

ORDINARY COUNCIL

30th November 2022

**Subject: Consideration of Recommendations from Regulatory
Committees: Gambling Act 2005- Review of Gambling Licensing
Policy Statement**

1. Purpose of Report

To present to Council a recommendation from the Licensing Committee held on 23rd November 2022 to adopt a revised Gambling Licensing Policy Statement.

2. Background

Under the terms of the Gambling Act 2005, the Council's Gambling Licensing Policy Statement has to be reviewed every three years. The current Statement of Gambling Licensing Policy Statement came into effect in January 2019. The policy was then re-adopted under delegated authority for the period 2019 to 2022 as there were no changes to be made to the policy at the time of that review. The review for this period is now due and had been undertaken by the Licensing Committee.

3. Present Position

The Licensing Committee decided to adopt the current policy which would then be valid for the next three-year period (January 2023 to January 2026).

This draft policy had been subject to a consultation process. Statutory consultees are prescribed by the Gambling Act, and include responsible authorities (such as the Police, Fire Brigade) and interested parties (residents or residents groups, trade organisations).

4. Proposals

No comments or observations were received on the revised policy. The Licensing Committee agreed to recommend to Council to adopt the revised Gambling Licensing Policy Statement. A copy is attached to this report.

5. Corporate Implications

Links to Corporate Priorities and objectives

- 5.1 The Gambling Policy Statement contributes directly towards the Council's priorities of Economy and Growth and People.

Financial implications

- 5.2 There are minor financial implications associated with the recommendation in this report and a cost will be incurred to place the public notice in the local newspaper in order to satisfy the requirement to advertise the fact that the policy statement has been published. The cost is recoverable through the licensing fee process.

Legal implications

- 5.3 The Gambling Act 2005 requires that the policy is reviewed every three years in order that it can reflect changes in law, guidance and codes of practice. It also determines statutory consultees.

Human Resources, Equality, IT/Asset Management Implications

- 5.4 The public sector Equality Duty pursuant to Section 149 of the Equality Act 2010 ("the Act") came into force on the 5th April 2011. The Equality Act 2010 (Age Exceptions) Order 2012 ("the Order") came into effect on the 1st October 2012. The Equality Duty requires the Council to consider how the decisions it makes and services it delivers affects people who share different "protected characteristics".
- 5.5 The local authority when reviewing its Statement of Licensing Policy under the Gambling Act 2005 must have due regard for the need to eliminate unlawful discrimination, harassment, victimisation to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics includes age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 5.6 The revisions proposed are in accordance with the equality framework for local government which describes how the local authority will fulfil its moral, social and legal obligations; this equality framework is closely linked to the Corporate Plan and to other strategies, policies and plans.

6. Timescale for Implementation and Risk Factors

The table below shows the formal schedule for the publication of the policy document.

Action	Date due	Outcome
Draft revised policy	September 2022	Revised policy drafted
External consultation	21 September to 1 November 2022	Observations/comments received
Agreement and approval of the revised policy document by the Licensing	23 November 2022	Agreed for presentation to Council for full adoption

Committee		
Policy to be agreed by Full Council	30 November 2022	Full Council agreement obtained
Policy Statement published	3 January 2023	Policy published
Policy comes into force	31 January 2023	Policy comes into force

Recommendation

That the Council agrees to adopt the revised Gambling Licensing Policy Statement.

Resolution Required

Background Papers

Gambling Act 2009
Castle Point Statement of Licensing Policy



Gambling Licensing Policy Statement

2023-2026

Author – Mrs M Harris MA BSc(Hons) MIOL
Head of Licensing and Safer Communities
mharris@castlepoint.gov.uk
Final v January 2023

Contents

Part A

1.0	Introduction
2.0	The Licensing Objectives
3.0	Description of the Borough
4.0	Responsibilities under the Act
5.0	Statement of Licensing Policy
6.0	Consultation
7.0	Approval of Policy
8.0	Declaration
9.0	Responsible Authorities
10.0	Interested Parties
11.0	Exchange of Information
12.0	Public Register
13.0	Compliance and Enforcement

Part B - Premises Licences

14.0	Delegation of Powers
15.0	General Principles
16.0	Provisional Statements
17.0	Representations and Reviews
18.0	Adult Gaming Centres
19.0	Licensed Family Entertainment Centres
20.0	Casinos
21.0	Bingo Premises
22.0	Betting Premises
23.0	Tracks
24.0	Travelling Fairs

Part C - Permits/Temporary or Occasional Use Notices/Registrations

25.0	General
26.0	Unlicensed Family Entertainment Centre Gaming Permits
27.0	Alcohol Licensed Premises Gaming Machine Permits
28.0	Prize Gaming Permits
29.0	Club Gaming and Club Machine Permits
30.0	Temporary Use Notices
31.0	Occasional Use Notices
32.0	Small Society Lotteries
33.0	Delegations of Powers
34.0	Useful Contacts
35.0	Appendices

Part A

1.0 Introduction

1.1 This Statement of Licensing Policy sets out the principles by which Castle Point Borough Council as the Licensing Authority under the Gambling Act 2005 (referred to in this document as 'the Act'), intends to apply in discharging its functions to license premises for gambling under the Act as well as:

- designating the body responsible for advising the Authority on the protection of children from harm;
- determining whether or not a person is an "Interested Party";
- exchanging information with the Gambling Commission and others; and
- inspecting premises and instituting court proceedings for offences committed under the Act.

2.0 The Licensing Objectives

2.1 In exercising most of its functions under the Act, Licensing Authorities must have regard to the Licensing Objectives as set out in Section 1 of the Act. The Licensing Objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

3.0 Description of the Borough

Castle Point Borough Council is situated on the coastline of south-east Essex on the northern side of the Thames estuary and has an area of 17.3 square miles and a population of approximately 89,500 people.

There are few major concentrations of premises in the Borough providing facilities for betting and gambling. Those premises are mainly made up of pubs, clubs, betting shops, family entertainment centres, adult entertainment centres, amusements arcades and bingo halls. There are also a number of registered society lotteries.



4.0 Responsibilities under the Act

- 4.1** The Act introduced a licensing regime for gambling which is conducted by the Gambling Commission and by Licensing Authorities, depending on the matter to be licensed.
- 4.2** Castle Point Borough Council is the Licensing Authority for the area shown on the map whose responsibilities must be discharged by the Licensing Committee created under Section 6 of the Licensing Act 2003.
- 4.3** The Gambling Commission is responsible for issuing Operating and Personal Licences to persons and organisations who:-
- operate a casino;
 - provide facilities for playing bingo or for pool betting;
 - providing betting or act as intermediaries for betting;
 - make gaming machines available for use in Adult Gaming Centres and Family Entertainment Centres;
 - manufacture, supply, install, adapt, maintain or repair gaming machines;
 - manufacture, supply, install or adapt gambling machine software; or
 - promote a lottery.
- 4.4** The Licensing Authority is responsible for licensing premises in which gambling takes place. All types of gambling are included other than spread betting and the National Lottery. It is also responsible for issuing permits for premises with gaming machines and for receiving notices from operators wishing to use unlicensed premises for gambling on a temporary basis. In addition it is responsible for the registration of certain types of exempt Small Society Lotteries.

4.5 The Licensing Authority cannot become involved in the moral issues of gambling and must aim to permit the use of premises for gambling in so far as they think it is:

- a) in accordance with any relevant Code of Practice under Section 24 of the Act;
- b) in accordance with any relevant Guidance issued by the Gambling Commission under Section 25;
- c) reasonably consistent with the Licensing Objectives (subject to paragraphs a) and b) and in accordance with the Licensing Authority's Statement of Licensing Policy (subject to paragraphs a) and c).

Before the Licensing Authority can consider an application for a Premises Licence, an Operating and Personal Licence, or both, must have been obtained from the Gambling Commission.

5.0 Statement of Licensing Policy

5.1 The Licensing Authority is required by the Act to publish a Statement of Licensing Policy which contains the principles it proposes to apply when exercising its functions under the Act.

5.2 This policy must be reviewed and published every three years. The policy must also be reviewed from time to time and any proposed amendments and/or additions must be subject to fresh consultation. The 'new' policy must then be published.

5.3 This policy takes effect from 31 January 2023 and replaces the previous one.

6.0 Consultation

6.1 In producing this policy the Licensing Authority consulted widely before finalising and publishing it. In addition to the statutory consultees (listed below), the Council chose to consult with additional local groups and individuals. A full list of all groups and persons consulted is provided at Appendix A.

6.2 The Act requires that the following parties are consulted by the Licensing Authority:-

- The Chief Officer of Police for the Authority's area;
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
- One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act.

6.3 The other Groups and people consulted included:-

- Organisations working with people who are problem gamblers;
- Responsible Authorities under the Act
- Public Health

6.4 Consultation took place between 21 September and 1 November 2022.

7.0 Approval of Policy

7.1 This policy was reviewed by officers during September and October 2022 and approved at a meeting of the full Council on 30 November 2022 and has effect from 31 January 2023.

7.2 It should be noted that this policy does not override the right of any person to make an application, to make representations about an application, or to apply for a review of a licence, as each case will be considered on its own merit and according to the requirements of the Act.

8.0 Declaration

8.1 The Licensing Authority declares that it has had regard to the Licensing Objectives, formal Guidance issued to Licensing Authorities and any responses from those consulted during the consultation process and will adopt the Principles of Better Regulation.

8.2 The Council recognises its responsibilities under equality legislation and will monitor the impact of these statutory duties through its various corporate schemes such as the Race Equality Scheme and the Disability Equality Scheme.

9.0 Responsible Authorities

9.1 A full list of the Responsible Authorities designated under the Act and their contact details are given in Appendix B. It should be noted that under the Act the Licensing Authority is designated as a Responsible Authority.

9.2 The Licensing Authority is required to designate in writing a body that is competent to advise it about the protection of children from harm. In making this designation the following principles have been applied:

- the competency of the body to advise the Licensing Authority;
- the need for the body to be responsible for an area covering the whole of the Licensing Authority's area; and
- the need for the body to be answerable to democratically elected persons rather than any particular interest group etc.

9.3 In accordance with the Gambling Commission's Guidance to Local Authorities the Licensing Authority designates the Essex County Council Children's and Adult's Safeguarding Boards for this purpose.

10.0 Interested Parties

10.1 Interested parties can make representations about licensing applications or apply for a review of an existing licence. An interested party is defined in the Act as follows:

'... a person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,*

- b) has business interests that might be affected by the authorised activities, or*
- c) represents persons who satisfy paragraphs (a) or (b).'*

10.2 Interested Parties can be persons who are democratically elected such as Borough and Town Councillors and Members of Parliament.

Interested parties can also be trade associations, trade unions, residents' associations and tenants' associations. Providing that these people represent those living or having business interests in the area which might be affected, no specific evidence of authorisation is required.

Otherwise, the licensing authority will generally require a third party to produce some form of authorisation to speak on behalf of an interested party.

Whether a person is an interested party will be determined on a case by case basis. The types of organisations which may be considered to have business interests will be given a wide interpretation.

10.3 In determining if a person lives or has business interests sufficiently close to the premises that they are likely to be affected by the authorised activities the Licensing Authority will consider the following factors:

- The size of the premises;
- The nature of the premises;
- The distance of the premises from the location of the person making the representation;
- The potential impact of the premises (e.g. number of customers, routes likely to be taken by those visiting the establishment);
- The circumstances of the complaint. This does not mean the personal characteristics of the complainant but the interest of the complainant, which may be relevant to the distance from the premises;
- The catchment area of the premises (i.e. how far people travel to visit); and
- Whether the person making the representation has business interests in that catchment area that might be affected.

10.4 The Licensing Authority will decide if a representation made in respect of an application is valid based on the following factors:

- It is not frivolous or vexatious
- It raises issues that relate to the Guidance issued by the Gambling Commission
- It raises issues that relate to this policy
- It relates to the Licensing Objectives

11.0 Exchange of Information

11.1 In its exchange of information with parties listed in Schedule 6 of the Act the Licensing Authority will have regard to:

- the provisions of the Act, which include the provision that the Data Protection Act 1998 and the General Data Protections Regulations 2016 will not be contravened;
- the Guidance issued by the Gambling Commission;

- relevant Legislation and Regulations

In accordance with Section 350 of the Gambling Act 2005, the Licensing Authority may exchange information with the following statutory bodies or individuals:

- A constable or police force
- An enforcement officer
- A licensing authority
- Her Majesty's Revenue and Customs
- The Gambling Appeal Tribunal
- The Secretary of State
- Scottish Ministers
- Any other person or body designated by the Secretary of State in accordance with the Act.

11.2 The Licensing Authority may also exchange information provided by applicants with law enforcement agencies for purposes connected with the prevention and detection of crime but will only share any personal details for this purpose if required by law to do so.

12.0 Public Register

12.1 The Licensing Authority is required to keep a public register and share information in it with the Gambling Commission and others. Regulations prescribe what information should be kept in the register. Copies of the register may be obtained on payment of a fee.

13.0 Compliance and Enforcement

13.1 In exercising its functions with regard to the inspection of premises and to instituting criminal proceedings in respect of offences specified, the Licensing Authority will follow best practice. This requires that actions should be:

- Proportionate – Intervention will only be when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised.
- Accountable – The Authority must be able to justify decisions and be subject to public scrutiny.
- Consistent – Rules and standards must be joined up and implemented fairly.
- Transparent – Enforcement should be open and regulations kept simple and user friendly.
- Targeted – Enforcement should be focused on the problems and minimise side effects.

13.2 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as is possible and adopt a risk based inspection programme. All enforcement action is taken having regard to the Licensing Enforcement Policy.

13.3 The main enforcement and compliance role of the Licensing Authority in terms of the Act is to ensure compliance with the Premises Licence and other permissions which it authorises. The Gambling Commission will be the enforcement body for Operating and Personal Licences. Concerns about the manufacturer, supply or repair of gaming machines are not dealt with by the Licensing Authority but will be notified to the Gambling Commission.

- 13.4** The Licensing Authority will keep itself informed of developments as regard to the Department for Business, Energy and Industrial Strategy in its consideration of the regulatory functions of Local Authorities and will have regard to best practice.
- 13.5** Bearing in mind the principle of transparency the Licensing Authority's enforcement/compliance protocol or written agreements will be available on request.
- 13.6** As part of its ongoing inspection regime the Licensing Authority may carry out test purchasing to ascertain if a licensee has robust policies in place to prevent underage gambling. Licence holders will always be advised of the outcome of the test. Where operators carry out their own test purchasing, and the Licensing Authority is unable to obtain the results from the Primary Authority, we would expect this information to be provided by the operator when requested. Should the results show a failure then the Licensing Authority will, in the first instance, work with the operator to review and improve their policies and procedures.
- 13.7** Where there is a Primary Authority Scheme in place, the Licensing Authority will seek guidance from the Primary Authority before taking any enforcement action on matters covered by that scheme. At the time of the publication of this policy there were four Primary Authority arrangements with host local authorities:
- Ladbroke's/Corals – Milton Keynes
 - Paddy Power – Reading
 - William Hill – City of Westminster

Part B

Premises Licences

14.0 Delegation of Powers

- 14.1** The Licensing Authority has agreed a scheme of delegation for discharging its functions under the Act and this can be found in the Council's Constitution @ www.castlepoint.gov.uk

15.0 General Principles

- 15.1** Premises Licences are subject to the permissions/restrictions set out in the Act as well as the specific mandatory and default conditions detailed in regulations issued by the Secretary of State. The Licensing Authority is able to exclude default conditions and also attach others, where it is thought appropriate.
- 15.2** In accordance with section 150 of the Act Premises Licences can authorise the provision of facilities on:
- Casino premises
 - Bingo premises
 - Betting premises, including tracks and premises used by betting intermediaries
 - Adult gaming centre premises (for category B3, B4, C and D machines)
 - Family entertainment centre premises (for category C and D machines) (note that separate to this category the Licensing Authority may issue a family

entertainment centre gaming machine permit which authorises the use of category D machines only)

15.3 Each case will be decided on its merits and will depend upon the type of gambling that is proposed, as well as taking into account how the application proposes that the Licensing Objective concerns can be overcome.

15.4 The Licensing Authority is required by the Act, in making decisions about premises licences, to permit the use of premises for gambling so far as it thinks fit:

- in accordance with any relevant codes of practice under section 24 of the Act;
- in accordance with any relevant guidance issued by the Gambling Commission under section 25;
- to be reasonably consistent with the Licensing Objectives, subject to Paragraphs a) and b) and;
- in accordance with the Authority's Statement of Licensing Policy, subject to paragraphs a) and c).

