

ORDINARY COUNCIL

23rd MARCH 2022

Subject: Adoption of the Castle Point Local Plan

Report of: Interim Chief Executive – Andrew Grant

1. Purpose of Report

The purpose of this report is to recommend that Members agree the adoption of the New Castle Point Local Plan 2018-2033 (hereafter referred to as the “Local Plan”). It also seeks approval to publish a Policies Map. The recommendation also seeks to revoke the existing Adopted Local Plan (1998, saved policies 2007). The report follows the examination of the Local Plan and the receipt and publication on 3rd March 2022 of the Inspector’s report.

2. Links to Council’s Priorities and Objectives

The local plan seeks to achieve elements within each of the new Corporate Plan objectives - Economy and Growth, People, Place and Environment

3. Recommendations

- 1. To consider the content of the Inspector’s Final Report into the Examination of new Castle Point Local Plan, as set out in Appendix 1.**
- 2. To adopt the New Castle Point Local Plan 2018-2033 (as set out in Appendix 3), incorporating the Main Modifications as set out in the Inspector’s Final Report, and other Additional Modifications (as set out in Appendix 2), and that the New Castle Point Local Plan replaces the Castle Point Local Plan 1998**
- 3. Subject to recommendation 2, that the Council approves Policies Map (see Appendix 4) that it be published alongside the New Castle Point Local Plan 2018-2033.**
- 4. Subject to recommendation 2, to note the content of the Sustainability Appraisal, and Habitats Regulations Assessment (HRA), and that they be published in accordance with Regulation 16 of the Environmental Assessment of Plans and Programmes Regulations 2004.**
- 5. Subject to Recommendation 2, that the Equalities Impact Assessment is approved.**
- 6. Subject to recommendation 2 to give delegated authority to the Head of Place and Policy, in consultation with the Leader of the Council, to**

make any necessary minor textual, presentational or layout amendments to the new Castle Point Local Plan 2018-2033 (Appendix 3), and the Adoption Statement (Appendix 7), before publication, and to undertake all the necessary legal and procedural adoption processes.

7. Subject to recommendation 3 to give delegated authority to the Head of Place and Policy, in consultation with the Leader of the Council, to make any necessary presentational changes to the Policies Map, including the creation of a web-based version.
 8. In the event that recommendation 2 is not agreed, that a report be made to a future meeting of the Council.
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4. Background

The New Castle Point Local Plan

- 4.1 On the 3rd March 2022 the Council received and published the Inspector's Final Report on the Examination of the New Castle Point Local Plan. In his report, the Inspector, Mr Philip Lewis BA (hons) MA MRTPI, concluded that with modifications the new Castle Point Local Plan is **legally compliant and sound, and capable of adoption**. Receipt of the Inspector's Report concludes the examination of the New Local Plan.
- 4.2 On the 22nd October 2019 the Council agreed to proceed with the publication of the Pre-Submission Local Plan and submit the Plan for examination, following a period of public consultation. The Local Plan was submitted for Examination on 2 October 2020.
- 4.3 The Council has a statutory responsibility to prepare development plan documents for the Borough in accordance with its Local Development Scheme, as set out in the Planning and Compulsory Purchase Act 2004 (the "2004 Act"). It also has a responsibility to ensure that development plans are kept up to date, and since January 2018, that any local plans are reviewed within 5 years of their adoption.
- 4.4 Local Plans should be prepared in consultation and engagement with the local communities and key stakeholders and in accordance with the Planning Acts and local plan regulations. The Town and Country Planning (Local Plans) Regulations 2012 (as amended) sets out the procedures to be followed.
- 4.5 The current development plan for Castle Point is the Castle Point Local Plan which was adopted in 1998. That plan ran to 2001 and was prepared prior to the 2004 Act, which established the 'new style' local plan based on a local development framework.
- 4.6 The 2004 Act did allow for local planning authorities with recently adopted 'old-style' local plans to save policies, which met the objectives of national policy at that time. In 2007 the Council saved some of the Policies in the 1998 Local

Plan. In many respects that local plan is now out of date, and the Council does not have an up-to-date local plan in place that sets out how the development needs of the borough will be met, or up to date policies that control development. Since the old Local Plan policies were saved in 2007, there have been significant changes to national planning policy and guidance, which that plan does not address.

- 4.7 National policy changed in 2012 with the National Planning Policy Framework (NPPF), and an out-of-date Local Plan puts the Council at risk of not be able to defend against inappropriate development, including on appeal.
- 4.8 On adoption of the new Local Plan it will replace with immediate effect the existing Local Plan (1998 – saved 2007). It will, with the Essex and Southend Waste Local Plan and the Essex Minerals Plan, be the development plan for the Borough.
- 4.9 Planning law (and set out in paragraph 2 of the NPPF) requires that planning applications must be determined in accordance with the development plan unless there are material considerations that justify otherwise. The material considerations must be justifiable in planning terms. With a new local plan in place, maximum weight is available for the Council to defend against inappropriate development.

