

**Proof of Evidence by Neil McDonald
NM Strategic Solutions Ltd
on behalf of Tendring District Council**

Appeals by City & Country

Land to The North of Thorrington Road, Great Bentley, Essex CO7 8QD

&

Land to The West of Plough Road, Great Bentley, Essex CO7 8LG

&

Land to The South of Thorrington Road, Great Bentley, Essex CO7 8QE

Planning Inspectorate References:

APP/P1560/W/17/3183678, 3183626 & 3183695

Tendring District Council References:

17/01098/OUT and 17/00068/REFUSE

17/01096/OUT and 17/00066/REFUSE

17/01097/OUT and 17/00067/REFUSE

November 2017

CONTENTS

1.	Introduction	3
2.	Policy Guidance on the use of DCLG projections and adjustments to them	8
3.	Inconsistencies in the historical demographic data for Tendring	10
4.	How large might the inaccuracies be in the census population estimates for Tendring?	12
5.	Timing of the inaccuracies in the migration estimates and their implications for the projections	24
6.	Modelling Tendring's future population and household growth	27
7.	Implications for the rest of the Housing Market Area	35
8.	Summary and Conclusions	37

APPENDICES

1. Report on the Examination of the Swale Borough Local Plan
2. Notes by the ONS on Tendring's Population Estimates
3. Appeal Decision on Land north west of Sladbury's Lane, Clacton

PROOF OF EVIDENCE

1. Introduction

(a) Expertise in housing demographics

1. My name is Neil McDonald. I have a BA degree in Natural Sciences from Cambridge University. I am an independent adviser and commentator on housing demographics, working with local authorities and others on the estimation of housing need and related issues. I have appeared as an expert witness at both local plan examinations and S78 appeal hearings.
2. I was a civil servant and policy adviser to Ministers for over 30 years, the last 10 advising on housing and planning issues within the Department of Communities and Local Government. My seven years as a Director included a posting as Director, Planning Policy and a period as Chief Executive of the National Housing and Planning Advice Unit until its closure in 2010. I left the Department in March 2011 and have since worked with the Cambridge Centre for Housing and Planning Research (CCHPR) as a Visiting Fellow (2012-15), collaborating in particular with its founder director, Professor Christine Whitehead.
3. My recent publications include:
 - a. New Estimates of Housing Requirements in England, 2012 to 2037 (November 2015)¹
 - b. Making Sense of the New English Household Projections² (April 2015)

¹ New Estimates of Housing Requirements in England, 2012 to 2037, Neil McDonald and Christine Whitehead, TCPA, November 2015. See: <http://www.tcpa.org.uk/pages/new-estimates-of-housing-requirements-in-england-2012-2037.html>

- c. Planning for Housing: Understanding recent changes in household formation rates and their implication for planning for housing in England³ (January 2014)
- d. Choice of Assumptions in Forecasting Housing Requirements: Methodological Notes⁴ (March 2013)
- e. “What Homes Where?” an Excel-based tool that provides easy access to the key official datasets for planning for housing⁵

(b) Purpose and Structure of Evidence

- 4. This proof will provide an updated assessment of the objectively assessed needs of the Tendring District which forms part of the 5-year housing land supply calculation.
- 5. In particular the proof will show that:
 - a. The Planning Practice Guidance (PPG) clearly envisages that it may be appropriate in certain circumstances to depart from the household growth figures suggested by the DCLG projections.
 - b. The large discrepancy in the historic demographic statistics for the District (known as Unattributable Population Change – UPC) has affected the official population and

² Making sense of the New English Household Projections, Ludi Simpson and Neil McDonald, Town and Country Planning, April 2015. Available from the TCPA at <http://www.tcpa.org.uk/pages/our-journal.html> Ludi Simpson is Professor of Demographics and the University of Manchester.

³ Planning for housing in England: Understanding recent changes in household formation rates and their implications for planning for housing in England, RTPi Research Report no.1 January 2014, Neil McDonald and Peter Williams (then Director of the Cambridge Centre for Housing and Planning Research). See http://www.rtpi.org.uk/media/819060/rtpi_research_report_-_planning_for_housing_in_england_-_january_2014.pdf

⁴ Choice of Assumptions in Forecasting Housing Requirements: Methodological Notes, Cambridge Centre for Housing and Planning Research, edited by Neil McDonald with contributions from Sarah Monk, Alan Holmans, Christine Whitehead and Peter Williams, March 2013. See: http://www.howmanyhomes.org/resources/Choice_of_Assumptions.pdf

⁵ See: <http://www.howmanyhomes.org/5.html>

- household projections for the District causing them to over-estimate the likely increase in population and households.
- c. The official population projections should be adjusted on the assumption that 50% to 65% of UPC is due to inaccuracies in the historic data for migration.
 - d. The official population projections should also be adjusted to:
 - i reflect the Office for National Statistics' (ONS's) revised assumptions on mortality rates and international migration set out in their 2016-based National Population Projections published on 26 October 2017⁶; and,
 - ii to reflect recent trends in migration flows to the District from other parts of the UK.
 - e. The errors in the projections for Tendring do not appear to have affected the other authorities in the housing market area (Colchester, Chelmsford and Braintree). In particular, there is no evidence to suggest that the over-estimation of the population in Tendring is due to the under-estimation of the population elsewhere in the housing market area.
6. When those adjustments are made the demographically based assessment of the need for housing in the area is shown to be in the range 380-460 homes a year and 420 homes a year is the figure that should be used in situations (such as the assessment of a 5-year housing land supply) in which a single number is required. Adding a 15% allowance for market signals gives a housing need (the Full OAN) of 480 homes a year over the period 2013-37.
7. This revised assessment is lower than earlier estimates because of the impact of the ONS's very recently published revised assumptions on mortality and international

⁶ See, National Population Projections: 2016-based statistical bulletin, ONS, 26 October 2017 at, <https://www.ons.gov.uk/releases/nationalpopulationprojections2016basedstatisticalbulletin>

migration and a more detailed study of the estimation of future inflows into Tendring which has shown that the projections are not consistent with recent trends.

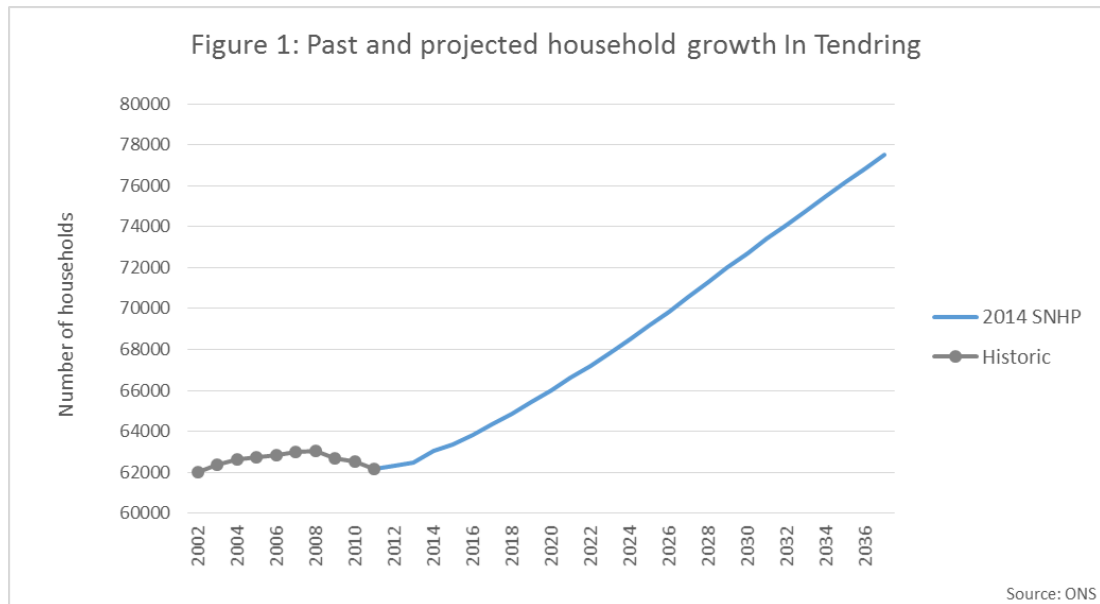
8. This revised assessment is a key input into the calculation of the 5-year housing land supply, as can be seen from Table 1 in Mr Guiver’s Proof of Evidence (page 17), reproduced below for ease of reference. As the table shows in its first line, the first step is to calculate the housing requirement over the 5-year period by multiplying the OAN by 5. It follows that an over estimation of the OAN results in an exaggeration of the 5-year housing requirement.

Mr Guiver’s Table 1: Housing Supply Calculation (21st November 2017)

Five Year Requirement and Supply	OAN of 480 homes a year
Requirement 2017/18 – 2021/22	2,400 (480 x 5)
Shortfall 2013/14 – 2016/17	546
Sub-Total	2,946
Plus 20% buffer	589
Total Requirement	3,535
Supply from large site commitments	3,363
Supply from emerging allocations	214
Supply from small windfall sites	770
Total supply of Homes – Units	4,347
Total five- year supply of Homes - %	123%
Total supply of Homes – Years	6.2

9. The revised assessment is very different from the figure obtained by the unadjusted DCLG household projections. The latest projections, the 2014-based projections (2014 SNHP) published in 2016, suggest that the number of households in Tendring will grow by an average of 625 a year. However, a simple comparison of this projected growth figure with the recent past is sufficient to show that, whilst DCLG’s household projections

normally provide a reasonably reliable estimate of future household growth, something fairly dramatic has gone wrong in this case. Figure 1 (below) shows how the 2014 SNHP compares with the household growth suggest by DCLG’s statistics for the period between the 2001 and 2011 censuses:



10. As can be seen, the steepness of the projection line bears no relation to the historic data. It might reasonably be argued that this is because there are serious deficiencies in the historic data, as indeed there are. However, given that households live in homes, a reasonable indication of the historic growth in the number of homes can give a fairly accurate indication of the past growth in the number of households. Over the last 15 years for which statistics are available (2001-16) 350 homes have been completed in Tendring. That is sufficient to house around 330 households a year. It is very difficult to see how that historic position could reasonably give rise to a trend-based estimate of a growth of 625 households a year.

11. The reason for this large inconsistency between past trends and projected growth is in part deficiencies in the historic data and in part a particular aspect of the demography of Tendring that is not picked up by the official projection method. The scale of these effects is such that it is necessary to depart significantly from the standard method for estimating housing needs if a sound basis on which to estimate Tendring’s housing needs

is to be established. As I shall show in the next section this is something which the Planning Practice Guidance provides for.

2. Policy Guidance on the use of DCLG projections and adjustments to them

12. The Planning Practice Guidance (PPG) envisages that it may be appropriate to depart from the DCLG household projections in estimating housing need.
13. In Paragraph 5 of the section of the PPG on “Housing and economic development needs assessments” addresses directly the question of whether alternative approaches can be used to assess housing need besides the one recommended in the guidance:

“Can local planning authorities use a different methodology?”

There is no one methodological approach or use of a particular dataset(s) that will provide a definitive assessment of development need. But the use of this standard methodology set out in this guidance is strongly recommended because it will ensure that the assessment findings are transparently prepared. Local planning authorities may consider departing from the methodology, but they should explain why their particular local circumstances have led them to adopt a different approach where this is the case. The assessment should be thorough but proportionate, building where possible on existing information sources outlined within the guidance.”

Paragraph: 005 Reference ID: 2a-005-20140306

14. Later on in the same section of the PPG there is discussion of the limitations of the DCLG projections. Paragraph 15 contains the following:

“The household projections are trend based, i.e. they provide the household levels and structures that would result if the assumptions based on previous demographic trends in the population and rates of household formation were to be realised in practice. They do not attempt to predict the impact that future government policies, changing economic circumstances or other factors might have on demographic behaviour.

The household projection-based estimate of housing need may require adjustment to reflect factors affecting local demography and household formation rates which are not captured in past trends.”

Paragraph: 015 Reference ID: 2a-015-20140306

15. This is discussed further in paragraph 17:

“The household projections produced by the Department for Communities and Local Government are statistically robust and are based on nationally consistent assumptions. However, plan makers may consider sensitivity testing, specific to their local circumstances, based on alternative assumptions in relation to the underlying demographic projections and household formation rates. Account should also be taken of the most recent demographic evidence including the latest Office for National Statistics population estimates.

Any local changes would need to be clearly explained and justified on the basis of established sources of robust evidence.”

Paragraph: 017 Reference ID: 2a-017-20140306

16. The message here is straightforward: the use of the DCLG projections is not mandatory and that where they are used they “may require adjustment”. In line with this there are numerous examples of Inspectors agreeing to adjustments being made to the DCLG projections, including cases in which they have accepted that the figure suggested by the official projections should be reduced to take account of Unattributable Population Change (UPC). A recent example is the Inspector’s report on the Swale Local Plan, which is at Appendix A.
17. In what follows I will show that the migration trend data for Tendring which has been used in the latest DCLG projections is inaccurate and that as a consequence those projections require adjustment before they can safely be used to assess Tendring’s housing needs.

3. Inconsistencies in the historical demographic data for Tendring

18. The ONS's statistics provide two estimates of the change in Tendring's population between 2001 and 2011.
 - a. The censuses in 2001 and 2011 provide estimates of the District's population in those years. Subtracting one estimate from the other gives an estimate of the change in the population.
 - b. The ONS produces annual statistics for the births and deaths in each district and for the migration flows into and out of each district (from the rest of the UK and abroad). Adding births to migration flows into a district and subtracting deaths and migration flows out of a district gives an estimate of the change in population.
19. In Tendring's case there is a very large discrepancy between these two estimates: the two censuses suggest that the population of the District **fell by 740** between 2001 and the births, deaths and migration statistics (known collectively as the 'components of change') suggest that the population **grew by 9,793**. The **difference is 10,533** or 7.6% of the census-based estimate for 2011. This discrepancy (referred to as the 'Unattributable Population Change' or UPC) is one of the largest of any local authority in England, which indicates that there are substantial problems with the demographic data for the District and that methods that may be perfectly satisfactory in other areas cannot be relied upon in Tendring.
20. The discrepancy (UPC) could be due to errors in either the census population estimates or in the components of change or in a combination of the two. The sum of the errors in the censuses and the errors in the components of change must equal the discrepancy of 10,533 people.
21. As regards the components of change, in the UK we have rigorous systems for registering births and deaths which produce high quality data. It is therefore highly probable that any discrepancy in the components of change is due to inaccuracies in the statistics for the migration flows. This means that for practical purposes we can assume that:

Errors in censuses + Errors in migration flow statistics for 2001-11 = 10,533 people

22. It follows that any inaccuracies that cannot be accounted for by inaccuracies in the censuses must be due to inaccuracies in the migration flow estimates.
23. The challenge facing someone seeking to produce an accurate population projection for Tendring is to determine how much of the discrepancy is due to errors in the migration flow statistics as those statistics have been used to estimate trends on which the projections are based. If there are errors in the historic migration statistics the projections based on them will either over- or under-estimate the likely change in population.
24. In the next section I will show that it is probable that the more than half of the discrepancy is due to inaccuracies in the historical estimates of migration flows. I will do this by considering the evidence on the likely size of the errors in the census figures on the basis that any part of the discrepancy that is not due to census errors must be due to errors in the migration flows.

4. How large might the inaccuracies be in the census population estimates for Tendring?

25. A detailed examination of the population and migration statistics and data from council tax records, house building, GP lists, the electoral register and school rolls provides a number of different bases on which to estimate the error in the census numbers. Individually none is conclusive, although some give a strong indication of the range within which the error lies. However, collectively they provide convincing evidence that the error in the census figures accounts for 35% to 50% of UPC, implying that 50% to 65% is due to errors in the migration statistics.
26. I will summarise here the main pieces of evidence on the proportion of UPC that is due to census errors.

(i) ONS census error margins

27. The ONS publishes 95% confidence intervals for its census population data to give a guide as to how accurate the data is likely to be. Ordinarily it would be thought extremely unlikely that the actual figure lies further from the figure stated in the census than these intervals. The figures for Tendring are:
- 2001: 1.1% of the census population estimate, i.e. 1,527
 - 2011: 0.83% of the census population estimate, i.e. 1,151
28. A 95% confidence interval is the range within the actual result is expected to lie in 95 out of 100 cases. It is, of course, possible that Tendring is one of the 5% of cases in which the actual figure lies outside that range. If the 2001 figure were too high by its 95% interval and the 2011 figure were too low by its 95% confidence (i.e. the coincidence of two unlikely scenarios - a very unlikely situation), the contribution that errors in the censuses would make to the discrepancy would be 2,678 people or 25% of the discrepancy. It

would require both census estimates to be out by twice their 95% confidence intervals for census errors to account for 50% of UPC; something that would normally be regarded as an extremely unlikely scenario indeed.

29. Against this background it is appropriate to probe with great care any evidence that suggests that the census error is in excess of 25% of UPC and to be extremely sceptical any suggestion that the census error is more than 50%.

(ii) A cohort analysis shows that it is either impossible or highly improbable that the majority of UPC in some age groups is due to population over-estimates in the 2001 census

30. It is possible to disaggregate UPC by cohort i.e. to follow a group from its 2001 census estimate through the ONS estimates for births, deaths and migration flows in the intervening years to the 2011 census estimate for that group. The following table does this using 5-year age groups. The ages of the cohorts at the top of the table are their ages in 2011. Thus the column headed 35-39 is the cohort that was 25-29 in 2001 and 35-39 in 2011.

Table 1 Comparison of components of change with census population estimates by cohort																	
Persons	0-4	5-9	10-14	15-19	20-24	25-29	30-34	35-39	40-49	45-49	50-54	55-59	60-64	65-69	70-74	75-79	80+
Pop in 2001	0	0	6839	7794	8154	6939	5704	6001	7976	8742	8128	8293	9723	9327	9035	8815	27332
Births	6742	5987	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Deaths	33	35	10	12	17	38	40	57	97	148	215	359	628	998	1412	1975	15246
Internal in	1347	3050	3622	3468	4461	5210	4853	4663	4737	4234	3592	3448	4776	4512	3388	2139	3784
Internal out	1004	2089	2334	2905	5521	6106	4904	3718	3326	2878	2213	1881	1980	1670	1325	1182	3368
International in	32	111	111	209	525	954	1011	724	488	341	198	143	107	101	71	44	27
International out	23	86	95	125	302	538	553	425	373	299	224	151	142	155	109	78	54
Special	0	0	8	6	-5	-2	-7	4	19	10	9	5	7	-3	1	1	2
UPC	-312	-425	-541	-379	-614	-740	-481	-475	-740	-560	-402	-738	-658	-677	-1047	-549	-1195
Other	0	0	0	0	-16	0	0	0	0	0	0	0	0	0	0	0	0
Population 2011 census	6749	6513	7600	8056	6665	5679	5583	6717	8684	9442	8873	8760	11205	10437	8602	7215	11282
conf intervals	199.8	184.2	198.8	164	328	243	125	161	189	226	170	156	158	119	100	187	348

31. Note that:

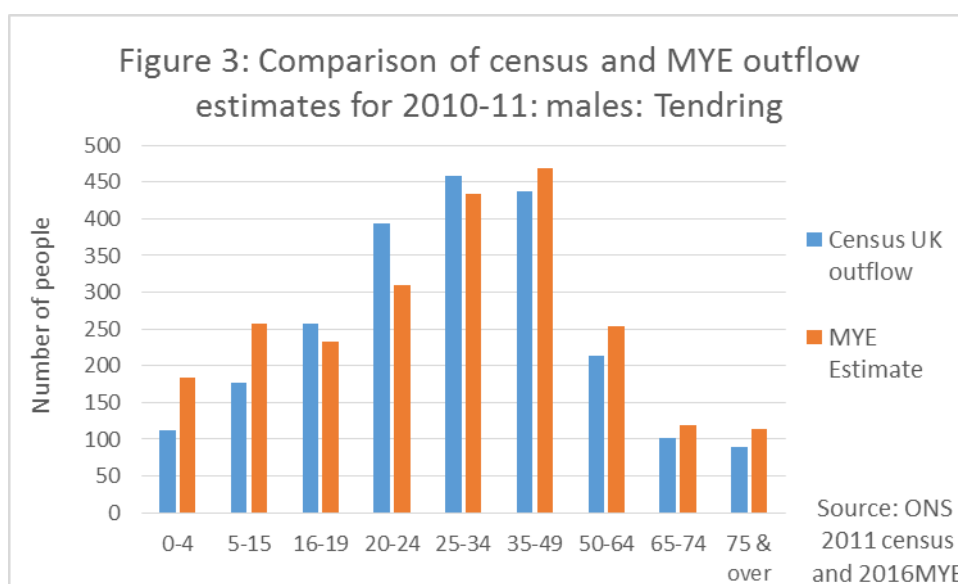
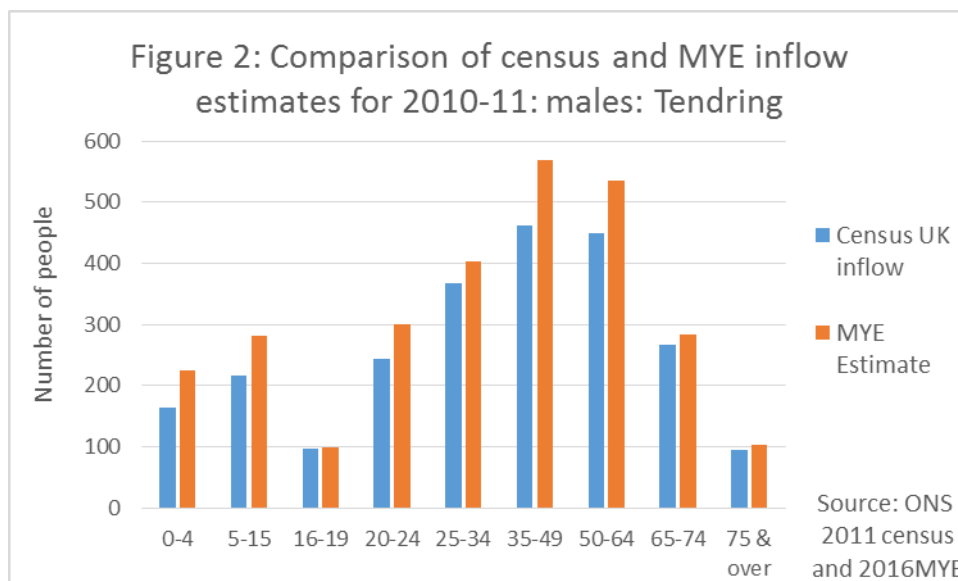
- a. For the cohorts aged 0-4 and 5-9 the errors could not have been due to overestimates in 2001 as those children would not have been born then. UPC in those two cohorts accounts for 7% of the total. As children rarely move district

without a parent or guardian there are likely to have been comparable errors in their parents' cohorts. That alone implies that around 14% of UPC was not due to errors in the 2001 census (although it is possible that some of the error may have been due to underestimates in the 2011 census).

- b. For some age groups UPC is large compared with the 95% confidence limits. For example, for the cohorts aged between 55 and 74 in 2011 UPC is between 4 and 11 times the 2011 confidence intervals. For example, UPC for the 70-74 cohort is -1047 (highlighted). The 2011 confidence interval for that group is 100 (also highlighted) so UPC is 10.5 times the confidence interval. This tells us that the UPC for this cohort is very much larger than the error margins you would expect for this group (which would not ordinarily be thought of as difficult to count). This means that it is highly improbable that the majority of the error in this cohort is due to the census figures.
32. Whilst a cohort analysis provides some clear evidence as to how large the error due to census could be in some age groups, it is not possible to produce an overall maximum figure from this analysis.

(iii) Comparison with census migration statistics

33. The 2011 census collected data on respondents' addresses one year previously. This gives an alternative source for migration flows which can be compared with the mid-year estimate figures (which predominantly come from GP registrations). Such a comparison suggests that the mid-year estimates overestimate the net inflow to Tendring. See the following charts comparing male inflows, outflows and net flows:



34. It would be unrealistic to expect an exact tie up between these two sources. However, it is worth noting that the 2011 census suggests a net migration flow into Tendring that is around 500 people (both men and women) less than that suggested by the Mid-year Estimate migration figures. As UPC is 10,533 over the ten years between the censuses, the average annual discrepancy is 1,053. The census data suggesting a difference of 500 people therefore tends to corroborate the view that around half of UPC is due to the migration flows. It also provides evidence that the problem still existed at the end of the decade between the two censuses.

(iv) Housebuilding and council tax data

35. The data for house building and council tax provide independent information on the change in the number of households in the area that can be compared with the population figures from the census and the mid-year estimates.
36. The table and chart below compare the information on the change in the number of dwellings provided by the council tax valuation lists, the data on house building (from the Council's Annual Monitoring Report) and the census data for household spaces:

Table 2: Changes in dwelling numbers indicated by different sources	
	Change 2001-11
Valuation List	3,732
Completions	4,059
Census household spaces	2129

37. The difference between the valuation list and the completions data is small bearing in mind that it is likely that in order to deliver the new homes a number of existing properties will have been demolished. Those two datasets appear to corroborate each other. The discrepancy between the census data for household spaces and the other two sources is, however, very substantial: the household space data suggests a change in dwellings that is less than 60% of the figure from the valuation list.
38. By making assumptions about the number of empty and second homes (from census data) and the number of people in the population per household (from DCLG's household projections) it is possible to estimate the change in population that is implied by the change in the number of homes suggested by the valuation lists and the completions data. The exact answer obtained depends on the assumptions made:
- a. Using the valuations list data and the census figures for empty and second homes⁷ suggests that the census error was 35% of UPC

⁷ Strictly speaking 'homes with no usual resident'

- b. Using the completions data instead of the valuations list gives a census error equal to 42% of UPC
 - c. Using the valuation list data and the council tax base estimate of empty and second homes in 2001 (6.51%) rather than the higher census figure (7.36%) suggests that the census error may have been 48% of UPC
39. Evidence from the housebuilding and council tax databases can therefore be taken to imply that between 35% and 48% of UPC was due to census errors.

(v) GP Lists

40. GP lists normally suggest a population that is larger than that estimated in censuses as a result of GPs not weeding their lists adequately. However, in Tendring's case the population indicated by the GP lists exceeds that suggested by the 2001 census, suggesting that the census population estimate was too high.
41. The extent to which GPs lists exaggerate the population varies considerably from authority to authority so, depending on the assumption made about how list inflation in Tendring would have compared with an accurate estimate of the District's population in 2001 different estimates can be obtained of the inaccuracy in the 2001 census:
- a. If it is assumed that Tendring's GP 'list inflation' was in line with the England average the 2001 census population estimate was around 5,700 too high or 54% of UPC.
 - b. If it is assumed that Tendring's GP list inflation was at the 25 percentile point for English local authorities the over-estimate would have been only 1,100 or 10% of UPC.
 - c. It is also possible that Tendring may simply have had very low, and for some age groups negative, list inflation. That would not indicate any error in the 2001 census.

42. GP list inflation is not, therefore very helpful in estimating the error in the 2001 census. At best it provides some indication that the error may have been in the range 10% - 54%.

(vi) Electoral roll

43. Electoral rolls should include all those residents in a district who are aged 17 and over (as they should include those who will have their 18th birthday in the coming year). Comparing the electoral roll totals with the population estimates from the mid-year estimates should therefore provide some indication of the reliability of the mid-year estimates.
44. Making that comparison for all of the authorities in the HMA indicates that there is a general tendency for population estimates from the mid-year estimates and the census to suggest a higher 17+ population than the electoral rolls. It also shows that in 2001 the discrepancy in Tendring was significantly larger than in the rest of the HMA. Depending on the assumptions made about how similar Tendring is to the rest of the HMA, this comparison suggests that the 2001 census may have over-estimated the population by a number equivalent to 42% - 57% of UPC. However, the uncertainties in these calculations are substantial so this should be regarded as a relatively weak indicator of the error in the 2001 census.

