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**A SPECIAL MEETING OF THE COUNCIL** of the Borough of Castle Point will be held in the **Council Chamber, Council Offices, Kiln Road, Thundersley**, on **WEDNESDAY, 15TH JUNE 2022 at 7.30p.m or on the rising of Cabinet whichever is later NB Time** and all Members of the Council, listed below, are hereby summoned to attend to transact the undermentioned business.

Councillors, M.A Tucker (The Worshipful the Mayor), Ms L. McCarthy-Calvert,(Deputy Mayor), A. Acott, Ms S.A Ainsley, J. Anderson, Ms H.L Barton-Brown, D. Blackwell, Mrs. J.A Blissett, K. Bowker, B. Campagna, S. Cole, J.M. Cutler, M. Dixon, A.E Edwards, Mrs. B. Egan, E. Egan, M. J Fuller, T.Gibson, W. Gibson, P.C. Greig, S. Hart, N. Harvey, G.I. Isaacs, C.A. MacLean, P. May, S Mountford, C. Mumford, Mrs. S. Mumford, B.A. Palmer, J.A. Payne, Mrs. J Payne, C.R Riley, Mrs. C.J Sach, R. Savage, T.F. Skipp, A. Taylor, D.J. Thomas, A. Thornton, Mrs. J Thornton, Walter and G.St.J. Withers

**Rob Tinlin**  
**Interim Chief Executive**

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## **AGENDA**

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### **PART I**

**(Business to be taken in public)**

**1. Apologies for absence**

**2. Members' Interests**

**3. Notice of Motion**

At the meeting of Ordinary Council on 23 March 2022, the Motion set out below was deferred without debate to the next Ordinary Council for a report to Cabinet as the Motion had budget implications Council Procedure Rule 13 applied.

Cabinet having considered the attached report at the meeting held earlier this evening, the Motion has been brought before the Council at the earliest opportunity for debate, time being of the essence.

*The Local Plan examination has now been completed and in the event of the Local Plan not being adopted we call on the Council to start work immediately on a new Local Plan that reflects the central government stated aim to protect and preserve the precious green belt in our local area. A priority of this new Local Plan would be to produce a target housing number that genuinely reflects local need. As this housing target will be lower than previous*

*proposals this must be supported by robust evidence. All housing developments should prioritize brownfield development. We hope that in the interests of our borough this motion is supported on a cross party basis.*

The Motion was moved by Councillor Warren Gibson and was seconded by Councillor Mountford.

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CABINET

15TH JUNE 2022

**Subject:** Report on Notice of Motion regarding the Castle Point Local Plan

**Cabinet Member:** Interim Chief Executive, Section 151 Officer and Head of Place and Policy

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**1. Purpose of Report**

To set out a response to and implications of the Motion:

*'The Local Plan examination has now been completed and in the event of the Local Plan not being adopted we call on the Council to start work immediately on a new Local Plan that reflects the central government stated aim to protect and preserve the precious green belt in our local area. A priority of this new Local Plan would be to produce a target housing number that genuinely reflects local need. As this housing target will be lower than previous proposals this must be supported by robust evidence. All housing developments should prioritize brownfield development. We hope that in the interests of our borough this motion is supported on a cross party basis.'*

**2. Links to Council's Priorities and Objectives**

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

**3. Recommendations**

That Cabinet notes the implications of the Motion and refers this report to Council to inform debate on the Motion

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**4. Background**

**Notice of Motion**

- 4.1 At the Ordinary Council on 23rd March 2022 the Motion in respect of the new Castle Point Local Plan set out below was deferred without debate for a report

to Cabinet on the Motion to consider the implications and report Council Rule 13 applied. The Motion as published was:

Councillor Gibson has given notice of the following:

*'The Local Plan examination has now been completed and in the event of the Local Plan not being adopted we call on the Council to start work immediately on a new Local Plan that reflects the central government stated aim to protect and preserve the precious green belt in our local area. A priority of this new Local Plan would be to produce a target housing number that genuinely reflects local need. As this housing target will be lower than previous proposals this must be supported by robust evidence. All housing developments should prioritize brownfield development. We hope that in the interests of our borough this motion is supported on a cross party basis.'*