The Inspector's Report

- 4.10 The Inspector issued his report on the 3rd March 2022. In paragraph 220 of his Report, the Inspector, Mr Philip Lewis, concluded that:

'The Council has requested that I recommend MMs [Main Modifications] to make the Plan sound and/or legally compliant and capable of adoption. I conclude that the duty to cooperate has been met and that with the recommended main modifications set out in the Appendix the New Castle Point Local Plan satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.'

- 4.11 The examination has now been concluded and there is no further work required in that regard. Conclusion of the examination also means that other than minor changes which when taken together do not materially affect policies set out in the document, the Council cannot change the plan.

The Examination

- 4.12 The draft Local Plan, together with a comprehensive set of supporting documents, was submitted to the Secretary of State on 2nd October 2020. The examination of the Plan started with the submission and the appointment of the Inspector.
- 4.13 Mr Phillip Lewis was appointed as the Inspector to examine the Plan in accordance with the regulations and procedures. The Inspector is appointed by the Planning Inspectorate and is independent of the Council and the Government.

- 4.14 The Inspector is required to examine the Plan as submitted: in this case, the same plan approved by Council in October 2019. He is required to consider whether the submitted plan is sound, and if necessary, make modifications to the plan to ensure its soundness and ask the Council to consult on those modifications. In his examination, the Inspector considered all the evidence submitted with the plan, and any additional evidence he requested, plus all the representations made at the Regulation 19 stage.
- 4.15 The examination of plans is designed to test their soundness and ensure legal compliance. As set out in paragraph 35 of the NPPF, Plans are 'sound' if they are:
- a) *Positively prepared – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;*
 - b) *Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;*
 - c) *Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and*
 - d) *Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework.'*
- 4.16 In the examination, the Inspector is guided by all the material submitted and national policy that is relevant and extant at the time of the examination.
- 4.17 As part of his examination of the Plan, the Inspector held hearings between 11th May 2021 and 29th June 2021.
- 4.18 The Inspector's Post Hearing letter was received on 29th September 2021. The Inspector's letter is not his final report, and the plan remained in Examination until his final report was published.
- 4.19 The Inspector concluded in paragraph 2 of his letter that:
- 'Overall, I consider that, subject to main modifications, the Plan is likely to be capable of being found legally compliant and sound.'* He further stated in that paragraph that he *'will set out my reasoning for this in my final report.'*
- 4.20 The Inspector reserved his final decision on the legal compliance and soundness of the Plan to his final report as he wanted to consider representations made to the main modifications.
- 4.21 The Council noted the modifications on 24th November 2021, and consultation started on 10th December 2021 and closed on the 4th February 2022. After the end of the consultation on the main modifications and associated documents

and his consideration of representations made, the Inspector issued his final report on 3rd March 2022.

- 4.22 The Inspector's final report is attached in **Appendix 1**. A summary of the key points is set out below, but Members should read the Inspector's report in its entirety.

Legal Compliance (Paragraphs 10 to 35, pages 7 to 11)

- 4.23 The first section of the Inspector's report deals with legal compliance. This considers compliance with the Public Sector Equality Duty, the legal Duty to Cooperate, the requirements of the Planning and Compulsory Purchase Act 2004 and associated regulations, the requirements of the Environmental Assessment of Plans and Programmes Regulations 2004 and the Habitats Regulations 2017.
- 4.24 The report concludes that the Plan complies with all relevant legal requirements.
- 4.25 Paragraph 1 to 9 introduce the Inspector's Report, the main modifications, the Policies Map and context of the plan.
- 4.26 Following the assessment of legal compliance, the report then considers soundness, and sets out his conclusions on seven issues.

Issue One – Whether at the strategic level there are exceptional circumstances which justify altering Green Belt boundaries to meet development needs, and whether the Plan's Green Belt policies are effective? (Paragraphs 39 to 45 on pages 12 to 14)

- 4.27 The Inspector's report sets out the consideration of evidence in relation to this matter. He concludes at paragraph 40 that the methodology for the Green Belt Review was *clear and adequate*. Meanwhile, at paragraph 42, he sets out his conclusions in relation to the assessment of land availability in the urban area. He determines that the work undertaken in respect of the SHLAA 2018 was thorough and consistent with the approach set out in national policy. He further noted that the large site capacity assessment sought to optimise the capacity of proposed sites, including those in the urban area.
- 4.28 Overall, he concluded that it was not possible to rely on increasing the supply of housing within the urban area to avoid the need to alter the boundaries in the Green Belt to meet housing needs (paragraph 42). He therefore determined that *'there are strategic level exceptional circumstances to alter the Green Belt boundary to meet housing needs in the interests of the proper long-term planning of the Borough'* (paragraph 45).
- 4.29 The Inspector also considered the removal of school buildings and school playing fields from the Green Belt. However, he determined that the exceptional circumstances did not exist for the removal of the school playing fields at USP Canvey College Campus and the former Castle View School; Deanes School or King John School from the Green Belt and requires these to remain designated as Green Belt (paragraph 43).