(viii) School lists

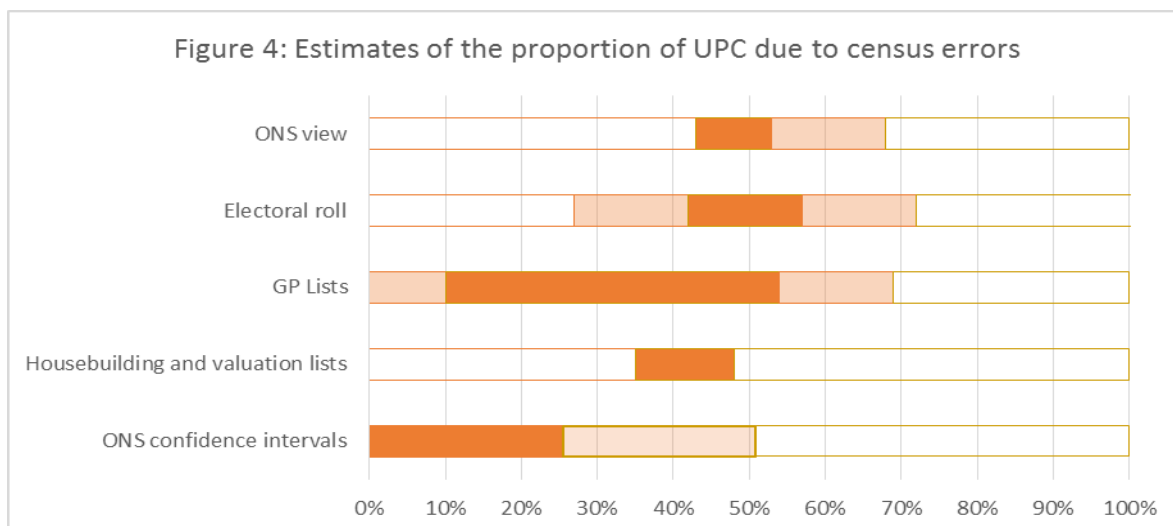
45. School rolls provide another dataset which can be compared with the mid-year population estimated, albeit only for a small part of the population. There are a number of problems with the data (e.g. the change in school leaving age) but the schools list suggest that for primary age children at least the 2011 census may be reasonably accurate whereas in 2001 the census over-counted by a substantial margin.
46. As this data only covers a small proportion of the population and there are significant problems with it, it does not provide a basis for estimating the error in the 2001 census although it helps substantiate the existence of an over-estimate.

(ix) Views expressed by the ONS

47. I have discussed the discrepancy with the ONS and notes they have provide are at Appendix 2. Tendring is a case that they have studied in some depth. They believe that around 4,500 of the discrepancy is due to the 2001 census base. Allowing for the possibility that there may be (much smaller) inaccuracies in the 2011 census, this suggests that at most 5,000 to 6,000 of the discrepancy may be due to errors in the migration flow estimates. That is equivalent to 47% to 57% of UPC.
48. I would note that an over-estimate of 4,500 amounts to 3.2% of the estimated population in 2001. That is a very large error margin for a census: the ONS's published data on the levels of uncertainty in the 2001 census results show that only 2 local authorities outside London were subject to greater uncertainty than this.

Conclusion on inaccuracies due to census data

49. The following chart summarises the evidence I have discussed on the proportion of UPC due to census errors. In each line the solid colouration indicates where the evidence suggests that the proportion due to census errors is most likely to lie. The shaded areas are approximate indications of ranges in which the evidence suggests the proportion is less likely to lie. Thus, for example, for the ONS confidence intervals, the more probable area is the area in which less than 25% of UPC is due to the censuses; the 25% to 50% range is extremely improbable territory.



50. As already noted, the weight that should be placed on the different estimates varies. In particular, the electoral roll estimate is subject to considerable uncertainty. Also the GP lists could be consistent with a very wide range of errors in the 2001 census and do not even provide conclusive proof that there is an error. On the other hand, the house building and valuation list data provides a fairly firm indication that there is a significant census error and a reasonably good indication of its size.
51. Given that the overlap between the different ranges is relatively narrow (43% - 48%) it would seem reasonable to take 45% as the best estimate.
52. As regards an upper limit to be tested, given the relatively strong weight to be attached to the housebuilding and valuation list data and the much weaker evidence from the electoral rolls, taking 50% as an upper limit seems reasonable.
53. On a similar basis, given the that evidence from the electoral roll is weak and anything above 25% represents an exceptionally large error compared with the ONS's 95% confidence intervals, 35% might be tested as the lower end of the range
54. **If 35% to 50% of UPC is due to census errors (with 45% as the most likely figure), that implies that 50% to 65% is due to errors in the migration flow estimates (with 55% as the most likely figure).** It is, of course, the case that a range used for sensitivity testing

need not be symmetrical if variations in one direction from the most probable result are less likely than variations in the other.

55. The range of 50% - 65% of UPC can be compared with the ONS's view that 'at most' 5,000 to 6,000 of UPC is due to errors in the migration flow estimates i.e. 47% to 57% UPC. There is, therefore, overlap between the two ranges, although it should be acknowledged that the ONS range is their view of the maximum extent of UPC that might be attributable to migration, not a range within which they are suggesting the actual figure lies.
56. At this point it is appropriate to refer to the recent decision in the Sladbury's Lane, Clacton appeal (APP/P1560/W.17/3169220). This Inspector sought to interpret the advice given by the ONS that the maximum error attributable to migration was 5-6000 people, equivalent to 47% - 57% of UPC. He mistakenly thought that the 47% figure gave the minimum figure for housing need. This, on the analysis available at the time, equated to 483-510 dpa. The Inspector therefore took 510 dpa as his starting point. He added 15% uplift (as advised by the Council's advisers, PBA) to produce an OAN of 587 dpa. Citing uncertainty as a reason, he further uplifted that figure to 600 dpa, a figure that has been suggested in superseded PBA report. The key paragraphs are reproduced below for ease of reference. The full decision letter is at Appendix 3.

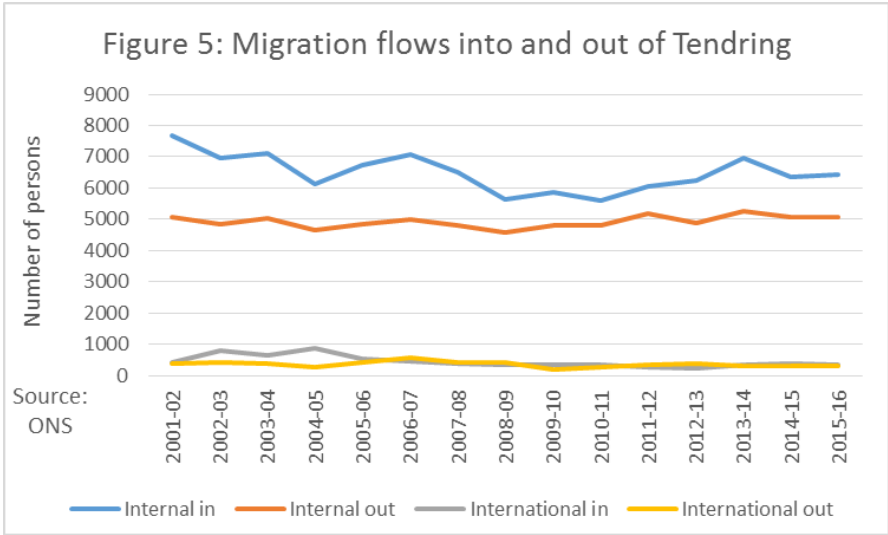
29. Mr McDonald advanced a range of figures in his evidence to the Inquiry. Adjusting the latest household projections to correct for the inaccuracies in the migration flow data, he suggests a housing need of 420-540 homes per year without uplift depending on the assumptions made. However, I note that the ONS explicitly states that the maximum error attributable to migration is 5-6,000 population. This is equivalent to 47-57% of the total UPC. The remainder is due to Census errors. The ONS view must be treated with importance as it is the Government body responsible for population estimates and processing the data. Taking its figures gives a range of up to 483-510 dpa. However, 510 is the minimum figure to be derived from the ONS margin of error according to its Note, and it is only a starting point at that. Applying a market uplift of 15% results in an OAN of 587. This is the very lowest figure that should be taken for the purposes of this appeal given that the starting point could well be higher than 510 dpa. Historic under-delivery should also be taken into account because these figures are only trend based.
30. Given the prevailing uncertainty, it is not appropriate for me in the context of this S78 Inquiry to attempt to resolve OAN without further more detailed consideration of the UPC, its alleged causes and significance for the HMA. For similar reasons it would not be appropriate for me to revert to the official projections pending resolution. Taking into account all of the evidence that is before me I consider that the higher figure in the range put forward by the PBA Study, 600 dpa, should be adopted as the housing requirement (OAN) for this appeal.
57. What the Inspector did not appreciate was that the minimum housing need figure from the ONS range is produced by the 57% of UPC assumption. That equates to 435 – 479 dpa. In cases like this, unless there are strong grounds to favour one end of a range rather than the other, it is appropriate to take the mid-point where a single figure is required. In this case the mid-point is 457. Adding a 15% uplift would give a figure of 526, which might be rounded to 530 to avoid suggesting spurious accuracy.
58. A 15% uplift had been recommended by PBA's Objective Assessed Housing Needs Study, November 2016 update. That report recommended that an uplift be applied, not because of market indicators in Tendring, but because of (i) the record of past under-delivery and (ii) the uncertain demographic projections/starting point. Adding a further uplift to 600 dpa because of uncertainty represented double counting and was therefore inappropriate.
59. It should be noted that a fuller evidence base is now available, including the very recent (26 October) publication by the ONS of its 2016 National Population Projections with

their revised views on mortality rates and international migration. The relevant figures are therefore different from those considered by the Sladbury's Lane Inspector.

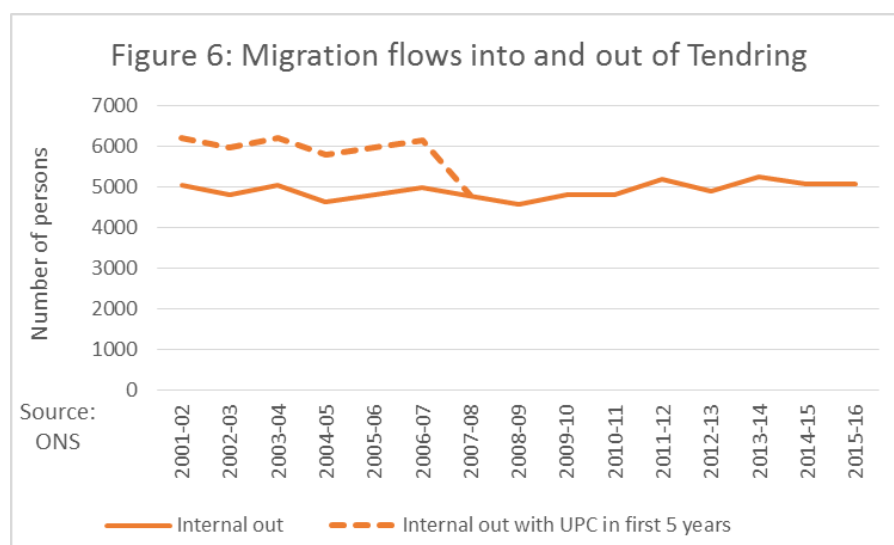
60. Having arrived at a best estimate of the proportion of UPC that is attributable to migration flows (i.e. 55%), we now need to consider to what extent this error may have affected the population and household projections. For this we need to consider when the error occurred as only errors within the trend period used for the projections will have affected the projections.

5. Timing of the inaccuracies in the migration estimates and their implications for the projections

61. The 2014-based DCLG household projections are based on the ONS’s 2014-based sub-national population projections (2014 SNPP). Those population projections take the 5 years 2009-10 to 2013-14 as their trend period for migration flows within the UK and the 6 years 2008-09 to 2013-14 as their trend period for international migration flows. If the estimates made for flows in these periods were inaccurate the population projections on which the 2014-based DCLG projections are based will also be inaccurate. It is therefore important to understand whether there are likely to have been inaccuracies in the flow estimates during the trend periods.
62. It has been suggested that, as result of methodological improvements made by the ONS, any inaccuracies in the components of change estimates are likely to have been predominantly in the earlier part of the period between the censuses. If this were the case, given the size of the inaccuracies which there must have been in the migration estimates, you would expect the improvement in the statistics to be obvious from the published data. Figure 5 shows the ONS estimates for migration flows into and out of Tendring over the period 2001-16.



63. As the chart shows, with the exception of a fairly typical dip in internal migration inflows during the economic downturn, the flows have been remarkably consistent. They do not suggest that there has been a correction in the statistics of the scale required to rectify the inaccuracies that must have existed. For example, 55% of UPC (10,533) is just under 5,800 people. If that size discrepancy had been concentrated in the first half of the period between the census either inflows would have had to have been around 1,160 lower each year or outflows around that amount higher. Figure 6 shows the scale of difference this would have made to the flows out to the rest of the UK. It indicates that a change of the scale required would have been self-evident in the historic data.



64. As there is no evidence of a change in the data series of a scale that would be consistent with the UPC errors being in the earlier part of the period between the census it is reasonable to conclude that that the inaccuracies were spread throughout the period between the censuses.

65. There are also a number of more direct indications that the errors in the migration flow estimates have continued.

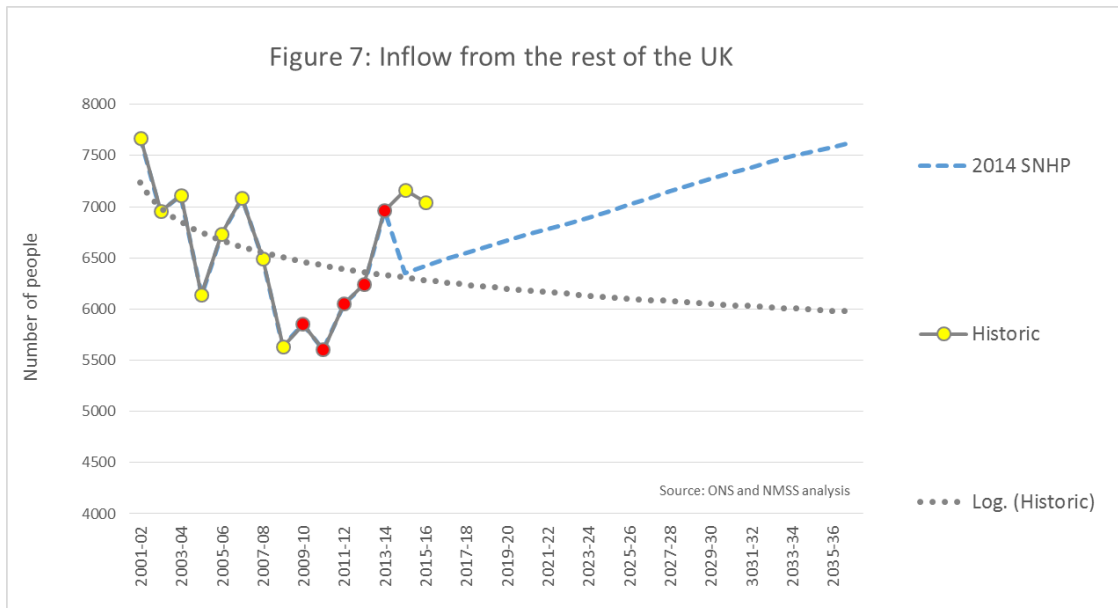
66. As already noted (paragraph 33 above), a comparison of the estimated internal migration flows with the data for moves in the year before the 2011 census suggests that in that year the net internal migration flow was over-estimated by about 500 people. That is

consistent with the migration flow error continuing to the end of the period between the censuses.

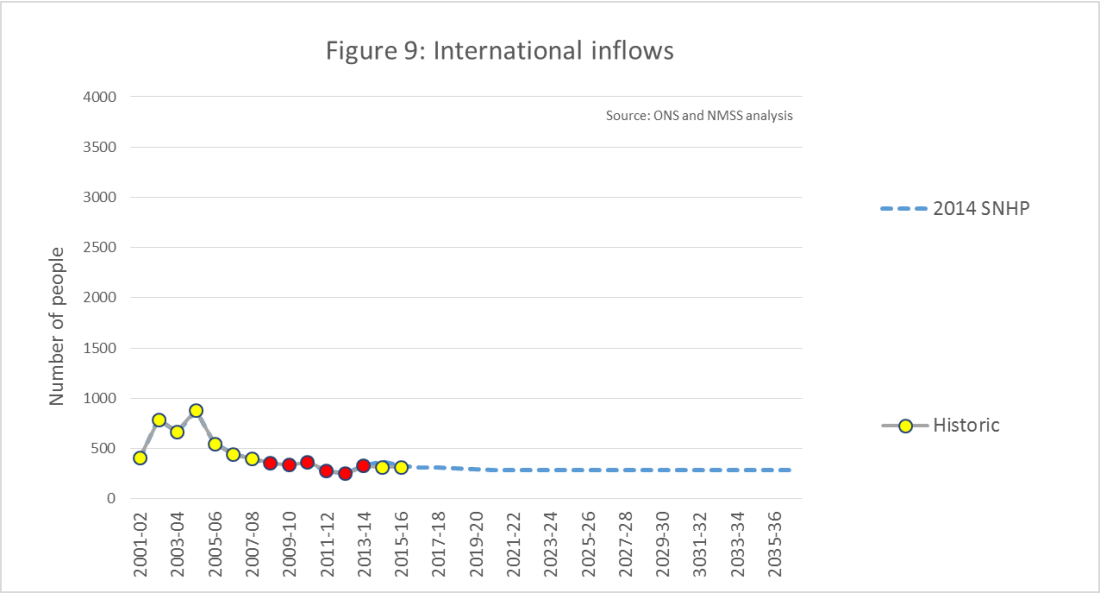
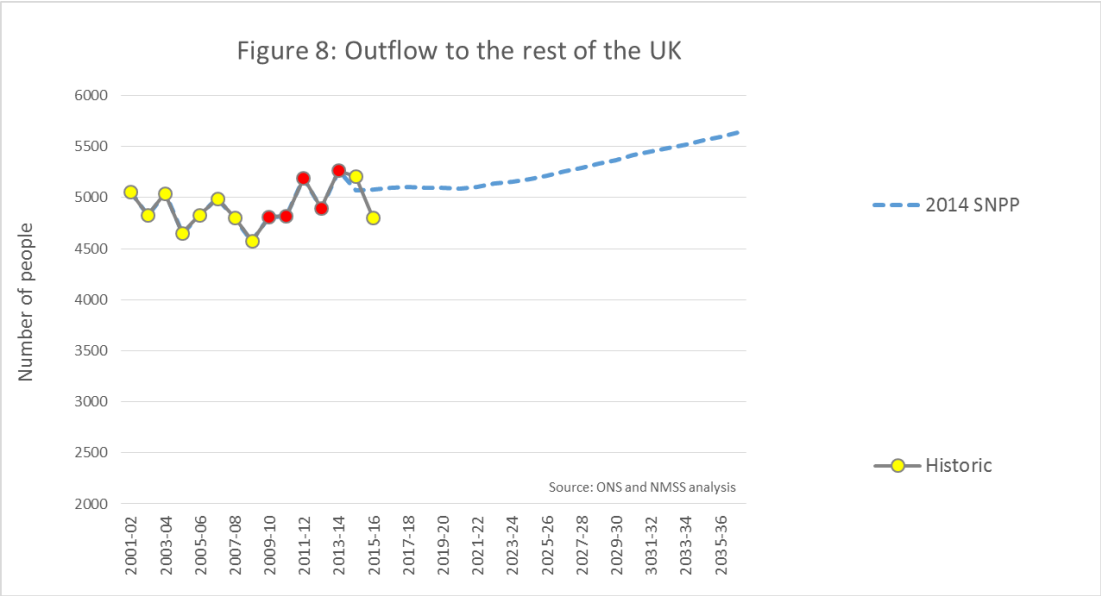
67. The DCLG's household projections (informed by the 2011 census) suggest that there were 62,164 household in Tendring in 2001. Combining the population estimate for 2016 from the 2016 Mid-Year Estimates with the household formation rates from the 2014-based DCLG projections suggests that there were 64,430 households in 2016. That is an increase of 2,266 households since 2011. Allowing for 5.6% empty and second homes, that implies a need for an additional 2,400 homes between 2011 and 2016. However, there were only 1,190 homes added to the housing stock in that period, implying that the increase in households was only 1,125, not the 2,400 suggested by the 2016 MYE population estimate. The difference of 1,140 implies that the 2016 MYE population estimate has exaggerated the actual change in population by around 2520, equivalent to 504 people a year between 2011 and 2015. This is a further indication that the error in the migration flow estimates has continued at approximately the same rate since 2011.
68. Having concluded that, not only were the UPC errors not confined to the first half of the period between the censuses, but that there are clear indications that they have continued after 2011, we now need to estimate the impact which those errors have had on the projections.

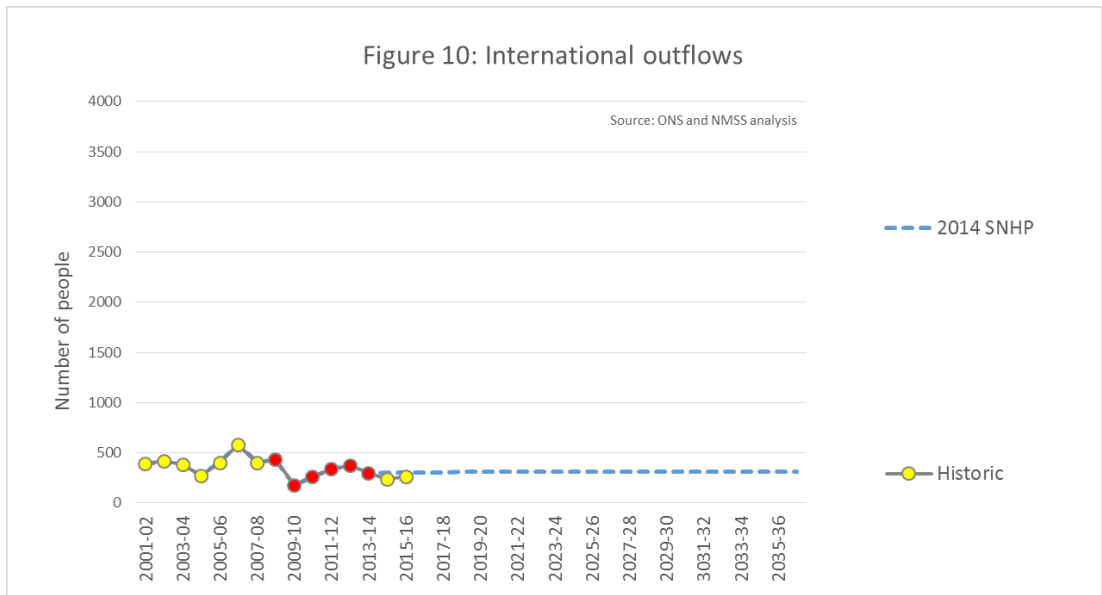
6. Modelling Tendring's future population and household growth

69. In this section I shall discuss the adjustments that need to be made to the official population and household projections to produce the best possible estimate of future population and household growth in Tendring.
70. The most recent official population projections for local authorities are the ONS's 2014-based Sub-national Population Projections (2014 SNPP). These, as the name suggests, are based on the ONS's 2014-based population estimates. They are produced by combining projections for the 'components of change': births, deaths and migration flows.
71. The next four figures show the 2014 SNPP projections for the migration flows into and out of Tendring both from and to the rest of the UK and from and to abroad. The red circles indicate the data points used to estimate the trend on which the projections are based. The yellow dots are the flows in other years from the 2016 MYE.
72. Figure 7 shows the 2016 MYE historic data for inflows and the 2014 SNPP projection. The dotted grey line is a trend line drawn from the historic data. Note that this was on a declining trend before the recession and that it is in marked contrast with the projected rising trend:

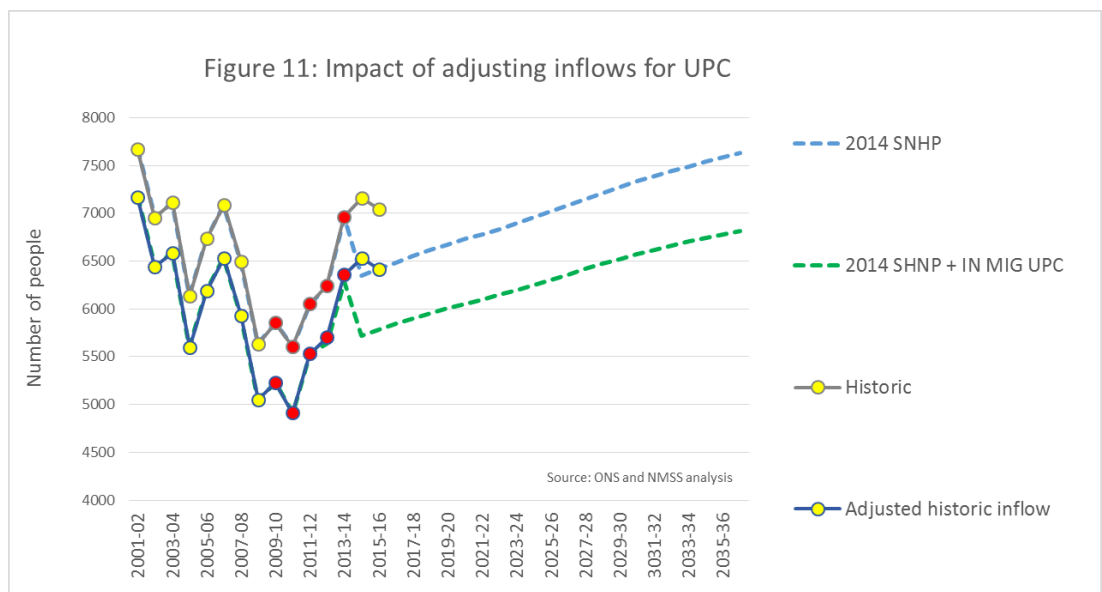


73. It is this combination of a trend based on estimates of past flows that are too high and a projection method that ignores the historic declining trend in inflows that causes the DCLG projections to produce such a high estimate of the annual growth in the number of households as 625 household a year when the available data from other sources indicates that household growth has been at a much lower level.
74. Figures 8-10 show the other migration flows on a similar scale to facilitate a fair comparison. They are all much less variable and the projections are broadly consistent with the historic data. They will not be discussed further.





75. Figure 11 shows the impact of adjusting the inflows from the rest of the UK for UPC:



76. As Figure 11 shows, the UPC adjustment reduces the estimated inflows throughout the period between the censuses and beyond. This results in a lower projection for future inflows, but still one that is on a rising line that is inconsistent with the historic trend.

77. There are a number of reasons why a projection based simply on adjusting the historic inputs to reflect UPC are not the best basis on which to plan for housing:

- a. **They do not reflect the ONS latest views on key parameters.** The ONS produces sub-national projections every two years. The next set – the 2016-based projections – is due next spring/summer. The ONS released the 2016-based National Population Projections on 26 October and in so doing adjusted their view on two key parameters based on their reading of the latest evidence:
- i They reduced their estimate of medium/long term view of net migration into England from 170,000 people a year to 152,000. This has relatively little impact on Tendring as its international flows are small.
 - ii They reduced the projected increase in life expectancy (i.e. they increased mortality rates). As Tendring has a relatively elderly population profile this has a noticeable impact.

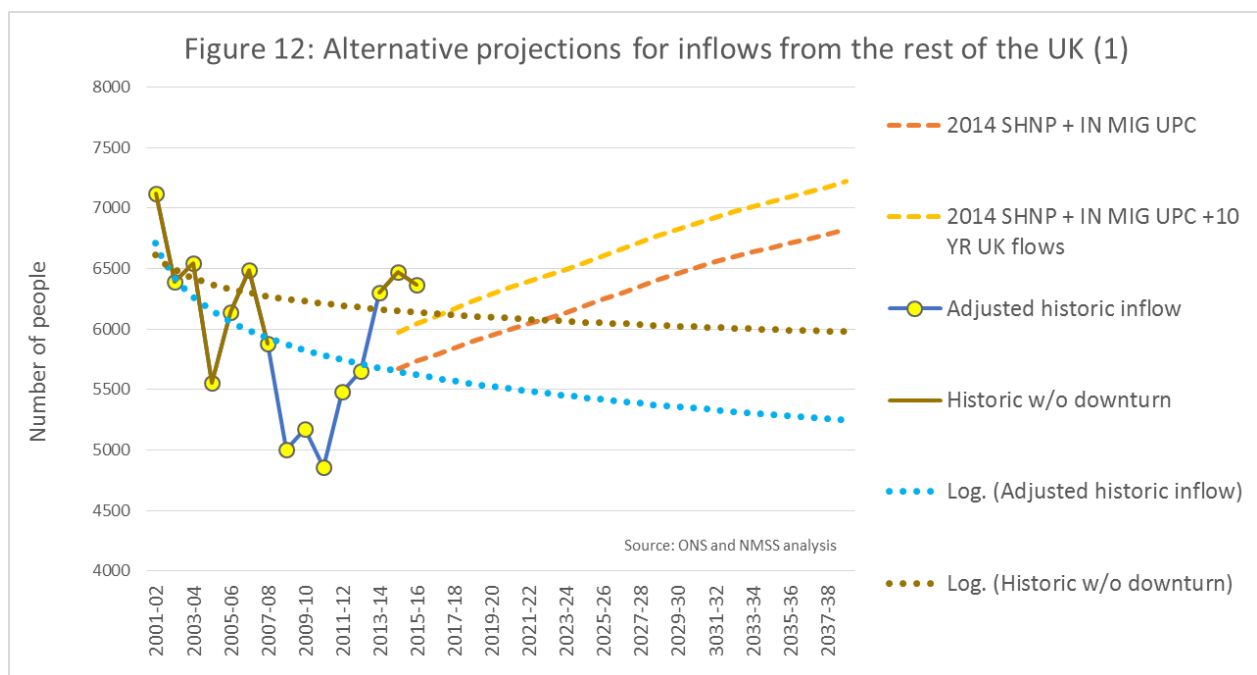
These changes will be reflected in their 2016-based Sub-national Population Projections which will sum to the national totals just announced.