15.5 Definition of Premises

In the Act 'premises' is defined as including 'any place'. It is for the Licensing Authority (having due regard for the Gambling Commission Guidance) to determine on the merits of each application whether different parts of a building can be regarded properly as separate premises.

The Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).

15.6 Demand

Demand is a commercial consideration and is not an issue for the Licensing Authority.

15.7 Location

Location will only be a material consideration in the context of the Licensing Objectives.

15.8 The Act is clear that demand issues (e.g. the likely demand or need for gambling facilities in an area) cannot be considered with regard to the location of premises but that considerations in terms of the Licensing Objectives can. The Licensing Authority will pay particular attention to the Objectives of Protection of Children and Vulnerable Persons from Being Harmed or Exploited by gambling as well as issues of crime and disorder.

15.9 In order for location to be considered, the Licensing Authority will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the Licensing Objectives. It is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) under section 10 that licensees assess the local risks to the Licensing Objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.

15.10 The LCCP also states that licensees must review (and update as necessary) their local risk assessments:

- a) to take account of significant changes in local circumstance, including those identified in this policy;
- b) when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- c) when applying for a variation of a premises licence; and
- d) in any case, undertake a local risk assessment when applying for a new premises licence.

15.11 The Licensing Authority expects the local risk assessment to consider as a minimum:

- whether the premises is in an area of deprivation
- whether the premises is in an area subject to high levels of crime and/or disorder
- the ethnic profile of residents in the area and how game rules, self-exclusion leaflets etc., are communicated to those groups
- the demographics of the area in relation to vulnerable groups
- the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather

15.12 In every case the local risk assessment should show how vulnerable people, including people with gambling dependencies are protected.

15.13 Other matters that the assessment may include:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.
- The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.
- Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by etc.
- The provision of signage and documents relating to games rules, gambling care providers and other relevant information be provided in both English and the other prominent first language for that locality.
- Where the application is for a Betting Premises Licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide betting machines.

The Licensing Authority expects all licensed premises' to have their Local Area Risk Assessment available on site for inspection by an authorised officer at all times when they are trading.

15.14 Such information may be used to inform the decision the Council makes about

whether to grant a licence, to grant a licence with special conditions or to refuse an application.

15.15 This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

15.16 Duplication with other Regulatory Regimes

Duplication with other statutory/regulatory regimes will be avoided where possible. This Authority will not consider whether a licence application is likely to be awarded planning permission or building control consent.

15.17 Licensing Objectives

Premises Licences granted must be reasonably consistent with the three Licensing Objectives. With regard to these Objectives, the following will be considered:-

- **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime**

The Licensing Authority is aware that there is a distinction between disorder and nuisance and that the prevention of nuisance is not a Licensing Objective under the Act.

Whilst the Licensing Authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime, it will pay attention to the proposed location of gambling premises in terms of this Licensing Objective.

Where an area has known high levels of crime, the Licensing Authority will consider carefully whether gambling premises are suitable to be located there and the need for conditions, such as the provision of door supervisors.

- **Ensuring that gambling is conducted in a fair and open way**

The Gambling Commission does not generally expect Licensing Authorities to be concerned with ensuring that gambling is conducted in a fair and open way.

However, the Licensing Authority will familiarise itself with operator licence conditions and will communicate any concerns to the Gambling Commission about misleading advertising or any absence of required game rules or other matters as set out in the Gambling Commission's Licensing Conditions and Code of Practice.

- **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

In practice, the Objective of protecting children from being harmed or exploited by gambling often means preventing them from taking part in, or being in close proximity to, gambling.

There is no definition of the term 'vulnerable person' in the Act, but this could include people who are gambling beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.

The Licensing Authority will consider very carefully whether applications for premises Licences in respect of gambling premises located close to schools, centres for gambling addicts, or residential areas where there may be a high concentration of families with children, should be granted, and will fully scrutinise the control measures outlined in an operator's local area risk assessment in this regard.

The Licensing Authority will consider whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

15.18 Conditions and Plans

The Licensing Authority is aware that the mandatory and default conditions imposed by the Gambling Commission will normally be sufficient to regulate gambling premises. In exceptional cases where there are specific risks or problems associated with a particular locality, specific premises or class of premises the Authority may consider attaching individual conditions related to the Licensing Objectives.

Any conditions attached to Licences will be proportionate and will be:-

- Relevant to the need to make the proposed premises suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

In addition, the Licensing Authority will examine how applicants propose to address the Licensing Objectives. In considering applications the Licensing Authority will particularly take into account the following, if deemed appropriate:-

- Proof of age schemes
- Closed Circuit Television
- Door supervisors
- Supervision of entrances/machine areas;
- Physical separation of areas;
- Location of entry;
- Notices and signage;
- Specific opening hours; and
- With particular regard to vulnerable persons, measures such as the use of self-barring schemes, provision of information, leaflets, helpline numbers for organisations such as Gamcare.

15.19 It is recognised that there are conditions which the Licensing Authority cannot attach to Premises Licences. These are:-

- any conditions on the Premises Licence which make it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated);

- conditions in relation to stakes, fees and the winning of prizes.

15.20 Credit

Credit facilities are prohibited from being provided in casinos and bingo licensed premises. Cash machines (ATM's) may be installed in such premises but the Licensing Authority may apply conditions as to where they are sited.

15.21 Betting Machines [See Appendix C for definition]

In relation to Casinos, Betting Premises and Tracks, the Licensing Authority can restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a Betting Premises Licence or to a Casino Premises Licence (*where betting is permitted in the casino*).

15.22 When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, among other things, shall take into account:-

- the size of the premises;
- the number of counter positions available for person to person transactions; and
- the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons.

15.23 In deciding whether to impose conditions to limit the number of betting machines, each application will be considered on its own merit and account will be taken of Codes of Practice or Guidance issued under the Act.

15.24 In all applications where a plan is required to be submitted, the Licensing Authority expectation is that, it will be in a scale of 1:100 unless otherwise agreed in writing and that, as a minimum, it will show the following (as appropriate to the type of application):

- The extent of the proposed licensed area
- All entry and exit points (including fire exits)
- CCTV camera positions
- Positions of betting terminals, high pay out machines (including fixed odds betting terminals) and ATM's
- Any fixed or permanent structures including counters
- Privacy screens
- All unlicensed areas under the control of the licensee including any 'sterile area's' and toilet and kitchen facilities be they for staff or public use.

16.0 Provisional Statements

16.1 An application for a provisional statement may be made in respect of premises which the applicant:

- expects to be constructed
- expects to be altered
- expects to acquire a right to occupy.

The applicant should refer to the Act and the detailed information provided in the Guidance.

17.0 Representations and Reviews

17.1 Applications for a review of a premises licence may be made by responsible authorities and interested parties.

It is for the Licensing Authority to decide whether the review is carried out . This decision will generally be on the basis of whether the request for the review is relevant to the matters listed below:-

- Whether the grounds for the request raises issues relevant to the principles to be applied by the Licensing Authority and set out with the Licensing authority Statement of Policy;
- Whether the grounds for the request are frivolous or vexatious
- Whether the grounds for the request would certainly not cause the Licensing Authority to alter/revoke/suspend the Premises Licence
- Whether the grounds for the request are substantially the same as previous representations or requests for a review
- In accordance with any relevant codes of practice issued by the Gambling Commission
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the Licensing Objectives

17.2 In accordance with the Guidance, the Licensing Authority can also initiate a review of the Licence on the basis of any reason which it thinks appropriate.

18.0 Adult Gaming Centres

18.1 An Adult Gaming Centre is defined in Appendix 'C'. Entry to these premises is age restricted.

18.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

19.0 Licensed Family Entertainment Centre

19.1 A Licensed Family Entertainment Centre is defined in Appendix C. Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.

19.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

20.00 Casinos

20.1 A casino is defined in Annex 'C'. Entry to these premises is age restricted.

20.2 The Licensing Authority is empowered to pass a resolution not to issue new licences for casinos in the area. No such resolution has been made.

20.3 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

20.4 Betting Machines

Conditions may be imposed to limit the number of betting machines , each application will be on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act.

20.5 Credit

Credit facilities are prohibited in casinos; however, this does not prevent the installation of cash dispensers (ATMs) on the premises, although the Licensing Authority may attach conditions as to the siting of such machines.

21.0 Bingo Premises

21.1 A Bingo premises is defined in Appendix C. Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.

21.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

21.3 Credit

Credit facilities are prohibited in premises licensed for Bingo; however, this does not prevent the installation of cash dispensers (ATMs) on the premises, although the Licensing Authority may attach conditions as to the siting of such machines.

22.0 Betting Premises

22.1 Betting Premises are defined in Appendix C. Entry to these premises is age restricted.

22.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

22.3 Betting Machines

In deciding whether to impose conditions to limit the number of betting machines, each application will be considered on its own merits and account will be taken on the Codes of Practice or Guidance issued under the Act.

22.4 B2 & B3 Machines

In respect to nationally expressed concerns that exist in relation to the potentially adverse impact of B2 (often called Fixed Odds Betting Terminals or FOBT's) and B3 machines may have on vulnerable groups of adults. The Licensing Authority will give due consideration to the need to apply conditions to betting shop premises including, but not limited to, setting out minimum staffing levels to ensure sufficient staff are on the premises to enable staff to comprehensively promote responsible gambling, adequately protect players, particularly in relation to players who are deemed to be vulnerable and to prevent under 18 year olds accessing gambling facilities.

22.5 The Licensing Authority expects B2 & B3 machines to be positioned in such a way that they can appropriately be monitored by staff particularly where those staff are positioned at a counter away from the machines. In general the Authority is of the view that 'privacy screens' will hamper this and will expect the local area risk assessment to take this into account where applicants intend to construct such screens. Particular attention should be paid to the Gambling Commission's Social Responsibility Codes in this regard, especially code 9.11.1. Where an existing licensee adds 'privacy screens' a variation application will be required.

23.0 Tracks

- 23.1** A Track is defined in Appendix C. Entry to these premises is generally age restricted. Please refer to the Gambling Commission Guidance.
- 23.2** The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

24.0 Travelling Fairs

- 24.1** The facilities for gambling (being category D machines and/or equal chance prize gaming without a permit) must amount to no more than an ancillary amusement at the fair. The Licensing Authority will determine whether this requirement is being met.

Part C Permits/Temporary or Occasional Use Notices/Registrations

25.0 General

The Act introduced a range of permits for gambling which are granted by Licensing Authorities. Permits are required when premises provide a gambling facility but either the stakes and prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises. With the exception of limiting machine numbers on Licensed Premises Gaming Machine permits, the Licensing Authority may only grant or reject an application for a permit. No conditions may be added.

26.0 Unlicensed Family Entertainment Centre Gaming Machine Permits

- 26.1** Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the Licensing Authority for a permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 26.2** The Licensing Authority requires the applicant to submit a scale plan of the premises showing the areas which the permit will cover together with any other areas under the control of the licensee. Generally, this will be at a scale of 1:100 but other scales may be submitted with prior agreement from the Licensing Authority.
- 26.3** The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, they may include:-
- A basic Disclosure and Barring Service check or equivalent criminal record check for the applicant and the person having the day to day control of the premises;
 - Proof of age schemes;
 - Displaying details of contact numbers advising the public of agencies to whom they can report concerns to in respect of children;

- How the applicant proposes to ensure that children will be protected from harm whilst on the premises;
- Training covering how staff will deal with:
 - Unsupervised children being on the premises,
 - Children causing perceived problems on/around the premises, or
 - Suspected truant children

In addition applicants should be able to demonstrate a full understanding of maximum stakes and prizes (and that staff are suitably trained in this respect).

27.0 (Alcohol) Licensed Premises Gaming Machine Permits

27.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines of Categories C and/or D via a notification to the Licensing Authority.

27.2 Gaming machines can only be located on licensed premises that have a bar for serving customers.

27.3 Premises restricted to selling alcohol only with food, will not be able to have gaming machines or apply for a permit.

27.4 Where an application for more than two gaming machines is received the Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only machines. Measures will cover such issues as:-

- Adult machines being in sight of the bar; or in sight of staff who will monitor that the machines are not being used by those under 18;
- Appropriate notices and signage;
- As regards the protection of vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes, provision of information, leaflets/help line numbers for organisations such as Gamcare;
- Relevant Codes of Practice issued by the Gambling Commission.

The Licensing Authority can decide to grant an application with a smaller number of machines and/or a different category of machines than that applied for but conditions other than these cannot be attached.

To enable the Licensing Authority to come to an appropriate decision, applicants are expected to submit a plan to show the proposed positioning of machines with their application.

28.0 Prize Gaming Machine Permits

28.1 The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered

on their merits, however, they may include:-

- A basic Disclosure and Barring Service check or equivalent criminal record check for the applicant and the person having the day to day control of the premises.
- Proof of age schemes
- How the applicant proposes to ensure that children will be protected from harm whilst on the premises
- Training covering how staff would deal with:-
 - unsupervised, very young children being on the premises,
 - children causing perceived problems on/around the premises, and
 - suspected truant children

In addition applicants should be able to demonstrate a full understanding of maximum stakes and prizes (and that staff are suitably trained in this respect).

In making its decision on an application for a Permit the Licensing Authority does not need to have regard to the Licensing Objectives but must have regard to any Gambling Commission guidance.

29.0 Club Gaming and Club Machine Permits

29.1 Members' Clubs and Miners' Welfare Institutes may apply for a Club Gaming Permit and/or a Club Gaming Machine Permit, but are restricted by category and number of machines and to equal chance gaming and games of chance.

29.2 Commercial clubs may apply for a club machine permit, subject to restrictions.

29.3 The gambling provided under the authority of a club gaming permit must also meet the following conditions:

(a) in respect of gaming machines:

no child or young person may use a category B or C machine on the premises

that the holder must comply with any relevant provision of a code of practice about the location and operation of gaming machines.

(b) the public, children and young persons must be excluded from any area of the premises where the gaming is taking place.

29.4 Section 273 of the Act sets out the conditions that will apply to the club machine permit including that in respect of gaming machines no child or young person uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

30.0 Temporary Use Notices (TUN)

30.1 A TUN is defined in Annex 'C'. A TUN may only be granted to a person or company holding an Operating Licence relevant to the temporary use of the premises. Regulations will be issued by the Secretary of State prescribing the activities to be covered. At present a Temporary Use Notice can only be issued for equal chance gaming.

- 30.2** For the purposes of a TUN, a set of premises is the subject of a TUN if any part of the premises is the subject of the Notice. This prevents one large premises from having a TUN in effect for more than 21 days per year by giving a Notice in respect of different parts.
- 30.3** The definition of a "set of premises" will be a question of fact in the particular circumstances of each Notice that is given. In considering whether a place falls within the definition of "a set of premises", the Licensing Authority will consider, amongst other things, the ownership/occupation and control of the premises.
- 30.4** The Licensing Authority will object to Notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

31.0 Occasional Use Notices - OUN are defined in Annex 'C'.

- 31.1** The Licensing Authority has very little discretion as regards these Notices aside from ensuring that a statutory limit of 8 days in a calendar year is not exceeded.
- 31.2** The Licensing Authority will however consider the definition of a track and whether the applicant is permitted to avail him/herself of the Notice.

32.0 Small Society Lotteries

- 32.1** The definition of a Small Society Lottery is contained in Appendix C and these require registration with the Licensing Authority.

33.0 Delegation of Powers

The Licensing Authority has agreed a scheme of delegation for discharging its functions under the Act.

34.0 Useful Contacts

The Gambling Commission maintains a list of useful contacts on organisations involved in gambling and their contact details can be found on the Commission's website www.gamblingcommission.gov.uk some of those organisations provide codes of practice on their particular area.

35.0 Appendices

Appendices have been attached to this statement providing further information and guidance and they are intended only to assist readers and should not be interpreted as legal advice or as a constituent of the Licensing Authorities policy. Readers of this document are strongly advised to seek their own legal advice if they are unsure of the requirements of the Act, or the guidance or regulations issued under the Act.

Appendix A

List of Consultees

The draft policy was placed on the Council Website and in accordance with the Act and the following organisations and individuals were consulted as part of the formal consultation exercise on the Statement of Gambling Licensing Policy.