- 4.30 He also considered the addition of 10.9ha land to the Green Belt to the west of Roscommon Way on Canvey. His report indicates that the exceptional circumstances exist for making such an addition (paragraph 44).

Issue Two – Whether the Plan makes adequate provision for new housing? (paragraphs 46 to 68 on pages 15 to 20).

- 4.31 The standard method set out in Planning Practice Guidance identifies the minimum local housing need for the period 2018 – 2033 for Castle Point as being 355 homes per year or 5,325 homes total, using 2021 as a basis and using the most recent workplace-based affordability ratios (the Inspector asked that 2021 be used as the starting point from which to calculate the remaining growth requirement over the remaining plan period).
- 4.32 As the outcomes of the standard method are a minimum requirement, the Inspector considers within his report at paragraphs 47 to 51 as to whether this need should be higher. He concludes that there is no evidence to demonstrate that actual housing need is higher than the standard method indicates, although he does note an acute need for affordable housing provision in the borough.
- 4.33 Paragraphs 52 to 56, meanwhile, consider whether the housing requirement in the plan should be lower as a consequence of the requirement of paragraph 11 b) of the NPPF, which states that

‘strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area⁷; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.’*

- 4.34 Paragraph 53 sets out the Inspector’s conclusion on this matter, indicating that meeting the standard method requirement for housing is appropriate in Castle Point:

‘With regard to paragraph 11(b), footnote 7 of the NPPF lists the policies that protect assets or areas of particular importance. Having regard to the evidence before me, which includes the SA, the HRA, the Green Belt Review, the Strategic Flood Risk Assessments and results of the sequential and exceptions tests, and Heritage Impact Assessments and archaeological evaluation report, I conclude that the application of policies in the NPPF that protect areas or assets of particular importance do not provide a strong reason for restricting the overall scale, type or distribution of development in the Plan area as a whole’.

- 4.35 With regard to the supply of housing sites, meanwhile, the Inspector concludes at paragraph 67 that

'the Plan as modified will supply specific, deliverable sites for years one to five of the plan period after adoption. I am also satisfied that it should provide sufficient developable sites for years 6-10 as per paragraph 68 of the NPPF. Furthermore, I find that at least 10% of the housing requirement will be met on sites of less than one hectare, as per paragraph 69 of the NPPF.'

- 4.36 However, the Inspector recognises that housing supply will not increase suddenly due to a number of the sites currently being located in the Green Belt. He therefore sets out a stepped trajectory for the delivery of homes starting at 291 homes per annum until 2026/27, increasing to 430 homes per annum between 2027/28 and 2032/33. As a backlog has arisen since 2018, with supply averaging just 113 homes per annum, he has sought for that to be addressed via what is known as the 'Liverpool method' whereby the backlog is delivered over the remaining 11 years of the plan period (as opposed to the 'Sedgefield method' which would require the backlog to be delivered over the first five years of the plan).

Issue Three – Is the Plan positively prepared and would it be effective in addressing the likely accommodation needs of Gypsies, Travellers and Travelling Showpeople? (Paragraphs 69 to 72 on pages 20 and 21)

- 4.37 Consistent with the requirements of the Public Sector Equality Duty, the Inspector explored the provision being made for Gypsies, Travellers and Travelling Showpeople within the Local Plan. He used evidence set out in the *Castle Point Borough Council Gypsy, Traveller and Travelling Showpeople Accommodation Assessment 2018* in order to reach his determination.
- 4.38 He noted that the need for future provision in Castle Point arising from two established sites (at Janda Field and Orchard Place). He was made aware of appeal information in relation to Janda Field and was satisfied that the need arising from that site had been met through the planning application and appeal process (paragraph 70).
- 4.39 He was concerned, however, that any need arising from Orchard Place would be difficult to accommodate if the site remained in the Green Belt, as any application would need to demonstrate very special circumstances. This affected the effectiveness of the Local Plan in making provision for the need arising. To this end, the Inspectors report requires main modifications to policy HO7 and the policies map to inset the Orchard Place site from the Green Belt to allow for intensification of its use by Gypsies and Travellers to occur to meet any need arising.

