoption of the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS), whether the requirement of project-level HRA on development in Marks Tey Parish is no longer necessary and instead development simply has to observe the requirements of the RAMS. This is implied in the supporting text to policy MT12 which was written before the RAMS was adopted and now it and the policy needs to be updated. If CBC have a form of words they wish to see included in place of the existing it would be helpful if that was provided.

**CBC Response:**

CBC proposes the updated wording below to reflect the adoption of the RAMs SPD:

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy

"All residential development within the zones of influence of habitats sites will be required to make a financial contribution towards mitigation measures, as detailed in the Essex Coast RAMS, to avoid adverse in-combination recreational disturbance effects on habitats sites."

Below is additional text which may help with updating the supporting text if required.

"The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) was adopted as a Supplementary Planning Document by the Borough Council in 2019 and a Supplementary Planning Document was adopted in August 2020. It seeks to deliver the mitigation necessary to avoid the likely significant effects on the Essex Coast from the 'in-combination' impacts of residential development that is anticipated across Essex.

All new planning consents for housing in the Neighbourhood Area will be required to pay the tariff identified in the adopted DPD. In addition to payment of the RAMS tariff, all development sites over 100 dwellings or sites within 800m of habitats sites, should include provision of well-designed open space/green infrastructure, proportionate to its scale, to avoid likely significant effects from recreational disturbance alone."

**Marks Tey Parish Appendices to their responses:**

*(Note – these are not attached to this report in the interests of brevity and can be viewed on*

*the CBC website)*

**Appendix 1:** A120 Braintree to A12 Consultation on Route Options 17 January – 14 March 2017

**Appendix 2:** Response from Highways England to Marks Tey Parish Council at NP Regulation 14 stage

**Appendix 3:** Response from Essex County Council to Marks Tey Parish Council at NP Regulation 14 stage

**Appendix 4:** Highways England A12 Chelmsford to A120 Widening public consultation June 2021

**Appendix 5:** Enlarged image of proposals for A12 Junction 25 from page 16 of Highways England 2021 brochure.



## **Appendix 2 – Additional Evidence in support of Policy MT07 and the Non-Designated Heritage Assets to form a new Appendix in the Modified MTNP**

### **Marks Tey Non-designated heritage assets (as identified in Policy MT07)**

#### **1. White Essex weather boarded old farm cottages 91 to 93 Coggeshall Road**



**Location:** 91 to 93 Coggeshall Road, shown as number 1 on Map 4.4 in this plan.

**Description:** Weather-boarded with slate roof semi-detached cottages. The building is marked on the 1843 tithe map of Marks Tey and of probable early 19<sup>th</sup> century date. The asset was made part of Colchester's Local List in August 2020.

**Significance:** Of local historic interest and association. It is a good example of a small workers cottage, once common on the Essex heaths but now rare.

#### **2. The Old Thatched Cottage 85 Coggeshall Road**



**Location:** 85 Coggeshall Road, shown as number 2 on Map 4.4 in this plan.

**Description:** Small timber-framed and thatched building, one-and-a half-storey with dormer windows. This asset was made part of Colchester's Local List in August 2020 and is considered as a potential candidate for national designation.

**Significance:** Of local historic interest. A surviving timber-framed building. It has been extended to the west in the 20<sup>th</sup> century but the style, form and construction of the building is easily identifiable.



### 3. 25 Coggeshall Road, Marks Tey



**Location:** 25 Coggeshall Road, shown as number 3 of Map 4.4 in this plan.

**Description:** Red brick bungalow dated to the early 1930s, built with bricks and roof tiles manufactured by Colliers Brickworks and with documentary evidence (1933) recording the building was designed by an Essex architect Edward Fincham. The asset was made part of Colchester's Local List in August 2020.

**Significance:** A building of local historic and association that is reasonably unaltered and the style, form and construction of the building is easily identifiable.

### 4. Hammer Farmhouse, Doggetts Lane, Potts Green, Marks Tey



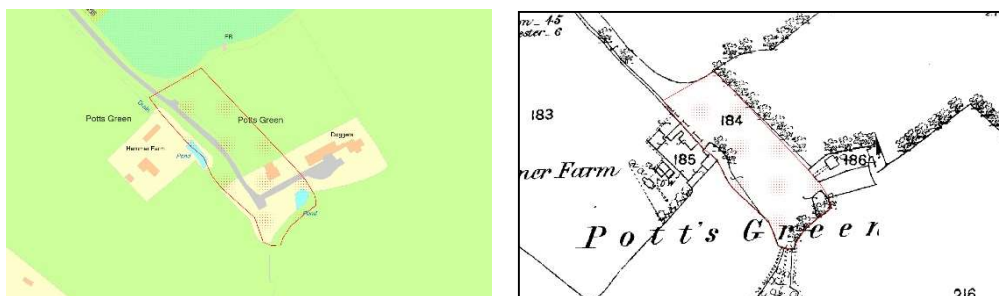
**Location:** Hammer Farmhouse, Doggetts Lane, Potts Green. Shown as number 1 on Map 4.5 in this plan.