- b. **The trend periods used have been affected by the economic downturn.** This is most significant for the inflows from the rest of the UK. The flows in the trend period (2009-10 to 2013-14) were below the average for the last ten years. Using a longer trend period would compensate for this.
- c. **They do not take account of flows in the last two years for which data is available.** This is a consequence of the 2014 SNPP being close to the end of its shelf life, but it can be corrected for.
- d. **The projected inflows are not consistent with the historical data.** The projection rises moderately steeply whereas the historic trend is falling.

78. Adjusting the mortality rates used in projecting Tendring's population is a simple matter of scaling the 2014 SNPP rates to reflect the ratio of the 2016 NPP rates to the 2014 NPP rates. The standard approach to dealing with points (b) and (c) is to adjust the official projections to reflect the internal migration flows in the latest 10 year period for which

data is available. The inconsistency between the inflow projections and the historic record needs closer examination.

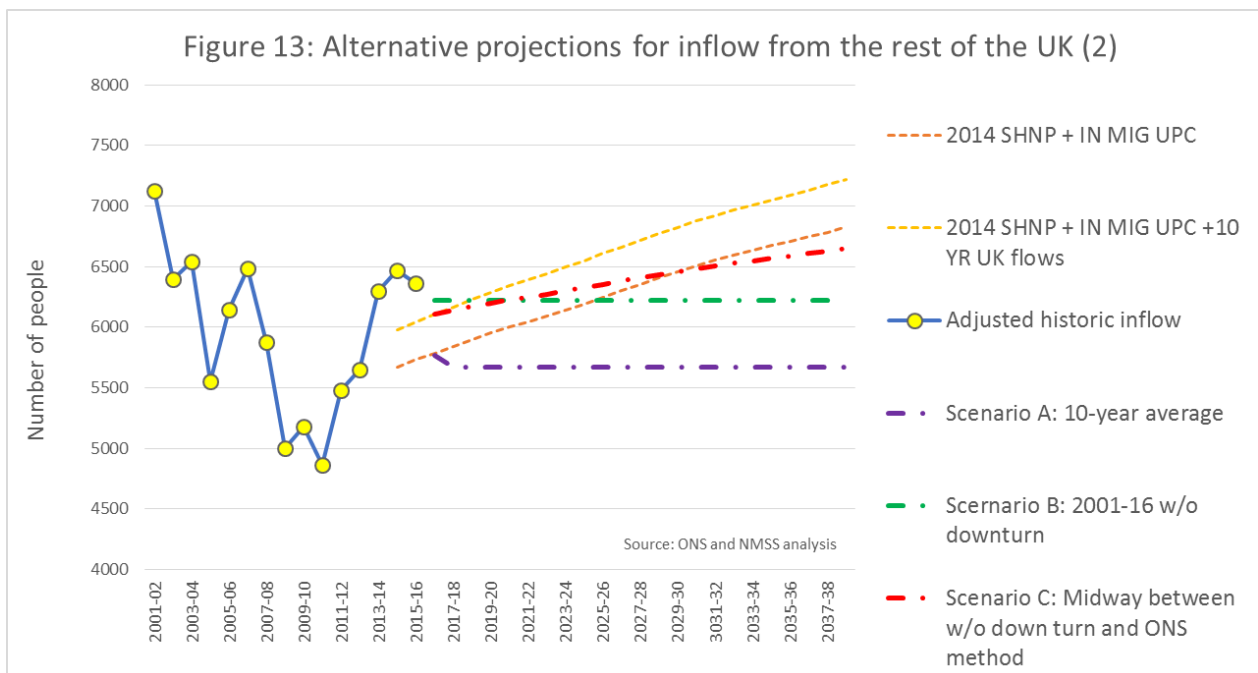
79. Figure 12 (below) compares the UPC-adjusted past flows with the projections obtained using a similar method to that used by the ONS both with and without the adjustment to reflect 10-year trend periods for the UK flows. The projection with the 10-year trend adjustment (in yellow) is higher because the historic flows in the 5-year trend period used in the 2014 SNPP (2009-14) are lower than the average in the 10 year period (2006-16). Figure 12 also shows two trend lines: the one with blue dots is based on all the data from the period 2001-16. It can be argued that this has been unduly affected by the economic downturn so a second line is shown (brown dots) which ignores the 5 years most affected by the downturn. Even this is in stark contrast with both of the projections shown.



80. The reason why the projections are inconsistent with the historic trends is that the ONS method for projecting internal migration flow is based on calculating average flow rates for each age and gender group over a trend period and then assuming that those rates remain unchanged throughout the projection period. It means that the migration inflows grow at the same rate as the population in the local authorities from which

people move to Tendring irrespective of whether flow rates have been on a rising or falling trend in the past. What has happened in the case of Tendring is that the flow rates for inflows into Tendring have fallen since the turn of the century, more than offsetting the increases in the population in the originating areas. This is not picked up by the ONS projection method which assumes that flow rates will stop falling and remain constant at the average rate for the chosen trend period. The result is that inflows are projected to rise.

81. Whilst it would be unreasonably pessimistic to assume that the downward trend in inflow rates will continue it would be equally unlikely to expect the trend to suddenly turn into a rising line. Alternative assumptions include:
- a. **Scenario A:** Inflows continue at the average UPC adjusted rate over the last 10 years.
 - b. **Scenario B:** Inflows continue at the average rate for the period 2001-16 excluding the years most affected by the economic downturn i.e. 2008-09 to 2012-13.
 - c. **Scenario C:** Inflows mid-way between those produced by Scenario B and the scenario obtained by following the ONS method using 10-year trend periods



82. The following table summarises the results obtained in each of the above scenarios based on 50%, 55% and 65% of UPC being attributable to the inflows from the rest of the UK. All of the scenarios show the effect of adjusting the projections to reflect the ONS’s latest assumptions on mortality rates and international migration as set out in the 2016-based National Population Projections (2016 NPP).

Table 3: Demographic estimates of Tendring's housing need									
							50%	55%	65%
2014 SNHP + UPC inflow adjustment							466	444	401
2014 SNHP + UPC inflow adjustment + 10 year trends							557	535	491
Scenario A: 2014 SNHP + UPC inflow adjustment + average inflows 2006-16							209	192	157
Scenario B: 2014 SNHP + UPC iadjustment + inflows 2001-16 w/o downturn years							398	381	346
Scenario C: Mid way between 'w/o downturn years' and ONS 10 year trends							477	458	418

83. The first set of scenarios (shown in the first line of the table) is based on the DCLG’s 2014-based projections (2014 SNHP) adjusted for UPC and the 2016 NPP. As such it uses the 2014 SNPP trend period for flows within the UK i.e. 2009-14. This period was affected by the economic downturn and so it can be argued that the projection is too low. However, that is offset by the projection method that results in the projected inflows from the rest of the UK rising in line with the population in the originating authorities, something that plainly has not happened over the last 15 years. The two factors to an extent cancel each other out and the net result may be a projection that is not unreasonable. However, it is not a very satisfactory basis on which to plan for housing.

84. The second scenario deals with the concern about the use of a trend period that has been affected by the economic downturn but still assumes that flows from the rest of the UK grow in a manner that is not consistent with past trends. The result is clearly too high.

85. **Scenario A** is a flat inflow projection based on the average for the last 10 years. It might be argued that this departs from the ONS standard methodology but the ONS use flat projections for international flows. Moreover, a flat projection when the longer term trend appears to be downward can hardly be described as pessimistic. However, the

weight given to the years affected by the downturn (5 out of the 10 years in the trend period) might be thought a little excessive.

86. **Scenario B**, by excluding the 5 downturn years, cannot be criticised in the same way as Scenario A. It, in effect, assumes that inflows continue at the level seen since the economic downturn. That might be thought of as optimistic given the historic downward trend and the *de facto* assumption that recent downturn is a negative experience that will not be repeated in the plan period. It is a realistic scenario.
87. **Scenario C**, being mid-way between Scenario B and the 10-year trend scenario should be thought of as an upside scenario as it assumes that inflows move onto a rising trend despite the historic downward trend, albeit at only half the rate of increase implied by the 10-year trend based on the ONS standard method.
88. Scenarios B and C should therefore be regarded as the most plausible scenarios. Allowing for the suggested range in assumptions about the proportion of UPC attributable to the migration flows, those scenarios theoretically encompass a demographic housing need range of 346 – 477 homes a year. However, in a case like this it is unrealistic to use the most extreme figures (as well as being unhelpful from a practical point of view). It is suggested that the figures arrived at by assuming that 55% of UPC is due to migration should be used to define the practical range i.e. 380 – 460 with the mid-point of 420 homes a year used where a single number is needed.
89. A 15% uplift is recommended by PBA's Objective Assessed Housing Needs Study, November 2016 update. That report advises that this uplift should be applied, not because of market indicators in Tendring, but because of (i) the record of past under-delivery and (ii) the uncertain demographic projections/starting point. Those reasons remain valid. Adding 15% gives a housing need (the Full OAN) of 480 homes a year over the period 2013-37.
90. The Tendring District Council Planning Committee was recently advised that the updated Full OAN was 510 dpa. This was on the basis of preliminary and unchecked results from

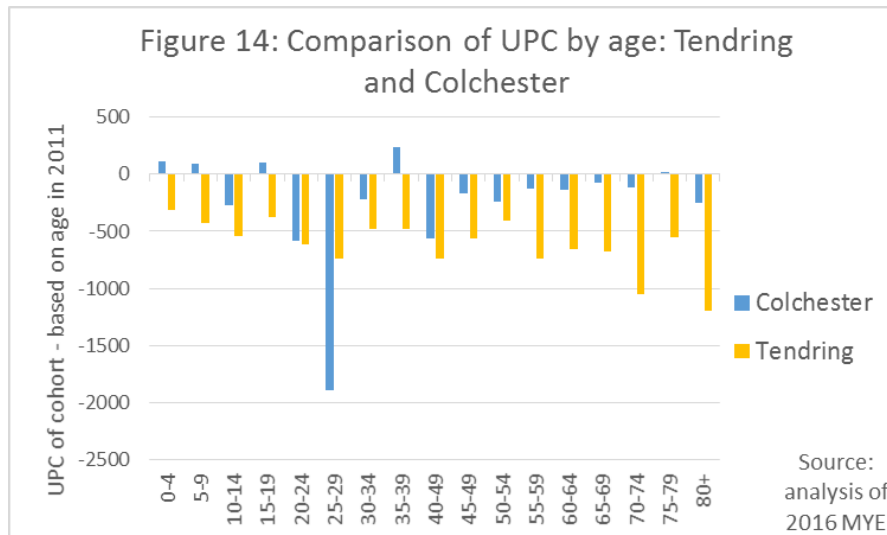
this analysis. During checking a small error was discovered in the modelling: the correct and up to date figure is 480 dpa. I should like to apologise for this error.

7. Implications for the rest of the Housing Market Area

91. Given that UPC across England as a whole sums to a negligible amount it is natural to ask whether errors in over-estimating net migration flows into Tendring have resulted in the under-estimation of flows into other parts of the HMA and, most particularly, into Tendring's neighbour, Colchester. However, an examination of the detailed data for UPC across the HMA shows that this is not the case.
92. The table below compares the scale of UPC across the HMA both as a percentage of the census population in 2011 and as a proportion of the population change between 2001 and 2011. The enormous figure of 1423% as the proportion which Tendring's UPC is of the population change between the 2001 and 2011 censuses is the result of UPC being 10,533 when the census-based estimate of population change was a fall of 740 people ($10,533 \div 740 = 1423\%$).

Table 4: Comparison of UPC across the HMA				
	Colchester	Chelmsford	Braintree	Tendring
UPC as % of pop in 2011	-2.4%	0.6%	0.7%	-7.6%
UPC as % of pop change	-23%	9%	7%	1423%

93. As can be seen, UPC in Chelmsford and Braintree is small. Colchester has moderate UPC but it is very much smaller than in Tendring. Moreover, it is negative – like Tendring. Had migrations flows been misallocated to Tendring instead of Colchester you would expect to see UPC of the opposite sign in Colchester.
94. This lack of any offsetting UPC in Colchester is confirmed if the age profile of UPC in the two authorities is compared:



95. Again there is no significant offsetting: in most areas Colchester has negative UPC like Tendring, albeit of a much smaller scale.
96. It is therefore reasonable to conclude that Tendring’s UPC is not due to a simple mis-allocation of the population across the District boundary. This means that adjusting for Tendring’s UPC has no direct implications for the rest of the HMA.

8. Summary and Conclusions

97. It is beyond question that the Tendring District is a very challenging area to produce population and household projections for.
98. The historic data is inconsistent. The data for births, deaths and migration flows suggests that the population change between 2001 and 2011 was 14 times the change suggested by the 2001 and 2011 censuses, and of the opposite sign – a population growth rather than a decline. This on its own is sufficient to make it clear that the standard methods of projecting population and household growth are unlikely to produce reliable results.
99. That is confirmed by a simple comparison of the household projections with the evidence from the house building statistics about the actual increase in households seen in the District since the turn of the century. Over the period 2001-16 an average of some 350 homes a year have been built, sufficient to accommodate 330 extra households a year after allowing for empty and second homes. The official household projections are trend-based but it is difficult to see how projections suggesting the need to accommodate 625 extra households a year could be a sound, trend-based projection from this historical starting point.
100. The analysis I have presented indicates that there are two main issues that need to be addressed.
 - a. **The mis-match between the historical data for births, deaths and migration and the census population estimates – known as ‘Unattributable Population Change’ (UPC).** Analysis of a variety of data sources including housebuilding numbers; the council tax valuation lists; the school and electoral rolls; and GP lists suggests 50% to 65% of Tendring’s UPC is likely to be due to errors in the estimates of migration flows. These errors appear to have continued throughout the period between the 2001 and 2011 census and beyond. They will therefore have affected the migration trend estimates that are key inputs to the official projections. Those errors need to be compensated for if reliable projections are to be produced.

- b. **The falling flow rates for migration flows from the rest of the UK into Tendring.** The standard ONS method for projecting population flows within the UK calculates flow rates for each age and gender group from a 5-year trend period. It then assumes that those flow rates remain unchanged throughout the projection period. It takes no account of any changes in flow rates that have occurred in the trend period or before. The result is that projections of inflows suggest that the flows will grow in line with the populations in the areas from which people move to Tendring. This plainly has not happened since the turn of the century: on the contrary flow rates have fallen. The reasons for this are unclear but a smaller proportion of the population in the areas from which people move to Tendring are now choosing to make that move than was the case at the turn of the century. This is not picked up in the official projections which assume that the rates seen over a recent 5-year period will apply for the next 25 years. The projections are consequently inconsistent with the recent history. This should also be compensated for.
101. In publishing its latest national population projections on 26 October ONS has modified its view on future mortality rates and international migration flows. Those changes should also be taken into account in adjusting the household projections.
102. The result of adjusting the projections depends on the exact assumptions made. A range of assumptions have been modelled and the most likely scenarios are ones which assume that:
- a. 55% of UPC was due to errors in the migration flows (which is consistent with views expressed by the ONS);
 - b. migration flows into Tendring are either:
 - i at the average level seen over the period 2001-16 if the years affected by the economic down turn are omitted;

- ii mid-way between the flows in (i) and the flows that are obtained if the standard ONS method is used. This provides a reasonably optimistic scenario without the dramatic turnaround inflow rates suggested by the official projections.
103. As a result of making adjustments for these factors the demographically-based assessment of the need for housing in the area is shown to be in the range 380-460 homes a year and 420 homes a year is the figure that should be used in situations (such as the assessment of a 5-year housing land supply) in which a single number is required.
104. A 15% uplift is recommended by PBA's Objective Assessed Housing Needs Study, November 2016 update. That report advises that this uplift should be applied, not because of market indicators in Tendring, but because of (i) the record of past under-delivery and (ii) the uncertain demographic projections/starting point. Those reasons remain valid. **Adding 15% gives a housing need (the Full OAN) of 480 homes a year over the period 2013-37.**
105. There is no evidence that Tendring's UPC is the result of migration flows being allocated to the District that should have been allocated to Colchester or another authority in the housing market area. There is therefore no need to adjust the projections for those areas as a direct consequence of the adjustments made to compensate for Tendring's UPC.
106. **The overall conclusion is the in assessing Tendring's 5-year housing requirement 480 homes a year 2013-37 should be taken as the Full OAN.**

Neil McDonald

21 November 2017



The Planning Inspectorate

Report to Swale Borough Council

by Sue Turner BArch MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 20 June 2017

Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

Report on the Examination of the Swale Borough Local Plan

The Plan was submitted for examination on 20 April 2015

The examination hearings were held on 17-19, 24-26 November and 15-16 December 2015, and 31 January- 2 February and 7-8 February 2017

File Ref: PINS/V2255/429/6

Abbreviations used in this report

AONB	Area of Outstanding Natural Beauty
AQ	Air Quality
BMV	Best and Most Versatile Agricultural (land)
DTC	Duty to Co-operate
ELR	Employment Land Review
HMA	Housing Market Area
HRA	Habitats Regulations Assessment
IDS	Implementation and Delivery Schedule
IF	Interim Findings
LDF	Local Development Framework
MM	Main Modification
PPF	National Planning Policy Framework
OAN	Objectively assessed need
PPG	Planning Practice Guidance
PPTS	Planning Policy for Traveller Sites
RA	Ranked Assessment of Reasonable Non Allocated Site Options
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SHLAA	Strategic Housing Land Availability Assessment
SHLS	Statement of Housing Land Supply
SHMA	Strategic Housing Market Assessment
TG	Thames Gateway

Non-Technical Summary

This report concludes that the Swale Local Plan provides an appropriate basis for the planning of the Borough provided that a number of main modifications [MMs] are made to it. The Council has specifically requested me to recommend any MMs necessary to enable the Plan to be adopted.

The majority of the MMs were proposed by the Council and I have recommended their inclusion in the Plan after considering all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- Include a commitment to a review of the Plan to be adopted by April 2022;
- Amend the Plan period to 2014 – 2031;
- Amend the OAN to 13,192;
- Modify the submitted site allocations to update housing numbers and infrastructure requirements and to highlight locations where safeguarded minerals may be present;
- Allocate new housing sites to plan for the full OAN;
- Update policies for gypsies and travellers for consistency with the 2015 PPTS;
- Update affordable housing policy;
- Amend employment policies based on updated evidence and the revised Plan period;
- Add new policies for the Port of Sheerness and Kent Science Park;
- Update policies to provide mitigation for designated environmental sites;
- Amend the standards set out in the Plan and the development management policies for the historic environment, sustainable development, green links, open spaces, air quality and woodland;
- Amend the list of Local Green Spaces
- Update references to the strategic and local highway infrastructure needed to support the Plan; and
- Amend the delivery and monitoring framework to ensure consistency with all the other changes to the Plan.

Introduction

1. This report contains my assessment of the Swale Borough Local Plan (the Plan) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (paragraph 182) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The Swale Borough Local Plan, submitted in April 2015 is the basis for my examination. It is the same document as was published for consultation in December 2014.

Main Modifications

3. In accordance with section 20(7C) of the 2004 Act the Council requested that I should recommend any main modifications necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. My report explains why the recommended main modifications are necessary. They are referenced in bold in the report (**MM**) and are set out in full in the Appendix.
4. After the first set of hearings (the main hearings) I issued Interim Findings (IFs) (ID/9a,b,c,d) which, amongst other things, made it clear that the Council should allocate more sites to meet the full Objectively Assessed Need for housing (OAN). During the first few months of 2016 the Council carried out further work to allocate more housing sites and to address other soundness issues that were identified in the IFs. It then prepared a schedule, The Swale Borough Local Plan 2031 Proposed Main Modifications June 2016 (PS/101, 101a) and carried out sustainability appraisal and HRA assessment of the modifications. The schedule was subject to public consultation for six weeks. These modifications were the subject of resumed hearings in January/February 2017 and I have taken account of these discussions, as well as all the written consultation responses, in coming to my conclusions in this report.
5. In the light of the consultation responses and discussions and taking account of evidence regarding highway infrastructure that emerged during the resumed hearings, it has become clear that in order to be capable of adoption the Plan should be subject to an early review. I have therefore amended the Council's proposed modification to Policy ST2 (**MM42**) to include a commitment to an early review. I have made some further detailed changes to modifications to ensure consistency but none of these significantly alters the content of the modifications as published for consultation or undermines the participatory process and sustainability appraisal that has taken place.
6. The Council's schedule included some modifications which I have concluded do not go to the soundness of the Plan. These modifications are not, therefore, referred to in this report or included in the appendix. However the Council is free to make these changes independently of the examination process and they can be added to the Schedule of Additional Modifications (PS/111). In order to avoid confusion, because MMs have been referred to by number

during the examination, the Appendix maintains the numbering of MMs in the Council's schedule. This means that the numbering of MMs in the appendix is not consecutive because there are gaps where modifications in the Council's schedule have been removed.

Policies Map

7. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as the Swale Borough Local Plan Proposals Map (CD/002).
8. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, a number of the published MMs to the Plan's policies require further corresponding changes to be made to the policies map.
9. These further changes to the policies map were published for consultation alongside the main modifications, within Chapter 9 of the main modifications schedule. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed in Chapter 9 of schedule PS/101.

Assessment of Duty to Co-operate

10. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation.
11. A Duty to Co-operate (DTC) statement (CD/011) was submitted with the Plan and was updated (CD/011a/ CD/011b) to cover work carried out during the examination, up to December 2016. The DTC statements summarise co-operation that has taken place on strategic issues during preparation of the Plan and through development of the proposed main modifications. They demonstrate that the Council has worked effectively with Kent County Council, the neighbouring authorities of Ashford Borough Council, Canterbury City Council, Medway Council and Maidstone Borough Council as well as with the prescribed bodies.
12. Regarding housing needs and development targets the Council has sought to establish its housing market area in the context of the Housing Market Areas (HMAs) for North Kent, East Kent and Mid Kent. The submission DTC statement concludes that there is only limited overlap with Canterbury in the east of the Borough and with Medway in the west. The 2015 Strategic Housing Market Assessment (SHMA) (PS/025 a – g) seeks to address the complex HMA situation and tests the rationale behind a self-contained Swale HMA. It examines cross boundary migration, cross boundary commuting and travel to work areas, house price data and contextual evidence such as retail and school catchment areas. It concludes that despite links to Medway and Canterbury there is enough evidence to show that a Swale centred HMA is a

pragmatic response to the characteristics of this area. It is highlighted, however, that strong links to the west with Medway and to the east with Canterbury need to be reflected in DTC discussions.

13. Discussions with Canterbury City Council and Medway Council have continued as the proposed modifications have evolved and both agree with the approach Swale is taking in seeking to meet its own OAN. The Council has also continued dialogue with the other neighbouring authorities, based on work set out in the 2015 SHMA and the conclusion that Swale intends to meet its own housing need within its own area. The DTC update confirms that Swale has not been asked to accommodate the unmet need from any other districts.
14. The DTC statements make it clear that preparation of the Plan has been informed by cross boundary and collaborative working on a range of other strategic matters. These include gypsy and traveller provision, transport and community infrastructure, employment land and economic development and a range of environmental issues, including flood risk. It is evident, therefore, that in preparing the submission version of the Plan the Council engaged effectively with neighbouring authorities and prescribed bodies to address strategic matters.
15. The DTC update confirms that discussions have continued to take place with neighbouring authorities and prescribed bodies as the Council has carried out work to address soundness issues identified in the main examination hearings and in the IFs. The update summarises these discussions and demonstrates continued co-operation with the relevant organisations on strategic issues. In these circumstances, I am satisfied that the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and whilst the proposed main modifications may include some changes which are strategic in nature, these proposals are underpinned by continued dialogue and co-operation in the spirit of section 33A of the 2004 Act.

Assessment of Soundness

Background

16. Confusion has arisen because in August 2016 developers for the proposed new allocation at South West Sittingbourne (MUX1) put forward an alternative scheme, with an extended site and alternative access arrangements (MUX1a). Some sustainability appraisal work of this option has been undertaken by the Council as part of an assessment of reasonable alternatives. However this scheme is not included as a proposed main modification and has not been the subject of consultation. Whilst it seems to have been presented as a potential "improvement" to the proposed new allocation (MUX1) and to help address highway issues, this has not been helpful as it has created considerable anxiety in the local community. I have made it clear at the examination hearings and I re-iterate here that the examination has considered only the Plan as submitted and amended by the proposed main modifications. The proposal for site allocation MUX1a is not before me.

Main Issues

17. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings I have identified 16 main issues upon which the soundness of the Plan depends. Under these headings my report deals with the main matters of soundness rather than responding to every point raised by representors.

Issue 1 – Does the Plan set out a clear overall strategy for the area which is supported by the evidence and sustainability appraisal?

The need for an early review

18. Policy ST2 and Chapter 8 provide for an early review of the Plan within 3 years of its adoption or sooner. Paragraph 4.2.32 states that the plan should be short term in nature and that whilst housing and other provision should be boosted that should not happen yet. The reasons given for this focus largely on viability issues in Sittingbourne and West Sheppey and major constraints on the strategic road network.
19. The IFs concluded that there was no justification for this approach. In particular it was noted that the Local Plan review was shown on the Local Development Scheme as commencing in September 2015 and that little would have changed in such a short time that would enable a review to overcome the failure of the Plan to meet OAN. The IFs therefore stated that the Plan should plan positively for the full Plan period.
20. Since the IFs were published more detailed work on the highway infrastructure required to deliver the full OAN has led to the need to reconsider the option of an early review. The details of the highway infrastructure requirements are considered in more detail under Issue 9, where it is acknowledged that in order to overcome uncertainties about the detail of highway infrastructure beyond 2022 the Plan should include a commitment to an early review. This, together with the required main modification, is addressed in Issue 16.

Settlement strategy and two planning areas

21. The justification for a settlement strategy based on two planning areas is explored in Technical Paper No 4: Influences on the Settlement Strategy (CD/088) and set out in paragraphs 4.3.1 – 4.3.8 of the Plan. The strategy takes account of the contrasting characteristics of the Thames Gateway (TG), which includes Sittingbourne and Sheppey and is a national priority area for regeneration and growth and those of Faversham, its rural hinterland and the Kent Downs AONB, where issues of heritage and environmental protection suggest a policy of restraint.
22. During the examination, the strategy of steering growth towards the TG part of the Borough has been criticised. First, it is argued that the strategy of two planning areas should be reconsidered because the TG is now under review by the Thames Estuary 2050 Growth Commission, whose remit extends beyond the TG boundary to include the whole of North Kent. The Commission's paper "The Thames Estuary: Opportunities and challenges", (PS/140), covers an area which extends beyond the TG area and includes the whole of Swale Borough. Second, it is argued that further growth in the TG area would have a

harmful effect on the highway network and the separation of settlements, and that directing growth away from Faversham and the rural area that surrounds it is overly restrictive and does not represent positive planning.