Issue Four – Are the proposed housing allocations justified, effective and consistent with national policy? (Paragraphs 74 to 138 on pages 21 to 39)

- 4.40 Under this issue, the Inspector considered each of the housing allocations in turn and concluded that they were all acceptable. He did, however, require an overarching modification in relation to all allocations, and a specific modification for all allocations on Canvey Island as follows:

- Each allocation is amended to make clear that the housing figure specified is indicative and not a maximum site capacity to ensure compliance with the NPPF.
 - Each allocation on Canvey Island it is made clear that self-contained residential accommodation and bedrooms at ground floor level would not be permitted.
- 4.41 In reviewing each allocation, the Inspector considered relevant issues that had been raised through the examination process, which varied from site to site. Where a site is also currently within the extent of the Green Belt the report also sets out a consideration of the harm to the Green Belt arising from the proposal.
- 4.42 Modifications were required in respect of each of the sites to address detailed policy requirements related to environmental or infrastructure requirements. These amendments strengthen the policies overall, and there are no instances where infrastructure requirements have been reduced. There are, however, a few modifications which affect the extent or capacity of a site. Key modifications in relation to the site allocations are as follows:
- **Site HO10 – Land between Felstead Road and Catherine Road, Benfleet** – The extension to the Local Wildlife Site located within this allocation was not found to be justified, and so has been redesignated as a potential Local Wildlife Site. No change has been made to the site capacity.
 - **Site HO11 – Land off Glyders, Benfleet** – The site area has been reduced to create a strengthened Green Belt boundary that would serve to limit harm to the Green Belt. No change has been made to the site capacity, as the land falling within the Green Belt will be used for SUDS and landscaping.
 - **Site HO20 – The Chase, Thundersley** – The site capacity has been increased from 350 homes to 430 homes, to reflect the findings of the Large Sites Capacity Assessment 2019. Recognising that the assessment undertaken in 2019 included the area of the Chase Nurseries development currently under construction the Inspector has set an indicative capacity for the rest of the site at 412 homes. The master plan requirements for this site have been retained due to its complexities.
 - **Site HO23 – Land East of Canvey Road, Canvey** – The northernmost field within this allocation has been returned to the Green Belt as its allocation for development was not considered to be justified as it would give rise to unacceptable harm to the Green Belt. No change has been made to the site capacity.
 - **Site HO25 – Land at Thorney Bay, Canvey** - this policy has been substantially modified to reflect the park home provision currently being made on this site. Within policy HO25, and elsewhere in the plan as relevant the capacity of this site has been amended to 820 park homes gross, or 230 homes net of the static caravans included on the Council Tax Register in April 2018.
 - **Site HO28 – Land at the Admiral Jellicoe, Canvey** – Reflecting the development management decisions that have been taken in respect of this site since October 2019, the capacity of this site is reduced from 40 homes to around 14 homes.
 - **Site HO29 – Land south of Haron Close, Canvey** – Reflecting the development management decisions that have been taken in respect of this

site since October 2019, the capacity of this site is increased from 10 homes to 24 homes.

- 4.43 In concluding on this issue, the Inspector determines at paragraph 138 the following in relation to those sites within the current extent of the Green Belt:

Overall, therefore, for the strategic reasons set out earlier in this report and the site specific reasons referred to above, I am satisfied that there are exceptional circumstances to justify removing the following areas of land from the Green Belt to facilitate the development proposed in Policy HO1: Land west of Benfleet, Benfleet (Policy HO9), Land between Felstead Road and Catherine Road, Benfleet (Policy HO10), Land off Glyders, Benfleet (Policy HO11), Land east of Rayleigh Road, Hadleigh (Policy HO13), Land at Brook Farm, Hadleigh (Policy HO14), Land at Oak Tree Farm, Hadleigh (Policy HO16), Land north of Grasmere Road and Borrowdale Road, Thundersley (Policy HO18), Land at Glebelands, Thundersley (Policy HO19), The Chase, Thundersley (Policy HO20), Land east of Canvey Road, Canvey Island (Policy HO23) as amended, Land west of Canvey Road, Canvey Island (Policy HO24), and Land to the east of Kings Park Village, Canvey Island (Policy HO31).

Issue Five – Is the strategy and provision for employment development effective and justified? (Paragraphs 139 to 148 on pages 39 to 41)

- 4.44 The Local Plan made provision for 24ha of employment land against a need for around 9ha, as identified through the South Essex Economic Development Needs Assessment. This provision included the two sites on Canvey – the extension to Charfleets Industrial Estate (10.5ha) and land south of Northwick Road (9.7ha), both of which benefit from planning consent and have technical commencements. A third site of 3.7ha to the east of Manor Trading Estate made up the remainder of the provision.
- 4.45 In his report the Inspector concluded the following with regard to land to the east of Manor Trading Estate at paragraph 145, and as such this allocation is removed from the plan and the level of provision made within the plan for employment is reduced to around 20ha:

The level of existing commitments of employment land is such that there is no numerical or qualitative need for additional employment land provision at a strategic level for the plan period. Furthermore, whilst the planning system should actively manage patterns of growth in support of the transport objectives of the NPPF, the proposal at the Manor Trading Estate is modest in scale, and any such benefits which may arise in this regard would be limited. Consequently, I am not convinced that exceptional circumstances for the alteration of the Green Belt boundary to accommodate the extension to the Manor Trading Estate, is adequately evidenced and justified.