**Description:** Hammer Farmhouse is depicted on the 1843 Tithe Map as Doggetts (but this has changed to Hammer Farm by the First edition OS County Series of 1874-1887). The current two-storey dwelling is rendered on the ground floor and weather-boarded on the first, with a hipped, tiled roof. During renovations a well was discovered under the kitchen floor.

As at October 2021, this asset is not on the Colchester's Local List. The last assessment undertaken by Colchester Borough was in August 2020 and concluded that further information is required to assess this building.

**Significance:** Of local historic interest. It is a vernacular house contributing to the character of Potts Green. The building is a part of a historic farmstead which is recorded as a monument (MCC9213) on the Historic Environment Record (HER) database and can be viewed here: <https://colchesterheritage.co.uk/Monument/MCC9213>

## 5. Site of former Potts Green



**Location:** Potts Green, Marks Tey. Shown as “site of former village green” on Map 4.5 in this plan.

**Description:** Historic green shown on the 1777 Chapman & Andre Map (labelled as Pots Green), on the south side of and set back from London Road. The green is roughly rectangular in shape, c.0.5ha. in area. Doggets Hammer Farm (Grade II Listed; NLHE on. 1266767), is located on the green edge, dating from the 16th century.

The asset was made part of Colchester’s Local List in August 2020.

**Significance:** Of local historic interest. The green is probably medieval (or early post-medieval) in origin, and the form of the green is easily identifiable in the landscape. The site of the former village green (at Potts Green) is recorded as a monument (as a historic landscape feature: Monument number MCC9116 ) on the Historic Environment Record (HER) database and can be viewed here:

<https://colchesterheritage.co.uk/Monument/MCC9116>

## 6. Church Farm House and outbuildings



**Location:** Church Farm, Church Lane, Marks Tey. Shown as Shown as number 1 on Map 4.6 of this plan.

**Description:** Two-storey yellow brick dwelling, hipped, slate roof. Two canted (probably Edwardian) windows on the front (east) façade either side of a door with flat-roofed porch supported on two columns. Late 19<sup>th</sup> century, first appearing on the 1897-1904 OS 1:1250 County Series. The asset was made part of Colchester’s Local List in August 2020.

**Significance:** Of local historic interest. Although altered with a conservatory and extension, the façade of the building is very attractive and the roof is unaltered and the style, form and construction of the building is easily identifiable.

The farmstead of which it is a part, is recorded as a monument on the Historic Environment Record (HER) database (Monument MCC9210) and can be viewed here:

<https://colchesterheritage.co.uk/Monument/MCC9210>

## 7. Railway station (original building waiting room and section of original canopy)



**Location:** Marks Tey Railway Station, Marks Tey. Shown as number 2 on Map 4.6 of this plan.

**Description:** The original station at Marks Tey opened in 1843 as one of those on the Eastern Counties Railway (later the Great Eastern Railway) and the branch line (to the north) to Sudbury was built in 1849 (it was known as Marks Tey Junction until 1889). The opening of the Colne Valley and Halstead Railway off the Sudbury branch in 1860 and the extension of the branch beyond Sudbury via the Stour Valley Railway in 1865 to Cambridge added importance to Marks Tey as a junction, allowing through-trains from Colchester. The Sudbury to Cambridge link was closed in 1967 saw the end of through running.

The main station building was on the south 'up' side (platform 1), with a small waiting room on platform 2 (still present). Platform 1 had a canopy supported on cast iron pillars and part of the canopy still survives.

The signal box, located at the north end of platform 2, on the 'down' side, no longer survives. The track layout has been substantially reduced/rationalised. Likewise, the turntable (also on the 'down' side) no longer survives. The goods shed still survives, although altered. The asset was made part of Colchester's Local List in August 2020.

**Significance:** Of local historic interest and association. Platform 1 canopy and platforms 1 & 2 waiting rooms are surviving railway heritage assets.

## 8. Old Rectory Court, Station Road



**Location:** The Old Rectory, Rectory Court, Station Road, Marks Tey. Shown as number 1 on Map 4.7 in this plan.

**Description:** Former rectory built as the parsonage in the first half of the 18th century by William Bree, Vicar of Marks Tey 1722-1753. It was extended and converted into



apartments in the 20th century. The asset was made part of Colchester's Local List in August 2020

**Significance:** Of local historic interest and association. Although it has been altered and extended to the rear, the building frontage is largely unaltered and the style, form and construction of the building is easily identifiable.

