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Chief Executive

A SPECIAL MEETING OF THE COUNCIL of the Borough of Castle Point will be held in the Council Chamber, Council Offices, Kiln Road, Thundersley, on **WEDNESDAY, 27TH JANUARY, 2016** at **7.30 p.m.**, and all Members of the Council, listed below, are hereby summoned to attend to transact the undermentioned business.

Councillors A.G. Sheldon (The Worshipful the Mayor), S. Cole, (Deputy Mayor), A.J. Acott, J. Anderson, A.J. Bayley, D.A. Blackwell, B. Campagna, D.T. Cross, W.J.C. Dick, Mrs B. Egan, E. Egan, Mrs W. Goodwin, Mrs J.E.E. Govier, P.C. Greig, S.Hart, N.R. Harvey, R.C. Howard, J. Hudson, R. Hurrell, G.I. Isaacs, Mrs.J.King, N.E.Ladzrie, C.W. Letchford, C.A. MacLean, P.J. May, C.E. Mumford, B.A. Palmer, Mrs. J. Payne, A. Partridge, C.G. Riley, W.K.Sharp, T.F. Skipp, N.G. Smith, J.A. Stanley, M.J.A. Tucker, P.E.Varker, A.C.Walter, Mrs L. Wass, Mrs G. Watson, N. Watson and B.S. Wood.

Chief Executive

AGENDA

PART I

(Business to be taken in public)

- 1. Apologies for absence**
- 2. Members' Interests**
- 3. Draft New Local Plan**

At the meeting of the Ordinary Council on 9.12.2015 consideration of the reports on the Draft Local Plan was deferred to a Special Meeting of the Council to allow all Councillors to review the SHLAA (Strategic Housing Land Availability Assessment) sites.

Councillor Dick moved an amendment which was referred for a report on the implications to the Special Meeting.

The following reports are attached for Members' consideration:

- (a) Item 3(a) Draft Local Plan Report on Actions following Ordinary Council 9.12.2015.

(b) Item 3(b) Amendment - Report on Implications

(c) Item 12 Report Item Deferred from 9.12.2015

SPECIAL COUNCIL

27th January 2016

**Subject: Draft New Local Plan Report on Actions following
Ordinary Council 9.12.2015**

1. Purpose of Report

Consideration of the reports on the Draft New Local Plan was deferred to a Special meeting of the Council to allow all Councillors to review the SHLAA (Strategic Housing Land Availability Assessment) sites. The report describes the actions taken to assist Councillors.

2. Links to Council's Priorities and Objectives

The proposals primarily concern the following Council aims:

- Transforming our Community
- Efficient and Effective Customer Focused Services

3. Recommendation

To consider the report Item 12 deferred from the Council meeting on 9.12.2015

4. Background

At the Ordinary Council meeting on 9.12 2015 consideration of the reports on the Draft New Local Plan was deferred to a Special meeting of the Council to allow all Councillors to review the SHLAA (Strategic Housing Land Availability Assessment) sites.

Councillor Dick moved an amendment which was referred for a report on the implications to the Special Meeting. This is reported separately.

5. Actions since the last Council Meeting

- 5.1 In the week following the Council meeting all Councillors were provided with a full copy of the SHLAA together with a user guide and enquiry form for Members use. Members were also advised of arrangements for two drop-in sessions between 2 pm and 7pm on Wednesday 6th and Thursday 7th January 2016 to give Members the opportunity to discuss directly with Planning Officers any queries regarding the SHLAA. Members were also given preliminary notification regarding a Briefing Workshop on 13th January 2016.
- 5.2 Just before Christmas the Leader of the Council wrote to all Members providing additional information and seeking Members co-operation in identifying any other sites which Members felt had been overlooked and should be brought forward .Enclosed with the Leader's letter was a list of sites extracted from the SHLAA which had not been included in the Draft New Local Plan. The second was the list of sites included in the Draft New Local Plan.
- 5.3 In the New Year, the Chief Executive emailed all Councillors with revised information regarding the Member workshop.
- 5.4 Six members of the Council attended the drop in sessions on the 6th& 7th January 2016.
- 5.5 Thirty five members of the Council attended the Member Workshop.

SHLAA Briefing Workshop

- 5.6 The Deputy Leader of the Council chaired the session .Members received a presentation addressing the plan making process and the purpose of the SHLAA.
- 5.7 The SHLAA is a technical exercise that is conducted to assess the amount of land that could be made available for housing development. It is part of the evidence base that local authorities use to inform the plan making process. The assessment identifies a pool of sites within the local authority's area that are suitable available and achievable; gives information on what the likely timescales for delivery may be and the potential capacity of each site .It does not determine whether a site should be allocated.
- 5.8 The presentation gave examples of Green Belt sites contained in the SHLAA but were not included in the Draft New Local Plan.
- 5.9 The presentation included an update on sites. Members were reminded that the decision concerning Jotmans was expected in early March. Current planning applications had been received regarding land east of Canvey Road (the Dutch Village) and Solby Wood Farm. Developers were showing keen interest and applications were likely in respect to Glebelands; Rayleigh Road; Felstead Road; Brook Farm and the Glyders.
- 5.10 Members were reminded of background to the Draft New Local Plan and in particular the advice contained in the letter from the Planning Inspector leading to the withdrawal of the Council's Core Strategy.