*The Motion is to be seconded by Councillor Mountford'*

### **The New Castle Point Local Plan**

- 4.2 The current Development Plan for Castle Point is the Castle Point Local Plan which was adopted in 1998. That plan ran to 2001 and was prepared prior to the 2004 Act, which established the 'new style' local plan based on a local development framework.
- 4.3 The 2004 Act did allow for local planning authorities with recently adopted 'old-style' local plans to save policies, which met the objectives of national policy at that time. In 2007 the Council saved some of the Policies in the 1998 Local Plan.
- 4.4 The Council is currently in a position of not having an up-to-date local plan in place. National policy changed in 2012 with the National Planning Policy Framework, and an out-of-date Local Plan puts the Council at risk of not be able to defend against inappropriate development, including on appeal.
- 4.5 On 22nd October 2019 the Council agreed to proceed with the publication of the Pre-Submission Local Plan and submit the Plan for examination, following a period of public consultation.
- 4.6 The Plan was submitted for examination in October 2020. The Inspector, Mr Philip Lewis, held hearings in May and June 2021 and issued his post hearings letter in September 2021, in which he concluded that *'Overall, I consider that, subject to main modifications, the Plan is likely to be capable of being found legally compliant and sound.'* He further stated in that paragraph that he *'will set out my reasoning for this in my final report.'*
- 4.7 Following consultation on the proposed main modifications, and the Inspector's consideration of responses to the main modifications, he published his final report on 3rd March 2022. In paragraph 220 of his Report, the Inspector, Mr Philip Lewis, concluded that:

*'The Council has requested that I recommend MMs [Main Modifications] to make the Plan sound and/or legally compliant and capable of adoption. I*

*conclude that the duty to cooperate has been met and that with the recommended main modifications set out in the Appendix the New Castle Point Local Plan satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.'*

4.8 The Inspector's report together with a final version of the new Local Plan, the Sustainability Appraisal, Habitats Regulations Assessment and the Equalities Impact Assessment were reported to Ordinary Council on 23rd March 2022, with the recommendation that the new Local Plan be adopted.

4.9 The Council voted not to adopt the new Local Plan.

4.10 Recommendation 8 of the report for 23 March 2022, said:

*'In the event that recommendation 2 [to adopt the plan] is not agreed, that a report be made to a future meeting of the Council.'*

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

### **The report**

5.1 The Motion before Cabinet is:

*'The Local Plan examination has now been completed and in the event of the Local Plan not being adopted we call on the Council to start work immediately on a new Local Plan that reflects the central government stated aim to protect and preserve the precious green belt in our local area. A priority of this new Local Plan would be to produce a target housing number that genuinely reflects local need. As this housing target will be lower than previous proposals this must be supported by robust evidence. All housing developments should prioritise brownfield development. We hope that in the interests of our borough this motion is supported on a cross party basis.'*

### **The new Castle Point Local Plan ("unadopted plan")**

5.2 The current adopted Local Plan is the Castle Point Local Plan 1998. That Plan will remain as the development plan until a new plan, which replaces it, is adopted. The intention with the new Castle Point Local Plan was that the new plan would replace the 1998 Plan in its entirety on adoption.

5.3 Any new local plan under preparation going forward will grow in weight as a material planning consideration as it is progressed but will not carry full weight until it has been examined, found sound **and** adopted. As the situation currently stands, the unadopted local plan is a significant material planning consideration as it has been examined and found sound.

### **The Motion**

- 5.4 The Motion as drafted suggests that the Council should in the event of non-adoption of the local plan, prepare a new local plan that, in summary:
- a) protect and preserve the precious green belt in our local area;
  - b) produce a target housing number that genuinely reflects local need. As this housing target will be lower than previous proposals this must be supported by robust evidence.
  - c) Prioritise brownfield development.
- 5.5 This report takes each in turn. However, there is a logical sequence in the preparation of a plan on those principles namely to:
- a) assess local housing need;
  - b) assess the urban capacity; and
  - c) assess the need for green belt sites.

This report will, therefore, follow that sequence.