## 9. The Old Cottages, Old London Road



**Location:** 180, 182 and 188 Old London Road, Marks Tey. Shown as number 2 on Map 4.7 of this plan.

**Description:** One-and-a half-storey timber-framed dwelling/s with dormer windows and peg-tile roof. The asset was made part of Colchester's Local List in August 2020 and is considered a potential candidate for national designation.

**Significance:** Of local historic interest. A row of surviving timber-framed buildings. Although the windows have been replaced (the original fenestration could be restored), the style, form and construction of the building is easily identifiable.

## 10. Former Methodist Church, London Road



**Location:** London Road, Marks Tey. Shown as number 4 on Map 4.7

**Description:** Methodist church constructed in 1902-3, gothic style, yellow brick with red brick detailing, slate roof. The asset was made part of Colchester's Local List in August 2020

**Significance:** Of local historic interest and association. It is a good example of its type, largely unaltered and the style, form and construction of the building is easily identifiable and has local historical association.

## **11. Wynscroft, Number 1 London Road (previously known as Butcher's Cottage)**



**Location:** No. 1 London Road. Denoted with purple dot (monument) on Map 4.7 in this plan.

**Description:** One-and-a half-storey timber-framed dwelling with dormer windows and thatched roof; the west end is hipped the east end is gabled. The building is clearly marked on the 1843 tithe map of Marks Tey. The asset was made part of Colchester's Local List in August 2020 and is considered a potential candidate for national designation.

**Significance:** Of local historic interest. It is a good timber-framed building and the style, form and construction of the building is easily identifiable (although there is a modern extension of the east end). The farmstead of which it is a part, is recorded as a monument on the Historic Environment Record (HER) database (Monument MCC9208) and can be viewed here: <https://colchesterheritage.co.uk/Monument/MCC9208>

## Appendix 3 - Recommendation 19 - Typographical and Formatting Corrections

Page	Location	Correction
1	Para 1.2 Line 1	Delete the word 'of' replace with the word 'on'. Reason – To make grammatical sense.
1	Para 1.2 Line 2	Delete the letter 's' at the end of the word councillor. Reason – To make grammatical sense.
4	Para 2.4 Line 8	Insert hyphen between the words 'west' and 'bound'. Reason – To make grammatical sense.
4	Para 2.5 Line 1	Add the letter 's' to the word 'take'. Reason – to make grammatical sense.
8	Figure 2.1	Delete the comma and three zeros following 'c14'. Reason – To make grammatical sense.
17	Para 3.19 Line 5	Replace the word 'what' with the word "that". Reason – To make grammatical sense.
27	Map 4.3 Locally valued landscape views	Relocate the LVLV south of the church at Little Tey as requested by the Parish Council. Reason - The LVLV is south of the church and looking east and west .
34	Para 6.1.8 Line 3	Delete the words 'should and'. Reason – To make grammatical sense.
35	Para 6.1.13 Line 2	Delete the word 'effected'. Replace with the word 'achieved'. Add the word 'facilities' after the word 'two'. Reason – To make grammatical sense.
35	Para 6.1.15 Line 1	Delete the letter 's' from the word 'proposals'. Reason – To make grammatical sense.
36	Footnote to Policy MT01 Line 3	Insert capitals into 'planning practice guidance'. Reason – Refers to published document.
37	Para 6.2.5 Line 2	Add the letter 's' to the word 'route'. Reason – To make grammatical sense.
38	Table 6.1 Para starting 'upgrade or replace...' Line 10	Delete the word 'and' after the word 'bridge'. Reason – To make grammatical sense.

<b>Page</b>	<b>Location</b>	<b>Correction</b>
44	Policy MT02 (Residential development proposals 1.) Line 2	Insert before the words 'pedestrian bridges' the words "lack of". Reason – To make sense in the context. It is not pedestrian bridges that are the constraint but the lack of them.
45	Policy MT02 (New shops and services) Line 2 and (Employment) line 2	Correct the spelling of the word 'traveling' to read "travelling". Reason – To correct spelling.
45	Policy MT02 (New shops and services) Line 5	Add the letter 's' to the word 'utilise'. Reason – To make grammatical sense.
46	Para 6.3.3 Line 5	Delete second incidence of the word 'alone'. Reason – To make grammatical sense.
48	Policy MT03 Line 3	Delete letter 's' at the end of the word 'environment'. Reason – To make grammatical sense.
48	Policy MT03 1 <sup>st</sup> Bullet Line 3	Change paragraph reference from '6.3.4' to "6.3.3". Reason – Incorrect reference given.
55	Section 2 line 4	Insert the word 'the' before the words 'private car'. Reason – To make grammatical sense.
55	Section 4 line 2	Delete second incidence of word 'that' and delete the word 'the' at the end of the line. Reason – To make grammatical sense.
55	Section 4 Line 5	Delete the word 'the' before 'Marks Tey'. Reason – To make grammatical sense.
57-62	Paras 6.7.13, 6.7.15, 6.7.19, 6.7.24, and 6.7.31 - Line 2 in each	Add the letter 's' to the word 'element'. Reason – To make grammatical sense.
58	Table 6.5 Section headed 'open Space' Line 4	Insert a comma after the word 'remain'. Reason – To make grammatical sense.
61	Para 6.7.28 Line 1	Replace the word 'has' with the word "have". Reason – To make grammatical sense.
62	Table 6.8 Section headed 'Building scale' Line 1	Reword end of line to read "is a low-level form built along consistent building lines, placed at.....". Reason – To make grammatical sense.
64	Policy MT05 Paragraph 3 Line 4	Delete the words 'all building' after the words 'plaster work'. Reason – To make grammatical sense.