- 5.11 Members had the opportunity to ask questions concerning the assessment of sites in the SHLAA.
- 5.12 In responding to questions Members were reminded that while the Government has abolished housing targets, the Government had specified the formula to be followed by councils in assessing their housing numbers. Members were reminded that in order to produce a robust credible plan both large green belt sites and small sites were required. Members' attention was also drawn to provisions for infrastructure improvement contained in the Draft New Local Plan and the ability to secure funding for infrastructure improvements through the Community Infrastructure Levy (CIL).
- 5.13 Councillor Partridge had put forward an alternative proposal for a local plan excluding all Green Belt sites included in the SHLAA and relying on small sites.
- 5.14 The Head of Regeneration and Neighbourhoods explained that Councillor Partridge's proposal was not viable. The sites identified were not available. The proposal relied on the Council using compulsory purchase powers to deliver the plan. Members were reminded that the use of Compulsory Purchase powers was complex and costly. It would require additional staff resources and a significant revenue and capital budget which would only deliver in the region of 80 properties over the period of a 15 year plan. Such a plan was not credible and was highly unlikely to be found sound by a Planning Inspector on examination.
- 5.15 During the question and answer session it was suggested that rather than take a decision not to progress the current local plan and go forward with a flawed plan no immediate further action be taken in order that the Council could take time to reflect on other options.
- 5.16 In responding to a question as to what would happen if the current draft local plan was rejected or a flawed plan progressed, the Chief Executive drew Members' attention to the reputational, legal and financial implications set out in the report to Council in December.
- 5.17 Members were reminded by the Chief Executive of the advice from the Planning Inspector Laura Graham of the risk of development by appeal and the risks to the Council of intervention should the Council not progress the Draft New Local Plan or decided to go forward with a flawed plan. It was likely that the applications would come forward quickly and development would be allowed on appeal – resulting in intensification of development but without the benefit of infrastructure improvements and community benefits.
- 5.18 Members were warned that the Council was at risk of designation which would mean that Councillors would have no say over planning applications for large sites.
- 5.19 Members were reminded that while there was no clear picture as to how Government intended to deal with intervention for those councils who failed to

make progress with a local plan by 2017, the Council had experience of Government intervention.

- 5.20 Members were reminded by the Chief Executive that Councillors had no part in this process which involved a Government official directing Council Officers as to actions to be taken. In the case of the Local Plan it was likely that this would require a local plan to be prepared to meet in full the Council's objectively assessed housing needs of 400 homes a year rather than the Draft New Local Plan target of 200 homes.
- 5.21 The Deputy Leader closed the session stating that he would report back on the outcome to the Leader of the Council.

Matters Arising

- 5.22 At the Work Shop a Member asked what was the population of Castle Point and how many had responded to consultation on the Draft New Local Plan. The information was not to hand at the briefing.
- 5.23 Members are advised that the population in region is 88,500 residents of which approximately 5,000 responded to the Draft New Local plan. The main representations from residents were concerned with the lack of infrastructure. Members' attention was drawn at the Workshop to provisions for infrastructure improvement contained in the Draft Local Plan and the ability to secure funding for infrastructure improvements through the CIL.

6. Corporate Implications

- 6.1 Members are referred to the report before Council 9.12.2015 which sets out the serious legal, reputational and financial risks in failing to take forward the Draft New Local Plan at Sections 7 to 9 of the report and which were restated at the work shop and are set out above.

7. Background Papers

Letter, email to all Councillors 16.12.2015 enclosing SHLAA and guidance
Letter and Enclosures from the Leader of the Council 23.12.2015
Email from Chief Executive 5.1.2016
Email and enclosures from Cllr Partridge 7.1.2016
Item 12 Draft New Local Plan reports to Council 9.12.2015

Report Author:

Ann Horgan – Head of Civic Governance

SPECIAL COUNCIL

27th January 2016

Subject: Amendment - Report on Implications

1. Purpose of Report

To report on the implications of the following amendment:

In view of the majority recommendation from the Task & Finish Group that they were unable to agree to development on Green Belt. This Council therefore recommends we delete the controversial Green Belt sites from the Plan and reinvestigate the SHLAA.

This documentation to be used as the basis for producing our housing numbers, using sites identified for development in this documentation.

2. Links to Council's Priorities and Objectives

The proposals primarily concern the following Council aims:

- **Transforming our Community**
- **Efficient and Effective Customer Focused Services**

3. Recommendation

To consider the report Item 12 deferred from the Council meeting on 9.12.2015.

4. Background

At the Ordinary Council meeting on 9.12 2015 consideration of the reports on the Draft New Local Plan was deferred to a Special meeting of the Council to allow all Councillors to review the SHLAA (Strategic Housing Land Availability Assessment) sites.

Councillor Dick moved the following amendment:

In view of the majority recommendation from the Task & Finish Group that they were unable to agree to development on Green Belt. This Council

therefore recommends we delete the controversial Green Belt sites from the Plan and reinvestigate the SHLAA.