- All responsible Authorities for the Gambling Act (as specified in Annexe 2).
- Holders of Premises Licences and Permits under the Gambling Act 2005.
- The Licensing Committee
- Canvey Island Town Council
- Castle Point Association of Voluntary Services
- Gamblers Anonymous
- Gambling Commission
- Gamcare
- Local Solicitors
- Members of the Borough Council
- Public Health
- Licensees of alcohol licensed premises who have given notice on the use of gaming machines
- A sample of organisations who had previously sought registration for the purposes of local lotteries
- Religious Groups
- Educational establishments including a sample of local secondary schools and further education establishments
- Licensing consultants and legal advisers in private practice
- Castle Point Community Safety Partnership

Appendix B

Responsible Authorities

Organisation	Contact and Address	Telephone
Licensing Authority	Castle Point Borough Council Council Offices Kiln Road Benfleet Essex SS7 1TF licensing@castlepoint.gov.uk	01268 8822000
Essex Police	Essex Police Licensing Unit Licensing Department (Alcohol & Gambling) Blythes Meadow Braintree Essex CM7 3DJ Licensing.applications@essex.police.uk	01245 452035
The Fire and Rescue Authority	Essex County Fire and Rescue Service Rayleigh Weir Community Fire Station 500 Rayleigh Road Benfleet Essex SS7 3TR eastareacommand@essex-fire.gov.uk	01376 576500
Essex County Council Children's and Adults Safeguarding Service	Licensing Applications Essex County Council 70 Duke Street County Hall Chelmsford Essex CM1 1JP licenceapplications@essexcc.gov.uk	01245 492211
Trading Standards	Information and Business Support Team Essex Trading Standards New Dukes Way Office 2 Beaufort Road Dukes Park Industrial Estate Chelmsford Essex CM2 6PS ESFbsnewdukesway@essex.gov.uk	01245 341800
The Local Planning Authority	Castle Point Borough Council Council Offices Kiln Road Benfleet Essex SS7 1TF planning@castlepoint.gov.uk	01268 882200
Environmental Health	Castle Point Borough Council Council Offices Kiln Road Benfleet Essex SS7 1TF Environmental-Health@castlepoint.gov.uk	01268 882200

Organisation	Contact and Address	Telephone
Gambling Commission	Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP info@gamblingcommission.gov.uk	0121 230 6500
HM Revenue & Customs	HM Revenue & Customs Excise Processing Teams BX9 1GL Nrubetting&gaming@hmrc.gsi.gov.uk	03000 516023
Public Health	Essex County Council Dr Danny Showell Consultant in Public Health Essex County Council County Hall Market Rd Chelmsford Essex CM1 1QH Ben.Hughes@essex.gov.uk	

Appendix C

Definitions

Please note, definitions listed below are for guidance only and do not form part of the Council's Statement of Licensing Policy or will necessarily appear in it.

ATM	Auto teller machine or cash machine
Adult Gaming Centre	Premises in respect of which an Adult Gaming Centre Premises Licence has effect.
Authorised Local Authority Officer	A Licensing Authority Officer who is an authorised person for a purpose relating to premises in that authority's area.
Betting	In this Act "betting" means making or accepting a bet on: (a) the outcome of a race, competition or other event or process, (b) the likelihood of anything occurring or not occurring, or (c) whether anything is or is not true.
Betting Machines	A machine designed or adapted for use to bet on future real events [not a gaming machine].
Bingo	Bingo is not given a statutory definition in the Act other than that it means any version of the game irrespective of by what name it is described. It is to have its ordinary and natural meaning. Two types of bingo are commonly understood: <ul style="list-style-type: none">• cash bingo, where the stakes paid make up the cash prizes that are won• prize bingo, where various forms of prizes are won, not directly related to the stakes paid.
Casino	An arrangement whereby people are given an opportunity to participate in one or more casino games.
Casino Resolution	Resolution not to issue casino premises licences.
Child	Individual who is less than 16 years old.
Club Gaming	Equal chance gaming and games of chance in members' clubs and miners' welfare institutes (but not commercial clubs)
Club Gaming Machine Permit	Permit to enable the premises to provide gaming machines [3 machines of Categories B,C or D.
Code of Practice	Any relevant code of practice under Section 24 of the Act
Conditions	Conditions to be attached to licences by way of:- <ul style="list-style-type: none">• Automatic provision• Regulations provided by Secretary of State• Conditions provided by Gambling Commission• Conditions provided by Licensing Authority Conditions may be general in nature [either attached to all licences or all licences of a particular nature] or may be specific to a particular licence.
Crane Grab Machine	A non-money prize machine in respect of which every prize which can be won consists of an individual physical

	object (such as a stuffed toy) won by a person's success in manipulating a device forming part of the machine so as to separate, and keep separate, one or more physical objects from a group of such objects.
Default Conditions	Conditions that will apply unless the Licensing Authority decides to exclude them. This may apply to all premises licences, to a class of premises licence or licences for specified circumstances.
Delegated Powers	Decisions delegated either to a Licensing Committee, Sub-Committee or Licensing Officers.
Disorder	No set interpretation. However, likely to be connected to the way gambling is being conducted. In the case of gambling premises licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance.
Equal Chance Gaming	Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.
Exempt Lotteries	<p>Lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission. There are four types:</p> <ul style="list-style-type: none"> • Small Society Lottery [required to register with Licensing Authorities. • Incidental Non Commercial Lotteries. • Private Lotteries. • Customer Lotteries.
External Lottery Manager	An individual, firm or company appointed by the Small Lottery Society to manage a lottery on their behalf. They are consultants who generally take their fees from the expenses of the lottery.
Family Entertainment Centre (FEC)	<p>There are two types of FEC:-</p> <p>A licensed FEC (i.e., one with a Premises Licence) has no limit on the number of category C or D machines permitted</p> <p>An unlicensed FEC (i.e., one with a Permit) has no limit on the number of category D machines permitted</p>
Fixed Odds Betting Terminals	FOBTs are a type of gaming machine which generally appear in licensed bookmakers. (Betting Shops) FOBTs have 'touchscreen' displays and look similar to quiz machines familiar in pubs and clubs. They normally offer a number of games, roulette being the most popular.
Gaming and Game of Choice	<p>In the Act "gaming" means playing a game of chance for a prize.</p> <p>and "game of chance"—</p> <p>(a) includes—</p> <p>(i) a game that involves both an element of chance and an element of skill,</p> <p>(ii) a game that involves an element of chance that can be eliminated by superlative skill, and</p> <p>(iii) a game that is presented as involving an element of chance, but</p> <p>(b) does not include a sport</p>

Gaming Machine	Machine covering all types of gambling activity, including betting on virtual events, but not including home computers even though user can access online gambling websites.
Guidance to Licensing Authorities	Guidance issued periodically by the Gambling Commission.
Human Rights Act 1998 Articles: 1,6,8 and 10	Article 1: Protocol 1 The right to peaceful enjoyment of possessions. Article 6: The right to a fair hearing. Article 8: The right of respect for private and family life. Article 10: The right to freedom of expression.
Incidental Non Commercial Lottery	A lottery promoted wholly for purposes other than private game, and which are incidental to non commercial events [commonly charity fundraising events, lottery held at a school fete or at a social event such as a dinner dance]
Exchange of Information	Exchanging of information with other regulatory bodies under the Gambling Act.
Interested Party	A person who:- <ul style="list-style-type: none"> • Lives within 100 metres, or is sufficiently close to the premises to be likely affected by the authorised activities. • Have business interests that might be affected by the authorised activities. • Represents persons in either of the above groups.
Licensing Objectives	<ol style="list-style-type: none"> 1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. 2. Ensuring that gambling is conducted in a fair and Open way. 3. Protecting children and other vulnerable persons From being harmed or exploited by gambling.
Lottery	An arrangement which satisfies the statutory description of either a simple lottery or a complex lottery in Section 14 of the Act.
Lottery Tickets	Tickets that must:- <ul style="list-style-type: none"> • Identify the promoting society; • State the price of the ticket, which must be the same for all tickets; • State the name and address of the member of the society who is designated as having responsibility for the society for the promotion of the lottery or, if there is one, the external lottery manager, and • State the date of the draw, or enable the date of the draw to be determined.
Members' Club	A club that must:- <ul style="list-style-type: none"> • Have at least 25 members; • Be established and conducted 'wholly or mainly' for purposes other than gaming; • Be permanent in nature;

	<ul style="list-style-type: none"> • Not be established to make commercial profit; • Be controlled by its members equally.
Money Prize Machine	A machine in respect of which every prize which can be won as a result of using the machine is a money prize.
Non-Money Prize machine	<p>A machine in respect of which every prize which can be won as a result of using the machine is a non-money prize. The winner of the prize is determined by:</p> <p>(i) the position in which the coin or token comes to rest after it has been inserted into the machine, together with the position of other coins or tokens which have previously been inserted into the machine to pay a charge for use, or</p> <p>(ii) if the insertion of a single coin to pay the charge for use enables the person using the machine to release one or more tokens within the machine, the position in which such tokens come to rest after being released, together with the position of other tokens which have previously been so released.</p>
Occasional Use Notice	Betting may be permitted on a 'track' without the need for a full premises licence.
Odds	The ratio to which a bet will be paid if the bet wins. e.g. 3-1 means for every £1 bet, a person would receive £3 of winnings.
Off Course Betting	Betting that takes place other than at a track, i.e. at a licensed betting shop.
Off Course Betting - Tracks	Betting that takes place in self-contained betting premises with the track premises providing facilities for off course betting, i.e. on other events, not just those taking place on the track. Normally operates only on race days.
On Course Betting - Tracks	Betting that takes place on a track while races are taking place.
Operating Licence	Licence to permit individuals and companies to provide facilities for certain types of gambling. It may authorise remote or non remote gambling.
Permits	Authorisation to provide a gambling facility where the stakes and prizes are very low or gambling is not the main function of the premises.
Personal Licence	Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. Cannot be held by companies.
Pool Betting - Tracks	<p>For the purposes of the Gambling Act, pool betting is made on terms that all or part of the winnings:</p> <p>1) Shall be determined by reference to the aggregate of the stakes paid or agreed to be paid by the persons betting</p> <p>2) Shall be divided among the winners or</p> <p>3) Shall or may be something other than money. For the purposes of the Gambling Act, pool betting is horse-race pool betting if it relates to horseracing in Britain.</p>
Private Lotteries	<p>There are three types of private lotteries:</p> <ul style="list-style-type: none"> • Private Society Lotteries - tickets may only be sold to members of the Society or persons who are on the premises of the Society; • Work lotteries - the promoters and purchasers of

	<p>tickets must all work on a single set of work premises;</p> <ul style="list-style-type: none"> • Residents lotteries - promoted by, and tickets may only be sold to, people who live at the same set of premises.
Prize Gaming	Where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.
Prize Gaming Permit	A permit to authorise the provision of facilities for gaming with prizes on specific premises.
Provisional Statement	<p>Where an applicant can make an application to the Licensing Authority in respect of premises that he:-</p> <ul style="list-style-type: none"> • Expects to be constructed. • Expects to be altered. • Expects to acquire a right to occupy.
Regulations or Statutory Instruments	Regulations are a form of law, often referred to as delegated or secondary legislation. They have the same binding legal effect as Acts and usually state rules that apply generally, rather than to specific persons or things. However, regulations are not made by Parliament. Rather, they are made by persons or bodies to whom Parliament has delegated the authority to make them, such as a minister or an administrative agency.
Representations	In the context of the Gambling Act representations are either positive statements of support or negative objections which are made in relation to a licensing application. Representations must be made in time, e.g. during a designated notice period.
Responsible Authorities	<p>Public Bodies that must be notified of all applications and who are entitled to make representations in relation to premises licences, as follows:-</p> <ul style="list-style-type: none"> • The Licensing Authority in whose area the premises is partly or wholly situated • The Gambling Commission • The Chief Officer of Police • Fire and Rescue Service • The Planning Authority for the local authority area • Environmental Health Service for the local authority area • The Body competent to advise on the protection of children and from harm • HM Revenue and Customs • Authority in relation to vulnerable adults • Vessels only - the Navigation Authority whose statutory functions are in relation to waters where the vessel is usually moored or berthed, i.e. the Environment Agency, British Waterways Board, the Maritime and Coastguard Agency <p>Full details of Responsible Authorities for Castle Point Borough Council are contained in Appendix 'B' to this policy.</p>
Skill Machine/Skill With Prizes	The Act does not cover machines that give prizes as a

machine	result of the application of pure skill by players. A skill with prizes machine is one on which the winning of a prize is determined only by the player's skill – any element of chance imparted by the action of the machine would cause it to be a gaming machine. An example of a skill game would be trivia game machines, popular in pubs and clubs, which require the player to answer general knowledge questions to win cash prizes.
Small Society Lottery	A lottery promoted on behalf of a non commercial society, i.e. lotteries intended to raise funds for good causes.
Society	The society or any separate branch of such a society, on whose behalf a lottery is to be promoted.
Stake	The amount pledged when taking part in gambling activity as either a bet, or deposit to the bank or house (where the house could be a gaming machine).
Table gaming	Card games played in casinos
Temporary Use Notice (TUN)	To allow the use of premises for gambling where there is no Premises Licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling.
Tote [or Totalisator]	'Tote' is short for Totaliser, a system introduced to Britain in 1929 to offer pool betting on racecourse.
Track	Sites where races or other sporting events take place, e.g. horse racing, dog racing or any other premises on any part of which a race or other sporting event takes place or is intended to take place.
Vehicles	Defined trains, aircraft, sea planes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted.
Vulnerable Persons	No set definition, but likely to mean group to include people who:- <ul style="list-style-type: none"> • gamble more than they want to • gamble beyond their means • who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs
Young Person	An individual who is not a child but who is less than 18 years old.

ORDINARY COUNCIL

30TH NOVEMBER 2022

Subject: The Castle Point Plan

Report of: Chief Executive – Angela Hutchings

1. Purpose of Report

To report on the preparation of a new [Local] Plan for Castle Point (hitherto known as the Castle Point Plan or CPP) and approve the Local Development Scheme for the Plan, the Budget for the preparation of the plan, and to establish the Castle Point Plan Board and the governance arrangements for the preparation of the Plan.

2. Links to Council's Priorities and Objectives

The proposals in the Castle Point Plan will have significant implications for all of the Corporate Plan objectives - Economy and Growth, People, Place and Environment. The CPP will be a key strategic and policy document in setting out how those objectives can be achieved.

3. Recommendations

- 1) To approve the Local Development Scheme (LDS) dated November 2022 provided at Appendix Three and authorise the Head of Place and Policy to implement the programme of work within that scheme.**
- 2) To approve the establishment of the Castle Point Plan Board comprising of three Members from each political groups that form the Council. This board will be chaired by the Cabinet Member for Strategic Planning.**
- 3) To approve the Terms of Reference for the Castle Point Plan Board as set out at Appendix Five.**
- 4) To disband the Local Plan Delivery Board, which is superseded by the Castle Point Plan Board.**
- 5) To note a total budget requirement of £1.625m across four financial years for the preparation of the Castle Point Plan.**
- 6) To approve budget of £160,000 in the current financial year, to be funded from the Council's forecast in-year underspend.**

Executive Summary

Following the decision to withdraw the Local Plan in June 2022, the Council is in the position of needing to prepare a new local plan for Castle Point. This new plan will be called the Castle Point Plan (CPP), and it will be a plan that is focused on place-making.

This report sets out the programme for preparing that plan, the approach that will be taken in that preparation including governance and the budget necessary to undertake this work.

It is anticipated that work on the CPP will start in January 2023 with a period of engagement with as many residents as possible, local businesses and other stakeholders and partners to find out what people value about the places in Castle Point, and what people would like to see changed. At the same time, work will be undertaken to collect data about Castle Point, including from the 2021 census, its economy and the local environment.

From the autumn of 2023, the outcomes of the engagement and the data collected will be used to develop strategies and options for addressing the issues raised through the earlier engagement work. This will result in another period of engagement in the summer of 2024, allowing residents and stakeholders to identify and shape the options they would prefer to see in the CPP.

This will allow a CPP to be prepared that reflects the views of local communities, local businesses, stakeholders and partners. This will be subject to formal consultation in the Spring of 2025, before being submitted for examination.

The approach to this Plan is different to that taken to the withdrawn plan. The intention is to use evidence to not only support the plan but to prepare a series of strategies and delivery plans, with the Plan providing the main place making policies.

With ongoing government reforms to planning in England, the preparation of the plan is not without its risks. It is also inevitable that there will still be objectors to the CPP within the community and within the wider stakeholder group.