<b>Page</b>	<b>Location</b>	<b>Correction</b>
68	Para 6.8.6 Line 2	Replace the word 'visual' with the word "view". Reason – To make grammatical sense.
69	Policy MT06 View 3a	Delete the word 'north' and the words 'from the northern point of Little Tey' from the description of view 3A. Reason – Factual error.
69	Policy MT06 View 6a Line 2	Correct the reference to St Andrew's Church it should be recorded as Grade I listed. Reason – Factual error.
69	Policy MT06 View 9	Replace description with:  "This view is to the south of the Methodist Church looking south over wooded area." Reason – Factual error.
72	Para 6.10.4 Line 3	Change the word 'of' at the end of the line to "on". Reason – To make grammatical sense.
74	Para 6.11.4 Line 4	Add the letter 's' to the word 'area'. Reason – To make grammatical sense.
74	Para 6.11.4 Line 6	Delete the word 'These' and replace with the word "This". Reason – To make grammatical sense.
75	Para 6.12.1 Line 3	Change the NPPF paragraph reference from 100 to 102. The reference number has changed in the recently published NPPF 2021 which has come into immediate effect.
79	1 <sup>st</sup> line on page	Change the word 'continue' to "continuous". Reason – To make grammatical sense.
80	Policy MT10 Clause iv.	Change the word 'continue' to "continuous". Reason – To make grammatical sense.
85	Para 6.15.2 Line 7	Delete the words 'districts/boroughs Councils'. Replace with "District/Borough Councils". Reason – To make grammatical sense.
87	Para 6.17.2 5 <sup>th</sup> bullet Line 2	Remove gap in the words 'where as'. Reason – To make grammatical sense – 'whereas' should be one word.
88	1 <sup>st</sup> bullet on page. Last sentence of bullet	Sentence is incomplete and needs to be completed.



Page	Location	Correction
90	Para 6.17.13 Line 2	Change the letter 'A' at the end of the line to "a". Reason – To make grammatical sense.
90	Para 6.17.13 Line 5	Check the intended meaning of the phrase 'designed and built for by people with disabilities'. Change to either "designed and built by people with disabilities" <b>or</b> "designed for and built by people with disabilities" <b>or</b> "designed and built for people with disabilities". Reason – To make grammatical sense.
91	Para 6.17.14 Line 2	Include after the word 'include' the word "a". Reason – To make grammatical sense.
91	Para 6.17.15 Line 1	Add the letter "d" to the end of the word 'service'. Reason – To make grammatical sense.
92	Para 6.18.1 Line 5	Change Policy references from 'MT13 and MT14' to "MT14 and MT15". Reason – incorrect references given.
92	Para 6.19.1 Line 9	Add the word "is" after the word 'provision'. Reason – To make grammatical sense
92	Para 6.19.3 Line 2	Replace the word 'curb' with the word "kerbside" Reason – in an English context the spelling should be kerb and 'kerbside' makes better grammatical sense.
93	Para 6.19.6 Line 3	Change reference to Chapter 7 to Appendix 1 Reason – Consequence of Recommendation 1B.
94	Policy MT14 2 <sup>nd</sup> para Line 2	Delete the word 'area'. Reason – To make grammatical sense.
95	Para 6.20.1 4 <sup>th</sup> bullet	Change the word 'Sewerage' to "Sewage". Reason – 'Sewerage' refers to the infrastructure. It is 'sewage' that is being treated.
96	Para 6.20.11 Line 4	Delete the word 'the' after the words 'section of'. Reason – To make grammatical sense.
99	Para 7.1 Line 4	Insert the word "the" after the words 'One of'. Reason – To make grammatical sense

Page	Location	Correction
99	Para 7.2 Line 1	Replace the word 'Seven' with the word "Nine". Reason – there are nine community actions listed.