Issue Six – Is the Plan period of 2018 – 2033 justified? (Paragraphs 149 to 154 on pages 41 to 430)

- 4.46 Paragraph 22 of the NPPF requires that strategic policies within a plan should look forward 15 years from the point of adoption. The Inspector's report notes

at paragraph 149 that the Plan has been prepared with a plan period of 2018 to 2033, and therefore the strategic policies would look ahead around 11 years from adoption, assuming 2022 for adoption.

- 4.47 He notes, however, at paragraph 150 that the employment land provision in the Plan is sufficient to extend beyond the plan period to 2036, and, in paragraph 151, he identifies that there is an adequate supply of specific, deliverable housing sites for years one to five after adoption, and specific developable sites for years 6 to 10 consistent with paragraph 68 of the NPPF. Furthermore, he notes that there is adequate provision of housing to meet the identified housing need until the end of the plan period, with a small excess providing some modest headroom.
- 4.48 As part of the examination process, it was suggested to the Inspector that additional sites should be identified to meet the housing need beyond 2033 to ensure 15-year supply from the point of adoption. The Inspector rejects this proposal in his report at paragraph 152, as this *'would cause significant delay to the adoption of the Plan, having a knock-on effect on the efforts of the Council to boost the supply of homes, in an area where the 2021 housing delivery test measurement was 49%'*.
- 4.49 It was also suggested that the Plan should be subject to a requirement for a prompt review. He again rejected this proposal in his report at paragraph 153 due to the level of housing and employment land supply being made within the plan.
- 4.50 Overall he concluded in relation to this matter that an otherwise sound plan, subject to the main modifications, should proceed to adoption with a plan period of 2018-2033 despite not being in line with paragraph 22. The plan period is justified.

Issue Seven – Are the development management policies clear, justified and consistent with national (paragraphs 155 to 218 on pages 43 to 58)

- 4.51 The development management policies in the Local Plan are numerous. The Inspector has reviewed them all and has commented on them as necessary in paragraphs 155 to 218 in his report. A significant number of the development management policies are subject to modifications, although most of these modifications are modest. Key changes are set out below:
- **Policy SD1:** The Place-making objectives initially included in policy HO1 have been brought forward to policy SD1 so they apply to all new development, rather than just housing.
 - **Policy HO3:** The policy has been updated to reflect new evidence on housing mix requirements, and to ensure that the accommodation needs of older people are addressed by the plan.
 - **Policy HO4:** Affordable housing requirement has been clarified as 40% for Benfleet. Retirement accommodation on Canvey has been exempt from the requirement, due to viability evidence.

- **Policies TC1, TC3, TC4 and TC5:** Health impact assessments are required for commercial proposals that involve the sale of foodstuff in order to contribute towards the creation of a healthy food environment.
- **Policy TC6:** The restriction on new takeaways near schools has been removed as it was not considered to be justified. A requirement for health impact assessment of takeaway proposals has been introduced.
- **Policies HS2 and HS3:** The requirement for an additional outdoor bowls green is removed from policy HS3 as the *Playing Pitch Assessment* does not justify it. However, policy HS2 now incorporates the provision of indoor short mat bowls provision as the *Built Facilities Assessment* justifies that addition.
- **Policy TP2:** Policy TP2 has been rewritten to only incorporate those transport schemes required to accommodate the growth arising from the plan. Aspirational schemes which address wider traffic concerns including Roscommon Way Phase 3 and a new access for Canvey Island were not found to be justified by the evidence and have been excluded from the policy. However, recognising the challenges related to access to Canvey Island, a new strategic policy concerned with achieving new and improved access to Canvey is recommended for inclusion in the plan (now **TP3**).
- **Policy GB1:** The wording of this policy is amended to remove duplication with national policy.
- **Policies, GB2, GB3, GB5, GB6 and GB8:** Replaced by a single policy (**GB2**) which removes unnecessary duplication, addresses inconsistencies with national policy and ensures it is effective in protecting the Green Belt.
- **Policy GB4:** This policy, permitting limited infilling and self-build in the Green Belt (in Great Burches, the Brambles and part of Benfleet Road), was found not to be effective and consequently it should be removed from the Plan.
- **Policy CC4:** A requirement for all new development to achieve the optional higher level of water efficiency set out in part G2 and Regulation 36(2)(b) of the Building Regulations is justified and should be included in the plan.
- **Policy NE3:** The South Canvey Green Lung is retained for its wildlife credentials. The policy has been retitled 'South Canvey Wildlife Corridor'.
- **Policy NE4 and Appendix Four:** The Wildlife Site Review undertaken in 2019 was not fully completed due to the disbandment of the Essex Wildlife Partnership preventing its final endorsement. Consequently, the robustness of this Review and any changes arising from it were determined by the Inspector not to be justified. The schedule of Local Wildlife Sites in Appendix 4 has therefore been reverted to the outcomes of the Local Wildlife Site Review 2012, and any new sites or site extensions emerging from the 2019 Review are treated as potential Local Wildlife Sites.