23. However the Plan's overall approach is informed by robust evidence, aligns with the Plan's vision and is supported by Sustainability Appraisal. Whilst the new Growth Commission's remit does include the whole of North Kent as far as Thanet, there is nothing to suggest that growth should be distributed evenly across this area. Indeed page 5 of the paper identifies Sittingbourne/Kent Science Park, Queenborough/Rushenden and the Port of Sheerness as major locations for growth, whilst Sittingbourne and the Isle of Sheppey are included in the "Big growth opportunities in the North Kent Thames Estuary," considered at 2.3 of the paper. There is nothing in this paper to suggest a move to treat Faversham or the rural areas of the Borough as a location for growth or a "big growth opportunity".
24. Thus, I am satisfied that the two planning areas proposed in the Plan are entirely consistent with the direction of travel suggested in the Growth Commission's paper. The settlement strategy successfully addresses the core principles set out in paragraph 17 of the NPPF, particularly with regard to driving and supporting economic development and conserving the natural environment and heritage assets, whilst taking account of the roles and character of different areas.
25. The IF stated that any increase in housing allocations should maintain the broad proportional balance of growth between the two planning area and I am satisfied that this has been achieved in the proposed new allocations. Proposed modifications to Table 4.2.1, replacing it with Table 4.2.2, show the indicative planning area dwelling split across the Plan period as a percentage rather than a number of dwellings. Despite some concerns raised about this change, it adds flexibility to the Plan and allows judgement to be exercised in monitoring progress. The percentage approach is therefore justified and **MM39** and **MM40** are required to effect this change, whilst **MM41** is required to clarify that the Council will take a flexible approach to monitoring housing delivery across the two planning areas.

The overall settlement strategy

26. Policy ST3 sets out the Swale settlement strategy with Sittingbourne as the primary urban focus for growth followed by Faversham and Sheerness and other urban centres within the West Sheppey Triangle. The rural local service centres are the focus for growth in the rural areas, whilst villages with built up area boundaries are expected to provide only limited development on minor infill and redevelopment sites within the built up area boundaries.
27. The Council has proposed a range of modifications to reflect the additional site allocations required to meet OAN whilst strengthening environmental protection and highlighting the Air Quality Management Areas. It has been argued that the removal of the potential for development to take place on sites adjacent to built up area boundaries of villages is unduly restrictive and could prevent small and medium sized sites coming forward to assist in delivering the housing target. However this change is consistent with the greater emphasis placed on protection of the rural areas and is a justifiable

counterbalance to the increase in development proposed in the rural service centres.

28. For these reasons the proposed modifications **MM44 – MM48, MM50** and **MM74** should be made. However a further modification is needed to ensure consistency between paragraph 4.3.22 and the removal of criterion 5 of Policy ST3. I have therefore amended modification **MM47** to reflect this change.

Sustainability Appraisal (SA) and consideration of alternatives

29. The Plan has been subject to sustainability appraisal throughout its evolution. The submission Plan is accompanied by the 2015 SA Report (CD/003) and the SA non-technical summary (CD/004). The allocation of additional sites proposed through main modifications has been subject to sustainability appraisal as set out in the 2016 SA Report Addendum (PS/105b) and the SA Report Addendum non-technical summary (PS/105a). The Post Submission SA Report 3 (South West Sittingbourne) (PS/120) was published in December 2016 to assess allocation MUX1.
30. Criticism has been levelled at the SA process through which modifications, particularly the proposed additional housing allocations, have been considered. It is argued that the Council should have updated and undertaken consultation on the 2015 SA, rather than preparing a separate addendum. I recognise that to understand the sustainability appraisal process as a whole a number of separate documents, published as the examination has progressed, needs to be read. In particular the SA Addendum and the Post Submission SA on South West Sittingbourne both post-date the meeting of the Local Development Plan Panel (PS/108) in May 2016 when the recommended modifications were agreed. Furthermore the South West Sittingbourne SA post-dates the consultation period on the modifications.
31. Sustainability appraisal is by its nature a process rather than a product and it is carried out alongside the development of the Plan. In the case of this Plan it was decided at an early stage in the examination that soundness issues relating to meeting the OAN could and should be overcome by main modifications to allocate more land for housing. Thus the Plan has continued to evolve through the examination process and sustainability appraisal has been undertaken alongside it.
32. The Government's Planning Policy Guidance (PPG) states that if the local planning authority assesses that changes necessary to ensure soundness are significant, and were not previously subject to sustainability appraisal, then further sustainability appraisal may be required. It advises that the sustainability appraisal report should be updated and amended accordingly. However the PPG does not dictate how this should be done or how the process of SA should be reported. It makes it clear that it is the local planning authority that is responsible for ensuring that the sustainability appraisal has been carried out in accordance with the relevant planning and environmental assessment legislation.
33. In this case the Council has chosen to publish additional SA documents alongside the proposed modifications. The SA Addendum, whilst making it clear that it should be read alongside the 2015 SA, focusses on the proposed

modifications, enabling stakeholders and the public to identify their impacts, as well as the cumulative impacts of the Plan as a whole. This is entirely reasonable and provides a thorough sustainability appraisal with clear definition of the impacts at each stage of the Plan's evolution. Thus, whilst SA of the Plan as modified is not contained in a single report, I am satisfied that the SA process carried out through the 2015 SA Report and SA Addendum has been robust and methodical and consistent with the PPG.

34. The Post Submission SA Report 3 (South West Sittingbourne) (SW Sittingbourne SA) was prepared in December 2016, after consultation on the modifications and shortly before the resumed hearings. Its stated purpose was to present an appraisal of alternative approaches to growth at South West Sittingbourne. In other words it compares the proposed allocation MUX1 with two other scenarios for a site allocation at South West Sittingbourne. As explained in paragraph 16 only the proposed MUX1 allocation is before this examination therefore SA Report 3 has little to contribute to the body of evidence, other than adding detail to the existing SA of site MUX1.
35. The SA process has considered all relevant matters and it identifies some negative effects in the proposed strategy, notably through loss of Best and Most Versatile agricultural land (BMV land) and on air quality (AQ). However it is clear that both of these matters have been taken into account in allocating sites for development. The importance of Swale's agricultural sector and the need to avoid developing BMV land if possible are given greater prominence through modifications **MM43**, **MM96**, and **MM84**. In addition Policy DM31 sets criteria to strictly control development on BMV land over and above that allocated in the Plan. With regard to AQ, the Council has proposed changes to Policy DM6 to address the cumulative impact of development schemes on AQ, as discussed later under issue 12. Additional references to protecting AQ are also included in several site specific modifications recommended in relation to other soundness issues. It is not necessary to itemise these here, but subject to all of these modifications I am satisfied that the need to protect BMV land and AQ has been balanced appropriately with the overall benefits of the strategy, taking account of mitigation through development management policies at the planning application stage.
36. In conclusion I am satisfied that the Plan sets out a clearly justified strategy and has been subject at all stages to robust sustainability appraisal which includes examination of alternatives and balances all the relevant issues to demonstrate that the Plan is appropriate and sustainable.

Issue 2 – Is the OAN justified and up to date?

37. The submitted Plan is informed by the 2013 SHMA and identifies an OAN of 14,000 dwellings for the Plan period 2011-31. However to take account of up to date planning guidance and more recent publication of relevant data the 2015 SHMA (PS/025) was prepared during the examination. This uses the ONS 2014 mid-year population estimates and updated economic data to consider housing need over the period 2014 – 2031. It takes account of under delivery up to 2014/15 and provides up to date evidence to support re-basing the Plan period to start in 2014. The 2015 SHMA concludes that the full objectively assessed need for this period is 776 dwellings per annum.

38. The methodology used in the 2015 SHMA has been criticised, most significantly in relation to the use of the ONS 2014 mid-year population estimates, rather than the ONS 2012 sub-national population projections (SNPP) and the CLG 2012 Household Projections. It was also argued that the SHMA should have used the five-year trend in the SNPP, rather than the longer trend period (2004-2014).
39. The 2012 SNPP and the CLG Household Projections represent the official indication of baseline demographic needs for Swale. It is this data, published by the DCLG, that Planning Practice Guidance (PPG) on Housing and Economic Needs Development Assessment recommends to provide the starting point estimate of overall housing need. However the PPG accepts that there is no one methodological approach or use of a particular dataset(s) that will provide a definitive assessment of development need. It advises that councils should explain why their particular local circumstances have led them to adopt a different approach where this is the case.
40. The Swale 2015 SHMA sets out the results of testing of the ONS 2012 SNPP and the CLG 2012 Household Projections, which lead to a requirement for 861 net new homes per annum for the period 2014 – 31. However, it highlights concerns that the five-year trend period may not correctly reflect long term migration into Swale and that the SNPP based figure may be too high due to the failure to adjust for unattributable population change (UPC). It explores a number of alternative projections, using both 5 and 10-year trend periods and 2014 based projections and identifies the 2004-14 trends projection as the preferred scenario. This scenario reflects the GLA's demographic modelling and reflects the level and age profile of inward migration to Swale. The 2015 SHMA proceeds to test this scenario against market signals and future job growth to conclude that the OAN remains at 776 dwellings per annum for the period 2014-2031.
41. Part 2 of the SHMA identifies a net need of 288 affordable dwellings pa, which when refined to meet the local housing market becomes 190 affordable dwellings pa, which is approximately 25% of the OAN. It concludes that this number can be met through the OAN. However, it advises that when setting the affordable housing target, the Council will need to consider the full range of evidence, including viability assessment.
42. The Council's Position Statement (PS/031) explores viability, particularly in the context of differences across the Borough and the proposed variable policy for affordable housing provision. I endorse the Council's conclusions on this matter and agree that an increase in the housing target to improve the rate of affordable housing delivery is unnecessary and in any event would undermine the settlement strategy by requiring an increase above OAN in Faversham and the rural areas.
43. It is argued that the 2015 SHMA has methodological failings, that it proposes a scenario based on inappropriate data and that there is inadequate justification for lowering OAN from the 2012 SNPP figure of 861. Criticism has also been levelled at the inclusion of a UPC adjustment, the allowance for the younger age profile of inward migration and the weight given to supporting employment growth and boosting affordable housing. However having considered all these matters I am satisfied that the report follows a methodical

and logical process which is consistent with the NPPG and that its conclusions are robust.

44. During the examination and after the publication of IFs new demographic data has emerged. The DCLG has published 2014 based household projections, the Office for National Statistics (ONS) has published 2015 mid-year population estimates and in November 2016 the ONS published data from ongoing population research.
45. It has been argued that the release of this latest data should be taken into account and used to review the OAN. However the Council's OAN advice note (PS/116) demonstrates that there is insufficient change in population or household data to justify reviewing the OAN at this stage. Furthermore new data continues to become available and where a Local Plan is subject to an extended examination, such as in this case, a cut-off point must be made. The Plan has been already been informed by updated information prepared during the examination. Any benefit of re-assessing OAN a second time with the latest data has to be balanced with the disadvantage of further years without an up to date adopted Local Plan.
46. On this basis I support the Council's proposal to base the Plan on the revised Plan period 2014 – 2031 with an OAN of 13,192 or 776 dwellings per annum. **MM1** is therefore required to set out the new Plan period whilst **MM22**, **MM23**, **MM24** and **MM108 – MM111** are needed to set out the evidence and reasoning that supports the updated OAN.

Issue 3 – Is the failure to meet the full OAN in the submitted Plan justified?

47. The submitted Plan proposes delivery of 10,800 dwellings with an indicative split of 9,350 in the Swale Thames Gateway area and 1,450 in Faversham and the rest of Swale. This split reflects the concept of two planning areas which underpins the Plan's settlement strategy. However the overall target clearly falls short of the OAN in the submitted Plan, which is 14,800 (740 dwellings per annum) for the 20 years of the Plan period, and is significantly below the updated OAN of 13,192 (776 dwellings per annum) for the proposed re-based Plan period.
48. The Plan cites three broad reasons to justify not planning to deliver the OAN of 14,800 dwellings. The first is the issue of viability and deliverability, including past performance and the need to maximise housing delivery whilst maintaining the focus for growth on the Thames Gateway where viability is poorest. Other constraints relate to environmental concerns, including impact on best and most versatile agricultural land (BMV) and infrastructure, particularly the impact of development on the strategic road network.
49. In considering the housing market it is common ground that Swale is one of the weaker housing markets in Kent with particularly poor viability in the Thames Gateway area, where the settlement strategy seeks to direct housing growth. The Council recognises that short term viability issues should not lead to a viability-led strategy which could undermine the growth in the Thames Gateway. However poor housing delivery in the past does not justify taking a pessimistic approach to the future. This would be inconsistent with paragraph

47 of the NPPF which seeks to boost significantly the supply of housing. Setting a target that is too low could be self-fulfilling and act as a constraint to development, whilst with a revised plan period extending to 2031 short term viability concerns do not justify suppressing growth.

50. During the examination the Council undertook further work to review the environmental and infrastructure implications of delivering a higher housing target. It established that, in principle, environmental capacity does not prevent the Plan meeting the OAN, subject to consideration of individual and cumulative impact of additional sites and sustainability appraisal and HRA.
51. Further dialogue with Kent County Council and Highways England established that whilst transport capacity does not present a barrier to delivering up to 740 dwellings per annum, a higher level would require further work on the Swale Borough Council/ Kent County Council Transport Model, possibly requiring a new model. This work has been undertaken and detailed consideration of infrastructure provision for the modified target, taking account of additional allocations set out in MMs, is considered in detail in Issue 9. The latest information on highway infrastructure reveals uncertainties about the details of projects needed to support the housing to be delivered in the later part of the Plan period. However this can be addressed by an early review as concluded in Issue 9 and it should not prevent the Council from planning to deliver the full OAN over the Plan period to 2031. The following main modifications should be made to set out the new target, confirm that the Plan seeks to meet the OAN and clarify that there are no viability, environmental or highway barriers to doing so: **MM26, MM27, MM28, MM29, MM30, MM33** and **MM42** (which I have amended to include the commitment to an early review, addressed later in this report).

Issue 4 – Are the proposed housing allocations soundly based and has the Council's work to plan for the full OAN through updating allocations in the submitted Plan and allocating additional sites been undertaken in a robust and methodical way, subject to appropriate SA and consultation?

Submitted site allocations

52. All of the housing site allocations in the submitted Plan were considered through the examination process and since submission of the Plan the Council has monitored progress and updated the number of units that individual allocations will deliver. In addition a number of main modifications proposed by the Council are needed to address concerns relating to individual sites that were raised by participants during the examination. These include new references to draw attention to minerals identified at certain sites through the Kent Minerals and Waste Local Plan Proposals Map and to set out revised requirements for community and highway infrastructure on some sites. The main modifications needed to make these changes are listed at the end of this issue. A further main modification has been proposed to the allocation on Land east of Station Road, Teynham (AX7) to amend the access shown on the concept diagram in the Plan. This modification, **FPMM1**, has been subject to consultation and is needed to ensure that the site can be delivered.

The process of allocating additional sites

53. In response to concerns raised at an early stage in the examination and confirmed in the IFs (ID/9b) the Council undertook work to identify more land for housing. This exercise has led to the proposed allocation of 7 additional housing sites as well as two new mixed use allocations.
54. The exercise to identify these allocations has been informed by evidence contained in a number of documents which were prepared during the examination. First, the SA reports which are referred to under Issue 1 above. Second, an updated Strategic Housing Land Availability Assessment (SHLAA), the 2014/15 SHLAA Addendum (PS/110). This takes account of changes to sites considered in the submission SHLAA which was prepared in 2015 (PS/003) and assesses sites received as part of a call for sites made in January/ February 2016. Finally, the Ranked Assessment of Reasonable Non-Allocated Site Options (RA) (PS/106, 106a) which was published in June 2016.
55. An earlier version of the RA (PS/039), was prepared by the Council in 2015 to inform the examination. It was part of the evidence which demonstrated that in principle there were sufficient suitable sites in the Borough to enable the full OAN to be delivered and therefore allowed the examination to continue. The 2016 RA refines the list of site options and ranks them in an indicative order of preference. The methodology reflects the sites' landscape constraints and significant environmental constraints, but does not refer to or take account of mitigation. Ranking within the tiers takes account of landscape constraints, location in terms of the settlement strategy and site size.
56. The evidence shows that in allocating the new sites the Council has taken account of their impact on rural lanes and Important Countryside Gaps. DM25 of the Plan makes it clear that the purpose of the Countryside Gaps is to retain the individual character and setting of settlements. It serves to protect the gaps from development, but excludes development which is allocated through the Local Plan. The strategic allocation of sites through the local plan process in the landscape or countryside gaps is not therefore precluded.
57. The approach taken to select additional sites is described in full in the report to the Council's Local Development Framework (LDF) Panel meeting held on 19 May 2016 (PS/108). Examination document PS/108 comprises this report, a preamble which explains the context and clarifies the report, and the meeting minutes. The preamble to the LDF Panel report explains, amongst other things, that some of the supporting documents that informed it were at early draft stages and had not been finalised.
58. Objections have been raised to the way in which some of the additional site allocations were assessed, particularly with reference to the SA process and to the way in which the RA has been interpreted in informing the site selection process. In particular the process through which allocation MUX1 at South West Sittingbourne was assessed and compared to other options, through the 2016 RA and through sustainability appraisal, has been subject to significant concerns raised by participants in the examination. These focus first on MUX1 as being ranked 62nd (out of 116) and in Tier G (sites with a significant environmental constraint) in the 2016 RA. The second concern relates to the SA Addendum assessment of reasonable alternatives, where MUX1 is defined

as a stand out site which could be taken as a "given" for the purposes of developing alternatives.

59. It is understandable that allocation of a site which scores so poorly in the 2016 RA should be questioned, particularly when other sites placed higher on the ranking have not been allocated. However the RA makes it clear in its introduction that it was undertaken with a limited methodology bearing in mind time and resources and is a "rapid" assessment. It was intended as a basis for detailed discussions rather than to reach a firm view on the overall merits of site options.
60. Turning to the SA Addendum, MUX1 is indeed considered as a "given" when considering reasonable alternatives to deliver higher growth, either at Sittingbourne (by adding sites south east of the town), at Iwade, or at Sheppey. The assumption of MUX1 as a given is based on the discussion of site options at Appendix III of the SA Addendum, which places MUX1 as the most preferred site at Sittingbourne. It is also here that the issue of heritage mitigation is raised, giving a better understanding of why the low ranking in the RA has been overcome.
61. The LDF Panel report takes a different approach as it undertakes a comparison of options for further growth outside the urban area of Sittingbourne. In this respect the decision making process could be experienced by readers as confused, because the evidence base presents different ways of assessing site options. In these circumstances it is understandable why the evidence on MUX1 has been treated with scepticism and the allocation of this site has been criticised.
62. However the LDF report presents a clear step by step analysis of options for allocating land around Sittingbourne, based largely on sustainability appraisal. The fact that the published SA Addendum is dated June 2016, post-dating the LDF Panel report and Cabinet decisions, has been criticised. But as stated earlier in this report sustainability appraisal is a process and it is not unreasonable that the LDF report was completed using a draft version of the final SA Addendum. Furthermore I am satisfied that the presentation of reasonable alternatives and recommendation of site allocations set out in the LDF report is clear, consistent and logical.
63. Thus, whilst recognising that additions to the SA and evidence base during the examination have created what has been referred to as a "paper trail", the evidence is detailed and robust and provides an appropriate basis for the selection of new allocations. It is based on appropriate sustainability appraisal, takes account of all relevant issues including environmental risks, landscape and heritage and balances consideration of matters such as Air Quality and the use of BMV land with the need to meet development needs as set out in the NPPF. Thus I consider that the allocation of MUX1, together with rest of the new allocations proposed in the main modifications is soundly based on robust evidence.
64. In conclusion, subject to the updating of existing and addition of the new allocations I am satisfied that the Plan's allocation of sites is soundly based and consistent with the settlement strategy. Modifications required are: **MM81, MM90, MM123 – MM128, MM130, MM132, MM134 – MM143,**

MM145 – MM161, MM 163, MM164, MM165 – MM174, MM176 – MM194, MM196 – MM200, MM202 – MM210, MM212 – MM221 and MM224.

Issue 5 – Does the Plan provide for a 5 year housing supply and identify sufficient deliverable sites to meet the full OAN?

65. The Council has prepared an updated housing trajectory with a revised base date which plans to meet the OAN of 776 dwellings per annum. A range of modifications is needed to confirm that the OAN will be met, set out the revised development targets and update the distribution of development to reflect new allocations. Some of these modifications, **MM5, MM6, MM7, MM10, MM14, MM15, MM36, MM37, MM38, MM55, MM56, MM58, MM59, MM61-MM65, MM79, MM80, MM81, MM83, MM88, MM89 and MM90**, also refer to employment, reflecting the relationship between jobs and housing growth.
66. The backlog to 2014 should have been absorbed in the 2015 SHMA calculation of OAN, but the trajectory must address the shortfall, or under-supply from the beginning of the Plan period, as well as the NPPF requirement for an additional buffer. NPPF paragraph 47 requires LPAs to identify specific deliverable sites to provide 5 years of housing against their housing requirements with a buffer of 5% moved forward from later in the plan period to ensure choice and competition in the market for land. A 20% buffer is required if there has been persistent under delivery.

The buffer

67. The Council's Statement of Housing Land Supply (PS/113) (SHLS), prepared in November 2016, considers the appropriate level of buffer by analysing data over a 10 year period to identify trends in housing completions relative to housing targets. This work shows that there is under delivery from 2011 to the present. However the SHLS equates this with the recession triggered in 2008, noting that economic recovery in Swale has trailed behind other parts of the south east.
68. The SHLS also notes that there was an up to date adopted Local Plan in place for the whole of the 10 year period throughout which, it demonstrates, there remained in place a supply of deliverable sites made up predominantly of strategic long term allocations. These sites continued to deliver through the period, although at a slower rate from 2011-2014. Given the analysis in the SHLS I am satisfied that it demonstrates effectively that there has not been a record of persistent under delivery that leads to a requirement for a 20% buffer in order to provide a realistic prospect of achieving the planned supply.

The shortfall

69. The SHLS provides an up to date picture of housing land supply, taking account of the additional site allocations proposed in the main modifications. It identifies a shortfall of 337 dwellings since the start of the modified Plan period in 2014 and it sets out the Council's reasons to support the use of the "Liverpool" approach to make up this shortfall. It refers to forecast levels of completions which remain low for the next three years, the timing of improvements to Junction 5 of the M2 and to junctions along the A249 corridor which act as a constraint on the delivery of a number of sites, and to long lead

in times for some major allocations which will not start to deliver until the end of the five year period. In addition, viability evidence in the 2014 Local Plan Viability Testing and Economic Viability Study (CD/013), which has been updated during the examination, shows that whilst development viability is improving values have not yet returned to pre 2008 levels.

70. The IFs recommended that in order to meet the OAN the Council should undertake a carefully managed uplift in allocations across the two planning areas, without undermining the settlement strategy or harming its objectives. It is clear that the Council has succeeded in this difficult task and the proposed modifications maintain the overall strategy, with a higher proportion of growth focussed on Sittingbourne and Sheppey. However, attempting to meet the shortfall within the immediate five year period could put pressure on more viable sites in Faversham and the rural areas in order to meet the higher target in the forthcoming five years of the Plan period. This could undermine the balance between the two planning areas and consequently the overall strategy of the Plan.
71. The SHLS sets out evidence which has been developed through monitoring and further research and which describes a situation that is specific to Swale. It demonstrates that expecting the shortfall to be addressed within the immediate five year period would be unreasonable and counterproductive. In particular it would conflict with the carefully judged balance between phasing of development and the planned delivery of transport infrastructure improvements and it could risk undermining the overall strategy of two planning areas. For these reasons I consider that there is strong justification for using the "Liverpool" method of dealing with the shortfall and allowing it to be spread across the remainder of the Plan period.

Five year supply

72. The calculation of the five year housing land supply is set out in Table 2 of the SHLS. It is based on the Liverpool method with a 5% buffer and demonstrates a supply of 5.4 years. This is informed by a range of factors, including sites with extant permissions and resolutions to grant planning permission. It takes account of the views of developers and undertakes a case by case assessment of deliverable allocated sites. The SHLS sets out a detailed assessment of the deliverability of sites to contribute to the five year supply and developability of sites for the remainder of the plan period. This information was updated during the examination and the Council has provided an up to date summary of deliverable site allocations.
73. I have taken account of all the evidence submitted by the Council and by developers relating to the deliverability of individual sites. Furthermore I have considered the argument that additional sites should be allocated to boost the five year supply, including sites in Faversham and the rural areas. However I am satisfied that the Council has demonstrated that there is a five year deliverable supply of sites to meet the requirements of the NPPF.

The housing trajectory

74. The Plan is supported by the Swale Housing Trajectory 2014/15 – 2030/31, which is included as Figure 7 of the SHLS. It shows a total of 13,915 deliverable or developable dwellings within the Plan period and a further 180

beyond it. However the trajectory is strikingly uneven, with under-delivery in the first three years followed by high levels of delivery in years 4/5, continuing through the middle period of the plan followed by delivery at or below the annual target in years 10 – 15. The Council has sought to address concerns about slow delivery at the start of the Plan period and high levels of delivery in the middle part of the Plan period, where over 1,000 dwellings per annum (dpa) is indicated, by suggesting the use of a stepped trajectory.

75. A stepped trajectory, with annualised rates varied across the Plan period, would offer some benefits in minimising risk of challenge to the 5 year land supply. Furthermore I recognise that such an approach would not be a deferral of delivery but simply a means of calculating the 5 year supply to address risk. However despite evidence of a stepped trajectory being used in some recently adopted Local Plans, I consider that this approach is neither necessary nor appropriate here at Swale.
76. First, the Council has a five year housing land supply which demonstrates that there is a five year supply which can be met. This suggests that a lower annual requirement would risk failing to boost significantly the supply of housing. Second, the Plan will be subject to an early review which will require work to review the housing land supply commencing soon after adoption of this Plan. Setting a stepped trajectory would mean providing tailored targets for years 5 – 10 and 10- 15 of the Plan (the Council has suggested targets of 776 and 865 respectively for these periods) which would clearly soon become irrelevant and out of date as soon as the review process was underway. In these circumstances I consider that there is insufficient justification for using a stepped trajectory.
77. The Council's housing delivery assessment is set out in the SHLS and updated in evidence appended to its statement for the resumed hearings (PS/133a). I have considered this in the light of the detailed critical reviews on a site by site basis and all the written responses to PS/133a. However I am satisfied that there is robust evidence to demonstrate deliverable sites for 5 years and developable sites for the rest of the Plan period.

Viability and deliverability

78. The Plan takes account of development viability which is considered in the Local Plan Testing and Economic Viability Study and its addenda (a) and (b) (CD/013). It has been argued by some participants in the examination that there is insufficient evidence to demonstrate that all the allocations can deliver, particularly when contributions to infrastructure, notably highway infrastructure, are considered. However the Implementation and Delivery Schedule (IDS) is informed by the Council's discussions with developers and attributes allocations to relevant infrastructure where they are expected to contribute to funding. I am satisfied that the viability studies together with the high level assessments of funding requirements in the IDS are sufficiently detailed to support the Plan.

Windfall allowance

79. The Council's Technical Paper No 5: Calculating a Windfall Allowance (CD/089) examines past trends of windfall sites. In doing so it deducts an allowance for sites on garden land to comply with the NPPF and takes account of extant

planning permissions and SHLAA sites to minimise risk of double counting. It is a thorough and realistic assessment which recommends an average windfall allowance of 110 dwellings per annum after the first 5 years of the Plan. In the last few years housing delivery from windfall sites has exceeded this number, but the Council has taken a cautious approach and does not propose a higher windfall allowance to reflect this trend. In conclusion, the windfall allowance included in the housing trajectory is based on robust evidence and conforms with national planning policy.

Conclusion

80. In conclusion, I am satisfied that the Plan provides for a 5 year housing supply and that it identifies sufficient deliverable sites to meet the full OAN

Issue 6 – Affordable housing and housing mix

81. Policy DM8 of the Plan sets out the requirements for affordable housing. The percentage sought varies across the borough, based on the Local Plan Viability Testing and Economic Viability Study 2014 (CD/013). It ranges from no affordable housing requirement on the Isle of Sheppey to a 40% requirement in "all other rural areas". This is the result of a balancing exercise taking account of the need to deliver infrastructure, meeting affordable housing need and maintaining development viability. I am satisfied that in selecting site allocations the Council has taken account of the capability of sites to contribute affordable housing.
82. The variable percentage approach is consistent with the NPPG which advises that viability assessment should ensure that the Local Plan vision and policies are realistic. It is supported by updating of the viability evidence which has taken place during the examination, through the Local Plan Viability Testing Addendum 2015 (CD/013a). Modifications **MM16, MM35, MM112** (criterion 5), **MM243 – MM252** and **MM254** are necessary to reflect up to date viability information, to add flexibility for determining housing type and tenure mix, to allow for changing market conditions and individual site circumstances and to add reference to Starter Homes. I have made an additional modification to Policy DM8 to change the threshold for provision of affordable housing from ten to eleven, in order to ensure consistency with current government policy.
83. It has been argued that Teynham should not be classified as part of the rural areas as current sales prices do not fall into the higher property value bracket and it is suggested that it should be aligned with Sittingbourne, where only 10% affordable housing is sought. I have considered the evidence in support of this view. However Policy DM8 sets out a strategic methodology for securing affordable housing and it is based on robust high level viability evidence. House prices and therefore viability may change in specific locations within the broad areas set out in DM8, but this is not a justification for an immediate review of the Policy or alteration of the areas as defined. The policy continues to set out a sound and justified framework for seeking affordable housing, whilst allowing sufficient flexibility for site specific viability evidence to be considered as part of the planning application process.
84. Subject to the above modifications I am satisfied that requirements for affordable housing contributions, housing mix and tenure are based on robust

evidence, are consistent with the overall settlement strategy and take account of development viability and infrastructure needs.