This documentation to be used as the basis for producing our housing numbers, using sites identified for development in this documentation.

The Mayor noted that Councillor Dick's amendment could not be properly considered without the benefit of a report on the implications of the amendment and exercised his discretion as the Chairman of the meeting to defer for report to a Special Council Meeting

5. Implications of the Amendment

5.1 The amendment is flawed.

5.2 First of all the amendment is flawed for uncertainty. The amendment states 'we delete the controversial Green Belt sites from the Plan'. It is not clear what is meant by the subjective term 'controversial' – which could be interpreted to mean some or all green belt sites.

5.3 Members are referred to Paragraph 7.5 of the report before Council on 9.12.2015 which stated that:

Any attempt to remove sites that is not supported by evidence will result in the Council's approach to meeting its housing needs being found unsustainable.

5.4 The second flaw is an error regarding the purpose of the SHLAA;

This Council therefore recommends we delete the controversial Green Belt sites from the Plan and reinvestigate the SHLAA.

This documentation to be used as the basis for producing our housing numbers, using sites identified for development in this documentation.

This wording suggests the SHLAA is used as the basis for producing housing numbers.

5.5 Members are reminded that the Planning Practice Guidance is the basis for producing housing numbers. Using the prescribed methodology, the Council's OAN (Objectively Assessed Need) is 400 homes per annum as set out in the Draft New Local Plan.

5.6 The Planning Practice Guidance also makes clear that the calculation of "objectively assessed housing needs" must be carried out in a transparent way, based on facts and unbiased evidence, and with no account taken of constraints.

- 5.7 Members are reminded that with a local plan in place, the evidence having been tested at public examination, the Council can rely on the target figure of 200 homes per annum because of the application of constraints.
- 5.8 The SHLAA is a technical exercise that is conducted to assess the amount of land that could be made available for housing development. It is part of the evidence base that local authorities use to inform the plan making process. The assessment identifies sites within the local authority's area that are suitable, available and achievable; gives information on what the likely timescales for delivery may be and the potential capacity of each site .It does not determine whether a site should be allocated.
- 5.9 Members have been advised in the report before Council in December and more recently at the workshop session on the SHLAA on 13.1 2016 that the removal of sites from the Draft New Local Plan and any attempt to pursue a Draft New Local Plan relying on small sites alone is likely to result in the Plan being found unsound.
Members have also been advised that a decision to vote out the New Local Plan and commence work on a new plan is unlikely to resolve the core issue of the need to identify land for housing – because the Draft New Local Plan is evidenced based and the evidence and outcome will be the same.
The further risk is that by time a further draft plan is produced; applications to develop many of the sites may already have come forward.
- 5.10 There is also a procedural difficulty with the amendment. The amendment was moved to the Motion to defer consideration of the reports on the Draft New Local Plan to a Special meeting of the Council to allow all Councillors to review the SHLAA (Strategic Housing Land Availability Assessment) sites. The review having taken place, the amendment is superfluous.
(The Council's procedure rules do not allow for this amendment to be put to a Motion to approve the recommendations in the original report to Council as it would have a negative effect.)

6. Corporate Implications

- 6.1 Members are referred to the report before Council 9.12.2015 which sets out the serious legal, reputational and financial risks in failing to take forward the Draft New Local Plan at Sections 7 to 9 of the report and which was restated at the workshop on 13.1.2016.

7. Background Papers

Item 12 Draft New Local Plan reports to Council 9.12.2015
Councillor Dick's amendment 9.12.2015
Council Procedure Rules of Debate

Report Author:

Ann Horgan – Head of Civic Governance

ORDINARY COUNCIL

9th December 2015

Subject: Draft New Local Plan

1. Purpose of Report

- 1.1 To determine the next steps to be taken on the Draft Local Plan after consideration of the report and recommendations of the Task & Finish Group, following its examination of the responses to the consultation on the Draft New Local Plan, and related planning policy matters.**
- 1.2 To seek the authority of the Council to incorporate the changes to the Draft New Local Plan set out in the Consultation Report and accepted by the Task & Finish Group. The Report of the Draft New Local Plan Task & Finish Group is attached separately to this report.**
- 1.3 To seek the authority of the Council, pursuant to Section 20 of the Planning & Compulsory Purchase Order Act 2004, and Regulations 19 and 22 of the Town & Country Planning (Local Planning) (England) Regulations 2012, to publish the Castle Point New Local Plan 2015 for consultation(allowing further representations to be made) and submission to the Secretary of State.**

2. Links to Council's Priorities and Objectives

The proposals primarily concern the following Council aims:

- Transforming our Community
- Efficient and Effective Customer Focused Services

3. Recommendations

3.1 Council is requested to:

- 1. Note the findings of the Task & Finish Group following its detailed and thorough examination of the responses to the consultation on the Draft New Local Plan and related planning policy matters.**
 - 2. Approve the incorporation of the changes to the Draft New Local Plan set out in the Consultation Report and accepted by the Task & Finish Group.**
 - 3. Pursuant to Section 20 of the Planning & Compulsory Purchase Order Act 2004, and Regulations 19 and 22 of the Town & Country Planning (Local Planning) (England) Regulations 2012, approve the publication of the Castle Point New Local Plan 2015 for publication and submission to the Secretary of State.**
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4. Background