5 Statutory Assessments

5.1 In order to comply with the legislative requirements, the following documents must be prepared to accompany the Local Plan:

- [A Sustainability Appraisal and Strategic Environmental Assessment](#)
- [A Habitats Regulations Assessment](#)
- [An Equality Impact Assessment](#)

- 5.2 These documents were prepared alongside the plan and were all updated in November 2021 to reflect the main modifications proposed at that time. These were subject to consultation alongside the main modifications and are available to view online: <https://www.castlepoint.gov.uk/main-modifications-consultation>
- 5.3 As part of his final report, the Inspector proposed four relatively minor amendments to the detailed wording of the main modifications where these were necessary for consistency or clarity. These were:
- **MM17** – amended wording to paragraph 10.33 to reflect the recent name change of the nearby Cottage Plantation to Valerie Wells Wood.
 - **MM40** – amended wording to refer to Nationally Significant Infrastructure Projects rather than Nationally Strategic Infrastructure Projects.
 - **MM88** – amended wording to include Canvey Island Rugby Club as a community facility under the schedule included within Strategic Policy HS6 Community Facilities.
 - **MM56** – amended wording within criterion 4 of new Strategic Policy TP3 to delete some wording to be consistent with the Habitats Regulations
- 5.4 At paragraph 4 the report states that *'none of the amendments significantly alter the content of the modifications as published for consultation or undermines the participatory processes and the SA/HRA that has been undertaken'*.
- 5.5 For completeness, the authors of the [Sustainability Appraisal and Strategic Environmental Assessment](#), and the [Habitats Regulations Assessment](#) were asked to review their reports in light of these minor amendments to ensure that the conclusions set out in their reports dated November 2021 remained valid. Letters have been received from both authors to confirm that this is the case. These letters are provided at Appendix 5 and Appendix 6 respectively.
- 5.6 To this end, the final [Sustainability Appraisal and Strategic Environmental Assessment Report](#) is that dated November 2021. Members are asked to note the content of that report.
- 5.7 Similarly, the final [Habitats Regulations Assessment Report](#) is that dated November 2021. Again, Members are asked to note the content of that report.
- 5.8 The [Equality Impact Assessment](#) (EqIA) was also updated in November 2021 and has also been reviewed in light of these additional amendments to the main modifications. None of the additional amendments to the main modifications made by the Inspector impact on equality or diversity issues, and therefore the EqIA published in November 2021 remains valid. Members are asked to approve the EqIA report dated November 2021.

6 Adoption

- 6.1 It is now for the Council to consider adoption of the new Castle Point Local Plan as set out in Appendix 3 and the approval of the Policies Map as set out in Appendix 4. The legislative framework for adopting the plan is set out in Section 23 of the Planning and Compulsory Purchase Act 2004.

- 6.2 The new Local Plan sets out the strategic and local policies that will govern planning decisions during the plan period up to 2033, unless, in a review of the plan (required within five years) some or all the policies are reviewed and updated. Planning law is clear that planning applications should be determined in accordance with the development plan (the new Local Plan) unless considerations suggest otherwise. Therefore, the new Local Plan is the main policy consideration. The new Local Plan will, on Adoption, replace the Castle Point Local Plan 1998 (saved policies 2007). The old Local Plan will cease to be a factor in the consideration of all decisions on planning applications from the adoption date. As the Plan has progressed, it has been referred to in reports on planning applications as a material planning consideration.
- 6.3 Adopting the new Local Plan will mean that the Council and Borough has an up-to-date development plan. It means that the Council demonstrate that it has a five-year housing land supply, and it will speed up delivery of new homes so that the council can meet the housing delivery test targets and avoid further buffers on its five-year housing land supply and the presumption in favour of sustainable development as set out in paragraph 11 of the National Planning Policy Framework.
- 6.4 Importantly, having an adopted local plan means that the Council is in the strongest position to defend against speculative and inappropriate development, particularly in the Green Belt. The development needs of the Borough during the plan period are met in the plan, and therefore, there are no requirements over and above the sites set out. **This is the strongest defence possible.**
- 6.5 **An up-to-date plan ensures maximum control of planning decisions is retained by the Council.** Where sites have been allocated, developers are expected to submit policy compliant proposals. Master plans and development briefs should also comply with the new Local Plan policies. This ensures that the requirements of the plan (such as levels of affordable housing and design quality), infrastructure requirements, and site-specific requirements are met. If they are not, and material considerations do not outweigh non-compliance, then the new Local Plan provides the defence the Council needs to negotiate compliance and on appeal.
- 6.6 The Inspector has not requested an immediate review of the new Local Plan. Whilst there is a requirement to review plans every five years from the date of adoption, avoiding the need to prepare a new local plan before then, means that the Council can focus on preparing and delivering supplementary planning documents (such as on developer contributions and affordable housing) and may only need to undertake a partial review of the plan within the five years. It is also a considerable cost saving, given that the guide cost for a brand new plan, could be similar to that of this plan, c£1.4 million.
- 6.7 **Finally, the new Local Plan adds certainty.** The Council has operated planning decisions with an out-of-date plan and has been heavily reliant on the NPPF in addition to the relevant saved policies. This new Local Plan, approved in October 2019 for examination, is the plan that has been determined locally. That decision has been proven to be correct, insofar as the Council approved