A Castle Point Plan Board comprising a cross party membership of nine Members will be put in place to steer the work of the plan, including evidence, and to ensure that engagement is effective with the broadest spectrum of views considered.

To prepare the Plan, including the unavoidable costs of examination and the evidence, resourcing of around £1.65m will be required. This will be used to secure the digital resources, data and other evidence, staff and skills necessary to ensure that the CPP is grounded in local engagement and local evidence that everyone can access.

The report asks Members to agree the programme of work for the preparation of the CPP, the resources required to undertake that work, and the establishment of the Castle Point Plan Board to steer work on the CPP.

4. Background

4.1 On 15 June 2022 the Council took the decision to withdraw the New Castle Point Local Plan 2018-2033 (Minute No. 2022:15). That decision was taken after the Council had voted not to Adopt the plan on 23 March 2022 (Minute No. 2021:61), which was found sound by the Inspector in his letter dated 3 March 2022.

4.2 The report that inform the debate and decision on 15 June in response to the motion to withdraw the plan stated at paragraph 4.11:

'It is not the purpose of this report to consider what a new local plan would incorporate, but to address the issues raised in the Motion. A further report will need to be made, together with a new Local Development Scheme if the Council decides to prepare a new local plan.'

This report now considers a new plan and sets out the Local Development Scheme for its preparation.

Context

4.3 The Council does not have an up-to-date Local Plan. The Castle Point Local Plan (1998) (saved in 2007) remains as the principal development plan for the Borough, alongside the Essex and Southend-on-Sea Waste Local Plan 2017 and the Essex Minerals Local Plan 2014.

4.4 Without an up-to-date local plan in place the Council needs to rely on 1998 Plan, the National Planning Policy Framework and supplementary guidance (such as the Residential Design Guide) in its decision making. As that plan is out of date, the borough is vulnerable to speculative development.

4.5 The Council has a statutory requirement to put a local plan in place (Section 17 of the Planning and Compulsory Purchase Act 2004 ("The 2004 Act"). As stated in paragraph 2 of the National Planning Policy Framework (2021) *'planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.'*

4.6 Therefore, having a plan will mean that there is greater certainty as to where development will go, which areas of the borough are protected against inappropriate development and the standards that developers, businesses and homeowners are expected to comply with. It will provide greater confidence for decision makers and in defending decisions on appeal.

4.7 The preparation of a new plan is a significant piece of work that has wide ranging implications for the Council and the borough. The scope of the plan and the approach the Council takes must be sound and robust. Given that the Council has tried on several occasions to produce a plan, only to see the plan

not proceed to examination, fail at examination, or not be adopted, it is crucial that the Council embark on a new plan that meets local objectives, but is sound and adopted. Therefore, this report also seeks to establish the governance arrangements for the local plan, which must be as inclusive as possible.

- 4.8 It is vital that a dialogue is maintained with the government. Following the decision to withdraw the Plan, officers met with officials from the Department of Levelling Up Homes and Communities to reassure them that the Council is committed to the preparation of a new plan.
- 4.9 On 23 August 2022, Mr Marcus Jones MP, the Housing [and Planning] Minister, wrote to the Leader of the Council (See **Appendix One**). In that letter the Minister set out the requirement to have a local plan and that he would *'like to encourage you to ensure that the Council make progress to prepare a timetable for the delivery of a new Local Plan as soon as possible.'* He also offered continued dialogue between his officials and the Council as the plan is prepared.
- 4.10 The Minister also references the Levelling Up and Regeneration Bill and forthcoming planning reforms and asks that the Council to keep government proposals in mind when preparing the new plan. As the Bill is still to pass into law (due early 2023) and the planning reforms not yet confirmed, *'keeping these proposals clearly in mind'* will impact on the timetable and scope of a new plan.
- 4.11 Until the Levelling Up and Regeneration Bill comes into effect, the principle statutory framework for the preparation of a new local plan remains the Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Plans) Regulations 2012. The national policy is set out in the National Planning Policy Framework 2021 and Planning Practice Guidance.
- 4.12 Links to these statutory documents are in the Background Papers section of this report, and an overview of the Levelling Up and Regeneration Bill is set out in **Appendix Two**.

Legislative and Regulatory Requirements

- 4.13 The national approach to the plan making system as set out in the 204 Act and the Town and Country Planning (Local Planning) Regulations 2012. As the plan progresses, each stage and decision will be checked against the planning law and regulations to ensure compliance. One of the tests at examination is compliance with the law and regulations. Failure to comply will put the plan at risk.
- 4.14 The Levelling Up and Regeneration Bill is a clear statement of intent by Government and is currently advancing through to enactment. Officers have reviewed the Bill against the proposals in the Local Development Scheme and are satisfied that at this time, there is compliance with the current legislation and proposed new legislation. Should the Bill change during its passage through to enactment, then a further review will be undertaken.

- 4.15 The programme in the Local Development Scheme does including a period of engagement on issues in the area and coincides with the timetable for the Bill and provide time for the Council to absorb the final act and any further implications.
- 4.16 Therefore, the approach taken by the Council to a new plan, will need to comply with the current plan making legislation and regulations. the Local Development Scheme has been drafted on that basis.

Planning reforms

- 4.17 In addition to the Levelling Up and Regeneration Bill, the Government published a Planning for the Future: the Planning White Paper in 2020 (reported to Cabinet on 21 October 2020 – Minute No. 2020:135).
- 4.18 In the Planning White Paper, the Government identified several problems with the current planning system, summarised as:
- It is too complex
 - Discretionary case by case decision making rather than rules-based
 - Local plans take too long
 - Housing assessments, viability and environmental impacts are too complex and opaque
 - Loss of public trust
 - Document rather than data reliant
 - Protracted negotiation of section 106 agreements
 - There is not enough focus on design
 - It does not lead to enough homes being built
- 4.19 In response to these ‘problems’ the Government set out that it wished to:
- Be more ambitious in place creating, creating beautiful places and focussing on ‘net gain,’ not just ‘no net harm’
 - Give communities and earlier and more meaningful voice in the future of their area as plans are made
 - Improve the user experience, to make information easier to find and as a basis for discussion
 - Support home ownership and affordable homes with access to better infrastructure and open spaces
 - Increase supply of land where needed to support affordability, economic growth and renewal of towns and cities – ‘*a new nationally determined, binding housing requirement....*’
 - Help business growth by a supply of premises and land
 - Support the SME building sector and modern methods of construction
 - Stewardship and improvements to the countryside and environment, focussing on brownfield land and increasing biodiversity net gain
 - Create a virtuous circle of prosperity without losing development and regeneration’s ‘human scale, inheritance and sense of place’
- 4.20 The Government proposed in the White Paper that three types of land should be identified:

- Growth areas suitable for substantial development
- Renewal area suitable for development, and
- Areas that are protected.

Sites within the growth areas would have had, through the plan, outline approval for development. There would have been a statutory presumption in favour of development within renewal areas. More stringent development controls were proposed in the protected areas.

- 4.21 Alongside the White Paper the Government also published a National Model Design Code. There is a requirement in the Levelling Up and Regeneration Bill for the preparation of design codes to work alongside local plans. These will set out the parameters for new development in areas.
- 4.22 The Government published an updated National Planning Policy Framework in 2021, although this only included relative minor changes compared to those in the Planning White Paper.
- 4.23 There has been a lot of speculation on what the final planning reforms will be, including the retention or amendment or replacement of the standard methodology. The reforms may also impact on and cause changes to the Levelling Up and Regeneration Bill.
- 4.24 Once the new act is in place, it is likely that the Government will review the National Planning Policy Framework.

The broad approach

- 4.25 It is not the purpose of this report or the Local Development Scheme to set out what the new plan will be: it is the intention to set out what the process will be for the preparation of the plan.
- 4.26 However, the Housing Minister has asked the Council to be mindful of the planning reforms and what is emerging in the Levelling Up and Regeneration Bill. In addition, the debate on the withdrawal of the plan has clearly identified some real issues on how the plan is prepared that the Council needs to address:
- a greater public engagement earlier in the process so that local residents and businesses have a say in the vision for the area and the plan.
 - b the greater use of data rather than evidence documents to assist the making of the plan.
 - c improve how we use data and how data can help residents better understand their local area and the plan.
 - d greater use of digital technology both in the preparation of the plan, and also in the engagement process.
 - e crafting a plan around local needs and aspirations.
 - f a plan that looks at places rather than planning to meet targets.
 - g a plan that contains a strategic and local element, that is widely supported by the community and partners.

- h the need for the plan to optimise development on brownfield sites and the urban areas but without detriment to the character of the urban areas and with the infrastructure in place.
- 4.27 At this stage it is not possible to say what the plan will contain. We know that it must contain strategic and local policies to control the use of land and policies which set out how the development needs of the Borough are to be met. To do this Local Development Scheme sets out stages that the plan will go through, starting with a lengthy period of engagement, so that the Council has the best understanding of the issues in the area at a local level and the borough as a whole. The plan will need to start with the vision for the borough and the main communities within it – Canvey Island, Hadleigh, South Benfleet and Thundersley. The community will help establish that vision.
- 4.28 During this stage the Council will collect data and commission some initial pieces of evidence that helps to inform the conversation on the issues and provide the basis for the preparation of the plan.
- 4.29 Local plans are land use documents, and their primary function is to set out how and where development can take place. Evidence is prepared to support the policies and proposals. But much of that evidence is little used other than to support the plan. Plans are also prepared by a Council in consultation with partners. This can lead to objections from partners who the Council needs to work with to deliver the plan and investment in the borough, for example in infrastructure.
- 4.30 This new approach sets out to ensure that the CPP is more than just a land use document. Whilst that must remain a core function, by focussing on the place, the plan provides a framework for more than regulatory policies or allocations seeking to meet targets.
- 4.31 The CPP will still need identify how local needs can be met, but the intention is to use the evidence to create a suite of supporting documents that help deliver local aspirations.
- 4.32 For example: at present Economic Development Needs Assessments and Economic Land Availability Assessments are prepared. These are lengthy and comprehensive assessments of business growth sectors, land supply and premises. They serve a purpose in supporting policies but have little other functions. In this new approach, the Council uses data to identify what evidence is needed to support local businesses, improve the business environment, business infrastructure and growth, for instance, in the form of an economic and business strategy and delivery plan that is used by the Council and partners to create the conditions for local businesses employing local people to thrive.
- 4.33 In assessing what is needed to prepare the plan, a similar challenge to the one above is applied.
- 4.34 In preparing the now withdrawn Local Plan 2018-2033, the Council did procure a significant body of evidence. In assessing the new evidence requirements, a review of that evidence has bene carried out, and will be kept under review.

There is evidence that has not dated and rather than procure consultants to prepare it again – at considerable cost – that evidence can be reused.

- 4.35 Evidence will be collected as the plan progresses – a list of the evidence that will be required and the rationale is set out in **Appendix Four**. Two early pieces of work will be to ascertain local housing needs and development capacity of the urban areas.
- 4.36 A local housing needs assessment will be procured. Whereas the standard methodology, in its broadest sense, uses national data and a formula for calculating need, a local assessment will include discussions with residents – homeowners, homeless and those seeking a home – to better understand needs at a very local level. It will also, using the standard methodology, run scenarios based on more up to date household projections, than the 2014 ones that the government uses, and the 2021 census data.
- 4.37 The development capacity assessment will use digital tools and local knowledge which will identify all land in the urban area not currently used for development purposes. The long list of sites will be assessed, and a short list identified for further assessment, including viability.

Local Development Scheme

- 4.38 The 2004 Act requires that a Council prepares a Local Development Scheme (LDS) to set out the process and timetable for the preparation of a development plan.
- 4.39 The draft LDS is attached in **Appendix Three**.
- 4.40 It sets out the timetable for the preparation of the plan in 6 stages:

Table 1: Castle Point Plan Timetable

Stage	Estimated Time Period	Engagement Activity
Issues Identification	January 2023 – August 2023	4 - 6 months engagement on issues with partners, the community, local businesses and other stakeholders.
Options Development	September 2023 – June 2024	Feedback on how the Council is addressing the issues raised. Some informal engagement may occur.
Developing The Plan	June 2024 – February 2025	2- 3 months Options Engagement with partners, the community, local businesses and other stakeholders. (Formal regulation 18)
Publication	February 2025 – April 2025	Formal consultation with partners, the community, local businesses and other stakeholders (Formal regulation 19)

Stage	Estimated Time Period	Engagement Activity
<i>Submission and Examination</i>	June 2025 –	Those who have made formal comments at the Publication Stage may be invited by the Inspector to participate in the Examination.
<i>Adoption</i>	Dependent on the Examination	

- 4.41 Engagement on the plan is throughout each stage, although when the draft plan is approved, the plan is consulted on with the opportunity for representations to be made. Those representations are taken into consideration during the examination.
- 4.42 To manage the engagement on the plan, an engagement plan will be prepared for consideration by the Castle Point Plan Board – see below. Member input through that Board is required on the engagement plan. It is envisaged that to reach as many people as possible and allow for the broadest spectrum of views on issues, the options and draft plan, a combination of in-person events and online engagement tools will be used. A particular focus will be towards engaging with young people, hard to reach groups and community groups.
- 4.43 the Local Development Scheme also sets out proposals for new or reviewing supplementary planning documents and key risks.
- 4.44 It is proposed that the following existing supplementary planning documents are updated:
- Developer Contributions Guidance 2008 (reported previously at November's Cabinet meeting)
 - Residential Design Guidance 2013
 - Vehicle Parking Standards 2010 (these are Essex wide, and a review is underway)
 - Canvey Town Centre Master Plan 2012
- 4.45 It is proposed that the following new supplementary planning documents are prepared to support the delivery of the Castle Point Plan:
- Green Infrastructure Strategy and SPD
 - Area Design Codes (likely one for each town)
 - Master Plans to support regeneration (potentially for town centres or employment locations)
- 4.46 The LDS will be shared with the officials at the Department for Levelling Up Homes and Communities, and partners, including neighbouring authorities.

5 Governance

- 5.1 Key decisions on the plan will be made by Council. These should be:

- **Local Development Scheme** - the programme for preparing the Castle Point Plan.
- **Options report** – which will set out a range of options to address needs and local issues. This will be the first indication of what the draft plan could contain.
- **The Submission Plan** – at which stage the Council will be required to approve the plan for submission and examination. At that stage the Council is, in effect, approving the plan it wishes to adopt.
- **Adoption** - this will be the final decision based on the Submission Plan decision and considering any modifications to the Plan proposed by the Inspector.

5.2 When the 2004 Act was published, it included a provision that meant that once a Plan has been submitted, it cannot be withdrawn. That provision was removed by the Localism Act in 2012. The Levelling Up and regeneration Bill proposes to reinstate that provision. Therefore, if this remains in the Act, the decision on the Submission plan is a commitment to the plan.

Castle Point Plan Board

5.3 Members are being asked to approve the establishment of a Castle Point Plan Board. This is a member board representing all groups on the Council. It is proposed that three members from each of the three groups are represented on the Board. The Board will be chaired by the Cabinet Member for Strategic Planning.

5.4 The Chief Executive and Head of Place and Policy will provide the officer leadership on the Board, supported by other officers and where necessary consultants on technical work.

5.5 The Board will provide the leadership on the plan and a steer to officers as the plan is prepared. It will provide regular updates to Cabinet, and if decisions are needed that require Cabinet or Council approval, the Board will make recommendations.

5.6 The Terms of reference for the Board are set out in **Appendix Five**. The purpose of the Board is proposed as:

- To provide leadership and Member input into the delivery of the Castle Point Plan.
- To advise Cabinet on progress on the Local Plan and delivery of development sites.
- To provide leadership on the preparation of Master Plans, design codes and development briefs as required alongside the Plan.
- To act as a forum for engagement with partners, developers, the local community and other stakeholders as identified for each project.
- To recommend to Cabinet master plans and development briefs for approval for public consultation and for adoption by Council (where applicable as Supplementary Planning Documents).

- To agree the scope of evidence required for the plan.
- To reach a cross party consensus on matters relating to the plan.
- To make recommendations to Cabinet.