### **Assess local housing need**

- 5.6 The report in response to the motion by Councillor Mountford that was considered at Council on 23 March 2022, sets out in detail background on housing numbers for the borough. This can be found in paragraphs 5.52 to 5.66 at:

<https://www.castlepoint.gov.uk/download.cfm?doc=docm93jjm4n6508.pdf&ver=10444>

- 5.7 The Government state in paragraph 61 of the NPPF:

*'To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals.'*

- 5.8 The Standard methodology is, therefore, the starting point. It will be for the Council to justify an alternative approach and prove that exceptional circumstances apply. The further below the Standard Methodology target the Council plans for, greater the risk of a plan being found unsound. In addition, the Council will still need to demonstrate where any unmet need will be accommodated.
- 5.9 The Council will need to commission an assessment of housing need that is independent of the standard methodology, but robust enough to be successfully examined and found sound. The methodology of determining objectively assessed needs verifiable data on population (the 2021 Census may be available) and household formation projections. It will also need to take account of affordability, concealed households and inward and outward migration, economic and jobs growth within the Borough and surrounding area (out commuting) and other factors.

- 5.10 The standard methodology is based on the 2014 Household Projections (ONS) which have been updated since. The most recent projections (2018) show the projected number of households to be lower than the 2014 projections. Therefore, a new assessment will need to test both the 2014 and 2018 household projections. There is a potential argument to central Government that the 2014 household projections should not be used. However, this is not an easy argument, as it does not necessarily deal with economic growth and the needs of concealed households.
- 5.11 The Council will need to commission this work through a specialist consultant. However, as with all local plan evidence, it must be independently prepared and a robust examination of all the data and evidence rather than having a pre-determined conclusion. It will be for the Council to decide how that evidence is used and whether the development needs can be accommodated within the borough. Unmet need will have to be met elsewhere, however.
- 5.12 An independent assessment was prepared for the unadopted local plan. The South Essex Strategic Housing Market Assessment (SHMA) in 2017 concluded that the housing need for the Borough was 311 dwellings per annum. However, that was prepared prior to the introduction of the standard methodology. The South Essex planning authorities have commissioned a new SHMA: this will provide a starting point for assessing need in Castle Point.
- 5.13 The housing needs assessment will also need to set out what type of dwellings are required. This will take into account demographics; the housing register; aspirations for those seeking a new home; the needs of concealed households; and specialised housing, amongst others. This will provide the Council with a target for affordable housing and housing mix.
- 5.14 The housing mix requirements affects the potential site selection and densities. The unadopted plan set a target of up to 40% affordable housing and a balance of 68% houses, 25% bungalows and 7% flats: as well as 22% two-bed homes, 43% three-bed, and 29% four or more bed.

### **Assess the urban capacity**

- 5.15 Running alongside an assessment of need, work will need to be undertaken on a new urban capacity assessment. This will incorporate the findings of the previous assessments; a call for sites to demonstrate that the sites are deliverable; a sustainability appraisal of each site; and an appraisal of whether the sites are developable, and for what scale of development.
- 5.16 Urban land is a finite resource, in particular brownfields urban land. Each year the Council must publish a Register of Brownfield sites. Those sites are already factored into the housing supply contributing an estimate 179 homes.
- 5.17 In addition, the unadopted plan includes a total of 272 homes on policy compliant sites – small sites in the urban area – and a windfall allowance of 600 (sites not yet identified).

- 5.18 The unadopted plan also includes allocations on brownfield and urban sites totalling 1,272 units.
- 5.19 Together with extant permissions (as at 1 April 2021) the above suggest an urban capacity (and non-urban extant permissions) of 2,323 dwellings. This would be the baseline for a new study.
- 5.20 However, in order to achieve the standard methodology target this is not enough. It may also be insufficient to meet an independently assessed need. In such a scenario the urban capacity study will need to consider the implications of achieving higher figures within urban areas. This could be in the form of higher densities. What must be borne in mind, however, is that higher densities are usually in the form of flatted development, but current evidence suggests that only 7% of the new homes requirement is for flats. This is something that the new evidence will need to test.
- 5.21 Alongside this work and the preparation of a new local plan, viability assessments will be undertaken, and a new infrastructure delivery plan prepared. The evidence prepared to support the Community Infrastructure Levy (CIL) concluded that brownfield sites are less viable which may mean it is not possible to secure high levels of affordable housing, and large infrastructure contributions.