- 4.1 Council is reminded that at its meeting on 15th January 2014, it agreed to publish the Draft New Local Plan for consultation. That consultation took place from 24th January 2014 to 28th March 2014.
- 4.2 The Council also agreed to appoint a Task & Finish Group to review the responses to the consultation of the Draft New Local Plan.
- 4.3 At its meeting on 26th March 2014, Council agreed to ask the Task & Finish Group to review the capacity of the area of land known as the North West Thundersley Urban Extension (Housing Proposals Site H18) to improve its deliverability as part of the Draft New Local Plan.
- 4.4 At the close of the consultation period just fewer than 5,000 responses had been received to the Draft New Local Plan.
- 4.5 The Task & Finish Group commenced work on 30th July 2014. It was provided with a comprehensive report on all the responses received. Further representations received after the closing date of consultation were also recorded and made available to the Task & Finish Group. The report to the Group also provided recommendations for changes to the text of the plan as a result of representations received.
- 4.6 The Task & Finish Group met on 15 occasions to consider not only representations and suggested responses to the Draft New Local Plan, but also other relevant planning policy and background evidence matters. Its work concluded at a meeting on 25th November 2015.
- 4.7 Council is referred to the final report of the Draft New Local Plan Task & Finish Group attached to this report.
- 4.8 The findings of the Task & Finish Group are
- With the exception of Chapter 13 (Housing), the Task & Finish Group has considered the representations and has accepted the responses set out in the Report of Consultation Responses in respect of Chapters 3 to 21 of the Plan.*
- 4.9 The Task & Finish Group recommended to Council
- Having considered all the information referred to in this report, the Task & Finish Group was unable to reach agreement in relation to the release of Green Belt Sites and other constraints, the Task & Finish Group refers the Draft New Local Plan to Council for decision.*

5. The next steps

- 5.1 The Council is now recommended to authorise the next stages in the preparation of the Draft New Local Plan.

- 5.2 Section 20 of the Planning & Compulsory Purchase Order Act 2004 requires any development plan document to be submitted to the Secretary of State for independent examination.
- 5.3 Regulation 19 of the Town & Country Planning (Local Planning) (England) Regulations 2012 requires that a copy of the submission documents and details of the representation (consultation) procedure are publicised prior to submission.
- 5.4 Regulation 22 prescribes the documents to be made available on submission of a plan.

6. The benefits of a plan

- 6.1 The Council is reminded that the current development plan for Castle Point is the 1998 Local Plan (so far as its saved policies are in conformity with the National Planning Policy Framework). This is some 17 years old. The National Planning Policy Framework explains that local plans should be kept up-to-date, and should be prepared with the objective of contributing to sustainable development. Plans should be positively prepared and seek net gains to the environmental, social and economic dimensions of sustainable development.
- 6.2 With a Local Plan in place the Council will be able to advance the case for greater investment in the Borough, and improved infrastructure. A plan will allow the Council to direct development to the most appropriate locations with the attendant benefits from growth. It will also give the Council greater ability to resist unwelcome development in inappropriate locations. The Borough will be master of its own destiny.
- 6.3 A Local Plan will also be supported by a Community Infrastructure Levy to ensure that all relevant development makes a proportionate contribution to the improvement of infrastructure in the Borough.

7. The risks associated with out-of-date plans and Corporate Implications

- 7.1 As the Proper Officer of the Council the Chief Executive has a duty to ensure that before any decision is made Councillors are aware of the consequences of failure to progress the Draft New Local Plan. The Chief Executive will be writing separately to the Leaders of the Political Groups on the Council and the Independent Members on the Council regarding the legal, reputational and financial risks in failing to take forward the Draft New Local Plan.

Legal

- 7.2 The Council needs to make progress with a New Local Plan. The Government, in publishing the Housing and Planning Bill on the 13th October 2015, has made it clear the requirement for local planning authorities to produce statutory development plans by 2017.
- 7.3 The Draft New Local plan will be assessed at independent examination by a planning inspector against the four tests of soundness in paragraph 182 of the National Planning Policy Framework, one of which incorporates a test as

to whether the plan is positively prepared, based on a strategy which seeks to meet needs where this is consistent with meeting sustainable development.