5.7 Section 4 of the Terms of Reference sets out what is excluded from the scope of the report:

'The Castle Point Plan Board will not be concerned with operational matters associated with:

- a. The administration of the plan preparation.*
- b. The examination period, including the hearings, in the implementation of the decision of the Council at Regulation 19 stage.*
- c. The administration of the collection of evidence*
- d. Determining any planning applications which fall within the delegated powers of the Head of Place and Policy*
- e. Negotiating Section 106 or similar agreements*
- f. Negotiating and implementing Planning Performance Agreements*
- g. The commissioning or management of any consultants.'*

5.8 In addition, the scheme of Delegation applies.

5.9 As the Board will be dealing with specific sites, the Developers Protocol will apply.

5.10 The Castle Point Plan Board supersedes the Local Plan Delivery Board set up under the now withdrawn local plan.

Partnership working

5.11 Although the Government has indicated that the requirements for duty to cooperate will cease it remains a legal requirement at this time. However, even if it does cease, it is essential that the Council continues to work closely with key partners and neighbouring authorities.

5.12 One of the tests of a sound local plan is its deliverability. The plan will contain proposals that the Council cannot alone deliver. Plus, partners have knowledge of issues and options for solving those issues, and investment opportunities that will be vital to achieving the plans outcomes.

5.13 Through existing partnerships and reaching out to new partners, the foundations are being laid for a truly collaborative approach to the preparation of this plan. The target for the Council should be that partners instrumental to place making, public services and our economy support the plan, not only in their representations but also in their actions. Infrastructure planning and delivery will be a key area of focus for our partnership working.

5.14 Through the Associations of South Essex and collaborative arrangements already in place, such as Essex wide member and officer forums, neighbouring

authorities will be fully engaged in the plan preparation. This will include ensuring that cross boundary issues are addressed.

Managing risk

- 5.15 The LDS includes a high-level risk assessment. These risks will be incorporated into the corporate risk register and a full risk assessment will be maintained.
- 5.16 A key risk could be planning reforms. If planning reforms are announced which affect the preparation of the plan and the approach the Council takes, then a gateway review will need to be undertaken. That review may require a decision to be taken by Cabinet or Council. Officers will monitor any changes to the planning reforms including the final passage of the Levelling and Regeneration Bill to its enactment.
- 5.17 By sharing the LDS with government officials and undertaking discussions with officials working on the planning reforms, it is possible to highlight how work on the Castle Point Plan can assist the government in piloting planning reform proposals. It will also provide an early indication for both the Council and government officials of any change of approach that may be needed so that risks can be properly managed.

6. Resources

- 6.1 To deliver the CPP in the manner outlined above, it is anticipated that a budget of the order of £1.625m will be required.
- 6.2 It is recognised that this is a substantial sum of money, and therefore the commissioning of work will be undertaken in a way that firstly complies with the Council's procurement rules to ensure best value for money, and secondly which provides additionality through the potential to be used as a corporate resource, and to secure and leverage investment from other partners and the commercial sector.
- 6.3 As an example, there is a need for community engagement software to ensure breadth and depth of engagement in the CPP. It is anticipated that this software will be a corporate resource that can be used by other services and for other projects also.
- 6.4 Another example would be the procurement of evidence documents such as a Green Infrastructure Strategy. We would do this in a way which means it is not just a bit of evidence for the CPP, but a deliverable strategy that colleagues delivering our green spaces and by partner organisations operating in our area can use. This will include opportunities for managed rewilding funding through biodiversity net gain financial credits and funding.
- 6.5 Where possible, we will also work with partners to share information, and to commission work. If possible, we will aim to jointly commission and jointly fund work. By purchasing data and working more closely with partners as a team, the Council acts as an intelligent client, tailoring commissions for technical work to specific needs.

6.6 There are four principal areas where resources are required to deliver the CPP. These are:

- a) **Plan preparation.** There are some costs that are unavoidable in the plan-making process such as the costs of statutory assessments, document/website production and examination costs.
- b) **Evidence.** Following a review of existing evidence, there is a need for new and additional evidence to be developed. As set out above, this will be done in a way which delivers wider outputs for the Council and its partners to use.
- c) **Engagement.** To deliver a community led plan, engagement is a critical component of the plan-making process and appropriate resources will be required to ensure that it is effective and successful.
- d) **Staff resource.** Additional staff resources are required to deliver the CPP, as there are skill sets required that are not currently available for the plan preparation – these include filling a regeneration vacancy, economic development, data and research analysts and an additional planning policy officer. It may be that elements of this resource are secured through shared resources or secondments. This additional staff resource will also, amongst other things, prepare evidence; draft the plan; support partners and businesses; manage the project and consultants; analyse data; partnership working; and undertake the engagement process.

6.7 It is anticipated that the budget will be distributed between these elements as follows:

Table 2: Summary of Budget Requirements

Resourcing Area	Budget Requirement
Plan Preparation	£365,000
Evidence	£687,000
Phase One	£267,000
Phase Two	£210,000
Phase Three	£210,000
Engagement	£120,000
Staff Resources	£453,000
TOTAL	£1,625,000

6.8 The table which follows shows the expected distribution of the budget requirement over time.

Table 3: Profile of Budget Requirement over Time

	2022-2023	2023-2024	2024-2025	2025-2026
Plan preparation	£20,000	£55,000	£71,000	£219,000
Evidence	£90,000	£287,000	£310,000	
Engagement	£25,000	£45,000	£50,000	
Staff Resources	£25,000	£151,000	£151,000	£126,000
TOTAL	£160,000	£538,000	£582,000	£345,000

6.9 Spend against the budget requirement overall, and over time will be monitored to ensure that any significant variances are identified early and reported on.

7. Corporate implications

(a) Financial Implications

The financial resource requirement for the Castle Point Plan is set out in the resource section (paragraphs 6.1 – 6.9) above. There is a need for £1.625m across four financial years.

It is proposed the £160,000 required in 2022-2023 is funded from the in-year underspend the Council is currently forecasting whilst for future years formal approval to budget allocations will be given through the annual budget report to Council. The Council currently holds £326,000 in an earmarked reserve and therefore the remaining £1,139,000 will need to be funded from general reserves unless other sources of finance are determined in the meantime.

Should the Council's forecast underspend in the current year not materialise, the £160,000 in 2022-2023 will also need to be funded from general reserves. To ensure that resources are used effectively, the Council's procurement rules will be applied to ensure Best Value for Money. Furthermore, an approach will be taken to the procurement of services which ensures that there is additionality from a corporate perspective.

Whilst the preparation of the Castle Point Plan will not in itself generate income, it will open opportunities for an increase in income from planning application fees, general Council Tax base, business rates, fees and charges, regeneration projects, grants and asset commercialisation.

(b) Legal Implications

The Castle Point Plan will need to be prepared in accordance with the relevant legislation in place at the time. Currently, the relevant legislation is the Town and Country Planning Act 1990 (as amended), the Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Plans) Regulations 2012 (as amended). The Equality Act, The Environment Act, The Habitats Regulations and Strategic Environmental Assessment Regulations also apply.

There is the potential for requirements of the Town and Country Planning Act and the Strategic Environmental Assessment Regulations to be updated or replaced by the Levelling Up and Regeneration bill, if enacted during the period over which the plan is developed. Officers will keep this matter under review and will report on any implications for the CPP that arise as details emerge.

It is also expected that elements of the Environment Act will come into effect such as Biodiversity Net Gain and Local Nature Recovery Strategies over the next 12-18 months. As details emerge these will be used to shape the approach in the CPP to ensure that it is legally compliant.

The budget plan includes an allowance for legal advice. At key stages, consideration will be given to whether legal advice should be sought.

(c) Human Resources and Equality Implications

Human Resources

The core planning policy team was set up to complete the now withdrawn plan. The resources required for that are different to those required to start a brand-new plan. Therefore, additional resources are required. These are being tailored to meet the skills required for the plan.

An overview of the requirements and their role are set out in the resources section. It may be the case that these can be secured as a shared resource with another authority, or as a secondment from elsewhere in the organisation or elsewhere in Essex. However, if additional staff need to be recruited this will need to reflect the outcomes of the organisational review and job evaluation process currently underway.

Equality Implications

There are no equality implications arising directly from this report. However, equality considerations will be important in delivering effective engagement, and will need to be reflected in the CPP itself. An Equality Impact Assessment process will be used to ensure that equality considerations are effectively addressed through the CCP.

(d) IT and Asset Management Implications

In relation to IT, it is anticipated that greater use of engagement software, data analytic software and GIS will be made during the preparation of the Castle Point Plan to improve accessibility for the community and other stakeholders to engagement events, evidence, any proposals arising and the plan itself as work develops. The costs associated with this are factored into the resource requirement identified in the resource section of this report.

In relation to assets, there are no direct implications arising from this report. However, as the Castle Point Plan is developed, there is scope for the Council to consider how it optimises the use of its land assets either alone, or in partnership with other organisations or the commercial sector.

(e) Climate Change Implications

There are no direct implications arising from this report in respect of Climate Change. However, the Castle Point Plan will put in place the policies and mechanisms which will deliver the Council Climate Change Strategy.

8. Background Papers

Town and Country Planning Act 1990

<https://www.legislation.gov.uk/ukpga/1990/8/contents>

Planning and Compulsory Purchase Act 2004

<https://www.legislation.gov.uk/ukpga/2004/5/contents>

Town and Country Planning (Local Planning) (England) Regulations 2012
<https://www.legislation.gov.uk/ukxi/2012/767/contents/made>

National Planning Policy Framework 2021
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Planning Practice Guidance
<https://www.gov.uk/government/collections/planning-practice-guidance>

Levelling Up and Regeneration Bill
<https://bills.parliament.uk/bills/3155>

Report Authors:

Ian Butt – Head of Place and Policy
Amanda Parrott – Planning Policy Manager
Lance Wosko – Finance Manager

APPENDIX ONE

Letter from Housing Minister to the Leader of the Council dated 23 August 2022
(screen capture)



Department for Levelling Up,
Housing & Communities

Cllr Dave Blackwell
Leader of Castle Point Borough Council
Kiln Road
Thundersley
Benfleet
Essex
SS7 1TF

Marcus Jones MP
Minister of State

Department for Levelling Up, Housing and
Communities
Fry Building
2 Marsham Street
London SW1P 4DF

Tel: 0303 444 0000
Email: marcus.jones@levellingup.gov.uk

www.gov.uk/dluhc

23 August 2022

Dear Cllr Blackwell,


Given my recent appointment as Minister for Housing, I thought would take the opportunity to write to you as the new leader of Castle Point Council regarding the Castle Point Local Plan.

The Government is committed to having effective, up to date plans in place as this is essential to planning for and meeting housing need; in ways that make good use of land and result in well-designed and attractive places to live. In the light of the withdrawal of the Castle Point Local Plan, I would encourage you to ensure that the Council make progress to prepare a timetable for the delivery of a new Local Plan as soon as possible. This will provide certainty for communities, businesses and developers, reduce speculative development and supports our villages, towns and cities to develop in a way that preserves the unique character of their communities.

My officials will continue to liaise with your officers and will ensure that I am regularly updated on your efforts to agree a new timetable for producing a new Local Plan, as well as your progress on meeting that timetable through to adoption.

The Government strongly believes in the plan-led system. Plans enable local areas to set out their strategy for future growth and their approach to protecting and enhancing local character, as well as securing community buy in. To support this we are bringing forward ambitious and wide-ranging reforms through the Levelling Up and Regeneration Bill, of which the planning measures are a key part. The planning measures will give local leaders and communities the tools they need to regenerate towns and cities, create better places and restore local pride. Planning is a key enabler of regeneration, planning measures in the bill will support regeneration by enabling more effective use of land, improving land value capture and supporting infrastructure delivery. I would expect you to deliver your new local plan at pace while keeping these proposals clearly in mind.

I would very much hope that the whole Council can come together to progress a plan which can find local support and which can deliver against the Levelling Up missions, bringing those benefits to the local community as swiftly as possible.

Yours Sincerely,

MARCUS JONES MP

APPENDIX TWO

Overview of the Levelling Up and Regeneration Bill as it relates to plan making

The Levelling Up and Regeneration Bill is designed to provide the legislative framework for the Levelling Up White Paper that was published in February 2022. That white paper aimed to:

- boost productivity, pay, jobs and living standards by growing the private sector, especially in those places where they are lagging
- spread opportunities and improve public services, especially in those places where they are weakest
- restore a sense of community, local pride and belonging, especially in those places where they have been lost
- empower local leaders and communities, especially in those places lacking local agency

4.20 The Levelling Up and Regeneration Bill *'acts on several fronts to create a robust framework for levelling-up'*:

- *'Providing a legal basis for the setting and reporting against the levelling up missions*
- *Devolving powers to all areas in England that want them, providing more control over budgets, transport and skills*
- *Empowering local leaders to regenerate towns and cities and restore local pride in places*
- *Improving the planning process to:*
 - *deliver high quality design and beautiful places, and protect our heritage*
 - *enable the right infrastructure to come forward where it is needed*
 - *enhance local democracy and engagement*
 - *foster better environmental outcomes*
 - *allow neighbourhoods to shape their surroundings, as this is where the impact of planning is most immediately felt'*

4.21 The Bill provides a new legislative approach for plan making. Through it the Government seek to create a *'genuinely plan-led system - getting simple, meaningful local plans in place faster that give more certainty to communities that the right homes will be built in the right places.'* This includes:

'Local plans will be given more weight when making decisions on applications, so that there must be strong reasons to override the plan. The same weight will be given to other parts of the development plan, including minerals and waste plans prepared by minerals and waste planning authorities, neighbourhood plans prepared by local communities, and spatial development strategies produced to address important planning issues at a more strategic scale.'

To help make the content of plans faster to produce and easier to navigate, policies on issues that apply in most areas (such as general heritage protection) will be set out nationally. These will be contained in a suite of National

Development Management Policies, which will have the same weight as plans so that they are taken fully into account in decisions.

Several other changes are provided for to improve the process for preparing local plans and minerals and waste plans:

- *digital powers in the Bill will allow more standardised and reusable data to inform plan-making;*
- *a series of 'Gateway' checks during production will help to spot and correct any problems at an early stage;*
- *there will be a new duty for infrastructure providers to engage in the process where needed; and the 'duty to cooperate' contained in existing legislation will be repealed and replaced with a more flexible alignment test set out in national policy (see below).*
- *New Local Plan Commissioners may be deployed to support or ultimately take over plan-making if local planning authorities fail to meet their statutory duties.*
- *These changes will increase the numbers of authorities with up-to-date plans in place (currently only at 39%), giving more communities a meaningful say over new development in their area while supporting new homebuilding.*

Opportunities for communities and other interested parties to influence and comment on emerging plans will be retained, with the digital powers allowing both plans and underpinning data to be accessed and understood more easily.

Local planning authorities will have a new power to prepare 'supplementary plans', where policies for specific sites or groups of sites need to be prepared quickly (e.g., in response to a new regeneration opportunity), or to set out design standards. These plans will replace the 'supplementary planning documents' which councils produce currently, but which do not carry the same weight.

The Bill will also enable groups of authorities to collaborate to produce a voluntary spatial development strategy, where they wish to provide strategic planning policies for issues that cut across their areas (echoing the powers conferred on some Mayoral combined authorities already).'

- 4.22 In publishing the Levelling Up and Regeneration Bill, the government stated that the *'proposals which were set out in the Planning for the Future White Paper for all land to be placed in prescribed categories and linked to automatic 'in principle' permission for development in areas identified for development, are not being taken forward.'* (see para 4.16 above)

- 4.23 The Bill also included:

- On Plan making:
 - Removing the requirement for a five-year supply of housing sites, if a plan is up to date and kept up to date
 - National Development Management Policies

- New plan making regulations that set a 30-month time period for the preparation of plans with the requirement for plans to be reviewed every five-years remaining
- Requirement for two rounds of community engagement prior to submission
- Use of digital tools
- On Delivering Infrastructure:
 - Replacing the current system of developer contributions with a simple, mandatory, and locally determined Infrastructure Levy
 - The levy will be based on the value of the completed development and set locally, replacing Community Infrastructure Levy (transitional arrangements will apply)
 - The Council can share in any uplift in the gross development value through this approach
 - *'Legislation to enable the piloting of Community Land Auctions. Piloting authorities will pioneer an alternative way of identifying and allocating land for development, in a way which seeks to maximise the potential uplift in land value. Landowners will be able to submit their land into an allocation process as part of an emerging local plan, offering the local planning authority an option on the land at a price set by the landowner. The local authority will allocate land based on both planning considerations and the option price. It will then auction the development rights onto a successful bidder once land is allocated in the adopted plan. The difference between the option price offered by landowners, and the price offered to develop allocated land, will be retained by local authorities for the benefit of local communities.'*
- On Creating beautiful places and improving environmental outcomes
 - The requirement for Local Design Codes that will have full weight in decision making, whether through local plans for as supplementary planning documents
 - Greater powers (including enforcement) to protect historic assets and maintaining historic environment records as statutory documents
 - Building on the Environment Act with a requirement for Environmental Outcome Reports, replacing the Strategic Environmental Assessment (including Sustainability Appraisals) and the Environmental Impact Assessment
 - Retaining the constraints of national parks, areas of outstanding natural beauty, areas at risk of flooding and the green belt.
- The Bill also includes measures on Regeneration (including land assembly); (housing) Market Reform; and wider improvements to planning procedures (including enforcement, changing permissions after granted, appeals, nationally important crown development, and pre-application consultation)

APPENDIX THREE

Local Development Scheme 2022

Castle Point Borough Council Local Development Scheme (LDS) November 2022

Introduction

The Local Development Scheme (LDS) is the Council's project plan and timetable for preparing the Castle Point Plan (a new Local Plan) and supplementary planning documents (SPD). The new plan will replace the Local Plan Saved Policies 1998.