Issue 7 – Does the Plan include appropriate provision for Gypsy and Traveller sites through the Plan period, consistent with the NPPF and latest government guidance?

85. The submitted Plan is supported by the 2013 Gypsy, Traveller and Travelling Showpeople Accommodation Assessment: Swale (CD/037). This identifies a need for 85 pitches to be delivered through provision on larger site allocations, as set out in Policy CP3, with the remainder allocated through a separate Local Plan (LPP2).
86. In August 2015 the Government published revised Planning Policy for Traveller Sites (PPTS) which, amongst other things, changed the definition of Gypsies and Travellers. In the light of the new PPTS the Plan's target and policies may not now represent an accurate assessment of need. The Council's Update Paper on GTAA and policy implications (PS/038) re-evaluates the need for Gypsy and Traveller pitches in the light of the new definition of traveller and sets out a range of options to address the changes in the PPTS.
87. The IFs endorse the paper's recommended option, which through re-analysis of the raw data establishes a need for 61 pitches. Updated monitoring information, including the 2014/15 Update of Gypsy and Traveller Land Supply (PS/017), finds that 51 of these have been completed or had permission granted.
88. The Update Paper (PS/038) acknowledges the requirement in the PPTS for the Council to demonstrate a rolling five year supply and the land supply update (PS/017) demonstrates a five year supply from 2015 – 2020. However this has not been updated during the course of the examination to demonstrate a five year supply from 2017. Balancing this requirement with the very small scale of outstanding need (0.2 pitches per annum for the rest of the Plan period) and the early review of the Plan which is included in MM42, I am satisfied that these factors adequately mitigate the risk that the Council may not have a full five year a full five year supply at this stage.
89. The Council acknowledges that Section 124 of the 2016 Housing and Planning Act, which was enacted during the examination, requires it to consider the needs of people residing in or resorting to its district with respect of caravan sites and houseboats. However given the timing of this requirement in relation to the progress of the Plan I conclude that further consideration of this group is best addressed as part of the early review.
90. Thus I am satisfied that the Council's evidence update provides a well-reasoned and pragmatic solution to ensure that the Plan aligns with up to date policy on Gypsy and Traveller Sites. In the absence of any government guidance advocating a different approach, I endorse the Council's proposed modifications to Policies CP3, DM10, DM8 and DM9 to remove the requirement for larger housing allocations to include pitches for Gypsies and Travellers and to reflect up to date Planning Policy on Gypsy and Traveller sites.

91. I have taken account of criticisms of the proposed modifications received through the consultation. However I consider that the proposed approach will serve to make the Plan effective in addressing the needs of the Gypsy and Traveller community as advised in the 2015 PPTS, having in mind the fact that the early review of the Plan will require both need and supply to be re-assessed soon after adoption. Modifications **MM25, MM49, MM54, MM112** (criterion 6), **MM129, MM133, MM141, MM144, MM165, MM175, MM195, MM201, MM211, MM222, MM225, MM227, MM250, MM253** and **MMs 255 - MM263** should be made to ensure soundness. As a consequence of these changes there will no longer be a need for a second Local Plan (LPP2) to deal with this matter and LPP 2 should be deleted from the Council's LDS.

Issue 8 – Does the Plan set out a clear strategy for employment growth and distribution based on robust and up to date evidence?

92. The Plan is supported by the 2011 Employment Land Review (ELR) (CD/015) and proposes a job target of 7,053. The October 2015 update of the ELR: Employment Land Needs in Swale 2014-2031 (PS/089), like the 2015 SHMA, takes account of recent Experian figures which suggest a total job growth of 10,900 as the full market demand for new jobs in Swale. The ELR update translates this into floorspace and monitoring of employment land indicates that the Borough continues to have sufficient supply.
93. The Council proposes modifications to update the Plan to take account of the latest employment target and monitoring and to clarify qualitative need. It is clear from evidence and discussion at the examination hearings that the distribution of employment sites across the Borough has not been artificially constrained to align with the two planning areas.
94. Some of the modifications relating to economic growth and employment have been recommended earlier in this report as they are integral with modifications to housing growth. In addition to these modifications **MM3, MM4, MM11, MM12, MM34, MM51, MM52, MM53, MM86, MM87** are required to reflect up to date evidence regarding need and supply and to explain changes in the way in which the target is expressed. Subject to these modifications the Plan's approach to employment growth and distribution is justified.

Issue 9 – Is the Plan supported by a robust strategy for the provision of strategic infrastructure to deliver its policies and development?

95. The main modifications will successfully address the question of meeting the full OAN for the area supported by a housing trajectory for the full plan period. The Implementation and Delivery Schedule 2016/17 (IDS) (PS/103) was published in June 2016 and sets out the range of infrastructure needed to support the policies and development proposed in the modified Plan. It includes a schedule of projects and the development or policies with which they are associated, together with funding sources and responsibility for their implementation. Whilst some concerns have been raised relating to individual projects such as the provision or expansion of particular schools, the IDS as a whole provides an up to date and evidenced summary of the implementation and delivery of infrastructure throughout the Plan period. Several

modifications are needed in the Plan to address water capacity, education and community facilities to reflect the higher housing target (**MM32, MM71, MM82**).

96. However questions remain relating to the detail of the highway infrastructure required to support the higher level of housing proposed through the main modifications. The IFs identified that whilst transport infrastructure does not present a barrier to delivering the submitted target of up to 740 dwellings per annum, delivering housing to meet the full OAN may require further work on transport modelling. Thus it was clear, when the Council undertook the task of allocating additional housing sites to meet the OAN, that work was needed to consider the impact of the higher target on both the Strategic Road Network (SRN) and the local highway network.
97. During the examination the Council has continued dialogue with Kent County Council Highways Team (KCCH) and Highways England (HE) and has prepared Statements of common ground with both organisations (SBC/PS/028 and SBC/PS/011 and PS/121). Work to mitigate the impact of development on the SRN has focussed primarily on the A249 corridor, notably the work needed to upgrade the M2 junction 5 and roundabouts at Key Street, Bobbing and Grovehurst. Progress has been made in preparing technically and financially deliverable mitigation schemes that will support the soundness of the Plan.
98. This work is not yet complete, but HE has stated that there is no reason why mitigation should not be delivered in a timely fashion and hence confirms that the SRN is capable of supporting overall delivery and soundness of the Plan. However KCCH has calculated that the additional mitigation required at key junctions on the A249, to manage queues on the SRN, would lead to queueing and congestion on parts of the A2 corridor. Thus it would have a cumulative harmful impact on traffic flow and safety within the local highway network. This situation is explained and the difficulties identified in the Council's supplementary note "Cumulative Strategic Road Network and Local Road Network implications for the Local Plan (PS/129a)".
99. It is clear that further work is needed to address the effect of the necessary SRN mitigation on the local highway network. It is disappointing that the problems of this complex interplay have only been revealed in full at a very late stage in the examination and that it has not yet been possible to develop an agreed strategy for transport infrastructure. However there are strong reasons why this should not be treated as a "showstopper" to prevent adoption of the Plan.
100. First, the failure to have identified an agreed solution at this stage does not indicate that there is no prospect of a solution. All parties have expressed confidence that a solution will be agreed.
101. Second, it is common ground that failure to adopt the Plan or a "do nothing" option is not an acceptable solution. Even in the absence of the development proposed in the Plan KCCH state that the local highway network would become unacceptably strained during peak hours within a 5-10 year period. Furthermore failure to adopt the Plan would leave no framework for co-ordinating mitigation schemes required to manage ad hoc growth. KCCH have also confirmed that similar highway impacts would result if an alternative

strategy with a different distribution of development were pursued. Thus the allocation of alternative/ omission sites would not overcome this problem.

102. HE and KCCH have both confirmed that appropriate mitigation will allow the SRN and local highway network to accommodate the likely traffic impact of planned growth up to April 2022. This is consistent with government advice in the PPG which advises that Local Plans should make clear for at least the first 5 years of the Plan period what infrastructure is required, who is going to fund and provide it and how it relates to the anticipated rate and phasing of development. The outstanding and unresolved issue in this case is the details of the highway infrastructure required to support the planned development after the first five years of the Plan period.
103. It is therefore clear that in order to allow this Plan to proceed to adoption it must include a commitment to an early review. Advice by the Planning Advisory Service in 'Early Reviews' and Local Plans suggests that these cannot be used to resolve matters critical to the Plan's strategy and that they are not a panacea for addressing the difficult issues. In this case the Plan sets out a clear strategy for the full Plan period and no significant issues remain unresolved. Furthermore there is broad agreement that the transport infrastructure needed to support the development across the full Plan period can be provided. In these circumstances a commitment to an early review is a pragmatic and appropriate solution that will allow the Plan to be adopted.
104. An early review will allow work to be undertaken to model and agree mitigation schemes to support the development proposed beyond the forthcoming five year period. I have therefore amended **MM42** to state that a full review of the Plan will be completed for adoption by April 2022.
105. Additional requirements have been made by HE, including a review of the Swale Transport Strategy 2014 - 2031 by 2022. I am satisfied that these can be identified appropriately through additional modifications to the Plan or through ongoing review of the IDS.
106. The IDS is up to date and identifies infrastructure required to support the additional allocations. However a number of modifications are required to the Plan to reflect the infrastructure needed to support the proposed increased quantum of development and to take account of changes that have taken place during the examination. These include the removal of references to junctions 6 and 7 of the M2 and to the Southern Relief Road, to reflect up to date advice from HE. Modifications **MM78**, **MM97** – **MM107** and **MM115** should therefore be made to ensure that the Plan is effective.

Issue 10 – Does the Plan include a robust strategy for protecting designated environmental sites?

107. The Council has worked with other North Kent Local Authorities and with Natural England to prepare the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMMS) (CD/065). This will provide a mitigation strategy for internationally protected sites. During the examination the Council and Natural England have prepared a Statement of Common Ground (PS/029) setting out a range of agreed changes. These are reflected in **MM69**, **MM73**, **MM85** (criterion 11), **MM95**, **MM116**, **MM118**, **MM120**, which clarify the current arrangements and

confirm the way in which the strategy will operate when it is in place, particularly in relation to developer contributions and monitoring.

Issue 11 – Does the Plan provide a clear strategy for future development at the Port of Sheerness and Kent Science Park?

108. An earlier version of the Plan, the 2013 Consultation Draft, included policies AFC1 and AFC2, which set out support for proposals to regenerate the Port of Sheerness and to expand Kent Science Park (KSP). The Council recognises that these locations offer potential to meet future regeneration, housing and employment needs. However the submitted Plan offers only limited encouragement, with both the Port and KSP identified as longer term opportunities to be examined in a future Local Plan.
109. The Sheerness Port Masterplan, setting out a 20 year strategy for growth, was published for consultation in 2014 and work is continuing to finalise it. However the absence of a clear policy for the Port means that the Plan fails to plan positively and to provide a clear vision and strategy for future regeneration of this important location. It also fails to grasp the opportunity to ensure strategic planning of infrastructure and set out clear criteria for environmental and heritage issues. The Council has proposed an additional policy, New Regen 3, to steer future development at Sheerness Port. This new policy and supporting text should be introduced through modifications **MM7, MM13, MM232** (which also refer to Kent Science Park) **MM59, MM76, MM85** (criterion 1), **MM228, MM229** and **MM233**.
110. The Kent Science Park (KSP) is identified in Policy CP1 as an existing strategic employment allocation and a planning application has been submitted for an increase in commercial floorspace. However members of the local community have raised concerns at the growth of KSP, particularly in view of its proximity to designated landscapes and the impact of increased traffic on surrounding rural lanes. The absence of policy guidelines in the Plan leaves a vacuum, meaning that the Council can only react to proposals for development.
111. The Council has proposed policy New Regen 4 to set out clear guidelines for the use of existing land and buildings and protection of the environment, including the character of rural lanes. It is argued that the proposed policy does not go far enough in restricting the uses and quantum of development at KSP, fearing incremental expansion. In particular my attention has been drawn to criterion 6 of New Regen 4 which refers to "proposals to extend the site". However this criterion effectively sets a sequential approach to development, with a preference for it to be sited within the existing boundaries of the site, as well as setting requirements for maintaining sports facilities and for landscape protection. On this basis I consider it provides an appropriate balance between facilitating development and protecting the environment.
112. I have also taken account of the site owner's request that reference should be made to signal future improvements to highway infrastructure, notably to provide access to the M2. However HE and the Council have made it clear that there is no prospect of this being provided within the Plan period and so there is no justification for its inclusion in the Plan. Therefore the Plan should be modified to add the Policy New Regen 4 as proposed by the Council through modifications **MM230, MM231** and **MM234**.

Issue 12 – Does the Plan set effective and consistent development standards and development management policies?

Valued landscapes and the separation of settlements

113. Policy DM24: "Conserving and enhancing valued landscapes" is underpinned by the Swale Landscape Character and Biodiversity Appraisal 2010 (CD/063) which is adopted as a Supplementary Planning Document and by Technical Paper 6: Interim Review of Local Landscape Designations and Important Local Countryside Gaps (CD/090). Policy DM25: "The separation of settlements – Important Local Countryside Gaps" carries forward gaps identified in the 2008 Local Plan and reviewed through Technical Paper 6.

114. I have carefully considered concerns raised and evidence submitted in relation to these policies, where it is argued that some allocations will harm protected gaps and landscapes and would therefore conflict with the Plan's own development management policies. However I am satisfied that the evidence on which the allocations are based is robust and I can see no conflict with the NPPF. Paragraph 113 of the NPPF states that local planning authorities should set criteria based policies against which development affecting landscape areas will be judged, whilst paragraph 17 states that planning should take account of the different roles and character of different areas. Furthermore the clearly stated purpose of Policies DM24 and DM25 is for development management. Therefore they do not necessarily preclude the strategic allocation of sites through the local plan process in the landscapes or countryside gaps that they describe.

The historic environment

115. The Council has proposed changes to Policy CP8 and the supporting text to ensure consistency with the NPPF, add references to the 2015 Swale Heritage Asset Review and to set out an undertaking to prepare a Heritage Strategy. Changes are also proposed to Policy DM34 to clarify the approach to dealing with scheduled monuments and archaeological sites and to ensure consistency in terminology with the NPPF. These modifications, **MM94**, **MM121**, **MM122** and **MM283** which include updated text to ensure consistency, should be made to ensure that heritage policies are sound and consistent with the NPPF.

Sustainable development and Government changes to housing standards

116. In March 2015 the Code for Sustainable Homes was withdrawn and replaced by a new set of national technical standards. The Plan should be updated through modifications **MM18**, **MM113**, **MM270**, **MM271**, **MM273**, **MM276** and **MM277** to ensure that its sustainable development standards and Policies DM19 and DM21 conform with national policy.

Green infrastructure/ Open spaces, sports and recreation provision

117. The Council has proposed a number of modifications to expand and update the requirements for provision of green infrastructure and other open spaces, including sports and recreation provision on or associated with allocated sites. These modifications, **MM19**, **MM31**, **MM67**, **MM68**, **MM92**, **MM93**, **MM119**,

MM223 and **MM226**, flow from the increased housing target whilst **MM266** updates Policy DM17. They should all be made to ensure that the Plan is up to date and internally consistent.

Air Quality

118. The issue of air quality has been the subject of much discussion during the examination and is understandably one which is of serious concern to the local community. As discussed in Issue 1 it is a matter which has been properly considered through the SA process and whilst it is of particular relevance where development is allocated at or close to Air Quality Management Areas it has not been found to be a reason for preventing the allocation of any of the proposed sites. However this means that mitigation and management of air quality through the development management process is of the utmost importance. Modifications **MM241** and **MM242** are therefore required to amend Policy DM6 and ensure that the cumulative effects on air quality are taken into account in assessing proposals for development.

Woodland

119. Policy DM29 of the submitted Plan sets out the Council's objectives for protecting woodland, trees and hedges. It sets out criteria that are broadly consistent with paragraph 113 of the NPPF, but fails to provide a sufficiently clear and effective strategy for protecting woodlands, orchards, trees and hedges and it omits reference to ancient woodlands. The Council has proposed a revised Policy to address these matters and to ensure soundness this should replace the original policy, as set out in **MM280** and **MM281**.

Issue 13 – Has the process to designate Local Green Spaces been robust, logical and thorough?

120. Paragraphs 76 and 77 of the NPPF set out the process for designating Local Green Spaces (LGS). The Council's assessment of potential LGSs was carried out through Technical Paper No 2: Local Green Spaces (CD/086) and a schedule of LGSs was set out in Policy DM18. However the Council's proposal to add a further LGS, which was put forward during consultation on the submission Plan, (Holmside Avenue, Minster) led participants in the examination, quite reasonably, to make other suggestions for spaces that they argued should also be considered as additions. The IFs concluded that a late addition such as this raised the question of whether the initial exercise was robust and advised the Council to revisit its assessment of potential LGSs to ensure that the process was consistent and transparent and that all potential sites have been assessed.

121. The Council undertook this exercise during the examination through an updated version of Technical Paper No 2 in June 2016 and it now proposes a revised list of LGSs. I am satisfied that in preparing the updated evidence the Council has followed the correct procedures as set out in the PPG, including consultation with landowners, that the process of assessment and designation has been objective and that designation has not been used as a device to prevent sites coming forward for development.

122. It has been argued that the Council's exercise has lacked rigour, leading to a large number of designations, whereas paragraph 77 of the NPPF states that the designation of an LGS is not appropriate for most green areas or open spaces. In particular it is suggested that the NPPF criterion requiring an area to be "demonstrably special to a local community" has been misinterpreted by the Council which in its individual assessments of spaces refers to "special significance to the community and of particular local significance".
123. Whilst the wording in Council's assessments does not follow the criteria in the NPPF on a word for word basis this does not mean that the spirit and intention of paragraph 77 has not been followed. The Council has assessed the relationship of spaces to the communities they serve, their significance to the community because of features referred to in paragraph 77 and their character and size. In other words it is clear that assessment of spaces has been guided by the criteria in paragraph 77.
124. I have carefully considered the designation of all the spaces including those at Highsted Quarry, The Street/Hempstead Lane Bapchild, Macknade Cricket Ground, Faversham and Lynsted Meadows, all of which were discussed at the examination hearings and which I visited after the hearings. However I am satisfied that they have all been correctly designated in accordance with the Council's methodology which is in itself consistent with government policy in the NPPF.
125. On this basis to ensure that the Plan is effective the Council's up to date LGS designations should be set out through modifications **MM267** and **MM268**.

Issue 14 – Is Policy NP1 consistent with the emerging Neighbourhood Plan for the area and does it provide an effective basis for dealing with planning applications should the NP fail to be made?

126. Faversham Creek Neighbourhood Plan (NP) (EX/11) has been developed concurrently with the Plan and was subject to examination in late 2015. Both documents are based on the same evidence and Plan Policy NP1 reflects agreed strategic objectives. Should the NP stall or fail at the referendum stage the criteria in Policy NP1 will provide a backup framework for considering development proposals at the Creek.
127. Serious concerns have been raised about the designation of the area as flood zone 3a(i), particularly when it was previously designated as 3b (functional flood plain). It is argued that this change, together with the Plan's flexible approach to potential residential development, has increased property values and made it less likely that development for employment or more traditional maritime based uses will come forward. It is argued that "hope value" prevents sites from being developed for employment uses because owners wait in the expectation that more profitable residential development will eventually be allowed.
128. The Council has confirmed that the flood zone designation, which effectively removed built up areas from the functional floodplain, had been agreed with the Environment Agency and is compliant with the NPPF. However Policy DM21 of the Plan requires all planning applications to be accompanied by site specific flood risk assessment and Policy NP1 requires proposals to be

acceptable in terms of flood risk. NP1 also makes it clear that priority will be given to retaining maritime activities, with residential and other uses cited as "complementary".

129. On this basis I am satisfied that the Plan is consistent with the emerging NP and will provide a basis for assessing planning applications should the NP not be made.

Issue 15 – Parklands Village

130. Policy DM5 makes it clear that planning permission will not be granted for the permanent occupancy of caravans and chalets and refers to the 10 month occupancy that may be granted for holiday accommodation of higher quality standards. Parklands village is a holiday park to which a 10 month occupancy condition applies.

131. It has been suggested that Minster's built up area boundary should be extended to include this holiday park or the 10 month occupancy condition removed. The first action would imply that the site could be redeveloped for permanent housing whilst the second would have the result of turning the properties into permanent dwellings. I recognise that properties at Parklands are currently used as dwellings and I realise that having to move out for 2 months a year is stressful and difficult for many occupants. However this matter has been tested through a recent planning appeal and I have no reason to differ from the Inspector's conclusions (ref: APP/V2255/A/14/2223765).

132. In addition the holiday park's rural location, its capability to contribute to the Borough's stock of tourist accommodation (even if it is not currently used for this purpose) and its vulnerability to flooding make it a less than sustainable choice as a housing site. It would score poorly if it were to be subjected to the methodical assessment and ranking of potential housing sites that the Council has undertaken. Thus, from the plan making viewpoint, it is extremely unlikely that if it were subject to a logical and reasoned assessment a site such as this would be allocated for housing. Its allocation as a housing site simply by altering the built up boundary or removing the occupancy condition would undermine the evidence based, strategic approach to planning for housing need and be inconsistent with the NPPF.

133. In conclusion I am satisfied that Minster's built up area boundary is correctly drawn to exclude Parklands village and that the criteria in Policy DM5 are soundly based and it is appropriate that they apply to Parklands.

Issue 16 – Monitoring, delivery and review

134. As concluded above in Issue 9, due to uncertainties regarding highway infrastructure the Plan is only capable of adoption if it includes a commitment to a review. This commitment has been added to Policy ST2 through amendments to the Council's proposed **MM42**. The same modification also removes existing references to criteria which would trigger a review of the Plan. This is because work will need to start on the review of the Plan as soon as it is adopted in order to achieve the April 2022 date for adoption, thus superseding the arrangements set out in Policy ST2 as submitted.

135. Chapter 8 of the Plan sets out delivery and monitoring arrangements. Policy IMP1 introduces the IDS, which will be reviewed annually, as a vehicle for monitoring progress. Table 8.1.1 sets out Local Plan milestones and Table 8.1.2 identifies the critical infrastructure needed to support development during the first five years after the Plan is adopted. Table 8.2.1 sets out a schedule for monitoring a number of identified Policies. Thus there is an appropriate framework to monitor the Plan's progress and delivery of development.
136. The Council has proposed a range of modifications to IMP1 and to the tables to update the Plan and to ensure consistency with main modifications referred to earlier in this report. In addition main modifications are needed to update the explanatory paragraphs in Chapter 8 which relate to the IDP, delivery mechanisms, phasing, milestones and contingencies, and housing. I endorse all of these modifications, **MM284 – MM317**, which are necessary to ensure that the Plan is internally consistent and provides an effective strategy for implementation and monitoring.
137. Some of the explanatory text in Section 8 may soon become outdated due to the early review of the Plan. The text in paragraphs 8.1.15 – 8.1.26 is not essential and references to phasing may become irrelevant therefore the Council may wish to remove these paragraphs to improve clarity. They could be replaced by a short paragraph to introduce Table 8.1.1. I am satisfied that these changes can be made without undermining the soundness of the Plan therefore they could be carried out as a series of additional modifications.

Assessment of Legal Compliance

138. My examination of the compliance of the Plan with the legal requirements is summarised in the table below. I conclude that the Plan meets them all.

LEGAL REQUIREMENTS	
Local Development Scheme (LDS)	The Local Plan has been prepared in accordance with the Council's updated LDS dated October 2016 which shows adoption in the summer of 2017.
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in September 2008. Consultation on the Local Plan and the MMs has complied with its requirements.
Sustainability Appraisal (SA)	SA has been carried out and is adequate.
Habitats Regulations Assessment (HRA)	The Habitats Regulations AA Screening Report was undertaken for the submitted Plan in April 2015 and for the proposed main modifications in June 2016. The initial report concluded that an adequate policy framework was in place to ensure that the Plan will not lead to a Likely Significant Effect on European sites either alone or in combination with other projects and plans. HRA of the main modifications found that no modifications to policies result in in-combination effects beyond those discussed within these previous HRA documents in support of the production of the Swale Local Plan, therefore AA is

	not necessary. Natural England support this.
National Policy	The Local Plan complies with national policy except where indicated and MMs are recommended.
2004 Act (as amended) and 2012 Regulations.	The Local Plan complies with the Act and the Regulations.

Overall Conclusion and Recommendation

139. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.

140. The Council has requested that I recommend MMs to make the Plan sound and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix the Swale Borough Local Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework

Sue Turner

Inspector

This report is accompanied by an Appendix containing the Main Modifications.

NOTES BY THE ONS ON TENDRING'S POPULATION ESTIMATES

Thoughts on issues with the population estimates for Tendring between 2001 and 2011

1. Population estimate rolled forward from 2001 was 10,533 higher than the 2011 Census based population estimate; the rolled forward estimates 7.6% higher than the Census based estimate.
2. Assume Births and deaths are fine
3. Assume any negative impact of international migration is low due to there being few international migration moves (5,197 in, 3732 out over the decade, net=1465).
4. Internal migration has a potentially larger impact than the other components due to the volume of moves (65,284 in, 48,404 out, net=16,880). Our traditional view of this has been that areas that gain population over a period are more prone to underestimation than overestimation on the basis that.
 - a. Assuming human behaviour is relatively constant we miss moves at a constant rate both into and out of any location. Rates of missingness will vary by age and sex but should vary little for inflows and outflows.
 - b. On a net inflow we will miss more moves, in absolute terms, on the inflow than the outflow.

For an area like Tendring, with net inward internal migration, we'd probably end up underestimating as a consequence. But, Tendring tends to have net internal migration of relatively well behaved people in their middle/old age, we tend not to miss moves for these age groups as they interact well with GPs.

Your conclusion, 5.6, is difficult to reconcile with some of this logic. If we are missing flows out of Tendring, measured primarily via GP registrations it would follow that we must also be missing some flows into Tendring as these are measured via the same method. Given that flows in are in excess of flows out we would expect to miss more flows into Tendring than flows out of Tendring.

5. The relationship between the PR and mid-year estimate/Census in 2001 provides us with two possible avenues for believing that the 2001 Census may have overstated the population – or more accurately - how the 2001 Census and 2001 PR may have lead to overestimation of the 2011 MYE.

The first is relatively obvious; the 2001 Census sits above all of our comparator admin data (mainly the PR and state pension's recipients) for a large number of age groups. The 2001 One Number Census QA pack for Tendring shows this <http://www.ons.gov.uk/ons/guide-method/census/census-2001/data-and-products/quality-of-the-census-data/local-authority-data-quality/england/s-t/tendring-onc-qa-pack.pdf>. The charts at the end of the document show Tendring had an unusual relationship between the PR and the Census in 2001; generally the PR sits above the Census estimates, in Tendring the PR sits below the Census for the majority of age/sex groups above 45. These are the charts I supplied via email previously.

The second is a bit more complicated and is not actually about the 2001 estimate being overestimated. If we imagine that the 2001 census for Tendring was perfect, this means that the patient register is missing large numbers of people. We drive our internal migration estimates using data from the patient register, any moves involving people resident in Tendring in 2001 (and captured/estimated by the Census) but absent from the 2001 patient register will have been missed. Therefore we will miss outflows from Tendring, and the most likely consequence of this is that we will overestimate the population. I suspect the first case (the Census being overestimated) to be more likely than the second case (the PR understating the population) for Tendring. The second scenario tends to occur in inner London local authorities with very high levels of internal migration for 20-40 year olds who are less likely to interact regularly with GPs.