- 7.4 The evidence supporting the Draft New Local Plan supports the strategy selected, which seeks to meet the needs of the Borough so far as is consistent with the policies of the National Planning Policy Framework when taken as a whole.
- 7.5 Any attempt to remove sites that is not supported by evidence will result in the Council's approach to meeting its housing needs being found unsustainable.
- 7.6 This in turn could put the entire plan at significant risk with the Council being faced with the prospect of either a finding of unsoundness or having to withdraw yet another development plan document after examination.
- 7.7 Members of the Task & Finish Group considered in some depth the constraints affecting the Borough however these constraints can only be applied through the Local Plan process.
- 7.8 Without a Local Plan the Objectively Assessed Needs (OAN) for the Borough is 400 dwellings per annum. It is this figure that will be the starting point for any Planning Inspector at appeal in assessing whether the Council has a 5 year housing land supply.
- 7.9 With a Local Plan in place, the evidence having been tested at public examination the Council can rely on the target figure of 200 per annum because of the application of constraints. There is also the risk that at Appeal developers will argue that the OAN figure of 400 per annum referred to above should be much higher (as occurred in the Jotmans Appeal).
- 7.10 The Council will be assessed as to whether it has fulfilled its "duty to co-operate in relation to planning of sustainable development" (as set out in Section 11 of the Localism Act 2011) with other statutory bodies and agencies including neighbouring councils. Significant work has been carried out over the course of the preparation of the Draft New Local Plan to fulfil this duty.
- 7.11 Furthermore failure to take into account the findings of the Sustainability Appraisals, Habitat Regulations Assessment and Equality Impact Assessments in the decision making process could result in the New Local Plan being found to be procedurally unsound.
- 7.12 Given the timeframes set by Government in the Housing and Planning Bill, having the Draft New Local Plan found unsound or withdrawing the Draft New Local Plan would result in the deadline of 2017 not being achieved and put the Council at risk of intervention by the Secretary of State.

Reputational

- 7.13 Failure to produce a statutory development plan places the Council at risk of intervention by the Secretary of State. Where the Secretary of State thinks that a local planning authority are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or

adoption of a development plan document, he or she could intervene and produce a statutory development plan for the authority.

- 7.14 Whilst during intervention the Council would remain responsible for the costs of preparing the Draft New Local Plan, it would have no control over the process and would be burdened with the outcomes and significant costs. This is unlikely to be a positive experience for the Council.
- 7.15 Laura Graham, the Independent Planning Inspector made this point very clear to Members when she met with them on 11th November 2015.
- 7.16 In addition the Growth and Infrastructure Act 2013 imposed upon local planning authorities a requirement to improve performance. An authority where more than 20% of appeals on applications for major development are allowed during the 2 year assessment period will be designated. The result of designation will mean that developers may apply for planning permission direct to the Secretary of State and the authority is no longer authorised to determine major applications.

Financial Implications

General Financial Statement:

- 7.17 The Council is reminded of the Medium Term Financial Forecast, presented to Council in February 2015, which indicated a significant funding gap in each financial year from 2017/18 which the Council must address in order to maintain existing service levels.
- 7.18 The Council is already effectively committed beyond its means in future years i.e. spending funds it does not have, and will need to identify reductions to existing services.
- 7.19 The position with regard to Council reserves is also serious. There are very real and significant financial risks, particularly around planning appeals and associated legal costs. These risks, coupled with the projected budget gap, result in a complete depletion of general reserves within the next three to four financial years.

Specific Financial Implications:

- 7.20 The Council had previously established a specific reserve for local plan development costs, of £250,000. By the end of 2014/15 only approximately £35,800 remained unspent. The further stages of plan preparation are likely to cost in the region of £190,000 for publicity, a Programme Officer and examination costs. The additional costs of £154,200 would need to be made available from reserves.
- 7.21 Should the Draft New Local Plan not be agreed, then further work on a new plan would be required; resources will need to be identified to meet the costs of new documents and evidence. Work carried out with existing evidence is as set out in the list below under Background Papers.

- 7.22 Any new evidence to be collected is likely to incur a cost not less than that already spent (£184,000), together with new consultation costs (not less than £35,000). In addition to these costs, there will also be additional staff costs amounting to £31,000.
- 7.23 Should the Council decide not to proceed with the Draft New Local Plan, then there are also potentially significant costs and resource implications to the Council in dealing with planning appeals. Any such costs would reduce General Fund reserves. The most recent calculation of the minimum recommended level of General Fund reserves, in the February 2015 Policy Framework and Budget Setting report, indicated a potential amount of £1.6m, should appeals be found against the Council.
- 7.24 Council is also asked to note a point of clarification regarding the position with reserves. No funds have been set aside to deal with planning appeals. Rather an exercise has been carried out to quantify a potential financial risk that may materialise as a consequence of not having an up-to-date local plan. Approval to draw from reserves would be required as each risk materialised. There is no approval to spend implied reserves.
- 7.25 The costs associated with preparing a development plan under the direction of the Secretary of State are also likely to be significant and beyond the control of the local authority.
- 7.26 The absence of an up-to-date plan will also leave the Council exposed to speculative development proposals in unwelcome locations, and with no mechanism for being able to negotiate maximum benefits from development proposals. As failure to adopt a Draft New Local Plan will result in the inability of the Council to seek contributions for infrastructure improvements through Community Infrastructure Levy (CIL). As a result the Council will only be able to seek developer contributions through negotiation via S106 Agreements which, as from April 2015, is limited in its use.
- 7.27 As highlighted by Laura Graham the local authority may find ultimately, development may be permitted “by appeal” as it has been elsewhere, when insufficient progress has been made with the local development planning process.
- 7.28 The likelihood is that if those appeals are successful the intensity of development will exceed that currently proposed within the Draft New Local Plan and on sites not currently within the Draft New Local Plan.

Human Resources and Equality Implications

Human Resources:

- 7.29 The next stages of the Draft New Local Plan preparation can be carried out using existing resources.

Equality Impacts:

- 7.30 The Draft New Local Plan is supported by an Equality Impact Assessment to ensure that the outcomes of the plan result in a fair and equal community.