a plan that was, subject to modifications, sound. The modifications that the Inspector has made do not change the overall strategy. They have been made to strengthen policies to ensure that decision makers are best equipped to make correct and compliant decisions, whether they be officers under the scheme of delegation, the Development Management Committee or the Planning Inspectorate.

- 6.8 The certainty provided by the New Local Plan also positions the Council and its partners, such as Essex County Council as the Transport Authority, to bid for funding and secure investment in infrastructure projects. Having a Local Plan, and a clear idea of when and where growth may arise is a pre-requisite for many Government funding streams. Meanwhile, the Local Plan positions the Council to secure investment in infrastructure through S106 and CIL to a scale that is not possible in the absence of a plan as it enables the cumulative impacts development to be addressed.
- 6.9 **The recommendation is that the Council adopts the New Castle Point Local Plan to enable the Council to fully fulfil its obligations as the principal local planning authority for the area.**
- 6.10 If the Council agrees to adopt the new Local Plan, officers will prepare the final copy of the Local Plan document and the Policies Map. Both will be published in their final form on the Council's website. Copies will also be made available at advertised deposit points in accordance with regulations.
- 6.11 In order to complete with regulations officers have also prepared an Adoption Statement which is attached as Appendix 7. This will be published alongside the Local Plan document and Policies Map. The Adoption of the new Local Plan comes into effect on the date the decision to adopt the Local Plan is made. The Adoption Statement must be published as soon as possible thereafter.
- 6.12 Training will be provided to members on the new Local Plan. This will be compulsory for all those on, or substitutes for, the Development Management Committee. This will help Members familiarise themselves with the new Plan and key policies.
- 6.13 Members must note that there are powers of intervention invested in the Secretary of State under Section 21 of the Planning and Compulsory Purchase Act 2004. These can be found at [Section 21](#). These are discussed below but, in simple terms, the Secretary of State has default powers to approve a plan even if a local planning authority is unwilling to adopt it.
- 6.14 The powers of the Secretary of State are set out in Section 21 is sub-section 4 of the 2004 Act:
- 'At any time before a development plan document is adopted by a local planning authority the Secretary of State may direct that the document (or any part of it) is submitted to him for his approval.'*
- 6.15 If the Secretary of State decides to use section 21(4) and the Plan is submitted to him for his approval, the Council will not be able to take any more decisions

on the plan, unless that direction is withdrawn by the Secretary of State. This includes adopting the Plan at a later date.

- 6.16 There is a precedent in Essex of the Secretary of State approving a plan. In July 2017 the Secretary of State approved the Maldon Local Development Plan. The Plan came into effect on the day of his approval letter and the Council did not vote to adopt the plan.
- 6.17 Secretary of State approval of a local plan is not something that is to be taken lightly. For the Council it indicates that there is a failing in the ability of the Council to adopt a plan. For the Secretary of State, although the powers exist, it is seen as imposing on local decision making.

Appeals

- 6.18 During plan preparation a critical factor in demonstrating whether a site is developable, or deliverable is through discussion with prospective landowners and developers. The Council has established the Local Plan Delivery Board as a discussion forum to ensure that developers submit planning applications that accord with the Plan and can deliver, inter alia, the necessary infrastructure, highest quality standards and affordable housing. The formation of this board was a recommendation of the Development Control Peer Review.
- 6.18 In the event that the plan is delayed or not adopted, it is highly likely that the developers will continue with the preparation and submission of planning applications. Without an up-to-date local plan, there is a risk that the Council would decide to refuse planning permission. Developers will contend that there are very special circumstances to grant planning permission and appeal a decision to refuse.
- 6.19 The evidence that informed the current plan remains valid, as are the conclusions in the Inspector's report. The Inspector has examined the plan using this evidence and is satisfied that the evidence supports the plan and its soundness. Whilst the weight attributed to an Inspector's conclusions does not hold the same weight as an adopted plan, in the absence of an adopted plan and no five-year land supply, there is a risk of the evidence being used successfully by developers on appeal.