Further, the 95% confidence intervals give us a range within which we would expect the population estimate to fall 95 times out of 100. 5 times out a 100 the estimates could fall outside of this range. The confidence interval around the Census estimates should not be taken as a guarantee that an estimates is within a particular range. Following the 2001 Census a number of adjustments were made to the mid-year population estimates to account for inaccuracies in the 2001 Census. Some of the issues with the 2001 Census are discussed in this paper <https://www.ons.gov.uk/ons/guide-method/method-quality/specific/population-and-migration/pop-ests/local-authority-population-studies/2001-census---local-authority-population-studies--full-report.pdf>. The 2011 Census learnt from a lot of the difficulties of the 2001 Census and produced more robust population estimates as a result.

6. The age/sex distribution of the discrepancy for Tendring is quite informative. Generally speaking the discrepancies between Census based and rolled forward estimates are greatest for the young adult population. This reflects the high level of population churn for this group and the difficulty in measuring internal migration for this group given their generally good health and their poor levels of interaction with the health service. Tendring's discrepancies are different, they tend to be spread relatively evenly a wide part of the age range with a particularly large amount of discrepancy at the end of the age distribution. Given the low volume of moves for older people (say 70+), due to both internal migration and international migration, for these individuals it is difficult to see how this error could have been caused by migration. Much more likely is that we started off with a base population that was slightly overestimated and this discrepancy was carried through the entire decade.

It is also interesting that the discrepancy is relatively symmetrical for males and females (5,682 males, 4,851 females). If the problem were overwhelmingly internal migration based we might also expect the discrepancy to be substantially larger for males than females.

7. As you may be aware we are in the process of changing some of methods ([see appendix 2 for details](#)). One of these changes involves removing part of internal migration process called "scaling factors", these were used to adjust the level of raw internal migration flows picked up using the patient register and HESA to account for moves by people who did not appear on the beginning and end patient register (those who were born, died, immigrated or emigrated during 12 months preceding the mid-year point) and those who moved more

than once during the year. In effect this applied a multiplier to the levels of in inflows and outflows to each local authority. The removal of these scaling factors has, very recently, revealed some interesting side effects of the scaling process. For Tending the impact of scaling factors would have been to make internal migration flows increasingly positive and may have been a partial contributor to the unattributable difference found in 2011.

8. Unfortunately, I'm not an expert on housing statistics but I know that the analysis was subject to a high degree of quality assurance.
9. Regarding your conclusions. I agree with 5.1, 5.2 and 5.5.

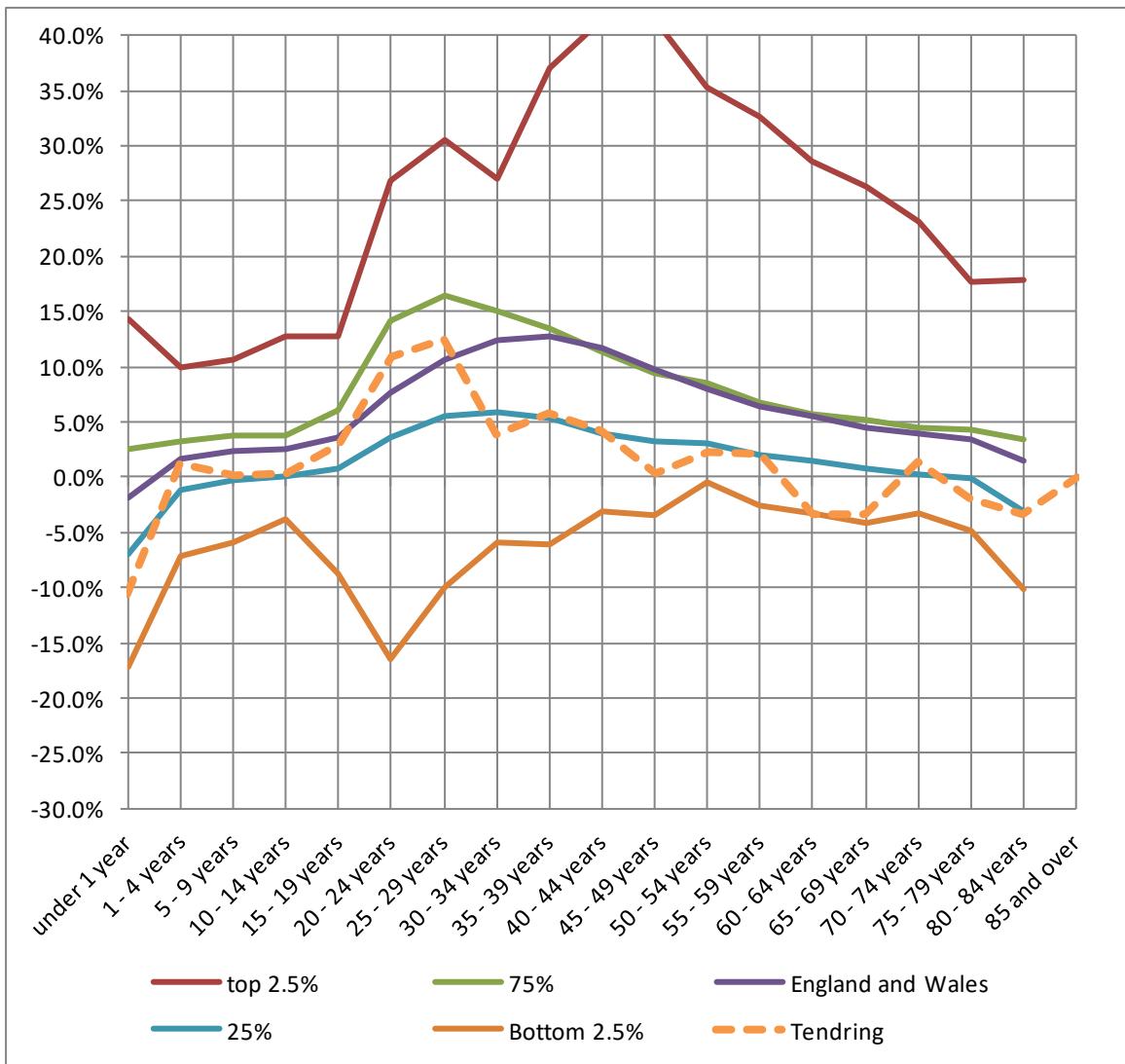
On 5.3 we think the evidence suggests that around 4,500 of the discrepancy is due to the 2001 Census base. Some of the remaining difference may be due to sampling error relating to the 2011 Census but this is still likely to leave 5-6,000 of the difference unexplained.

On 5.4 we would therefore think that the discrepancy due to migration is likely to at most 5-6,000. The impact of scaling that I mentioned in point 7 *may* account for 3-4,000 of the difference. Our traditional viewpoint on LAs such with net internal inflows has been that any internal migration discrepancy would have lead to an underestimate of the population rather than an overestimate.

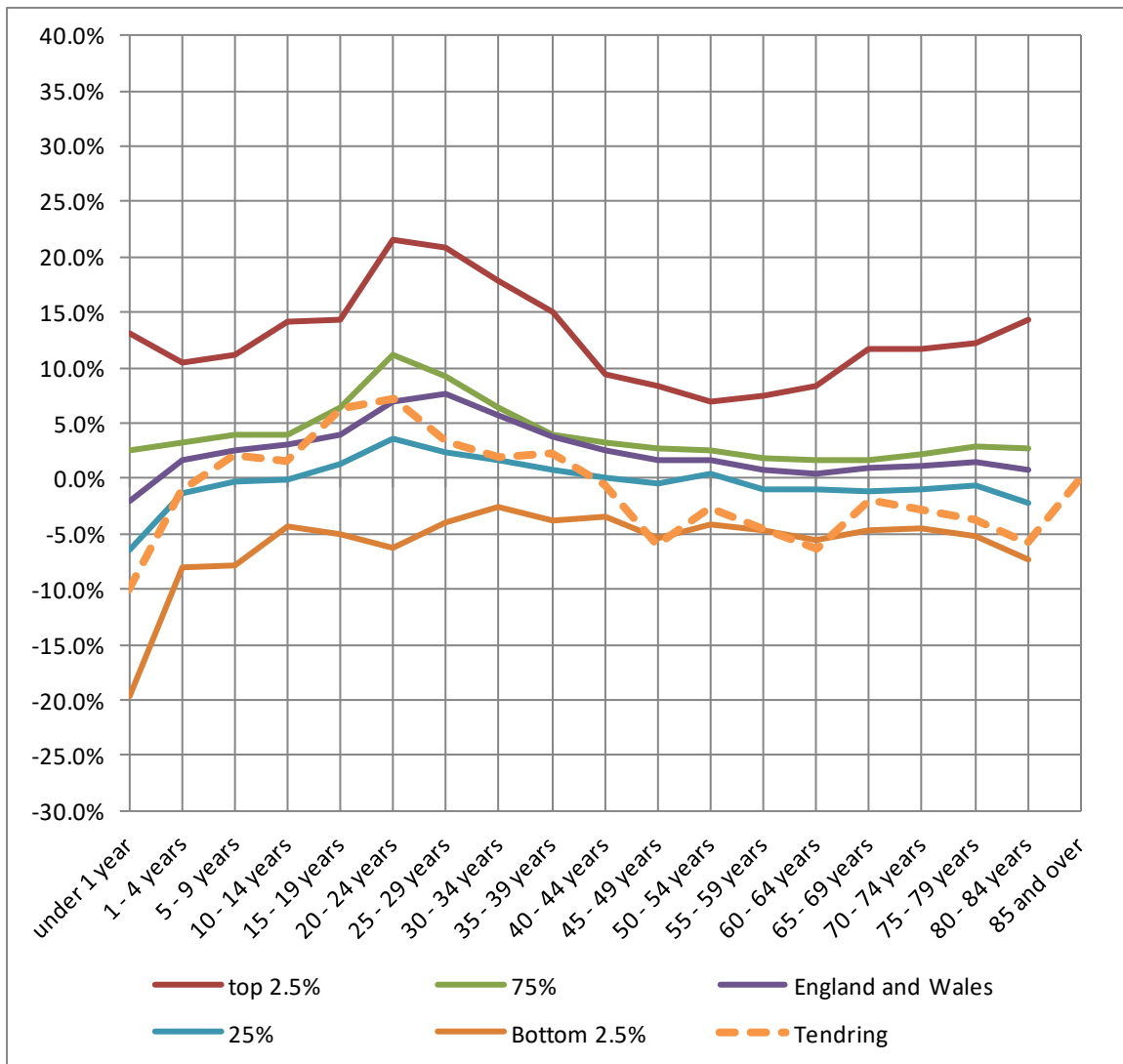
On 5.6 I've mentioned, as part of 7, that because we don't simply use GP patient registrations, it is possible for us to both over-estimate the inflows and the outflows. The findings I mentioned in point 7 are only about 2 weeks old, assuming these don't change (a flaw in the analysis could yet be found) it suggests that overestimation of the inflow was a more significant driver of the discrepancy than underestimation of the outflow.

This would leave around 2-3,000 of the difference unexplained. The "[understanding discrepancies tool](#)" I previously linked you to suggests that international immigration may have been overestimated for young these are the charts I included (I've added the 2011 equivalents as well).

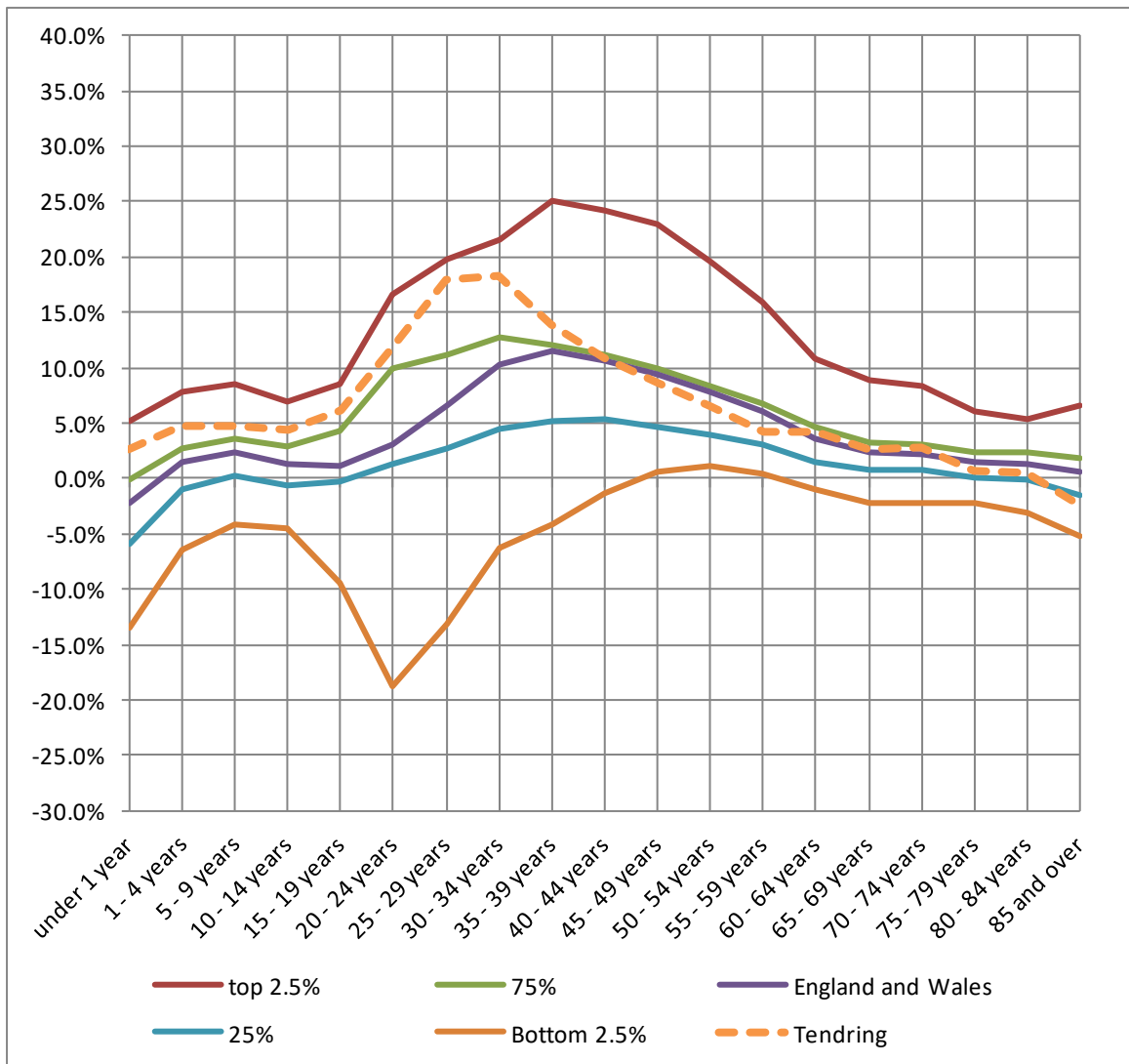
% difference between PR and Census for LAs, 2001 (males)



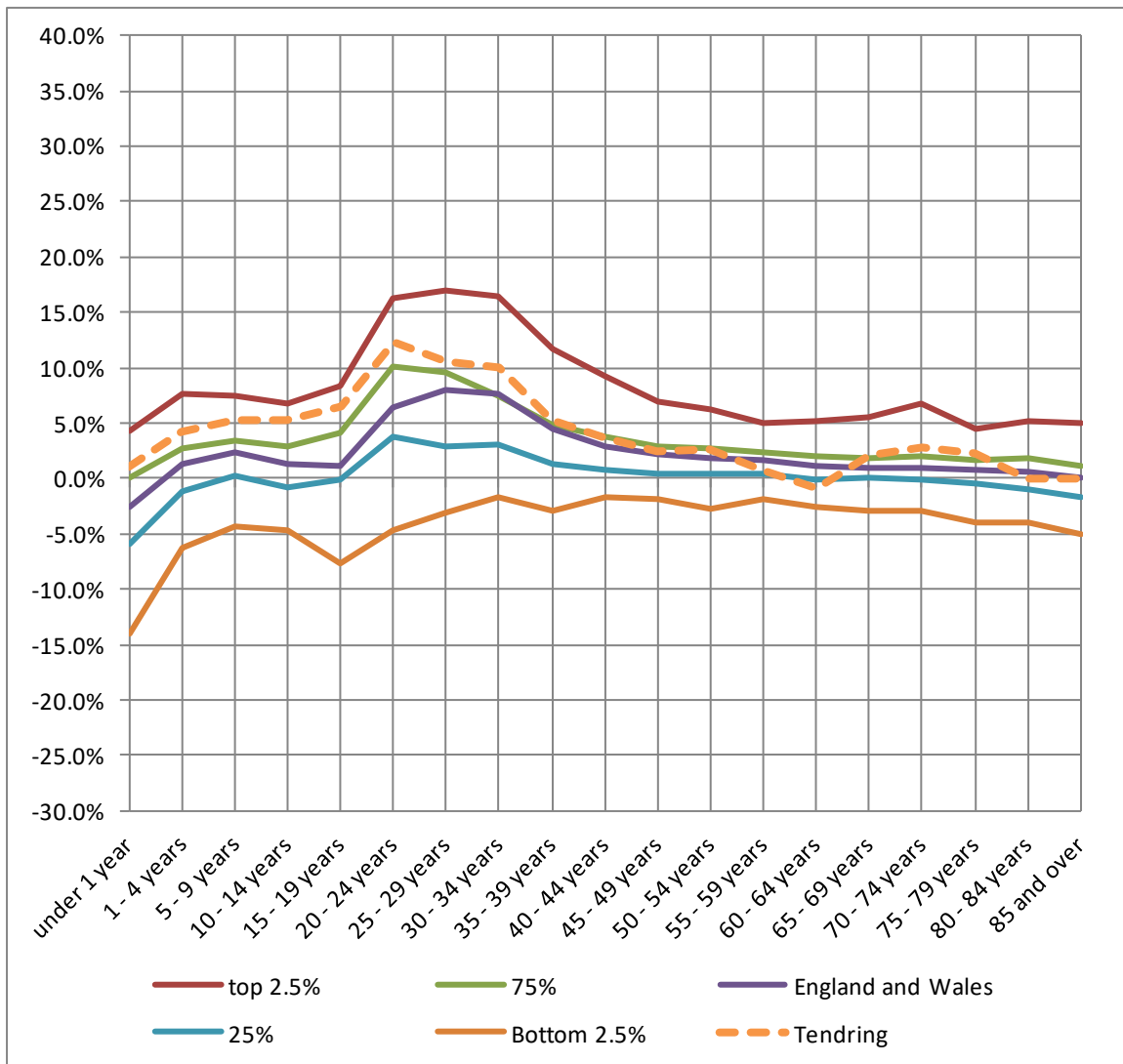
% difference between PR and Census estimate for LAs, 2001 (females)



% difference between PR and Census estimate for LAs, 2011 (males)



% difference between PR and Census estimate for LAs, 2011 (females)



adults (those aged 20-39).



Appeal Decision

Inquiry held on 8, 9, 10 and 24 August 2017

Site visit made on 10 August 2017

by Harold Stephens BA MPhil DipTP MRTPI FRSA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 October 2017

Appeal Ref: APP/P1560/W/17/3169220

Land north west of Sladbury's Lane, Clacton, Essex CO15 4BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr R Giles against the decision of Tendring District Council.
 - The application Ref 15/01351/OUT, dated 27 August 2015, was refused by notice dated 11 August 2016.
 - The development proposed is for an outline planning application for residential development up to 132 dwellings and open space, including provision for a sports field, new vehicular access via Sladbury's Lane (All matters reserved).
-

Decision

1. The appeal is allowed and planning permission is granted for an outline planning application for residential development up to 132 dwellings and open space, including provision for a sports field, new vehicular access via Sladbury's Lane at land north west of Sladbury's Lane, Clacton, Essex CO15 4BG in accordance with the terms of the application, Ref 15/01351/OUT, dated 27 August 2015, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

Procedural Matters

2. The application is in outline form with all matters reserved for future determination. The Statement of Common Ground (SoCG)¹ states that the proposal is for up to 132 dwellings with open space including a sports field and access via Sladbury's Lane. Although the application was submitted in outline, a series of house types was included as part of the application, along with street scenes, but the status of these was illustrative only. The Appellant also submitted an indicative site plan that demonstrates how a layout of 132 dwellings could be achieved with a roundabout from Sladbury's Lane. The only application plans submitted for approval were therefore:
 - Existing Site Location Plan (ref 256.214.00) and
 - Built Development Parameters Plan (ref 256.213.02)
3. The application is supported by a number of reports and technical information including a Design and Access Statement (DAS), a Planning Statement, a Transport Assessment, a Noise Survey, a Flood Risk and Wastewater Assessment and Revised Flood Risk and Wastewater Assessment, an Ecology

¹ INQ3

Appraisal, an Aboricultural Impact Assessment, a Utilities Statement and a Note about Policy EN2.

4. At the Inquiry, a S106 Unilateral Planning Obligation (UU) was submitted by the Appellant. This addresses all of the matters sought by the Council in connection with the provision of community and other services arising from the development. The UU is signed and dated 24 August 2017 and is a material consideration in this case. I return to the UU later in this decision.

Main Issues

5. In the light of the above I consider the main issues are:-
 - Whether the Council is able to demonstrate a 5-year supply of deliverable housing sites sufficient to meet the full objectively assessed need (OAN) for housing and the implications of this in terms of national and local policy;
 - The weight that can be given to Policy EN2 of the adopted Local Plan and Policy PPL6 of the emerging Local Plan;
 - The effect of the proposals on the character and appearance of the area and in particular, on the Local Green Gap between Clacton-on-Sea and Holland-on-Sea;
 - The planning balance: Whether the proposals comprise sustainable development as defined in the NPPF and whether the adverse impacts of approving the development would significantly and demonstrably outweigh the benefits.

Reasons

Background

The appeal site and its setting

6. The appeal site comprises 8.6 has of agricultural land (a mix of Grade 3a; 3b – good to moderate and Grade 4 - poor) to the west of Sladbury's Lane. It lies outside of the settlement boundary identified within both the adopted Tendring District Local Plan (LP) and the emerging Tendring District Local Plan (ELP). In the LP it lies within a Local Green Gap designation. In the ELP it lies within a Strategic Green Gap. The southern extremity of the site lies within Flood Risk Zones 2 and 3. Further to the east are the Holland Marshes SSSI and the route of Picker's Ditch that is designated as protected public open space.
7. The site is located on the north-eastern edge of Clacton, about 3kms from the town centre. It is about 1.5kms from Gorse Lane Industrial Estate to the north. The town centre has a wide range of shops for both everyday/convenience and comparison shopping needs. It also has three secondary schools and a number of primary schools, including Holland Park, which is about 800m from the site. In addition, the town has employment opportunities and local leisure and community facilities. It is identified as an urban settlement in the LP and a strategic urban settlement in the ELP where development should be focussed.
8. The site currently comprises farmland and consists of two arable fields which spilt the site in two, one to the north and one to the south. The field to the south of the site is separated from that to the north by a hedgerow, ditch and

with some mature trees set amongst it. Around the perimeter of the fields are further lengths of additional hedging, fencing and trees.

9. The site lies immediately adjacent to the Valley Farm Holiday Park (a protected caravan site) to the west. Sladbury's Lane runs off to the south and east. To the north, beyond an adjoining agricultural field is the Colchester to Clacton railway line. A line of electricity pylons crosses east/west beyond the northernmost boundary. The topography of the site is a general slope in a north to south direction, from about 11m AOD to 2.5m AOD towards the southern boundary.
10. Sladbury's Lane is an unclassified road which forms part of a link between the B1033 and the B1032 on the eastern edge of Clacton. Within the built up area the carriageway is of sufficient width for two vehicles to pass although a vehicle weight limit of 7.5 tonnes is imposed across the Picker's Ditch. Further to the north east is the junction with Burrs Road, an unclassified road which runs north west from Sladbury's Lane, which it joins as the minor arm of a priority T-junction about 0.5kms north east of the site. Burrs Road then passes over the Colchester to Clacton railway line on a barrier controlled level crossing into the Burrsville area.

Planning History

11. The parties agree that there is no relevant planning history for the appeal site, although it is acknowledged that the land off Sladbury's Lane has been promoted over many years, by its owners, for inclusion as a residential development site in the Local Plan, albeit unsuccessfully to date.

The Proposals

12. The planning application was submitted in outline with all matters of detail reserved for future determination. The development would be accessed from Sladbury's Lane by means of a new 3-arm compact roundabout outside No 44 which would act as a "gateway" feature at the start of the 30mph limit at the edge of the urban area and help reduce vehicle speeds. The indicative site layout plan shows that the site could accommodate 132 dwellings comprising 12 two-bed; 64 three-bed and 56 four-bed houses.
13. The total site area is about 8.6 has. The built-up area comprises some 4.24 has with the remainder (about 4.36 has) being used for open space. The scheme provides for about 30% of the dwellings to be affordable units (about 40 units on a 132 unit scheme). The proposals include a children's play area, informal open space with a perimeter landscape buffer and sustainable drainage features. The formal open space has been removed due to topography.²

Planning Policy

14. The development plan for the area includes the saved policies of the LP which was adopted in December 2007. Paragraphs 1.1 and 1.4 of the LP state that the document covers the period up to 2011. Policy EN2 also refers to 'within the plan period'. The LP was prepared under the transitional arrangements provided by the 2004 Planning and Compulsory Purchase Act and its policies are subject to a Saving Direction from the SoS which allows them to be used in

² CD4.19 Design and Access Statement paragraph 5.1

- the determination of planning applications, with relative weight in accordance with paragraph 215 of the National Planning Policy Framework (NPPF).
15. The District Council has undertaken consultation on a 'Preferred Options' draft of its ELP and, at the time of writing, is undertaking consultation on the 'Publication' draft with a view to submitting the plan to the SoS in October 2017 to begin the process of examination. The weight that can reasonably be attached to policies in the ELP is subject to paragraph 216 of the NPPF and is a matter dealt with by the Appellant and the Council in their respective evidence. I deal with this in issue two below. Both parties agree that the ELP is still progressing through the plan making process and cannot be afforded 'full weight' in the determination of planning applications until it has been adopted.
 16. A number of policies in the LP and ELP were referred to at the Inquiry. The reason for refusal only cites LP Policy EN2. This is a restrictive policy that says that during the plan period, land within Local Green Gaps, as defined on the Proposals Map, will be kept open, and essentially free of development. This is to prevent the coalescence of settlements and to protect their rural settings. Minor development proposals may be permitted if they do no harm, individually or collectively, to the purposes of a Local Green Gap or to its open character. It identifies the uses that are appropriate in the Local Green Gaps which may include improvement of existing leisure and recreational facilities; development for agricultural purposes and improvement of public rights of way.
 17. Paragraph 6.9 of the LP sets out the aims of Local Green Gaps. Their primary purpose and function is to maintain separation between the main urban areas of the District. They also seek to maintain separation between urban areas and free standing smaller settlements that surround them, or between physically separate built up neighbourhoods. By conserving the countryside between residential settlements, local green gap policies aim to preserve the open character of these important breaks between settlements. The approach will also maintain the individual character and landscape setting of town, villages and neighbourhoods.
 18. The specific purpose of the Local Green Gap in the location of the appeal site,³ as set out in paragraph 6.11 of the LP is to:
 - (i) *Safeguard the unspoilt countryside gap between the railway line and Picker's Ditch to maintain clear separation and distinction between the identity and character of Holland-on-Sea and the Bursville area of Greater Clacton; and*
 - (ii) *Preserve views from both areas, and for train passengers, over this attractive wedge of rolling landscape.*
 19. In the ELP the Green Gaps are renamed Strategic Green Gaps under Policy PPL6. The Great Clacton/Holland-on-Sea Gap is proposed to be retained in its entirety. Within Strategic Green Gaps the Council will not permit development which would result in the joining of settlements or neighbourhoods, or which would erode their separate identities. Planning permission may be granted if the applicant can demonstrate (a) that there is a functional need for the development to be in that specific location; (b) the development would not compromise the open setting between settlements or neighbourhoods; and (c) the development would involve the creation of Green Infrastructure.

³ Great Clacton/Holland-on-Sea

Whether the Council is able to demonstrate a 5 year supply of deliverable housing sites sufficient to meet the full objectively assessed need (OAN) for housing and the implications of this in terms of national and local policy.