#### **Assess the need for Green Belt sites**

- 5.22 The report in response to the Motion by Councillor Mountford that was considered at Council on 23 March 2022, sets out in detail background on housing numbers for the Borough. This can be found in paragraphs 5.39 to 5.51 at:

<https://www.castlepoint.gov.uk/download.cfm?doc=docm93jjm4n6508.pdf&ver=10444>.

- 5.23 National policy is clear (NPPF paragraph 140):

*‘Once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans.’*

And (NPPF paragraph 141):

*‘Before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic policy-making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. This will be assessed through the examination of its strategic policies, which will take into account the preceding paragraph, and whether the strategy:*

- a) *makes as much use as possible of suitable brownfield sites and underutilised land;*



- b) *optimises the density of development in line with the policies in chapter 11 of this Framework, including whether policies promote a significant uplift in minimum density standards in town and city centres and other locations well served by public transport; and*
- c) *has been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development, as demonstrated through the statement of common ground.'*

- 5.24 Even though an objective of a new plan is to protect the green belt from development, in order to demonstrate that there is no need for green belt allocations and such an approach is sound, the tests outlined above will need to be satisfied.
- 5.25 Members also need to note that if the objective is to protect the green belt, that will include all of the green belt. Whilst it is not the objective of a local plan examination Inspector to allocated additional sites, if the Council does not have clear evidence the Inspector may find the plan unsound or ask the Council to find land for additional development. If that means that a limited green belt release, is required, then a green belt review will be required of all of the borough.
- 5.26 Part c of paragraph 141 of the NPPF, implies that where need cannot be met that through discussions with neighbouring authorities need could be met elsewhere. However, through duty to cooperate, nearby local authorities have advised that they are not prepared to accept any unmet need and similarly experienced the same issue in making their own plans. Indeed, through duty to cooperate they have asked Council officers, if Castle Point would be willing to take any of their unmet need. This has been resisted.
- 5.27 A new plan that does not meet housing need (as defined by the standard methodology) and in order to meet that need does not allocate sufficient land, including green belt, will be subject to objections for landowners, housebuilders and developers. The most robust argument in favour of the Council's approach will be needed.

## **6. Implications**

### **Status of the unadopted plan**

- 6.1 Preparation of a new local plan has significant implications for the unadopted plan. The Motion does not specifically call for the withdrawal of the unadopted local plan. However, in order to prepare a new local plan and have that plan examined, the unadopted plan would have to be withdrawn. The options and implications for doing so, are set out below.
- 6.2 The Planning and Compulsory Purchase Act 2004 ("the 2004 Act") states in section 22 that:

## *'22 Withdrawal of local development documents*

- (1) *A local planning authority may at any time before a local development document is adopted under section 23 withdraw the document.'*

Section 23 refers to the powers of an authority to adopt a local plan.

- 6.3 It is, therefore, permissible for a Council to withdraw a plan prior to adoption, although it should only be done in consideration of all of the risks.
- 6.4 Withdrawing a local plan to prepare a new plan has very significant implications:
- a) The Council will not have an up-to-date local plan in place. This means that decisions on planning applications will have to take into account the 1998 Plan and the NPPF.

Planning law is clear, as set out in paragraph 2 of the National Planning Policy Framework (NPPF) that:

*'Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.'*

If the unadopted plan is withdrawn, that plan ceases to be a material consideration, as it effectively no longer exists.

As a consequence, the Council will have less control through an up-to-date suite of policies to ensure that development proposals provide maximum benefit for the Borough and minimum harm and to most effectively secure affordable housing and infrastructure. The NPPF does provide significant obligations on developers, it does not set local thresholds for things such as affordable housing, which the government expects local plans to do.

Withdrawing the plan does not mean that speculative developments will cease or that planning applications for sites allocated in the unadopted plan will not be submitted. Some developers have already undertaken pre-application public consultation and are preparing planning applications for sites allocated in the unadopted plan.