7 Financial Implications

- 7.1 The costs to date of the plan preparation are about £1.4 million, this includes the costs of the examination and the Inspector's report.
- 7.2 Should the local plan not be adopted, additional costs depend on what course of action the Council subsequently decide to take. If it was subsequently decided to prepare a new plan the Council will have significant costs to fund. The costs of doing so would be determined to a large extent by the policy direction the Council wishes the Plan to take. It is not possible to say what the estimated costs would be but the £1.4 million cost to date is a guide but would need to be adjusted for inflation.

- 7.3 In addition, a delay in the plan's adoption (and not having an up-to-date local plan in place), would lead to the increased risk of appeals, whether on sites allocated in the plan or speculative development elsewhere. The cost risks would relate to the costs the Council would incur in defending decisions and possibly developers' costs awarded against the Council. Whilst there will be an increase in fee income should major applications be submitted, that the net effect of that income would be substantially reduced by the potential appeal costs.
- 7.4 Every year, the Council's Section 151 Officer (Strategic Director, Resources) is required under section 25 of the Local Government Act 2003 to report on the adequacy of the proposed financial reserves, and this is done within the Policy Framework and Budget Setting Report.
- 7.5 Whilst a very small amount is allowed for as a provision for planning appeals, that envisages only the usual 'business as usual' type appeals rather than appeals on larger sites on 'allocated' or speculative development on non-allocated sites.
- 7.6 Consequently, if the Council does not have the reserves earmarked to meet an increase in appeal costs or the cost for an immediate review of the local plan, any significant use of the reserves could result in the Section 151 determining the proposed financial reserves are inadequate.
- 7.7 With reserves unavailable to fund the estimated costs, the Council would instead need to find new savings in order to balance the budget. Service areas have already, as part of the 2022/23 budget process, been identifying savings so that the existing budget gap of £1.2m (as reported in the Policy Framework and Budget Setting for 2021/22 report) can be closed.
- 7.8 The Council has already been identifying savings in anticipation of a very difficult budget round for 2022/23 and 2023/24 as reported to Council on 23 February 2022.
- 7.9 This is against the backdrop of the Council having already found permanent savings over several recent years to match the reduction of Government funding. There remain no easy or inconsequential options
- 7.10 The Council has a legal requirement to set a balanced budget, with a risk of significant Government intervention if there is or, in the opinion of the Section 151 officer, is likely to be an unbalanced budget.

8. Corporate Implications

(a) Financial Implications

These are set out in a main report

(b) Legal Implications

The Council has a statutory duty to prepare and maintain an up-to-date local plan. Sanctions of intervention are included within the Planning Acts as set out in the main report.

The local plan must be prepared in accordance with legislative requirements. The Inspector's Report concludes that the Plan complies with all relevant legal requirements.

The report also highlights the implications for decision making, appeals and ability to secure necessary infrastructure and affordable housing. In defending appeals, the Council may need legal representation.

There is also a risk of judicial review into any decision by the Council to not adopt the new Local Plan.

(c) Human Resources and Equality Implications
Human Resources

Work on the Castle Point Local Plan has been undertaken by a small but dedicated team of professional officers. Receipt of the Inspector's letter which finds the Plan sound, means that officers have succeeded in their responsibilities handed down by the Council in October 2019.

Non adoption of the plan will have an impact on staff resources and new staff requirements.

Equality Implications

The Local Plan is subject to an Equalities Impact Assessment (EqIA) at each stage and the latest version of the assessment was presented to Council on 24 November 2021. The EqIA concludes that:

'The Objectives and Policies of the New Local Plan have been comprehensively tested and analysed against the assessment questions previously identified in the EqIA scoping report's framework, in order to determine whether there are likely to be any socio-economic or equality impacts as a result of the Plan.'

The analysis found the Objectives and Policies of the New Local Plan to meet the socio economic and single (integrated) equality duties of the Equalities Act 2010, and that there were no areas which needed to be changed or given further consideration in order for the Council to fulfil its duties under the Act.'

The Full EqIA report can be viewed online at:

<https://www.castlepoint.gov.uk/main-modifications-consultation>

(d) IT and Asset Management Implications

The Local Plan includes green belt releases of two parcels of land owned by the Council: The Former WRVS site in South Benfleet and land to the east of Kings Park Village.

9. Background Papers

As highlighted in the report

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