IT and Asset Management Implications

- 7.31 There are no implications of this kind associated with recommendations set out in this report

8. Timescale for implementation

- 8.1 The Council's adopted Local Development Scheme, agreed at the time when the Draft New Local Plan was agreed for consultation in January 2014, assumes that a period of twelve months will be required from the Council's agreement to proceed with a plan to its eventual adoption. Following this guide, further consultation would take place in the spring 2016, before submission in the summer 2016, for examination in the autumn 2016, with an inspector's report due in the winter of 2016/7.

9. Conclusions

- 9.1 The Task & Finish Group has carried out the work set for it by Council. It is now for the Council to consider and agree the next stages in the preparation of the Draft New Local Plan having regard to the risks rehearsed in the report.
- 9.2 To re-consider the Draft New Local Plan at this stage exposes the Council to the risk of unwelcome development, "planning by appeal", and potential Government intervention.

Report author:

David Marchant - Chief Executive

Ann Horgan – Head of Civic Governance

Background papers:

- National Planning Policy Framework 2012
- Planning Practice Guidance
- Castle Point Draft New Local Plan
- Castle Point Draft New Local Plan Consultation Report
- Draft New Local Plan Residents Comments
- Schedule of Full Document Responses to the Draft New Local Plan
- Draft New Local Plan Habitat Regulation Assessment Representations
- Draft New Local Plan Whole Plan Viability Assessment Representations
- Sustainability Appraisal Scoping Report Post Consultation
- Sustainability Appraisal of the Draft New Local Plan
- Habitat Regulation Task 1 Screening Report
- Habitat Regulation Assessment of the Draft New Local Plan
- Equality Impact Assessment Scoping Report Post Consultation
- Equality Impact Assessment of the Draft New Local Plan

- Greater Essex Demographic Forecasts Phase 1 & 2
- Greater Essex Demographic Forecast Phase 3
- CLG 2011 Based Interim Household Projections
- Greater Essex Demographic Forecasts Phase 4
- Castle Point Employment and Retail Needs Assessment
- Castle Point Hotel Needs Assessment
- Census 2011 Car Ownership Data for Castle Point
- Census 2011 Mode of Travel to Work Data for Castle Point
- UK Broadband Impact Study Report
- Transport Evidence for the New Local Plan (Castle Point)
- Thames Gateway South Essex Fundamental Review of the Strategic Housing Market Assessment
- Castle Point Strategic Housing Market Assessment Update
- Castle Point Private Sector Empty Homes Report
- Essex Gypsy and Traveller Accommodation Needs Assessment
- Census 2011 Accommodation Type Data Castle Point
- Castle Point Housing Growth Topic Paper
- Castle Point Housing Capacity Topic paper
- Castle Point Housing Report in the Residential Use of Caravan and Park Home Sites
- Sustainability Appraisal of Sites in the Green Belt
- Sustainability Appraisal of Sites Review
- Castle Point Housing Options Topic Paper
- Review of Existing Supplementary Planning Guidance re: Provision of Replacement Dwellings and Extensions
- Castle Point Green Belt Functions Assessment
- Castle Point Green Belt Landscape Assessment
- Castle Point Green Belt Boundaries Review
- Joint Strategic Needs Assessment Castle Point Profile
- Castle Point Open Space Appraisal Update
- Castle Point Playing Pitch Assessment
- Hadleigh Olympic Legacy – Masterplan
- Castle Point Community Infrastructure Needs Assessment Working Draft
- Castle Point Strategic Flood Risk Assessment
- South Essex Water Cycle Study
- South Essex Surface Water Management Plan
- Castle Point Flood Risk Sequential and Exception Test Report for Housing Site Options
- Essex Thames Gateway Historic Landscape Characterisation
- Castle Point Wildlife Site Review
- Air Quality Progress Report for Castle Point
- Air Quality Updating and Screening Assessment for Castle Point
- Extract from the Essex Historic Environment Record – Castle Point Records

- Castle Point Urban Characterisation Report
 - Castle Point Local List of Non-Designated Historic Assets Review
 - Castle Point Draft New Local Plan Whole Plan Viability Assessment Phase 1 Report
 - Additional representations recorded after the closing of consultation
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Draft New Local Plan Task & Finish Group's – Report to Council on the Draft New Local Plan

1. Purpose of Report:

1.1 To review the outcome of the Task and Finish Group's consideration of the response to consultation on the Draft New Local Plan (together with the additional work requested by Council in March 2014 to review the capacity for improving the deliverability of the North West Thundersley Urban Extension in order to further evaluate its suitability for inclusion into the New Local Plan).

2. Links to Council's Priorities and Objectives

2.1 The draft New Local Plan contributes directly towards the Council's priorities of *Transforming our Community and Public Health and Wellbeing*. The way in which it is delivered will contribute towards the priority of *Efficient and Effective Customer Focus Services*.

3. Next Steps

3.1 Council is asked to consider the recommendation of the Task and Finish Group and decide on the final response to the consultation.

4. Background

4.1 At its meeting on 15th January 2014, Council agreed to publish a Draft New Local Plan for public consultation. That consultation took place from 24th January 2014 until 28th March 2014.