The LDS sets out:

- The local planning documents that the Council intends to prepare;
- The subject matter and geographical areas for each document;
- The timetable for the preparation of each document.

This version replaces all earlier versions of the LDS.

The scope of the Local Development Scheme

The Local Development Scheme has two principal purposes:

- To inform the public and stakeholders about the Castle Point Plan and Supplementary Planning Documents for Castle Point Borough Council; and
- To set out a suitable timetable to prepare or review these documents.

Appendix 1 sets out information relating to the Supplementary Planning Documents being prepared by the Council. Appendix 2 sets out a risk assessment for the preparation of the documents. Appendix 3 sets out the resources available for the preparation of the documents.

Collaboration

The Council has been co-operating with neighbours and statutory bodies to maintain a robust evidence base to support local decision making:

South Essex authorities have been working together to create a Strategic Planning Framework and the supporting evidence base documents. The Strategic Planning Framework is being prepared to establish shared principles for good place-making in South Essex. This will be a consideration in the preparation of the Castle Point Plan.

On an Essex wide level the Essex Planning Officers Association (EPOA) has been working across Essex to develop shared evidence base work such as around parking requirements and the accommodation needs of Gypsies and Travellers. These documents will be a consideration in the preparation of the Castle Point Plan.

A key project delivered through the EPOA is the Essex Coast Recreational Avoidance and Mitigation Strategy (RAMS) to help prevent disturbance to protected species along the Essex coastline. This project has delivered a Supplementary Planning Document (SPD) (approved 2020) that is now being delivered through a shared resource. The Castle Point Plan will need to integrate this joint working approach.

Essex County Council (ECC) is a key Duty to Cooperate partner and is responsible for the delivery of many elements of infrastructure and key community services in Castle Point. ECC are aligning their work to localities, to ensure that what they are delivering responds to local needs. The opportunity will be taken to work with ECC to align the Castle Point Plan with ECC's Locality Plan for Castle Point, to ensure that deliverable outcomes arise.

Castle Point Borough Council has a wide range of partners in the public and third sectors who each have a role to play in delivering infrastructure and services in Castle Point. These partners will have an important role to play in developing the Castle Point Plan through shaping policy and delivering its proposals. These organisations include the Environment Agency, Homes England and the RSPB, and are all Members of the Regeneration Partnership. The Regeneration Partnership will have a critical role to play in the development and delivery of the Castle Point Plan.

The Council will also work through topic specific forums and groups, such as the Flood Resilience Forum, to ensure a joint approach to infrastructure planning.

Minerals and Waste Planning

Essex County Council is the Minerals and Waste Planning Authority for Castle Point Borough. The Essex Minerals Plan was adopted by the County Council in 2014. The Waste Local Plan was adopted in July 2017. These documents constitute part of the Development Plan for the Borough.

The Minerals Plan is in the process of being reviewed.

Further information on the Essex Minerals Plan and the Waste Local Plan can be found by visiting the Essex County Council website: www.essex.gov.uk

Monitoring and Review

The Castle Point Plan making process is designed by legislation to be a continuous process of preparation, monitoring and review. Since 2004, the monitoring and review elements of the process have been undertaken through the Authority Monitoring Report (AMR). LPAs (Local Planning Authorities) are required to report at least annually on their planning activities, including monitoring the delivery of development and the effectiveness of local policies. AMRs can trigger the need for a full or partial review of the Local Plan should delivery performance or outcomes vary from what is planned and anticipated.

Evidence Base

The Council will collect, analyse, and publish the evidence it is using to prepare the Castle Point Plan. This evidence may be prepared either individually for Castle Point or with other local planning authorities or partners.

A library of evidence base material will be maintained on the Council's website for local residents and other stakeholders to view:

<https://www.castlepoint.gov.uk/castlepointplan/evidence>

Timetable

Castle Point Plan

The Castle Point Plan will set out the framework and policies for place-making in Castle Point, ensuring that the needs of each of the four settlements of Canvey Island, Hadleigh, South Benfleet and Thundersley are addressed whilst protecting what is special about the character of those places.

It will be underpinned by thematic strategies which deliver both the spatial requirements of the plan, and those non-spatial measures which will also be necessary to help the borough's communities and places to thrive.

The plan will set out a vision and strategy to 2050. However, it will be adaptive to deal with the inevitable changes that will occur over a 25-year period. This means that it will include a monitoring framework so that both the Council and the community and other stakeholders will know when it is time to review the plan and the proposals within it.

The Castle Point Plan will be developed over the period to 2025 in conjunction with the community, with local businesses, with delivery partners and with other stakeholders. Engagement forms a significant component of the programme. When the Council is not asking people their views, it is intended that the engagement will continue through the Council providing feedback on what it is doing in response to the issues that have been raised.

It is intended that the Castle Point Plan will be a widely accessible document with an associated web resource. It is also the Council's intention to develop its evidence in a way which is accessible and capable of interrogation by people from all walks of life, so that as many people as possible can engage in the development of the local plan and the debate around options that arise.

The timetable for preparing the Castle Point Plan is set out below. The Council is in control of the process up until submission. Beyond that point, the timescales are estimated as the Planning Inspectorate are in control of the examination process.

Stage	Time Period	Engagement Activity
<i>Issues Identification</i>	January 2023 – August 2023	4 - 6 months engagement on issues with partners, the community, local businesses and other stakeholders.
<i>Options Development</i>	September 2023 – June 2024	Feedback on how the Council is addressing the issues raised. Some informal engagement may occur.
<i>Developing The Plan</i>	June 2024 – February 2025	2- 3 months Options Engagement with partners, the community, local businesses and other stakeholders. (Formal regulation 18)
<i>Publication</i>	February 2025 – April 2025	Formal consultation with partners, the community, local businesses and other stakeholders (Formal regulation 19)
<i>Submission</i>	June 2025	
<i>Examination</i>	June 2025 – December 2025	Those who have made formal comments at the Publication Stage may be invited by the Inspector to participate in the Examination.
<i>Adoption</i>	March 2026	Dependent on the Examination

Statutory and Non-Statutory Assessments

[Sustainability Appraisal \(SA\) and Strategic Environmental Assessment \(SEA\)](#)

Section 19 of the Planning and Compulsory Purchase Act 2004, as amended, requires LPAs to carry out a 'sustainability appraisal' of the proposals in a Local Plan during its preparation. Many of the requirements for sustainability appraisal are similar to the requirements set out in the Environmental Assessment of Plans and Programmes Regulations 2004, which require an assessment of the plan on the environment. Assessments carried out under these regulations are known as Strategic Environmental Assessment and are normally incorporated within the wider Sustainability Appraisal process and reporting.

The Levelling Up and Regeneration Bill proposes that Sustainability Appraisals and Strategic Environmental Assessments be replaced by Environmental Outcomes Reports. At this time, any timescales related to this potential change are unknown. If that Bill and the proposal for Environmental Outcomes Reports were to be enacted during the preparation of the Castle Point Plan, then a report on the implications for resources and time to meet the amended requirements will need to be reported to the Council.

[Habitat Regulation Assessment \(HRA\)](#)

A Habitat Regulation Assessment is required in accordance with the Habitats Regulations 2017. This requires the Local Planning Authority to undertake an assessment of the policies and proposals set out within its Local Plan on sites of International and European importance in terms of nature conservation i.e. Ramsar sites; Special Protection Areas (SPAs) and Special Areas of Conservation (SACs).

[Equality Impact Assessment](#)

The Equality Act 2010 provides a statutory duty on the Council to have "due regard", as part of any decision-making process and before reaching a decision, to eliminate discrimination, harassment, victimisation and other conduct prohibited by the Act.

To this end, development plan documents that affect how people access services will be subject to an Equality Impact Assessment.

Relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion, sex and sexual orientation.

Viability Assessment

The NPPF expects local planning authorities to consider the viability impact of policy requirements on the delivery of development when preparing local planning policies.

As part of the evidence base, it is expected that a Viability Assessment will be prepared testing the impacts of various policy options such as affordable housing provision and any developer contribution requirements on the viability of development proposals. This will be used to ensure that economic viability has been considered when the Castle Point Plan.

Infrastructure Delivery Plan

The Council will produce an infrastructure delivery plan (IDP) alongside the new plan. This will set out in the infrastructure requirements for the Borough, based on the level of growth proposed and its spatial distribution, and other infrastructure requirements (identified by the collaboration with partners). It will set out the proposed costs, mechanism for delivery and timetable.

Statement of Community Involvement

Section 17 (1) (b) of the Planning and Compulsory Purchase Act 2004 stipulates that the Local Planning Authority's Statement of Community Involvement (SCI) must be specified in the Local Development Scheme. The SCI sets out how and when anyone with an interest in planning in the Borough can have their say on:

- Applications for planning permission for development
- Planning appeals (where permission is refused by the Council, but an applicant appeals to the Secretary of State
- Planning enforcement; and
- Local Plans.

The latest Castle Point Borough Council's SCI was adopted in 2020.

Appendix 1 – Supplementary Planning Documents (SPDs)

Detailed guidance on policy matters is normally set out in supplementary planning documents (SPDs) if there is a clear link to policies in an approved development plan document. The requirement for additional guidance on a topic determines the need for such documents to be prepared.

There are currently five SPDs adopted in Castle Point. Due to the passage of time, updates that have occurred to national policy, and because of the new policy requirements of the emerging Local Plan these will need updating. The table below details the existing SPDs:

SPD	Action	Notes
Developer Contributions Guidance (2008)	Update	Significant update due to passage of time and changes to national policy. Will need to reflect on CIL as it is brought forward.
Residential Design Guidance (2013)	Update	Limited update to reflect any changes to national policy or local plan policy. This SPD is well supported on appeal.
Essex Design Guide Urban Place Supplement (2008)	Revoke	The Essex Design Guide (EDG) has been substantially updated since 2008, and a review of its entire content is appropriate. If appropriate the EDG could be endorsed as a material planning consideration without being adopted as an SPD – an approach taken by other Essex authorities.
Essex Vehicle Parking Standards (2010)	Update	Work is underway to update the vehicle parking standards at an Essex wide scale. At an appropriate time, it may be appropriate to adopt the updated version.
Canvey Town Centre Masterplan (2012)	Update	An updated masterplan is needed to stimulate regeneration in Canvey Town Centre.
Essex Coast Recreational disturbance and Avoidance Strategy (RAMS) SPD	No change	To mitigate the impacts of housing growth on recreational disturbance at Habitat Sites, ensuring that there is no unmitigated harm arising from development in Castle Point at these sites.

In support of the Castle Point Plan it is anticipated that the following additional Supplementary Planning Documents will be required:

SPD	Reason for Requirement
Green Infrastructure Strategy and SPD	To deliver green infrastructure enhancements and biodiversity net gain across Castle Point in a coordinated way that delivers wider benefits to residents and the natural environment.
Area Design Codes	To support high quality development across the borough, reflecting the characteristics of individual towns.
Masterplans to promote regeneration	Whilst not essential in all cases, where regeneration may be delivered over an extended period, a masterplan may benefit from adoption as an SPD to ensure consistency in decision making.

Appendix 2 – Risk Management

The key risks to the successful production of the local plan documents are:

Threat	Level of risk	Comment and proposed mitigation	Managed risk
Significant public opposition to the Castle Point Plan	High	<p>The Castle Point Plan will deal with how the four towns in Castle Point will change over the period to 2050. Not everyone is comfortable with change, especially as the Council will need to tackle contentious issues such as housing need and economic growth as the plan is developed. There is therefore the potential for significant public opposition which could cause the plan to falter.</p> <p>Logistically this could also cause a higher volume of work in the processing and analysis of representations than accounted for in the LDS timetable, which could set it back.</p> <p>To help reduce this risk, public engagement will form the basis of work on the Castle Point Plan and will then be ongoing through the development of the plan. Every effort will also be made to make evidence base work accessible to all stakeholders to widen engagement.</p>	Medium
Legal Challenge	High	<p>A legal challenge can be lodged to any Local Plan document within 6 weeks of its adoption. The degree to which this could occur is uncertain as it will depend to a degree on the policies and proposals in the Castle Point Plan and how they have been derived.</p> <p>To reduce the risk of legal challenge Officers will:</p> <ol style="list-style-type: none"> Follow legal requirements of the plan-making process. Ensure that a clear audit trail around decisions taken as part of the plan making process is maintained. Advise Members of any legal risks associated with the decisions they are seeking to take throughout the process. 	Medium
Planning Reform	High	The Levelling Up and Regeneration Bill is progressing through parliament. If progressed in its current form and enacted, then this will have implications for the preparation of the Castle Point Plan.	Medium/High

Threat	Level of risk	Comment and proposed mitigation	Managed risk
		<p>These implications are not only in relation to the primary legislation. When enacted, the government may issue changes to regulations to reflect the statutory requirements of the Act, together with planning practice guidance and a new National Planning Policy Framework.</p> <p>The approach being taken in developing the Castle Point Plan is broadly in line with the proposals in the Levelling Up and Regeneration Bill. However, details around some of the elements are vague currently and are reliant on regulations setting out more detail.</p> <p>To reduce this risk officers are liaising with Government officials to ensure that they are aware of the approach being taken to the Castle Point Plan, enabling any challenges to be identified early and addressed.</p> <p>Officers will continue to monitor changes to statute, regulations and policy and ensure that the Castle Point Plan Board and Cabinet are informed, as appropriate, and the plan takes account of any changes.</p>	
Inability of the Planning Inspectorate (PINS) to deliver examinations / reports to timetable	High	<p>Past experience shows that the Planning Inspectorate are not able to deliver examinations quickly. The timetable requires a 9-month turnaround, which is consistent with what over Council's put in their programmes. Previously the examination took 17 months. Colchester and Epping Forest have experienced examination periods extending over 2 years.</p> <p>This challenge can be mitigated through:</p> <ul style="list-style-type: none"> a) Lobbying Government around this issue; b) Advising PINs in advance of submission so that an Inspector can be lined up; c) Through good engagement reducing the number of outstanding issues at the examination stage. 	Medium/High
Staff resourcing	High	The preparation of the Castle Point Plan in a way which achieves high levels of engagement will require dedicated staff resources. At this time, there is insufficient staffing to deliver the Castle Point Plan in this way, which will delay the timetable and reduce the effectiveness of engagement.	Low

Threat	Level of risk	Comment and proposed mitigation	Managed risk
		A resource plan identifying the required staff resourcing has been prepared for approval by the Council.	
Staff turnover, staff loss, long term sickness	Medium	As with any organisation, from time-to-time staffing pressures such as sickness, maternity, paternity leave and staff loss need to be effectively managed. This will be undertaken in line with Council procedures for staff retention, as well as measures such as recruiting into vacancies as quickly as possible, using temporary staff and secondments, or Service Level Agreements with other Councils, where possible, to cover maternity/paternity leave.	Low
Financial resourcing	High	<p>Local Plan document preparation is expensive due to the requirements for an effective evidence base, the need for effective engagement and then due to fixed costs such as the cost of examination. A local plan cannot be prepared in the absence of financial resources. A resource plan accompanies this Local Development Scheme.</p> <p>Examination costs may inflate due to the length or complexity of an examination and the hiring of expert witnesses to defend the Council's plan. Legal challenge could also mean further unforeseen costs are incurred, such as legal fees.</p> <p>In order to manage the costs:</p> <ul style="list-style-type: none"> a) Evidence sources have and will continue to be reviewed in order to prevent the need for commissioning separate work as far as possible; b) Where work or services are commissioned, they will be commissioned having regard to the needs of the Council as a whole e.g. an assessment of playing pitch need will culminate in a strategy that the Leisure Service can use; c) In commissioning work, officers will seek to achieve best value for money through procurement activities; d) The budget will be subject to regular monitoring and profiling by Financial Services to ensure that any budget pressures are identified early. The S151 officer is notified through this process should overspend be 	Medium