20. It is common ground that the Housing Market Area (HMA) for the assessment comprises Braintree, Colchester, Chelmsford and Tendring Council areas and these areas form a sound basis for assessing housing need; and the 5-year land supply period is 1 April 2017 to 31 March 2022.
21. The Planning Practice Guidance (PPG) confirms that *‘establishing future need for housing is not an exact science – no single approach will provide a definitive answer’*. However, it goes on to clarify that *‘Household projections published by the Department for Communities and Local Government should provide the starting point estimate for overall housing need...; The household projections are trend based...may require adjustment to reflect factors affecting local demography and household formation rates which are not captured in past trends...; plan makers should make an assessment of the likely change in job numbers ...; [and] the housing need number suggested by household projections should be adjusted to reflect appropriate market signals, as well as other market indicators of the balance between the demand for and supply of dwellings ...’*⁴
22. There is disagreement between the parties concerning the Council’s 5-year housing land supply. The matters in dispute concern the requirements (the OAN) and the available supply of deliverable sites. The Council’s final position, as confirmed at the Inquiry is that it has 5.1 years of supply, whilst the Appellant’s view is that the supply amounts to some 4.03 to 4.79 years.
23. In terms of housing requirements, the Council has applied an objectively assessed need (OAN) requirement of 550 dwellings per annum (dpa) in its 5-year supply calculations. This figure is recommended in the latest update of the OAN Study dated November 2016 by Peter Brett Associates (PBA Study)⁵ on behalf of authorities in the HMA. It is lower than the DCLG 2014-based household projections for Tendring of 625 dpa. However, the PBA Study indicates that the official demographic projections for Tendring are not robust, due to a discrepancy between the Census estimates in 2001 and 2011 and the ONS *‘components of change’* statistics. The discrepancy is 10,533 or 7.6% of the census based estimate for 2011 and is referred to as the *‘Unattributable Population Change’* (UPC).
24. The PBA Study uses an alternative demographic starting projection of 480 dpa and applies a market signal uplift to obtain an OAN figure. With a market signal adjustment applied PBA recommended an OAN range of 500-600 dpa with 550 dpa adopted where a single figure was needed for the period 2013-2037.
25. The Appellant’s position is that the DCLG 2014-based household projections represent the most recent official projections and they indicate an increase in households equivalent to 625 dpa between 2013 and 2037. It is argued that this should be uplifted to 670 dpa to account for vacancy rates and second homes. It is not submitted that uplift is required for market pressure, economic growth or affordable housing. The Appellant’s position is that an OAN figure of 670 dpa should be applied.⁶

⁴ Paragraph Ref ID 2a-015-20140306; Paragraph Ref ID 2a-018-20140306 and Paragraph Ref ID 2a-019-20140306

⁵ CD3.1

⁶ CD7.9

26. In the absence of an up-to-date Local Plan, the calculation set out in the PBA Study represents the most recent estimate of OAN. However, the contents of the PBA Study have not been tested at a Local Plan examination. It will be first tested at the EIP into the ELP; the outcome of this will not be known for some time. It is possible that a Local Plan Inspector, after consideration of the unresolved objections, might conclude that the PBA Study is flawed. Indeed this uncertainty is reflected in the PBA Study at paragraph 8.37:-

"For now, our analysis of the latest demographic data suggests that the correct 'demographic starting point' remains 480 dpa, with a large potential for error."

27. At the Inquiry the Council referred to earlier reports by Edge and Hollis but I note that that work is based on past trend rates projected forward. As the PPG makes clear⁷ such projections may require adjustment if formation rates have been suppressed historically by under-supply and worsening affordability of housing. The PBA Study shows that Tendring experienced an increase in house prices of 70% between 2002 and 2012 – the joint highest increase in Essex.⁸ PBA's approach is based on Hollis as the demographic starting point with a market uplift giving an OAN of 500-600 dpa.
28. Mr McDonald appraised and explained the UPC but he only accounts for Tendring's UPC and does not take into account the implications for the HMA where the other authorities rely on DCLG projections. The Local Plan Expert Group has advised the Government that it should not be open for plan makers to reject the use of official projections due to perceived concerns with UPC albeit this is not formal guidance.
29. Mr McDonald advanced a range of figures in his evidence to the Inquiry. Adjusting the latest household projections to correct for the inaccuracies in the migration flow data, he suggests a housing need of 420-540 homes per year without uplift depending on the assumptions made. However, I note that the ONS explicitly states that the maximum error attributable to migration is 5-6,000 population. This is equivalent to 47-57% of the total UPC. The remainder is due to Census errors. The ONS view must be treated with importance as it is the Government body responsible for population estimates and processing the data. Taking its figures gives a range of up to 483-510 dpa. However, 510 is the minimum figure to be derived from the ONS margin of error according to its Note, and it is only a starting point at that. Applying a market uplift of 15% results in an OAN of 587. This is the very lowest figure that should be taken for the purposes of this appeal given that the starting point could well be higher than 510 dpa. Historic under-delivery should also be taken into account because these figures are only trend based.
30. Given the prevailing uncertainty, it is not appropriate for me in the context of this S78 Inquiry to attempt to resolve OAN without further more detailed consideration of the UPC, its alleged causes and significance for the HMA. For similar reasons it would not be appropriate for me to revert to the official projections pending resolution. Taking into account all of the evidence that is before me I consider that the higher figure in the range put forward by the PBA Study, 600 dpa, should be adopted as the housing requirement (OAN) for this appeal.

⁷ Paragraph Ref ID 2a-015-20140306

⁸ CD3.1 Page 14 Table 2.3

31. In terms of housing supply, the Council says that the 5-year housing land supply requirement (2017-2022) is 550 dpa, which with the shortfall (826 dwellings) added and a 20% buffer gives a total requirement of 4,291 dwellings against a total supply 4,395 dwellings which equates to 5.1 years supply. Following PBA's advice, the Council has agreed the figure of 550 dpa for the purposes of the ELP. The ELP makes provision for a minimum dwelling stock increase of 11,000 dwellings over the period 2013-2033.
32. The Council says that it can demonstrate that it can now meet this requirement. It refers to the Housing Supply Position and Housing Trajectory Report⁹ which sets out, in detail, the Councils' 5-year housing supply calculation. The report shows that the Council can demonstrate a 5.1 year supply of deliverable housing land and it is claimed that this is a robust figure that makes conservative assumptions about delivery. It is noteworthy that the 550 dpa figure is used from the PBA Study as the source of the housing requirement; that the 826 dwelling shortfall acquired between 2013 and 2017 is proposed to be addressed in the next 5 years in line with the Sedgefield approach; a 20% buffer has been applied to both the base line requirement and the shortfall, in recognition of Tendring's persistent under-delivery in recent years and the Council has not relied on any sites allocated in the LP or ELP that are yet to obtain planning permission.
33. The Appellant considers that the Council has over-estimated the supply for the 5-year period 2017 to 2022 by 717 units if the OAN is 600 dpa. The disagreement relates to the contribution from 11 large site commitments. There is no disagreement in relation to the supply from small sites or other elements of the supply calculation such as the Sedgefield approach or the 20% buffer which is applied.
34. I note that the NPPF requires there to be a "realistic prospect" that sites will come forward within 5 years. It does not require certainty. This was emphasised in the *St Mowden Developments Ltd v Secretary of State for Communities and Local Government* [2016] EWHC 968. The Council's supply needs to be "deliverable" which means, among other things, that there is a "realistic prospect" that houses will be built on the identified sites, within the 5-year period. There can be no certainty that houses will come forward. Nor does the NPPF require as much for a site to be considered deliverable.
35. Moreover, I must have regard to NPPF paragraph 47 footnote 11 which establishes that:-
- "To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans".*
36. The footnote does not tell the decision maker to assume that each of the deliverable sites will yield their full quota within the 5-year period. It is for the Council to demonstrate that the sites it has identified will on the balance of probability deliver the numbers it says will be delivered. It is noteworthy that

⁹ CD3.9 - Local Plan Committee Report dated 12 June 2017

the PPG makes it clear that it is LPAs that need to provide robust evidence to support the delivery of sites.¹⁰ This requires a site by site assessment based upon evidence, normally derived from iterations with developers and comparable historic evidence from similar sites, among other things.

37. Following a narrowing of issues at the Inquiry, 11 sites are disputed, all of which are large sites with planning permission. In none does the Appellant say that the site is not deliverable at all, nor in general does the Appellant question the annual yield assessed by the Council. However, the Appellant does take issue with the timing of implementation where it is claimed that no evidence has been produced by Mr Guiver at all. At my request, both parties produced a summary of the sites in dispute.¹¹ These show the deliverability of those 11 sites in tabulated form. Mr Dodkins attached a spreadsheet in his Appendix 2 which includes his assessment of the Council's Housing Site Trajectory.
38. Overall I consider that the Appellant's assessment of supply from large specific sites is the more realistic taking into account the St Mowden judgment,¹² and in accordance with the PPG and footnote 11 of the NPPF. There are several reasons why I cannot agree with the Council's assessment. Firstly, the only evidence from the Council is from Mr Guiver who simply asserts that he has spoken to the various owners and developers. It is strange then that he has applied the very same annual yield to all sites that have not yet commenced with two exceptions. These are based on asserted yield rates from similar sites, which may or may not be correct in relation to individual sites in question. It is surprising to me that the same rates have been applied irrespective of the size of the prospective development.
39. Secondly, Mr Guiver stated that the period of 12 months from the grant of outline planning permission to Reserved Matters (RM) was reasonable and that a period of 18 months from outline planning permission to delivery was realistic. Even if Mr Dodkins' evidence on delivery is discounted and Mr Guiver's is accepted, this would result in no delivery until year three because we are already half way through year one.
40. Thirdly, Mr Dodkins has industry experience and he told the Inquiry first-hand what steps had to be gone through. He also illustrated this with the AREBRAY letter and spreadsheet.¹³ This consultancy has direct experience working for a major PLC housebuilder. The tables are a typical example of delivery timescales for new sites in east Essex which cannot really be improved upon unless work commences without pre-commencement conditions being fully discharged i.e. significant risks are taken. Mr Dodkins has taken a realistic and pragmatic approach. He has serious concerns about 10 of the 11 sites. I am satisfied that his approach is consistent with national policy.
41. Fourthly, while it is not necessary for me to go through all of the sites in the tabulations or Mr Dodkins' spreadsheet,¹⁴ I shall examine the two sites put forward by the Appellant to illustrate the point on delivery timescales. The first is Thorpe Road, a large site of 250 units which Mr Guiver acknowledged has no

¹⁰ Paragraph Ref ID 3-031-20140306

¹¹ See CD7.10 and CD8.4

¹² Ibid

¹³ CD7.1

¹⁴ Ibid

RMs approval and only 2 conditions discharge applications (not decided), and no housebuilder, yet he asserts that it will deliver a full year's housing supply from April 2018, 8 months from now. Mr Guiver agreed it would take 12 months to draft, submit and secure RMs from now with no allowance for post RMs to delivery. It could take a further year or more from RMs to delivery.¹⁵ In my view, it would be very difficult if not impossible to get a full year of housing supply on this site from April 2018 as we are already 6 months into year 1, so 2 years takes delivery to the middle of year 3 as submitted by the Appellant. There will be no delivery on this site next year (2018/19) and at best only part delivery the year after 2019/20.

42. Mr Guiver argued that the process could be quicker if conditions are discharged at the same time as RMs but Mr Dodkins identified that some but not all conditions can be discharged this way. Some rely on approval of detailed designs before other details required by conditions can be discharged. On a larger scheme such as Thorpe Road (250 units) there would also be contingencies built in for unexpected matters arising during preliminary works e.g. ecology and archaeology.
43. The second site, Long Road/Clacton Road, Mistley, shows the risks that can occur from an over optimistic delivery assumption. Outline planning permission was granted in July 2016 and the developer has submitted a RMs application for the first phase of development. At the Inquiry I was informed that 'some adjustments might be required following Committee refusal of a s73 application to amend parameter plans'. Mr Dodkins showed that the first RM application had been thrown into doubt by the refusal of an amendment of the outline consent with the agents advising that an appeal was likely which plainly could delay matters by some time – possibly 18 months. In my view, with this new information the delivery on this site could slip by another year from that shown in the tabulations and spreadsheet.
44. Fifthly, it is noteworthy that many of the 11 sites are projected to deliver at the same rate (30 dpa) despite large differences in the size of the site which cannot be credible. As a consequence I consider that the Council has failed to adopt realism and proper caution, with Mr Guiver mentioning that delivery could happen as anticipated 'with a fair wind' at least once. Mr Dodkins' evidence is more substantial and realistic, and is based on his own experience with a major housing developer and dealing with every aspect of delivery – including RMs and conditions discharges.
45. Taking all of these matters into account Mr Dodkins' evidence is to be preferred. It follows that caution should be applied to the delivery assumptions made in relation to 10 of the 11 sites he has identified and a cautious approach means that his trajectories should be preferred.¹⁶ Applying Mr Dodkins' alternative delivery figures on the basis of a housing requirement (OAN) of 600 dpa gives a supply of 4.26 years and shortfall of 717 units. I conclude on the first issue, therefore that the Council cannot demonstrate a supply of deliverable housing sites in excess of 5 years.

¹⁵ See CD7.1 AREBRAY letter which says that 25 months from RM to delivery for large schemes so 12 months could be optimistic

¹⁶ The assumptions regarding Priory West Field, St Osyth are agreed. See CD7.10 and CD8.4.

46. Following the Supreme Court decision in *Hopkins Homes Limited v Secretary for Communities and Local Government* [2017] UKSC 3, it is clear that the primary purpose of paragraph 49 of the NPPF is to trigger the operation of the fourth bullet point of paragraph 14 of the NPPF whereby, if a local planning authority cannot demonstrate a five year supply, the second part of paragraph 14 is engaged. In circumstances – as here – where there are no *"specific policies in this Framework indicate development should be restricted"*, this means that the tilted balance will apply. That is, as a matter of national policy, permission should be granted unless *"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"*. The tilted balance is therefore engaged here.
47. However, it is important to take into account a number of other principles relating to paragraph 49 and the tilted balance. Firstly, the tilted balance is part of national policy and, as such, is a material consideration. It does not, nor could not, displace or distort the statutory presumption in favour of the development plan established by s.38(6) of the PCPA 2004. Secondly, even where the tilted balance applies, the weight to be given to development plan policies is entirely a matter for the decision-maker. Thirdly, the weight which should be given to saved policies in a development plan is to be assessed by reference to their degree of consistency with paragraph 215 of the NPPF. Fourthly, other factors relevant to the weight to be given to policies in the development plan include the degree of shortfall in meeting the 5-year supply, as well as the prospect of development coming forward to make it up.

The weight that can be given to Policy EN2 of the adopted Local Plan and Policy PPL6 of the emerging Local Plan.

48. LP Policy EN2 is the only development plan policy cited in the defended reason for refusal. This policy and the definition of its boundary, dates from the 2007 LP. It is a policy of some age but was `saved` for the purposes of the current development plan by a direction from the SoS made on 2 September 2010. Whilst the policies in the LP are saved, the Council accepts that not all of them can carry full weight in the determination of planning applications. Paragraph 215 of the NPPF only allows decision makers to give due weight to relevant policies in existing plans according to their consistency with the NPPF.
49. The appeal site lies outside of the settlement development boundary as shown on the Proposals Map for Clacton and lies within the Local Green Gap. The LP states that the document covers the period up to 2011.¹⁷ Policy EN2 refers to `within the plan period`. It was recognised at the time and it is an issue that still pertains, that it would be necessary to release some land in green gaps in order to fulfil housing needs in the future. It was intended to be time limited and subject to review. It survived in its current form for this reason.
50. Policy EN2 relates to Local Green Gaps and seeks to keep the defined areas open, and essentially free from development. This precludes any development other than minor development which is identified in the policy. The object of this preclusion is to prevent the coalescence of settlements and to protect their rural settings. The Council says that the objective of Policy EN2 is consistent with the NPPF because it reflects the core planning principle, set out under paragraph 17, to take account of the different roles and character of different

¹⁷ Paragraphs 1.1 and 1.4 of CD2.1

areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it. In the Council's view Policy EN2 should be afforded significant/substantial weight in the light of recent appeal decisions.

51. The supporting text identifies the specific purpose of the Local Green Gap as safeguarding the unspoilt countryside between settlements to maintain a clear separation and distinction between the different characters of each and to preserve the views from both areas over this attractive countryside. These are matters that could bear upon the impact but they should not be read into the policy. Policy EN2 is a spatial policy and not a landscape policy. It should not be interpreted as justifying the preservation of the countryside for its own sake.
52. I accept that the fact that a particular development plan policy may be chronologically old does not make it irrelevant or out-of-date.¹⁸ Plainly it needs to be considered in the context of its continuing consistency with the NPPF having regard to the presumption in favour of sustainable development in paragraph 14 of the NPPF and the issue of consistency as set out in paragraph 215. It also needs to be considered in the light of the Council's more flexible approach to the Local Green Gaps expressed in ELP Policy PPL6 having regard to the changed national policy context and the separate fact that the Green Gaps are being reviewed to meet development needs. It is irrelevant for this purpose that those needs are housing needs and it is not being suggested that Policy EN2 is a policy for the supply of housing. It is noteworthy that following the decision in *Hopkins Homes*¹⁹ the main parties are agreed that Policy EN2 is not a policy for the supply of housing. I have no reason to take a different view.
53. The Council cannot demonstrate a 5-year supply of deliverable housing land and the shortfall is significant not marginal. I have calculated that there would only be 4.26 years supply. The shortfall is 717 units which, unlike the *Rush Green Road* decision where there was a 4.8 years supply, is a significant shortfall and means that significant weight or full weight cannot be afforded to Policy EN2.²⁰
54. Paragraph 14 of the NPPF provides that sustainable development:-
- "For plan making means that local planning authorities should positively seek opportunities to meet the development needs of their area and that Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in this Framework indicate development should be restricted"*
- Moreover, paragraph 15 of the NPPF provides that:-
- "Policies in Local Plans should follow the approach of the presumption in favour of sustainable development so that it is clear that development which is sustainable can be approved without delay. All plans should be based upon and reflect the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally".*
55. The current review of the Local Green Gaps and the changes that are proposed to the policy in terms of Policy PPL6 of the ELP indicate that its almost entirely

¹⁸ CD6.4 paragraph 40 (iii)

¹⁹ CD6.1

²⁰ CD5.7

preclusive nature is no longer appropriate for local circumstances and that in its current form, in this context, it is out-of-date. It is not enough, in my view, to assert that Policy EN2 is consistent with paragraph 17 of the NPPF insofar as it may be said to take into account the different roles and character of different areas. Its wholly preclusive nature imbues it with inflexibility and it inhibits development which would not materially offend its objectives and accords with the three dimensions of sustainability.

56. The Council considers that considerable weight should be afforded to Policy PPL6 due to the advanced stage of the ELP and by applying the applicable test in paragraph 216 of the NPPF. However, importantly, Mr Guiver conceded that, having regard to the different emphasis of Policy PPL6 in the ELP, Policy EN2 of the LP was inflexible and out of kilter with the flexible approach of the NPPF, and that it was drafted at a time when the context, language and approach of planning guidance was significantly different. Plainly Policy PPL6 is intended by the LPA to be more flexible in its drafting and effect. There is a permissive element to Policy PPL6 where there is a functional need for the development but it does not limit development to minor development.
57. With regard to the appeal decisions of previous Inspectors on this issue suffice it to say that these need to be treated with caution because each decision has been assessed on its own individual merits and I do not find a reference in any of them to the argument the Appellant is advancing in this case.
58. Drawing all of these threads together, as a matter of fact and degree, I conclude that the proposal is in conflict with Policy EN2 but it is out-of-date and should only carry moderate weight whilst recognising that its objectives remain relevant. Notwithstanding the more flexible emphasis in Policy PPL6, I conclude that it can only be afforded limited weight in this case. Although the ELP has progressed to Publication Draft stage, in the context of paragraph 216 of the NPPF, I understand there are unresolved objections to relevant policies and these will have to be scrutinised through the examination process.

The effect of the proposals on the character and appearance of the area and in particular, on the Local Green Gap between Clacton-on-Sea and Holland-on-Sea.

59. At the Inquiry the Council confirmed that the appeal site is not formally designated as Local Green Space in the LP, as provided for in paragraphs 76 to 78 of the NPPF.
60. For the Council it was argued that the proposed development would result in the loss of a significant area of open land (about 8.6 ha) within the designated Local Green Gap between Clacton-on-Sea (in particular Burrsville, Great Clacton) and Holland-on-Sea at its narrowest point where the threat of settlement coalescence is at its greatest. It is claimed that the proposed development would therefore undermine the fundamental purpose of the Local Green Gap policy as well as the specific objectives of the designation for this location as set out at paragraph 6.11 of the LP. In the Council's view the proposal would be contrary to Policy EN2 of the LP and paragraph 17 of the NPPF.²¹ I disagree with this view for a number of reasons.

²¹ Fifth core principle

61. Firstly, and importantly, the Appellant has carried out a Landscape and Visual Impact Assessment (LVIA) to assess whether or not the appeal site might be developed without significant detriment to the character or visual amenity of the surrounding area, or to the function of the Local Green Gap between Burrsville Park/Great Clacton and Holland-on-Sea. Mr Nourse accepted the LVIA evidence submitted by Mr Neesam. He did not carry out a similar assessment to justify his conclusions on the effect on the Local Green Gap. In my view, his conclusions are misplaced and it would appear, based on a misinterpretation of Policy EN2. It is not a policy for the protection of the countryside in its own right and it is not a landscape policy.
62. Secondly, the LVIA has demonstrated that, with the proposed planting in place, the appeal site could be developed in the manner proposed without significant residual effects on the character of the Local Green Gap and the setting of Burrsville Park and Holland-on-Sea and visual receptors in the surrounding landscape, including those travelling along Sladbury's Lane and the railway line, and those on the edge of adjacent settlements. At the Inquiry three viewpoints (G, H and I) were debated in detail. Viewpoints G and H are close to the site entrance whereas viewpoint I is about 500m north east of the appeal site near Smythie's Farm on Sladbury's Lane.
63. At viewpoint G, clear and close proximity views would be available of the new roundabout junction at the site entrance. Construction of this feature would require the removal of a section of hedge. From the rear windows of properties on the western side of Sladbury's Lane, many potential views would be blocked by garden vegetation. Only localised views would be available into the southern field and the proposed public open space. It is my view that there would be an effect on such views of Major-Moderate significance that would reduce to Moderate by year 10 as the proposed planting becomes established.
64. At viewpoint H, from Sladbury's Lane, there would be clear and close proximity views of the proposed roundabout junction together with the new residential area beyond, where not screened by the retained section of hedge bordering the northern side of Sladbury's Lane. From this viewpoint I consider that there would be an effect of Moderate significance from points on Sladbury's Lane looking west that would reduce to Minor by year 10 as the proposed planting along the eastern boundary becomes established.
65. Viewpoint I represents views from the western end of the public footpath that connects Holland-on-Sea to Sladbury's Lane. For most of the footpath, views of the proposed development would be screened by topography, but views would be available from the upper sections of the path, where it rises out of the valley. In the early years of the development, the new buildings would be visible in the middle distance. However, in future years, the proposed planting on the eastern boundary would increasingly filter and then eventually screen the development. I consider that there would be a residual effect of Major-Moderate significance which, by year 10 would reduce to Moderate adverse.
66. There is no viewpoint that would have a materially harmful impact on the setting of either settlement. Insofar as the development might be perceived, it would be perceived from Holland-on-Sea as part of Holland-on-Sea. The rural setting of Holland-on-Sea would still exist.
67. I consider that rail passengers travelling into and out of Clacton would experience a visual effect of Minor adverse significance that would continue to

reduce as the proposed planting around the perimeter of the site becomes established.

68. It is my view that changes to the landscape character would be limited and that they would be largely confined to the appeal site itself and its immediate environs, the character of which is already influenced by non-agricultural land uses including the neighbouring residential development and the Valley Farm Holiday Park, a line of pylons and the railway line. The visual envelope afforded by the site, a result of the local landform, its location adjacent to built development and the relative lack of potential visual receptors, means that changes at the site would have only limited influence on the perception of the wider landscape. Overall there would be no significant residual influence on the character of the appeal site and the surrounding area.
69. Thirdly, with regard to coalescence, it was agreed that the developed area of the appeal site (3.6 has) would represent about 2.71% of the total area of the Local Green Gap (133 has)²² and Mr Neesam confirmed there would be about a 153m distance including landscaping from the northern edge of the appeal site to the railway line. Moreover, it was agreed that there were no publically accessible points where the settlement edges of both Burrsville Park and Holland-on-Sea are visible together and where the appeal site forms a component of the view. It follows therefore that development of the appeal site in the manner proposed would not have an effect on the separation of the two settlements that Policy EN2 is seeking to protect in the vicinity of the appeal site. From the evidence that is before me, the proposal would not result in the coalescence of settlements with different character and would not result in an adverse impact on the intrinsic beauty of the countryside.
70. Fourthly, there was debate at the Inquiry as to the effects of the development in plan form. Mr Nourse argued that the proposal would result in an island of built development located in the centre of the gap between the two neighbourhoods. Mr Neesam considered the footprint would result in a rounding off of existing settlement edge and constitute a small infill between the Holiday Park and the residential area accessed from Sladbury's Lane. Plainly, the proposal would not bring housing into the very heart of the Local Green Gap. I accept that the appeal site is located at one of the narrower points of the Gap but I consider what matters is the influence exerted by the topography and the enclosing elements of the mature hedgerow structures. In reality, and confirmed by Mr Neesam's evidence, it is the wider, larger-scale tracts of arable land eastwards of the appeal site that serve the purpose of maintaining the separation of Burrsville Park and Holland-on-Sea and which display the least urban edge influences.
71. Fifthly, I note the findings of the Landscape Character Assessment (April 2009) which was prepared by AMEC to test the likely impact of housing development on different parcels of greenfield land including the role and function of Local Green Gaps. The study explored the effects that significantly larger development would have on the landscape of this particular Green Gap. It found that the Gap could accommodate such development:-

"Slight adverse landscape effects, based on development of most of the area, but with some open space in north eastern part and retention of existing vegetation" ²³

²² CD7.6

²³ CD3.5 Part 1 Appendix 4 Area 1/5

72. The AMEC report noted that some parts of Area 1/5 had more capacity than others to absorb residential development; the appeal site was one of these areas. Area 1/5's capacity to accommodate development was:-

"Medium to high for the southern part which has a strongly urban fringe character [i.e. the portion including the appeal site], medium for the remainder, which is more open and less affected by the existing urban edge". And. "The south eastern part is more enclosed, has a more pronounced urban fringe character and would not extend so far out into the gap between Clacton and Holland-on-Sea".²⁴

73. As I saw on my site visit the Holiday Park exerts an urbanising influence on the countryside and is perceived as a 'permanent' development, albeit it is not within the settlement boundary. The main parties agreed that the presence of this development was long term. The appeal site does not play a key role in the physical separation of the settlements of Burrsville Park and Holland-on-Sea or on the protection of their rural setting. Further I consider that the site could be developed in the manner proposed without comprising the open character of the wider portion of the Green Gap that does fulfil the separation functions. On this issue I conclude that the loss of the appeal site would not be unacceptably harmful to the character and appearance of the area or the Local Green Gap.

Planning Obligation

74. Policy QL12 of the LP requires development to be supported by the necessary infrastructure. Objectors have raised concern about the impact of additional homes on local infrastructure including local schools, healthcare provision, emergency services and transport.

75. Essex County Council (ECC) has concluded that the proposal would be acceptable from a highways viewpoint subject to conditions. These include upgrades to the nearest bus stops and the creation of footpaths, amongst other things, all of which I agree can suitably be controlled by planning conditions. No contributions are sought or can be justified in relation to these matters.

76. The Appellant has submitted a S106 Unilateral Planning Obligation (UU) which secures an education contribution, 30% of the dwellings to be affordable, on-site open space with a play area and a healthcare contribution. A Community Infrastructure Levy (CIL) Regulations 2011 Compliance Statement was also submitted by the Appellant.²⁵

77. In terms of education provision ECC advises that early years and childcare facilities and secondary schools in the catchment should be able to accommodate the number of children expected to be generated from the development. However, primary schools are operating at 100% capacity and a contribution is necessary to replace existing temporary accommodation with larger accommodation to cater for increased numbers at Holland Park Primary School. The contribution is based upon the formula set out in the ECC Education Developer Contribution SPD.