4.2 Council also agreed to appoint a Task and Finish Group to review the response to consultation on the Draft New Local Plan.

4.3 At the Council meeting in July 2014 the Terms of Reference of the Group were approved and appointments made to the Group.

4.4 The Task and Finish Group was formed to review the responses the Draft New Local Plan – examining all provided documentation related to the Draft New Local Plan – in order to report the outcome of its considerations together with any recommendations for changes and supported with evidence to Council, which shall then decide on the response to the consultation.

4.5 The Task and Finish Group has met 14 times since July 2014.

5. Deliberations of the Task and Finish Group

5.1 The Group considered all representations received during the consultation period 24th January 2014 to 28th March 2014 (9 weeks) and representations received after that date.

5.2 To assist the Group's deliberations on representations the Group considered the following matters:

- The National Planning Policy Framework (NPPF)
- The Planning Practice Guidance (PPG)
- Objectively Assessed Need
- Housing Targets
- Housing Supply
- Economic Policies
- Constraints:
 - Physical Constraints – such as SSSI
 - Policy Constraints – such as Green Belt
- Sustainable Development
- Ports
- The policies relating to Hazardous Installations at South Canvey
- Each of the Proposed Housing Allocation Sites (Policies H4-H18)

5.3 Council is reminded that all Members were invited to the briefing dealing with Objectively Assessed Need in December 2014.

5.4 Upon reviewing the housing site H18 , the Task and Finish Group requested officers to investigate more thoroughly the area known as H18, as a possible development site to be taken forward within the context of the New Local Plan with all entrances and exists to the sites to be assessed. Officers provided the following additional information:

- Identified the extent of previously developed land in area H18 – providing a Plan and Land Use Summary
- Meeting Notes between Steve Rogers Head of Regeneration & Neighbourhoods and representatives from Dove Jeffery Homes, Steve Rogers, Head of Regeneration & Neighbourhoods and a representative from One Property Group and TPA Transport Consultants
- AECOM Briefing Note: Thundersley – First Principles Access Review
- Letter correspondence between Steve Rogers, Head of Regeneration & Neighbourhoods and Brandon Lewis, Minister of State for Housing and Planning with regard to how to interpret national planning policy in relation to the Green Belt and housing provision

- Formal response from Essex County Council Transport Strategy & Engagement with regard to highway access and road infrastructure improvements that would be required if site H18 were to proceed. It is to be noted that the Essex County Council Transport Strategy & Engagement maintain their objection to the development of H18 based on the following four points:
 - *“No direct access should be taken from the A127 and A130 as this would significantly impact on the free flow of traffic on this strategic network*
 - *An appropriate strategic access is required into the site, which is presently un-made roads*
 - *Access from the existing urban area will exacerbate congestion at Tarpots (A13) and Woodman’s Arms junctions (A129)*
 - *Any reconfiguring of the Rayleigh Spur junction is unviable at present, and especially at the proposed level of development.”*

5.5 The Task and Finish Group has been briefed and noted the publication of the Housing and Planning Bill on 13.10.2015, and the Government’s determination to speed up delivery and approval of local plans for housing.

5.6 The Group has noted the Government’s statement that “Councils must produce local plans for new homes in their area by 2017 – or the Government will ensure, in consultation with local people, those plans are produced for them.”

5.7 In order to assist councils who have not yet put in place local plans the Planning Inspectorate has put in place a programme for an experienced Planning Inspector to visit and offer assistance to councils.

5.8 Laura Graham, an experienced Planning Inspector, visited the Council and all Members were given the opportunity to attend a session to question the Inspector generally on the local plan process.

5.9 Key messages emerging from the briefing session included:

- Reaffirmation that plans should be positively prepared
- Plans must boost significantly housing land supply
- The starting point for housing provision is Objectively Assessed Need (OAN)
- If a plan cannot meet OAN, then a review of constraints needs to be conducted, to see if they can be overcome “leaving no stone unturned”
- Importance of discharging the Duty to Co-operate
- If there is no plan in place, the Council run the risk of “planning by appeal”

5.10 Finally, the Task & Finish Group was advised on the risks of not proceeding with a Draft New Local Plan that is likely to be found sound.

- Planning by appeal resulting in
 - Intensification
 - More sites coming forward for development
 - Green Belt at risk
 - Greater loss of Green Belt
 - Loss of community benefits
 - Loss of new homes bonus
 - Loss of wider infrastructure improvements
- Government Intervention

6. Findings

6.1 With the exception of Chapter 13 (Housing), the Task and Finish Group has considered the representations and has accepted the responses set out in the Report of Consultation Responses in respect of Chapters 3 to 21 of the Plan.

7. Recommendations

7.1 Having considered all the information referred to in this report, the Group was unable to reach agreement in relation to the release of Green Belt sites and other constraints, the Task and Finish Group refers the Draft New Local Plan to Council for decision.

8. Corporate Implications

(a) Financial Implications

There are no financial resource implications which are additional to those that have previously been identified through the previous Local Development Scheme, Any additional evidence base work required however would need additional funding, for which no provision has been made. The Local Development Scheme will require updating if and when the Council approves a plan for publication.