Threat	Level of risk	Comment and proposed mitigation	Managed risk
		<p>predicted in current or future years to ensure the budget remains on target.</p> <p>e) Any unspent budget will be carried forward across financial years to ensure that the programme for the preparation of the Castle Point Plan remains financially supported.</p>	

APPENDIX FOUR

Table of plan preparation resource and evidence requirements

Plan preparation resources – estimated budget £365,000

Item	Rationale
Payment top PINS for the Inspector and hearing costs	<p>Cost of withdrawn plan was £93,000 (allowance of possible inflation). That was for a 3-week hearing session, plus review of all submission documents; preliminary questions; matters issues and questions; preparation for the hearings; the hearings themselves, include disbursements if in person; post hearings deliberation and letter; review of modifications and comments to the modifications; and the Inspector's final report.</p> <p>Costs depends on the length of hearings, issues to be addressed, evidence etc</p> <p>PINS current charge about £900 per day. The rate is not negotiable.</p> <p>This will need to be reviewed as the plan progresses and it will also depend on what examination process the government have in place.</p>
Programme Officer	Cost of withdrawn plan was £30,000. The programme officer is a not negotiable requirement and acts as the link between the Inspector, and the Council, objectors etc.
Technical representation at the Examination stage	<p>Whilst it is hoped that this will be as small as possible, an allowance of this amount to fund:</p> <p>Further evidence or technical support in response to the inspector's initial questions and the MIQs;</p> <p>Any further technical work requested by the Inspector;</p> <p>Attendance at the hearings as an expert witness;</p> <p>Technical work to support the Modifications.</p>
Notices	Allow for 4 notices in a local newspaper through the process at c£1,250 per notice.
Sustainability Appraisal	Works starts at each key stage to inform policies and plan making. Legal requirement
Habitats Regulations Assessment	Legal requirement
Plan design, GIS etc	<p>Although there is no intention to print the plan (save for Council meetings, and libraries and on request (with a charge for doing so) the new plan will require design, HTML web design and GIS.</p> <p>A specification for this will be developed. An allowance of £60,000 may change</p>

Evidence Requirements – estimated budget £687,000

KEY TO THE TABLES

Green Background	Completed
Amber background	Partially completed, or reuse previous evidence in part or update, or use of South Essex (ASELA) work as a baseline
White background	New work

Where possible use will be made of existing evidence and resources. Although the previous plan was withdrawn, and this is a fresh plan and a new approach, there is material in existing evidence that can either act as a baseline or a benchmark, or is relevant to any new plan – i.e. the stage one Green Belt assessment.

Phase One Budget: evidence needed to support the engagement debate – estimated budget £267,000

Item	Rationale	Wider benefits and uses
Housing Needs Assessment	To identify at a local level the housing need requirement – number of homes, type, tenure mix, locational factors. Includes telephone and electronic surveys Uses the South Essex HNA as a baseline	Basis for Housing Strategy Basis for housebuilders
Land Supply Assessment inc. Urban Capacity Study	Includes: for AI software which will identify all possible sites using land registry basis. It will use algorithm to assess suitability of sites. Allowance for consultants. Cost savings by use of previous work and brownfields register	Call for sites Land commercialisation for Council and partners Master planning Increase volume in Council housing stock development
Viability Assessment Baseline	Includes: Preparing the viability assessment assumptions and inputs for the Land Supply Assessment	Informs ongoing consideration of planning applications
Area health checks - data	Includes: Data sets for the borough to super output area level and comparable with other areas in Essex and benchmark authorities. Drawn from over 5,000 datasets and GIS based. Includes area reports. Sources: ECC, Experian, CACI or Grant Thornton	Corporate uses Partner uses (via the publication by the Council of Topic Papers and documents that use the data) Reliable source of evidence for bids Could be considered as an ASELA resource, thereby cutting per authority costs
Local Wildlife Sites Review and Biodiversity Mapping	Last updated in 2005. Further work was undertaken for the withdrawn plan but not to the level needed for a robust document that can add value for the next 10 years plus.	Biodiversity net gain CIL Biodiversity Developers Contribution SPD

Item	Rationale	Wider benefits and uses
Open Space Assessment	Includes: Mapping of all open space - including that owned by the Council Identifies facilities, and area deficiencies Identifies commercialisation opportunities Identifies surplus to requirement land Essential understanding needed for place making	Corporate – investment and commercialisation plan for Council and landowners Open Space Developers Contributions SPD
Historic Environment Assessment	Pull together existing evidence into a Topic paper	Heritage Developers Contributions SPD
Strategic Flood Risk Assessment (Part One)	Critical. No plan can be completed without one. It will update previous assessment and take account of latest climate change predictions. This is the borough wide assessment based on no sites	Infrastructure planning S106 and CIL Partner priorities
Town Centre Business Survey	Undertaken as part of the Welcome back project. Grant funding	
Industrial Areas Business Survey	To broaden understanding of the needs of those businesses operating in our industrial areas	Focusing economic development support available under intervention E23 of the UKSPF funding
Sector data	Already funded with South Essex authorities	
Strategic Green Belt Assessment (Part One)	Completed for withdrawn plan. Remains valid as it excludes sites	

Phase Two: during and post engagement to provide robust evidence for the plan – estimated budget £210,000

Item	Rationale	Wider benefits and uses
Castle Point Economic Development Strategy including Town Centres	<p>Very specific that builds on the ASELA work and recent work on town centres and local business activity. It will include economic health check for the borough and evaluation of what business we have, and potential sector growth scenarios. Also consider the impact of the Thames Freeport</p> <p>ASELA South Essex EDNA acts as a baseline and informs the CP version including its relationship with other areas</p>	<p>Economic development strategy</p> <p>Inform Town centre master plans</p> <p>Link to urban capacity work</p>
Castle Point Gypsy and Traveller Accommodation Assessment	Includes local needs assessment (to supplement the Essex Wide one – see below) and sites assessment	Housing needs
Renewable Energy Strategy	Guidance on how to move towards an off-grid development; identify possible opportunities for generation in the borough; scan wider geography to assess local capacity; and advice on infrastructure to support local renewable energy networks and new products (pyrolysis, hydrogen (link to Freeport))	Assist council in identifying opportunities on own land, reduce costs for its premises and new build
Playing Pitch Strategy	<p>Update from previous assessment in 2018</p> <p>Part of infrastructure delivery plan and supports CIL investment, S106 and master planning</p>	<p>Council land and playing pitch investments</p> <p>Use of CIL and S106 to invest in Council property</p>
Call for sites	Mainly in-house costs, with some advertising, and land ownership searches (assume 1,000). Needed to establish whether land is developable	<p>Land commercialisation for Council and partners</p> <p>Master planning</p> <p>Increase volume in Council housing stock development</p>
Transport Assessment and Strategy Part 1	Will be determine the approach necessary to improve the sustainability of the transport network in Castle Point.	<p>Infrastructure planning</p> <p>S106 and CIL</p> <p>ECC priorities</p>
Walking and Cycling Assessment and action plans	We have no such assessment, but needed to identify where there are deficiencies, safer issues, travel to school and final mile and future investment priorities. Critical to place making and healthy living and well being	<p>Infrastructure planning</p> <p>S106 and CIL</p> <p>ECC priorities</p>

Item	Rationale	Wider benefits and uses
Green Infrastructure Strategy	Local version of the SEEPark to identify, as part of place making, links to green infrastructure, routes and corridors	Infrastructure planning S106 and CIL Partner priorities

Phase Three: post options engagement to provide robust evidence for the plan – estimated budget £210,000

Item	Rationale	Wider benefits and uses
Transport Assessment	Will apply the approach necessary to improve the sustainability of the transport network in Castle Point to the proposals in the plan.	Infrastructure planning S106 and CIL ECC priorities
Strategic Flood Risk Assessment (Part Two)	Depends on the number of sites in the plan. Essential to inform master plans, proves deliverability and informing infrastructure delivery plan	Infrastructure planning S106 and CIL Partner priorities
Infrastructure Delivery Plan	Update from withdrawn plan and CIL versions that takes account of growth strategy	
Viability Assessment	Tests the viability of emerging proposals for inclusion in the Castle Point Plan. Suggest that we also buy a licence to costs and sales data.	Land commercialisation Council housing development Infrastructure planning CIL and S106
Green Belt Assessment (Part Two)	To assess the impact of development on the Green Belt. For any sites in the withdrawn plan, this has been completed assuming that capacity remains as the previous plan. Will be required for any new sites.	
Design Codes for each area	At £15,000 per area (x4). Statutory requirement in the Levelling Up Bill. Confirmation waited from government as to whether this will be new burdens funded	Improved quality of planning applications
South Benfleet Conservation Area Design Code	Specific requirement for Conservation area as their unique character cannot be covered in a wider area design code. Could be new burdens funded. Reviews Conservation Area Management Plan 2008 Note: a design code will not be needed for Florence Gardens Conservation area, which fits into the character of the surrounding area	Improved quality of planning applications and protection of historic environment

In addition, evidence has been or will be collected at a South Essex or greater Essex level. Ongoing work is within existing budgets or externally funded:

Item	Level
Economic Development Needs Assessment (EDNA)	South Essex (ASELA)
Employment and Economic Land Assessment	South Essex (ASELA)
South Essex Sector employment data (Cambridge Econometrics)	South Essex (ASELA)
Essex Gypsy and Traveller Accommodation Assessment	County Wide with each Borough
Nature Recovery Strategy	County wide
Vehicle Parking Standards	County wide

APPENDIX FIVE

Castle Point Plan Board - Scope and Terms of Reference

Content

- 1 The Castle Point Plan**
- 2 Purpose of the Board**
- 3 Terms of Reference**
- 4 Exclusions**
- 5 Membership**
- 6 Co-opted Members**
- 7 Meetings**
- 8 Transparency and Conflict of Interest**
- 9 Developer Protocol**
- 10 Delegations**

1 The Castle Point Plan

- 1.1 The Council has a statutory responsibility to have in place an up-to-date local plan for the area. The current Local Plan was for the time period up to 2001, and although most of the policies were saved in 2007, that Plan is now out of date.
- 1.2 The Council has tried on several occasions since 2007 to prepare a new Local Plan. These have either failed to reach submission (2018); been found unsound (2016); been withdrawn prior to examination (2014); or withdrawn after being found sound (2022).
- 1.3 Not having a plan in place exposes the borough to speculative development. Local plan policies are designed to establish where development will be acceptable and the standards to which new development should be built. In addition, plans include policies which restrict development and enable the council to fight appeals.
- 1.4 The Council must learn from the experiences of trying to complete a sound local plan, so that the plan:
 - receives the broadest support
 - that is viable and deliverable
 - sites that are developable
 - that meets the locally defined development needs of the borough
 - focussed on place
 - that protects and enhances the boroughs most valuable habits and open spaces
 - that protects and enhances the character of the area
 - that establishes the infrastructure requirements for the borough and how they will be delivered
 - that meets obligations to tackle the causes and impact of climate change, flood risk and achieves biodiversity net gain
- 1.5 The Government set out the legislative framework for Local Plans – currently in the Planning and Compulsory Purchase Act 2004 – and the regulatory process – set out in the Town and Country Planning (Local Planning) (England) Regulations 2012. National policy is set out in the National Planning Policy Framework 2021 and there are various Planning Practice Guidance notes which set out procedures and how to guidance.
- 1.6 Local Plans are subject to public engagement and consultation. They are also examined by an independent Inspector (appointed by the Planning Inspectorate) who is charged with testing a Local Plan's 'soundness.' If a plan is unsound, then it cannot be adopted.
- 1.7 Plans can take three or more years to progress from drafting through to adoption – see Diagram 1 below. In the Planning White Paper 2021, the

Government proposed that a strict 30-month timetable should be established for the preparation of a new local plan. This requirement was included within the Levelling Up and Regeneration Bill which when enacted, will mean that timetable is enshrined in law.

- 1.8 The complexity, length of the process and cost mean that from the outset there must be a strong commitment from the Council to the plan making process. The Councillors must understand that at the Submission Plan stage, that plan is the plan that they wish to adopt.
- 1.9 Therefore, the Council is establishing from the outset of the preparation of a new plan the Castle Point Plan Board.
- 1.10 This Board is cross party, and will provide a transparent forum through which the plan at all its stages and through all the workstreams matters can be discussed. Ownership of the new plan will ultimately sit with the Council and determined by Councillors. Councillors represent the local communities and will be advised by officers and various experts.
- 1.11 This new Plan will be prepared in collaboration with the local communities. It will include engagement across all groups within the communities providing a voice to those who may have felt disenfranchised by previous plans. It is vital that the Council listens to the views as many people as possible. Plan making does polarise communities, and whatever the plan, there is will always be objectors. All views must be provided with the opportunity to be heard and be listened to.
- 1.12 This will need to be a fresh approach to plan making. As the previous local plan was not adopted and was withdrawn, that plan is not the starting point for this new plan. Nor can it simply be a case of stripping out the unpopular elements and resubmitting that for examination (that, in essence, was tried in 2016 and found unsound). It will be a new plan.
- 1.14 However, the Council will need to make decisions that may prove to be unpopular. This approach will ensure that when doing so there is a clear narrative on how a decision has been reached. Any objectors to decisions will have the right to make objections, and for those objections to be considered during the examination phase.
- 1.15 The timetable for the new plan is set out in the Local Development Scheme November 2022.
- 1.16 The new Castle Point Plan will evolve through:

Opportunities and Issues

- 1.17 This will include a lengthy period of engagement with the local community and partners on the opportunities and issues in the area. This conversation will be about the places and what works, what does not, what needs putting right and

where the opportunities for change (improvement) are. What does the community think needs protecting.

Options

- 1.18 This will feed off Stage One. This stage involves the consideration of options that address the issues raised during stage one. During this period evidence will be collected to support options and the final plan. In addition, there will be feedback to the community and partners.
- 1.19 This stage will be where the Council will need to start considering the spatial plan and the location of development.
- 1.20 At the end of this stage the Council will have an options report, which will need to be agreed by Council ahead of engagement with the community (known as Reg 18 consultation).

Submission plan

- 1.21 Following a review of the responses to the Reg 18 stage, the Council will need to prepare the Plan. That Plan will be subject to consultation (Reg 19 Consultation) prior to submission.
- 1.22 At this stage the Council will be asked to approve the Plan that it wishes to adopt following the examination.

Examination

- 1.23 The examination stage starts when the Plan is submitted. The examination will take the form of written questions for the Inspector and hearings. At the end of the Hearings the Inspector will write to the Council asking for the plan to be modified (and setting out what modifications are required) and asking the Council to consult on those modifications; or will find the plan sound without any modifications; or will find the plan unsound.
- 1.24 The Examination is concluded upon receipt of the Inspector's final report.
- 1.25 The council will then be required to determine to adopt the plan. Failure to do so, will leave the borough at risk of having no plan or lead to government intervention.
- 1.26 Although the Government has indicated that it wishes to introduce planning reforms, until those reforms are in place, the Council is bound by the existing legislation, regulations and national planning policy. There is a risk that during the plan making period these may change, and subject to any transitional arrangements, the Council may have to adopt its approach.

2.0 Purpose of the Board

- 2.1 To provide leadership and Member input into the delivery of the Castle Point Plan.
- 2.2 To advise Cabinet on progress on the Local Plan and delivery of development sites.
- 2.3 To provide leadership on the preparation of Master Plans, design codes and development briefs as required alongside the Plan.
- 2.4 To act as a forum for engagement with partners, developers, the local community and other stakeholders as identified for each project.
- 2.5 To recommend to Cabinet master plans and development briefs for approval for public consultation and for adoption by Council (where applicable as Supplementary Planning Documents).
- 2.6 To agree the scope of evidence required for the plan.
- 2.7 To reach a cross party consensus on matters relating to the plan.
- 2.8 To make recommendations to Cabinet.

3 Terms of Reference

- a. The Castle Point Plan Board reports and makes recommendations to Cabinet.
- b. It will work within the scope of decisions on the new plan made by the Council at the following stages:
 - i. Local Development Scheme
 - ii. Regulation 18
 - iii. Regulation 19
- c. To focus on the preparation of the new Plan, the requirements for evidence and consideration of the impact of the plan on places within the Borough.
- d. To agree and monitor progress against a work programme for the preparation of the Plan.
- e. To agree the form and extent of public consultation and engagement.
- f. To give guidance to officers and consultants in the preparation of the Plan and ancillary documents.