78. Policy HG4 of the LP requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. However, the Council's 2015 SHMA update

²⁴ Ibid

²⁵ CIL Compliance Statement CD7.7

recommends on grounds of both viability and overall need that the Council should be seeking 30% affordable housing. In the light of this new evidence, the Council's ELP Policy LP5 seeks 30% affordable housing on sites of 11 dwellings or more. Based on the most up-to-date evidence of housing need and viability, the parties agree that 30% affordable housing is the appropriate level to be secured through the UU.²⁶

79. Policy COM6 in the LP requires large residential developments to provide at least 10% of land as public open space or otherwise make financial contributions towards off-site provision. The indicative plans in support of the proposals show the provision of extensive areas of on-site open space, strategic landscaping areas, children's play areas and a Sustainable Drainage System (SuDS). The provision of these areas is required in order to make the development acceptable in planning and landscape terms in accordance with Policy COM6 of the LP. The financial contribution/commuted sum would be calculated on the precise nature and quantum of on-site provision so that it directly relates to the proposed development in accordance with the guidance contained within the Council's Supplementary Document on Open Space.
80. For health, many residents are concerned that additional housing and the associated population increase would put unacceptable strain on already overstretched health facilities. A financial contribution towards health provision is sought by NHS England which would be spent on capital projects to improve by way of refurbishment, extension or relocation and/or increase the provision (or capacity) of the healthcare facilities at any or all of the following: Great Clacton Medical Practice, Frinton Road Medical Practice, Old Road Medical Centre and Epping Close Surgery. The contribution would address some of the objections raised about the impact of 132 dwellings on local services.
81. The Council has confirmed that none of the obligations would conflict with Regulation 123 requiring that no more than 5 contributions are pooled towards any one specific infrastructure scheme.
82. Paragraph 204 of the NPPF and CIL Regulation 122(2) set out the 3 tests for seeking planning obligations: that they must be "*necessary to make the development acceptable in planning terms, directly related to the development; and fairly and reasonably related in scale and kind to the development*". The PPG also makes it clear that "*Planning obligations must be fully justified and evidenced*" and that they "*should not be sought where they are clearly not necessary to make the development acceptable in planning terms*".²⁷
83. In my view, all of the obligations in the UU are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Therefore they all meet the tests with CIL Regulations 122 and 123 and should be taken into account in the decision.

²⁶ SoCG INQ3 paragraph 6.8

²⁷ Paragraph :004 Reference ID: 23b -004-20150326

The planning balance: Whether the proposals comprise sustainable development as defined in the NPPF and whether the adverse impacts of approving the development would significantly and demonstrably outweigh the benefits.

84. Paragraph 7 of the NPPF identifies that there are three dimensions to sustainable development: economic, social and environmental roles. Paragraph 8 says that these roles must not be undertaken in isolation because they are mutually dependent. Therefore, to achieve sustainable development, economic social and environmental gains should be sought jointly and simultaneously through the planning system.

The economic role

85. The proposals would provide up to 132 new dwellings in an area where the deliverable supply is well below the minimum requirement for 5 years. The site is available now and there is no practical reason to prevent its construction in a reasonable timescale. Future residents would be likely to support local shops and other businesses bringing a substantial boost to consumer spending in their area. The site is within walking distance of many local facilities, increasing their attraction for future residents. The development would provide short-term jobs during the construction phase and provide a source of employees for established businesses in the area. These are all important economic benefits and should be afforded significant weight in terms of paragraphs 18 and 19 of the NPPF.

The social role

86. Concerning the social role the scheme would be able to help to deliver a strong, healthy and vibrant community with a range of house types and a significant number (about 40) of affordable homes. This would assist in meeting the affordable housing shortfall (around 200 dwellings in the first 5 years). This would accord with paragraph 50 of the NPPF and help to create an inclusive and mixed community. The affordable homes would be especially beneficial, given the known need.

87. The site is within close proximity to schools, community and recreational facilities and the town centre. It is well served by bus services enabling quick and convenient access to neighbouring towns and villages from the bus stops located within close proximity to the site. It is within reasonable walking, cycling and public transport distance to the railway station. The site would also deliver significant open space benefits. Whilst these would principally meet the needs of the development itself, there would nonetheless be potential benefits to existing residents of Holland-on-Sea. These are modest benefits to be added into the overall balance.

The environmental role

88. Although the appeal site is greenfield land it is nonetheless well contained within the wider landscape by existing development. The settlement edge is apparent from within the site, with development at Sladbury's Lane, development within Holland-on-Sea and caravans at Valley Farm Holiday Park clearly visible. As such, the character of the site is partially influenced by its

proximity to the urban area. The site is well contained to the west by the Valley Farm Holiday Park and to the south by a narrow strip of land containing further caravans, grass tennis courts, a bowling green and residential development beyond. There is residential development on the southern part of the eastern boundary albeit the northern part is bounded by arable land. The site would not result in an unacceptable intrusion into open countryside.

89. Despite the presence of some best and most versatile agricultural land, the Council raises no objections in this regard. The LVIA has demonstrated the capacity of the landscape to accommodate the development without significant detriment to its character and without significant adverse change to surrounding visual receptors. Whilst the development plan and the NPPF acknowledges the need to protect and enhance the natural environment, the loss here, would be minimised by the proposed landscape strategy. Existing trees and hedgerow losses would be kept to a minimum. A native hedgerow and standard trees are proposed to the northern boundary and a 10m wide landscape buffer comprising native woodland planting would be established on the eastern boundary. The proposed scheme also includes an area of public open space within the southern field and new tree planting. The landscape strategy would be capable of providing effective definition and containment.

Other Considerations

90. The Sladbury's Lane Protest Group, the Holland-on-Sea Residents Association, Ward Councillors and others have raised objections to the proposals. The views of these local groups and individuals largely reflect the views of the District Council. The loss of part of the Local Green Gap is a key part of their concerns. I have dealt with this matter under issues 2 and 3 above.
91. Some of the objectors are concerned about the loss of agricultural land as a result of the proposed development and the effect that this could have on future food production. The Agricultural Land Classification Map shows the appeal site to be a mix of Grade 3a/3b and 4. At best the site is Grade 3a – 'Good Quality' which is at the lower end of what is considered to be 'best and most versatile' agricultural land which is what national and local plan policy seeks to protect. The need for agricultural land has to be weighed alongside the projected need for housing and it is inevitable that agricultural land will be lost to make way for housing in this District. For this reason it would not be justified to refuse the proposal on a point of principle simply because it would result in the loss of agricultural land.
92. Many objections have been raised about the potential increase in surface water flooding that might arise as a result of the proposed development. It has been highlighted that when there are high levels of rainfall, Sladbury's Lane and Keswick Avenue are regularly flooded and the drainage system struggles to take the water away with properties in the vicinity of Picker's Ditch being particularly affected. The potential risk of flooding does not form part of the reasons for refusal. Although the site is predominantly in Flood Zone 1 (low risk) where the development is proposed for the housing, parts of the site are in Flood Zone 2 and 3. The NPPF, Policy QL3 in the LP and Policy PLA1 in the ELP still require any development proposal on a site larger than 1 ha to be accompanied by a site specific Flood Risk Assessment (FRA).

93. A FRA was submitted with the application and considered by ECC as the authority for sustainable drainage. ECC considers that a surface water drainage scheme has been proposed which demonstrates that surface water management is achievable in principle, without causing flooding on site or elsewhere subject to conditions relating to the submission and subsequent approval of a detailed Surface Water Drainage Scheme before the development can take place including management of maintenance of the SuDS into the future. The Appellant has demonstrated through the FRA that the development is capable of accommodating and discharging its surface water drainage in an acceptable manner, that conditions to require future maintenance are enforceable and are ultimately the responsibility of the landowner. With the planning conditions suggested by ECC the proposal accords with the NPPF and aforementioned local plan policies.
94. Representations have also been submitted in relation to access and traffic. In particular, it is stated that Sladbury's Lane is too narrow and vehicles have to mount the pavements to access the area with lampposts and bollards being knocked down. Reference is made to a 7.5 tonne HGV weight limit on the bridge on Sladbury's Lane. However, the proposal is accompanied by a Transport Assessment (TA) undertaken by Ardent Consulting Engineers who have considered the existing and post development impact in highways and traffic terms. As a result of their investigations and liaison with ECC Highways, the proposal allows for a number of highway improvements and enhancements, including for pedestrian and vehicular users.
95. Access to the development is proposed by means of a new 3-arm compact roundabout on Sladbury's Lane which has been demonstrated to have ample capacity to accommodate predicted traffic flows. As requested by ECC, the Appellant has assessed the operation of both off-site junctions and the level crossing in a future assessment year of 2020, allowing for projected background traffic growth and found that the additional vehicle trips associated with the proposed scheme would have a minimal impact on their operation. The Appellant was asked for further comment on the 7.5 tonne weight restriction and a note was provided for the Inquiry.²⁸ The concerns about the weight limit on the bridge on Sladbury's Lane can be dealt with by means of a planning condition. Parking is illustrated for residential units, including visitor spaces and community uses on the basis of 2 or 3 spaces per dwelling. Overall the impacts in traffic and transport terms would be acceptable and in accord with relevant policy including ELP Policy QL2 and LP Policy TR1A and the NPPF.
96. Paragraph 118 of the NPPF requires LPAs, when determining planning applications, to aim to conserve and enhance biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for, then planning permission should be refused. The Appellant submitted a Phase 1 Ecological Report that concludes that there are features of the site which may provide foraging, breeding and roosting habitat for protected species. This includes the site's trees and hedges, some of which are considered suitable for roosting and foraging bats and a nesting habitat for breeding birds.
97. CSA Environmental undertook additional ecological survey work in relation to bats, badgers, other mammals, birds, reptiles, greater crested newts and

²⁸ See CD7.5

arable plants. The findings of the above are presented in the Ecological Addendum and identifies any significant effects. Mitigation measures are proposed for reptiles (slow worm and common lizard) and bats (in respect of lighting). Based on successful implementation of the mitigation and enhancement measures detailed in the report, no significant adverse effects are predicted. I consider that the proposed mitigation and enhancement measures can be secured via an appropriately worded planning condition.

98. The Appellant has prepared a tree survey and has demonstrated through the indicative layout how important trees would be retained within the scheme.
99. LP Policy Q11 requires new development to be compatible with its surrounding land uses and to minimise adverse environmental impacts. There is the potential for noise impacts from customers of the adjacent Holiday Park to cause nuisance to future occupants of the appeal site and there is also concern about rail and road noise. However, the Appellant's Noise report concluded that the scheme would be situated at an appropriate distance from the railway line and no further buffer distance is required within the site boundary. Similarly, there would be no adverse impacts arising from the proximity to the road and the potential noise from the Holiday Park on future occupants of the appeal site is likely to be low. In my view both of these matters could be appropriately considered at the reserved matters stage.

Conclusions on sustainability and the planning balance

100. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
101. The three roles of sustainable development are mutually dependent. The proposal would deliver significant economic and social benefits; and the site would be in a generally sustainable location. Its negative impacts on the Local Green Gap would be minimal and capable of being offset by the landscape strategy; the loss of best and most versatile agricultural land would be of negligible consequence. Whilst the views of local people are an important consideration, the limited adverse impacts arising from the development would not significantly and demonstrably outweigh the very clear benefits of the scheme when assessed against the policies in the NPPF taken as a whole. I conclude that the development would comprise sustainable development.
102. In terms of the development plan it is agreed that the proposal is in conflict with development plan policy and in particular LP Policy EN2. However, it is an 'in principle' harm to the policy and there is no unacceptable impact on its objectives. For the reasons given above this policy cannot reasonably be considered up-to-date and can only be afforded moderate weight in terms of paragraph 215 of the NPPF. Although the proposal would accord with other LP policies I conclude that the proposal is in overall conflict with the development plan when read as a whole.
103. However, the other material considerations in this case indicate otherwise i.e. that planning permission should be granted. There is no unacceptable harm to the policy objectives of Policy EN2. The 'in principle' harm to the policy is

notional and clearly outweighed by the benefits of the scheme which is in every other respect sustainable. In this regard the provision of market and affordable housing is afforded significant weight. I have found that the Council is unable to demonstrate a clear and robust 5-year supply of housing land. Whilst I recognise the positive steps the Council is taking towards addressing the shortfall, in the context of the lack of a 5-year supply, I find the shortfall to be significant and not marginal. There are no significant and demonstrable harms to outweigh the presumption in favour of sustainable development which applies here. The proposal provides positive advantages in accordance with the three dimensions of sustainability. In coming to this view I have given significant weight to the general public interest in having plan-led planning decisions even if particular policies in the development plan might be old.²⁹

Conclusion

104. Returning to the main issues identified at the beginning of this decision, the determining factors leading to my decision are:- the Council does not have a 5-year supply of deliverable housing land and the tilted balance set out in paragraph 14 of the NPPF is triggered; Policy EN2 of the LP is out of date and can only be given moderate weight in the assessment; the proposal would not be unacceptably harmful to the character and appearance of the area or the Local Green Gap; the proposal can be considered sustainable when assessed against the policies in the NPPF taken as a whole; and as the Council is unable to demonstrate a 5-year supply of deliverable housing land, there are no material considerations which would significantly and demonstrably outweigh the benefits of the scheme. I shall therefore allow the appeal.

Planning Conditions

105. I have considered the conditions suggested by the Council³⁰ in the light of the advice in paragraphs 203 and 206 of the NPPF, the model conditions retained at Appendix A of the cancelled Circular 11/95 and the Government's PPG on the use of planning conditions.
106. As this is an outline application, Conditions 1-3 are necessary to comply with statutory timescales and to secure reserved matters. Condition 4, with the substituted plan numbers, is necessary to determine the scope of the application. The development is to be carried out in accordance with the indicative site layout plan and the proposed built development parameters plan. Condition 5 is necessary for the avoidance of doubt. I have amended the wording of this condition in the interests of clarity. The development is not to exceed 132 dwellings.
107. Condition 6 which relates to a Construction Method Statement is necessary given the size of the site, the proximity of nearby dwellings and the duration of construction works. I have amended the wording of the suggested condition in the light of discussion and the guidance in paragraph 206 of the NPPF. Conditions 7-8 are necessary in the interests of highway and pedestrian safety and to reflect the national policy aim of achieving the fullest possible use of public transport, walking and cycling.

²⁹ CD6.4

³⁰ INQ4

108. Conditions 9-12 are necessary to ensure satisfactory disposal of foul and surface water drainage, to reduce the risk of flooding arising from the development and to make sure that appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Conditions 13-18 are necessary in the interests of visual amenity, the character and appearance of the area and the Local Authority's policies in respect of open space provision.
109. Condition 19 is required to safeguard the biodiversity interest within the site. Condition 20 is required to ensure a satisfactory development in relation to external appearance. Condition 21 is necessary to ensure the development is able to be equipped with high speed broadband to enable opportunities for web-based communication and homeworking. Condition 22 is necessary to promote and encourage the recruitment of employees and other staff in the locality of the application site. I have deleted the phrase in the suggested condition which refers to "reasonable endeavours" in the light of guidance in paragraph 206 of the NPPF. Condition 23 is necessary to avoid damage to the weak bridge crossing Picker's Ditch, in the interests of highway and pedestrian safety and to minimise noise and disturbance to local residents.

Conclusion

110. Having considered these and all other matters raised I find nothing of sufficient materiality to lead me to a different conclusion. The appeal is therefore allowed subject to the conditions set out in the attached Schedule.

Harold Stephens

INSPECTOR

SCHEDULE OF PLANNING CONDITIONS (1-23)

- 1) The approval of Reserved Matters must be submitted before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be begun before the expiration of 2 years from date of approval of the last of the Reserved Matters to be approved.
- 3) No development shall be commenced until plans and particulars of "the Reserved Matters" referred to in the following conditions relating to appearance, access, layout, scale and landscaping have been submitted to and agreed in writing by the Local Planning Authority. Landscaping details shall show those trees to be retained including (but not restricted to) those trees protected by a Tree Preservation Order. The development shall be carried out in accordance with the approved details.
- 4) The reserved matters shall be in general conformity with the indicative site layout plan Drawing No: 256.201.02 and the proposed built development parameters plan Drawing No: 256.213.02.
- 5) The development hereby approved shall be for no more than 132 dwellings.
- 6) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority; and the approved statement shall be adhered to throughout the construction period. The statement shall provide for:
 - (a) the hours of work;
 - (b) the parking of vehicles of site operatives and visitors;
 - (c) loading and unloading of plant and materials;
 - (d) storage of plant and materials used in constructing the development;
 - (e) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - (f) wheel washing facilities;
 - (g) measures to control the emission of dust and dirt during construction;
 - (h) a scheme for recycling/disposing of waste resulting from construction works;
 - (i) means of protection of trees and hedgerows during site preparation and construction;
 - (j) access arrangements for emergency vehicles during the construction phase; and
 - (k) an HGV routing plan.
- 7) No dwelling shall be occupied until the following have been provided or completed in complete accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority:
 - (a) a roundabout in Sladbury's Lane to provide access to the proposal site as shown in principle on the planning application drawings;
 - (b) upgrades to the two bus stops on the B1032 Holland Road to the west of its junction with Sladbury's Lane;

- (c) the widening (and provision of dropped kerbs/tactile paving crossing points) of the footway on both sides of Sladbury's Lane to a minimum of 2 metres where possible between the proposed site access roundabout and the B1032 Holland Road; and
 - (d) residential travel information packs
- 8) No dwelling shall be occupied until a spine road between the site access roundabout, the site's south west boundary and north west boundary of a minimum carriageway width of 6.75 metres with a minimum 2 metre wide footway on one side and a minimum 3 metre wide footway/cycleway on the other has been provided in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority.
- 9) No development shall commence until details of a Foul Water Drainage Scheme has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the works have been carried out in accordance with the Foul Water Drainage Scheme so approved.
- 10) No development shall commence until a Surface Water Drainage Scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented prior to the occupation of any dwelling. In particular the scheme shall provide for the following mitigation measures outlined in the Flood Risk Assessment:
- (a) control all the surface water run-off generated within the development for all events up to and including the 1 in 100 year event plus 30% climate change;
 - (b) provide a detailed hydraulic model with the entire SuDS features, including the pond and the pipe network cascaded together showing the combined effect of the design in meeting both the water quantity and water quality criteria;
 - (c) the sizing of the SuDS features should be based on limiting the runoff from the development to the 1 in 1 greenfield rate, and should be based on the area contributing to SuDS, any open spaces not contributing to SuDS should be discounted in the runoff calculations;
 - (d) run-off management within the site must prioritise the use of SuDS both as a means of water conveyance and to provide source control, water quality treatment and bio-diversity enhancement;
 - (e) provide evidence of water quality treatment from the development using the risk based approach as outlined in the CIRIA SuDS manual C753;
 - (f) provide a plan showing the final exceedance flow paths; these should be away from any building; and
 - (g) provide details of the adoption and routine maintenance of the SuDS features including the maintenance of the outfall to the ditch downstream of the pond.

The mitigation measures shall be fully implemented prior to the occupation of any dwelling and subsequently in accordance with the timing/phasing arrangements embodied within the Surface Water Drainage Scheme, or within

any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

- 11) No development shall commence until a Maintenance Plan has been submitted to and approved in writing by the Local Planning Authority. The Maintenance Plan shall detail the maintenance arrangements including who is responsible for different elements of the surface water drainage scheme and the maintenance activities/frequencies. The Maintenance Plan shall be implemented and carried out in accordance with the details as approved.
- 12) The Applicant must maintain yearly Maintenance Logs of maintenance which shall be carried out in accordance with the approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.
- 13) No development shall commence until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction."
- 14) All changes in ground levels in relation to the soft landscaping, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.
- 15) No development shall commence until a Landscape Management Plan, including long term design objectives, management responsibilities and maintenance schedules for all landscaped areas, other than small, privately owned domestic gardens, has been submitted to and approved in writing by the Local Planning Authority. The Landscape Management Plan shall be carried out as approved in accordance with the details and the timescales in the plan.
- 16) No development shall commence until details of existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill for each phase, have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the agreed scheme.
- 17) No development shall commence until details of the public open space/sports field (including a timetable for their completion) and a Management Plan for the maintenance of the public open space/sports field (if not transferred to the Council) have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided in their entirety

and made available for use in accordance with the agreed timetable and thereafter retained for public use unless the Local Planning Authority agrees in writing to a variation.

- 18) No development shall commence, including any works of demolition, until a Tree/Root Protection Plan has been submitted to and approved in writing by the Local Planning Authority and shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction. The approved Tree/Root Protection Plan shall be adhered to throughout the construction and occupation period of the hereby permitted development.
- 19) All development shall be carried out in accordance with the recommendations set out in the Ecology Appraisal, dated December 2013, and the Ecology Addendum Reference CSA/2269/03 dated June 2016 prepared by CSA Environmental Planning.
- 20) No development shall commence until precise details of lighting, refuse storage/collection points; the manufacturer and types and colours of the external facing and roofing materials; and all areas of hard surfacing to be used in the construction have been submitted to and approved, in writing, by the Local Planning Authority. Such lighting, refuse points and materials so approved shall be those used in the development.
- 21) No dwelling shall be occupied until a fibre optic broadband connection installed on an open access basis and directly accessed from the nearest exchange, incorporating the use of resistant tubing, has been installed at the site, in accordance with details that shall be submitted to and approved, in writing, by the Local Planning Authority. If the applicant is unable to achieve this standard of connection, and can evidence through consultation that this would not be possible, practical or economically viable an alternative superfast (i.e. will provide speeds greater than 24mbps) wireless service will be considered acceptable.
- 22) No development shall commence until a Local Recruitment Strategy has been submitted to and approved in writing by the Local Planning Authority. The Local Recruitment Strategy shall include details of how the applicant/ developer shall promote and encourage the recruitment of employees and other staff in the locality of the application site, for the construction of the development. The Local Recruitment Strategy shall thereafter be implemented and carried out in accordance with the details as approved.
- 23) No vehicle weighing 7.5 tonnes or more related to the construction of the development shall access or leave the site via the southern section of Sladbury's Lane between the site and its junction with Frinton Road.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:	
Robert Williams (of Counsel)	Instructed by Linda Trembath, Senior Solicitor Tendring District Council
He called	
Neil McDonald BA	NM Strategic Solutions Ltd
Gary Guiver BSc (Hons) DipTP MRTPI MBA	Planning Manager with the Council
Graham Nourse BA (Hons) MRTPI	Planning Consultant acting on behalf of the Council
FOR THE APPELLANT:	
Paul Shadarevian QC	
He called	
Sam Hollingworth MA MRTPI	Associate Planner at Strutt and Parker
Simon Neesam BA (Hons) Dip LA CMLI	Director The Landscape Partnership
Trevor Dodkins BSc (Hons) DipTP MRTPI	Director Phase 2 Planning
INTERESTED PERSONS:	
Councillor Colin Winfield	Holland Residents Association
Councillor Joy Broderick	Haven Ward
David Emmerson	Holland Residents Association
Daphne Chaplin	Local resident

DOCUMENTS LIST

Inquiry Documents

	Inquiry Documents
INQ1	Notification letter
INQ2	Letters of representations
INQ3	Statement of Common Ground
INQ4	List of Suggested Planning Conditions
INQ5	Unilateral Undertaking

Core Documents

	National Planning Documents, National Guidance and Legislation
CD1.1	National Planning Policy Framework 2012
CD1.2	National Planning Practice Guidance
	Local Plan Documents
CD2.1	Tendring District Local Plan 2007 + Proposals Maps
CD2.2	Tendring District Local Plan 2013-2033 and Beyond – Publication Draft + Policies Map
	Local Plan Technical Documents
CD3.1	Objectively Assessed Housing Needs Study (November 2016)
CD3.2	Strategic Housing Market Assessment (Part 2) (2015)
CD3.3	Strategic Housing Land Availability Assessment (October 2014)
CD3.4	Landscape Character Assessment Parts 1 & 2 (2001)
CD3.5	Landscape Impact Assessment Parts 1 & 2 (2010)
CD3.6	Review of Green Wedge Policy (2003)
	Local Plan Committee Reports
CD3.8	Report to 3 rd November 2016 Local Plan Committee: Evidence Update
CD3.9	Report to 12 th June 2017 Local Plan Committee: A1 – Housing Supply and Housing Trajectory
	Planning Application Documents
	<u>Plans - application</u>
CD4.1	256_214_0.0_As Existing Site Location Plan_A1_e
CD4.2	256_213_Prop Parameters plan_0.0_A0_p (substituted by 256-213_02)
	<u>Plans – illustrative</u>
CD4.3	256_200_Prop Site Layout Plan_0.0_p (substituted by 256_201_02)
CD4.4	256_201_0.0_Prop House Type One_A3_p
CD4.5	256_202_0.0_Prop House Type Two_A3_p
CD4.6	256_203_0.0_Prop House Type Three_A3_p
CD4.7	256_204_0.0_Prop House Type Four_A3_p
CD4.8	256_205_0.0_Prop House Type Five_A3_p
CD4.9	256_206_0.0_Prop House Type Six_A3_p
CD4.10	256_207_0.0_Prop House Type Seven_A3_p
CD4.11	256_208_0.0_Prop House Type Eight_A3_p
CD4.12	256_209_0.0_Prop House Type Nine_A3_p
CD4.13	256_210_0.0_Prop House Type Ten_A3_p
CD4.14	256_211_0.0_Prop House Type Eleven_A3_p
CD4.15	256_212_Prop Street Scenes_0.0_p
	<u>Reports</u>
CD4.16	Tree Survey Report
CD4.17	Tree Survey Plan

CD4.18	Tree Survey Tree Protection Plan
CD4.19	Design and Access Statement
CD4.20	CSa Ecology Report
CD4.21	Ecology Addendum Report
CD4.22	Flood Risk Assessment R980-02 FRA Rev A April 2016 – report
CD4.23	Flood Risk Assessment R980-02 FRA Rev A April 2016 - Appendices A-D
CD4.24	Flood Risk Assessment R980-02 FRA Rev A April 2016 - Appendices E-G
CD4.25	Noise Impact Assessment – Final
CD4.26	Planning Statement
CD4.27	Supplemental Planning Statement - Green Gap Policy EN2 26-01-15
CD4.28	Transport Assessment Report
CD4.29	Transport Assessment Appendices A_B
CD4.30	Transport Assessment Appendix C
CD4.31	Transport Assessment Appendix D
CD4.32	Transport Assessment Appendices E_K
CD4.33	Utilities Statement
	<u>Decision</u>
CD4.34	Committee Report 09-08-16
CD4.35	Decision Notice 11-08-2016
	Appeal Decisions
CD5.1	APP/P1560/W/15/3124764 Harwich Road, Little Oakley
CD5.2	APP/P1560/W/15/3007993 Kirby Road, Great Holland
CD5.3	APP/P1560/W/16/3150967 Thorpe Road, Kirby Cross
CD5.4	APP/P1560/W/15/3140113 Halstead Road, Kirby Cross
CD5.5	APP/P1560/W/16/3156070 The Street, Little Clacton
CD5.6	APP/P1560/W/16/3164552 Elm Farm, Clacton
CD5.7	APP/P1560/W/16/3145531, APP/P1560/W/16/3156451, APP/P1560/W/15/3140113 Rush Green Road, Clacton
CD5.8	APP/P1560/W/16/3164169 Centenary Way Clacton (Not available).
CD5.9	SoS Decision APP/R060/W/15/3128707 Abbey Road, Sandbach, Cheshire
CD5.10	SoS Decision APP/N2535/W/16/3146208 Ryland Road, Dunholme, Lincoln
CD5.11	APP/P1560/W/17/3172332 The Street, Bradfield
CD5.12	APP/P1560/W/17/3173478 Chequers Road, Little Bromley
	Legal Judgements
CD6.1	2016 EWCA 168 Suffolk Coastal v Hopkins Homes & Richborough Estates v Cheshire East
CD6.2	Supreme Court Judgement following the above.
CD6.3	2014 EWHC 754 Bloor Homes v SoS v Hinckley and Bosworth Borough Council
CD6.4	2016 EWCA Civ 1146 Gladman v Daventry District Council v SoS

	Additional Documents Submitted to the Inquiry by the Appellant
CD7.1	Letter from Arebray Development Consultancy dated 7 th August 2017
CD7.2	Identifying Broad Locations for Potential Settlement Expansion
CD7.3	Extract from 2010 Core Strategy and Development Policies Document
CD7.4	Extract from ELP Preferred Options Consultation Document July 2016
CD7.5	File Note regarding 7.5 tonne weight restriction on the bridge in Sladbury's Lane
CD7.6	File Note on measurements and percentages in Local Green Gap
CD7.7	CIL Compliance Statement
CD7.8	Closing Submissions
CD7.9	Derivation of Tendring District Council's Housing Requirement
CD7.10	Note from Phase 2 on housing supply
	Additional Documents Submitted to the Inquiry by the Council
CD8.1	Opening Statement by the Local Planning Authority
CD8.2	Closing Submissions
CD8.3	Derivation of Tendring District Council's Housing Requirement
CD8.4	Note from Tendring District Council on housing supply