(b) Legal Implications

At examination, planning authorities must show how the duty to cooperate has been fulfilled, and how plans meet the four tests of soundness as set out in paragraph 182 of the NPPF, which are:

Positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;

Justified – the plan should be the most appropriate strategy, when considered against reasonable alternatives, based on proportionate evidence;

Effective – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and

Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.

Where Local Plans are not based on robust evidence, there have been instances where they have been subject to legal challenge

If the Draft New Local Plan is altered it will be necessary to carry out further Sustainability Appraisal and Habitat Regulation Assessment work to ensure that the impacts on sustainability and on European Sites respectively have been appropriately assessed. The Council would need to consider the findings of these assessments before taking any final decision.

Any substantive amendment to the Draft New Local Plan would also require supporting evidence and additional consultation with residents, stakeholders and statutory consultees.

(c) Human Resources and Equality Implications

Human Resources

Any additional evidence based work may need additional resources, for which no provision has been made.

Equality Impacts

If the Draft New Local Plan is altered it would be necessary to review the Equality Impact Assessment to ensure that the outcomes of the plan result in a fair and equal community. The Council would need to consider the findings of this assessment before taking any final decision.

(d) IT and Asset Management Implications

There are no IT implications associated with this report.

9. Timescale for implementation and Risk Factors

The consultation on the Draft New Local Plan was carried out under Regulation 18 of the Local Plan Regulations; the next stage (Regulation 19) is for the Council to publish its final plan for consultation before submission.

The final plan should show how earlier stages have been taken into account.

Failure to have regard to the National Planning Policy Framework and the evidence base in the preparation and progress of the draft New Local Plan will put it at risk of being found unsound. Failure to have made substantive progress with the draft New Local Plan by early 2017 runs the risk of Government intervention.

Without a Local Plan, it will also be difficult to secure investment in improved infrastructure, with limited opportunity for a Community Infrastructure Levy to be pursued.

Background papers:

- National Planning Policy Framework 2012
- Planning Practice Guidance
- Castle Point Draft New Local Plan
- Castle Point Draft New Local Plan Consultation Report
- Draft New Local Plan Residents Comments
- Schedule of Full Document Responses to the Draft New Local Plan
- Draft New Local Plan Habitat Regulation Assessment Representations
- Draft New Local Plan Whole Plan Viability Assessment Representations
- Sustainability Appraisal Scoping Report Post Consultation
- Sustainability Appraisal of the Draft New Local Plan
- Habitat Regulation Task 1 Screening Report
- Habitat Regulation Assessment of the Draft New Local Plan
- Equality Impact Assessment Scoping Report Post Consultation
- Equality Impact Assessment of the Draft New Local Plan
- Greater Essex Demographic Forecasts Phase 1 & 2
- Greater Essex Demographic Forecast Phase 3
- CLG 2011 Based Interim Household Projections
- Greater Essex Demographic Forecasts Phase 4
- Castle Point Employment and Retail Needs Assessment
- Castle Point Hotel Needs Assessment

- Census 2011 Car Ownership Data for Castle Point
- Census 2011 Mode of Travel to Work Data for Castle Point
- UK Broadband Impact Study Report
- Transport Evidence for the New Local Plan (Castle Point)
- Thames Gateway South Essex Fundamental Review of the Strategic Housing Market Assessment
- Castle Point Strategic Housing Market Assessment Update
- Castle Point Private Sector Empty Homes Report
- Essex Gypsy and Traveller Accommodation Needs Assessment
- Census 2011 Accommodation Type Data Castle Point
- Castle Point Housing Growth Topic Paper
- Castle Point Housing Capacity Topic paper
- Castle Point Housing Report in the Residential Use of Caravan and Park Home Sites
- Castle Point Statement of Community Involvement
- Sustainability Appraisal of Sites in the Green Belt
- Sustainability Appraisal of Sites Review
- Castle Point Housing Options Topic Paper
- Review of Existing Supplementary Planning Guidance re: Provision of Replacement Dwellings and Extensions
- Castle Point Green Belt Functions Assessment
- Castle Point Green Belt Landscape Assessment
- Castle Point Green Belt Boundaries Review
- Joint Strategic Needs Assessment Castle Point Profile
- Castle Point Open Space Appraisal Update
- Castle Point Playing Pitch Assessment
- Hadleigh Olympic Legacy – Masterplan
- Castle Point Community Infrastructure Needs Assessment Working Draft
- Castle Point Strategic Flood Risk Assessment
- South Essex Water Cycle Study
- South Essex Surface Water Management Plan
- Castle Point Flood Risk Sequential and Exception Test Report for Housing Site Options
- Essex Thames Gateway Historic Landscape Characterisation
- Castle Point Wildlife Site Review
- Air Quality Progress Report for Castle Point
- Air Quality Updating and Screening Assessment for Castle Point
- Extract from the Essex Historic Environment Record – Castle Point Records
- Castle Point Urban Characterisation Report
- Castle Point Local List of Non-Designated Historic Assets Review
- Castle Point Draft New Local Plan Whole Plan Viability Assessment Phase 1 Report

- Additional representations recorded after the closing of consultation