- g. To advise other groups and partnerships, such as the Local Highways Panel and the Castle Point Regeneration Partnership.
- h. To receive reports on planning reforms including new legislation which may impact on the Plan.
- i. To co-opt Members as required on specific projects.
- j. To approve work to be commissioned associated with the preparation of evidence, master plans, design codes and development briefs subject to budget approval by Cabinet (if required).
- k. Other than the Cabinet Member appointed to the Development Management Committee no member of the Development Management Committee can be a member of this Board.
- l. Other business to be agreed in accordance with the work programme and scope of the working group.

4 Exclusions

4.1 The Castle Point Plan Board will not be concerned with operational matters associated with:

- a. The administration of the plan preparation.
- b. The examination period, including the hearings, in the implementation of the decision of the Council at Regulation 19 stage.
- c. The administration of the collection of evidence.
- d. Determining any planning applications which fall within the delegated powers of the Head of Place and Policy.
- e. Negotiating Section 106 or similar agreements.
- f. Negotiating and implementing Planning Performance Agreements.
- g. The commissioning or management of any consultants.

5 Membership

- 5.1 The Local Plan Delivery Board shall be formed of 9 members, including the Chairman.
- 5.2 The membership of the Board shall be split evenly across the three political groups that make up the Council.

- 5.3 The Membership shall be re-appointed at the Annual Meeting of the Council.
- 5.4 The Chairman shall be the Cabinet Member for Strategic Planning.
- 5.5 The officer input into the Board will be led by the Chief Executive or the Head of Place and Policy.

6 Co-opted members:

- 6.1 Local Ward Members will be co-opted onto the Board as required, for specific developments and as consultees to inform Master planning of those sites.
- 6.2 The Board may invite consultants, and partners to attend meetings as required to further the work programmes.

7 Meetings:

- 7.1 Meetings will take place as required according to the work programme.
- 7.2 Due to the confidential nature of the discussions, all meetings will be held in private attendance will be by invitation only. A formal note of the meeting will be taken and will be published on the Council's website.
- 7.3 Meetings will be held at the Council Offices or online. Occasional on-site meetings will also be held, and these will be during normal office hours.

8 Transparency and Conflict of Interest

- 8.1 All Members interests are declared in the Councillors Disclosure of Interest.
- 8.2 Any Member who has been approached by a developer or landowner or their agent or other person promoting the use of the land on a site within the scope of the working group must declare such an approach, including details of the date, whom and nature of the approach.
- 8.3 All Members are to abide by the Developer Protocol in Section 9.
- 8.4 Any Member or family member with a pecuniary interest or land adjacent to a site within the scope of the Board must declare such an interest and will be asked to forgo any participation in the Board relating to that site.
- 8.5 Any Member who has been a member of or affiliated with any protest group to the local plan and a site within the scope of the Board must declare such an interest and may be excluded from participation in the Board relating to that site.

9 Developer Protocol

- 9.1 This protocol applies to all Members. It should be read alongside the Protocol and Code of Conduct for Planning Matters.
- 9.2 It is vital that Members act transparently in any dealings with landowners or developers or their agents on planning matters. The grant of planning permission or allocation in a local plan or approval of a master plan can be controversial and upsetting for residents, whilst providing a large financial return for the landowner and or developer. Ultimately it is the Council that approves plans and grants planning permission with decisions vested in Members.
- 9.3 Members need to be mindful that any association with a developer or landowner who benefits from Council planning policy or the grant of planning consent could be seen as improper, even if there has been no impropriety. This protocol does not cast doubt on the integrity of Members but seeks to protect Members from accusations and potential investigations into conduct.
- 9.4 Therefore, this developer Protocol sets out an approach for interaction between Members and Developers that protects the duties of members, their and the Council's reputation, the public interest and the decision making of the Council.
- 9.5 It is inevitable that Members will encounter developers or landowners or agents or development promoters whether through normal channels, at surgeries, at Council meetings or at conferences and other events. Members may also know such individuals socially or through work. Any substantive discussion on proposals within the Borough should be avoided.
- 9.6 The Protocol and Code of Conduct for Planning Matters (Part 3 of the Constitution) does not prohibit Members from contact and providing assistance. That assistance is however, restricted:

'Members may assist applicants for planning permission or objectors to such applications by explaining the planning process. Members may also describe the Council's adopted planning policies but should not offer an opinion whether a particular proposal is consistent with those policies without consulting an appropriate Planning Officer.'

(para 6.1 of the Protocol and Code of Conduct for Planning Matters, Part 3 of the Constitution)

However, this Developers Protocol relates to contact that is beyond the scope of the Constitution and the discussion of matters of substance that could fetter the Members or Council's decision making.

- 9.7 The Developer's Protocol is:

If a Member is approached by a developer or landowner or agent or site promoter ('developer') of any site for development, including those under

consideration for the new Plan, the Member must advise that person to contact the Head of Place and Policy or the Planning Services Manager or the Planning Policy Team Leader in respect of sites allocated in the Local Plan.

In the first instance officers will meet with the Developer. Notes shall be taken of that meeting.

If after that first meeting a proposal is to be developed, either:

The Developer will be advised to use the Council's pre-application service; or

A meeting will be arranged with the Castle Point Plan Board (if appropriate); or

A planning application will be submitted without any further meeting.

Members must not meet with developers without Officers in attendance. This includes:

Any site allocated in the [1998] Local Plan or proposed for consideration in a future local plan;

Any site the subject of a planning application;

Where a scheme may be unacceptable in planning terms;

Any regeneration site identified in regeneration master plans; and

Any meetings that involve Section 106 negotiations.

Members of the Council's Committee that determines planning applications should avoid contact with Developers due to potential conflict with their decision-making role. The exceptions to this will be Pre-application meetings where Members attend; meetings of the Castle Point Plan Board; or any other meetings or briefings arranged by Officers with Members present.

10 Delegations

10.1 The Scheme of Delegation is not affected by the Castle Point Plan Board.

ORDINARY COUNCIL

30th November 2022

Subject: Staff Appointments & Review Panel

Report of: Chief Executive – Angela Hutchings

1. Purpose of Report

To confirm the Terms of Reference and appointment of the Staff Appointments and Review Panel to have oversight and review of the Council's overall strategic approach to workforce matters and other staff matters.

2. Links to Council's Priorities and Objectives

This links to all and particularly as Enablers.

3. Recommendations

1. To confirm the Terms of Reference and appointment of the Staff Appointments & Review Panel and set out at Paragraph 5.4 and membership set out at Paragraph 5.5.
-

4. Background

- 4.1 The Council is entering a period of transformation to meet the operational and budgetary challenges it faces to modernise the council continuing to ensure residents remain at the heart of everything the council undertakes.
- 4.2 Staffing represents 77% of the net revenue budget and is the largest budget pressure. the organisational structure has grown overtime to respond to events and immediate needs. Given the challenges ahead it is timely to make sure the right capacity, resources and structures are in place.
- 4.3 As the Council moves forward it is important that Members have oversight of the organisational structure.
- 4.4 Earlier this year an Internal Audit report on Workforce Management was undertaken which highlighted the following:

Review of Workforce Matters by Councillors

We inquired with management to understand the extent of the review performed by Councillors of workforce matters. We understand that this review is very limited and is confined to two areas, both of which are required under the Localism Act 2011:

- Review of appointments of staff members who are paid over £100,000 a year.*
- Review of the Pay Policy Statement (see above).*

It is expected that Councillors should spend the majority of their time devoted to strategic outward-looking priorities. However, workforce matters are key to the delivery of these priorities, and a level of oversight of these is needed in order to fulfil members' governance responsibilities. This would typically take the form of a personnel committee responsible for reviewing, agreeing and / or overseeing:

- organisational pay policy and strategy, taking into account key factors such as organisational objectives, long term strategy, relevant market information, and compliance with relevant laws and regulations*
- Human Resources related policies and procedures*
- appointments of high paid individuals (as per the existing arrangements mentioned above)*
- the setting / changing of salaries and / or terms and conditions of Senior Officers*
- changes to employee terms and conditions, or variations to the establishment where these affect a number or group of officers*
- the objectives set for Senior Officers and administration of any performance related payments annually.*

However, there is currently no mechanism for review by Councillors of the Council's overall strategic approach to workforce matters, including the points highlighted above. There is also no disciplinary committee in place for protected officers^[1], which is required by the Local Authority (Standing Orders) (England) Regulations 2001, and could enable Councillors to fulfil their scrutiny responsibilities.

(Regulations dealing with how councils discipline and dismiss Statutory Officers are set out in the Local Authority Standing Orders (England) Amendment Regulations 2015(amending the 2001 regulations)

5. Report

- 5.1 As the Council moves forward to meet to meet budgetary and operational challenges, in order to ensure members have oversight of staff matters. Council is therefore asked to confirm the Terms of Reference and appointment of the Staff Appointments and Review Panel.
- 5.2 The Terms of Reference reflect that the principal function of the Panel is to provide oversight and accountability over workforce management. Workforce policies are a non -executive function and are a matter for the Head of Paid Service and set out in the Constitution.

^[1] Head of Paid Service, Monitoring Officer and Chief Finance Officer (s151).

5.3 The Terms of Reference put in place the necessary committees and mechanisms to dealing with the disciplinary process to protect Statutory chief officers as required by the Local Authority Standing Orders (England) Regulations 2001(as amended).

5.4 Terms of Reference of the Panel are:

- a. To review and approve as necessary the Council's overall strategic approach to work force matters including:
 - i. Organisational pay policy and strategy
 - ii. Human Resources related policies and procedures including:
 1. Recruitment and Selection
 2. Pay and Reward
 3. Performance Management
 4. Flexible working and work life balance
 5. Equality and Diversity
 6. Disciplinary and Grievance
 7. Managing Change having regard to changes in terms and conditions or variations to the establishment where these affect a number or group of officers.
 8. Human Resources and Organisation Development Strategy
- b. To review annually objectives set for Senior Officers (Chief Executive, Strategic Directors Heads of Service) and administration of performance related payments.
- c. To make recommendations to Council regarding the appointment of a permanent Chief Executive Head of Paid Service.
- d. To oversee the recruitment and appointment if required of a permanent Chief Executive Head of Paid Service.
- e. To make recommendations to Council on the terms and conditions of service dismissal including redundancy, voluntary redundancy, voluntary early retirement and retirement on grounds of ill health of the Chief Executive.
- f. To approve the appointment of any member of staff whose salary exceeds £100k.
- g. To be the committee responsible for the Independent Panel Process for statutory officers and to have powers of the investigation and disciplinary committee in the relevant JNC Handbook and Local Authorities (Standing Orders) (England) Regulations 2001as amended, including capability and grievances;
 - i. To appoint as required independent investigators and independent advisors as required.

- ii. To suspend a Statutory Officer, if considered appropriate
- iii. To agree severance terms for Statutory Officers, including where any severance package exceeds £100,000 and Members consider it would be appropriate for the Committee to decide rather than report to Full Council.

5.5 Membership of the Panel is as follows:

Chairman Councillor Blackwell

Canvey Island independent Members Councillor Blackwell, Acott*, Campagna,*

People Independent Party Councillors Cole, W. Gibson

Conservative Party Councillors Isaacs, MacLean.

*Councillors Acott and *Campagna were nominated by the Leader to take up the allocation to the Canvey Island Independent Party Group to replace the original nominees.

6. Corporate Implications

(a) Financial Implications

There are no special responsibility payments in relation to membership of this panel and therefore there are no financial implications arising from this report.

(b) Legal Implications

Addressed in the report.

(c) Human Resources and Equality Implications

Addressed in the report

(d) IT and Asset Management Implications

There are none

7. Timescale for implementation and Risk Factors

Immediate as the council moves forward with Transformation the committee will ensure members have oversight of organisational change. Failure to confirm will result in non-compliance with Audit recommendations, limited scope for Members review of workforce matters and defective arrangements in place for the protection of statutory chief officers.

8. Background Papers

HIA report to Audit committee 21.7.2022

Extract from Workforce Management Audit report April 2022

Report Author: Angela Hutchings Chief Executive

ORDINARY COUNCIL

30th November 2022

Subject: Constitution Update

Report of: Chief Executive – Angela Hutchings

1. Purpose of Report

To approve the update of the Constitution and adopt the Model Councillor Code of Conduct which has been incorporated within the Constitution.

2. Links to Council's Priorities and Objectives

This links to all and particularly as Enablers.

3. Recommendations

1. To adopt the Model Code of Councillor Conduct which has been incorporated within the Constitution and approve the update of the Constitution attached as Appendix A.
 2. To note the continuing review of the Constitution on which further reports will be made to Council.
-

4. Background

- 4.1 It is a requirement of the Local Government Act 2000 as amended that the Council publishes and maintains a formal document setting out the constitutional and governance arrangements for the Council.
- 4.2 This report is presented to the Council by the Chief Executive having responsibility as set out under Article 13 of the Constitution to report to Council on changes to the Constitution.
- 4.3 The Monitoring Officer has responsibility to ensure the maintenance of the Constitution and has undertaken a review and update of the Constitution to give effect to decisions of the Council, including minor amendments, as necessary.

5. Report

- 5.1 A new edition of the Constitution has been circulated with the report.

- 5.2 The Constitution has been updated to incorporate the Model Code of Councillor Conduct (Appendix A Councillor Code of Conduct Page 147) and other revisions as necessary.
- 5.3 The Model Code of Conduct has come forward through work undertaken nationally by the Local Government Association. Most Councils in Essex including Essex County Council and Canvey Island Town Council have already adopted the new model Code. The new Code is rather more straightforward and easier to understand than the existing Code of Conduct. It is timely for this Council to adopt the Code in place of the existing one.
- 5.4 The Council Procedure Rules and other rules of procedure largely remain the same as procedure and principles of decision making have not markedly changed.
- 5.5 Other revisions have been made to cover any changes to organisational roles or descriptions.
- 5.6 The Council is entering a period of transformation to meet the operational and budgetary challenges it faces. In moving forward with the modernisation of the Council, a review of the Council's organisational structure and decision-making accountability is being undertaken. Members will also be aware of the Boundary Commission's review of the Council's Electoral Arrangement with a new council being formed following elections in 2024. These are matters which will require a continuing review of the Constitution and members should note that additional reports will come forward to meetings of Council to reflect changes to the Constitution required as a result of these evolving circumstances.

6. Corporate Implications

(a) Financial Implications

The Constitution sets out the Council's Financial Regulations and the authorisation which exists with respect to all finance, contract, and legal matters.

(b) Legal Implications

Addressed in the report.

(c) Human Resources and Equality Implications

There are none to be addressed in the report.

(d) IT and Asset Management Implications

There are none to be addressed in the report.

7. Timescale for implementation and Risk Factors

Subject to any amendments made as a result of Council decisions this evening the Constitution will be updated and placed on the website. Copies will be circulated to all Councillors.

8. Background Papers

Included with the report.

Report Author: Angela Hutchings Chief Executive

ORDINARY COUNCIL
30TH NOVEMBER 2022

Subject: Notices of Motion

1. Purpose of Report

To present to Council valid Notices of Motion received for consideration at this meeting.

1. Councillor Mrs Mumford has given notice of the following:

“For reasons of promoting a healthy lifestyle within the Borough, in line with the Castle Point Borough Council Wellbeing Strategy 2022 -2025, we call upon Castle Point Borough Council to extend the current no smoking policy to include vaping within the grounds of the Council Offices and to enforce this to ensure compliance. We also call upon the Council to extend this policy to include the two Leisure Centres and all other Council owned buildings, except in designated outside smoking and vaping areas.”

The Motion is to be seconded by Councillor Skipp

2. Councillor Mrs Mumford has given notice of the following:

“We call on Castle Point Borough Council to investigate the opportunity to mark the sad passing of Her Majesty Queen Elizabeth II by renaming Tarpots Recreation Ground in her honour.”

The Motion is to be seconded by Councillor MacLean

3. Councillor Dixon has given notice of the following:

'The Conservative Group call on Castle Point Borough Council to reintroduce the Firework Fiesta in order to provide a safe community event for residents and to help minimise the traumatic effect of home fireworks which adversely affect both residents and pets

The Motion is to be seconded by Councillor MacLean.

As this Motion has budget implications the Motion will be deferred without debate for a report to Cabinet Council Procedure Rule 13 applies. The Motion will not be dealt with at this meeting.