Officers will do everything they can to ensure that development proposals have the minimal impact on the environment and amenities of residents, but without an up-to-date local plan or an unadopted but sound local plan, the ability to do so is diminished.

- b) Until a new plan is adopted, the Council will not be able to demonstrate that there is five-year housing land supply and passing the annual housing delivery test will not be possible (the test's annual target is the standard methodology figure).

The Authority Monitoring Report is clear that housing delivery remains below 50% of the target and the Council is failing the Housing Delivery Test. This

puts the Borough at risk of continued inappropriate speculative development including within the green belt, and results in a small number of affordable homes being built.

- c) Without a supply of development sites, affordable housing delivery will be at risk. The Council has a current waiting list of about 600 households, which is growing annually faster than people can be housed through relets.

The unadopted local plan not only allocates sufficient housing land to meet the assessed need, it includes an affordable housing policy that would secure up to 40% of the new dwellings as affordable (and could have delivered around 1,200 affordable homes). In addition, the viability of these sites has been tested through the plan making process, and proven that affordable housing, and infrastructure can be provided.

- d) Without an up-to-date local plan in place, there is an increased risk of appeals and associated costs. It is difficult to quantify what the full implications will be without knowledge of what applications will be submitted and what the grounds for an appeal will be.

Although in the event of the plan being withdrawn, its policies cease, the evidence that was used to prepare the unadopted plan remains and will be used by developers as justification for their proposals for sites that were allocated in the unadopted plan.

The risks were set out in paragraphs 6.17 to 6.19 the report to adopt the plan on 23 March 2022:

*'During plan preparation a critical factor in demonstrating whether a site is developable, or deliverable is through discussion with prospective landowners and developers. The Council has established the Local Plan Delivery Board as a discussion forum to ensure that developers submit planning applications that accord with the Plan and can deliver, inter alia, the necessary infrastructure, highest quality standards and affordable housing. The formation of this board was a recommendation of the Development Control Peer Review.'*

*In the event that the plan is delayed or not adopted, it is highly likely that the developers will continue with the preparation and submission of planning applications. Without an up-to-date local plan, there is a risk that the Council would decide to refuse planning permission. Developers will contend that there are very special circumstances to grant planning permission and appeal a decision to refuse.'*

*The evidence that informed the current plan remains valid, as are the conclusions in the Inspector's report. The Inspector has examined the plan using this evidence and is satisfied that the evidence supports the plan and its soundness. Whilst the weight attributed to an Inspector's conclusions does not hold the same weight as an adopted plan, in the absence of an adopted plan and no five-year land supply, there is a risk of the evidence being used successfully by developers on appeal.'*

It must also be borne in mind that should the Council lose more than 10% of appeals, the Secretary of State could exercise their Designation powers under Section 62A of the Town and Country Planning Act to determine planning applications. The Secretary of State used those powers for the first time in February 2022, when he served notice of designation on Uttlesford.

- e) There remains a risk of Government intervention. Notwithstanding statements in the last year regarding planning reforms, the Secretary of State and Housing Minister want plans in preparation to proceed in accordance with the current regulations, national guidance, and local development schemes. This was set out in some detail in the report on the Motion by Councillor Mountford reported to Council on 23rd March 2022.

In 2018 the Council was put on formal notice of possible intervention by the Secretary of State. Unless the Council made progress in its plan making, the implications of the intervention notice was that the Secretary of State would appoint another body to prepare a new local plan. The Council has avoided full intervention by the progress made on the Local Plan, but withdrawing the plan puts the Council back to where it was in 2017/2018.

Section 27 of the 2004 Acts states that

*'...if the Secretary of State thinks that a local planning authority are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a development plan document*

*(2) The Secretary of State may—*

*(a) prepare or revise (as the case may be) the document, or*

*(b) give directions to the authority in relation to the preparation or revision of the document...*

In doing so the Secretary of State will also hold an examination and publish any modifications to his plan.

The Secretary of State also has powers by the 2004 Act to approve the Plan. Sub-section 5 of Section 27 states that:

*(5) The Secretary of State may—*

*(a) approve the document, or approve it subject to specified modifications, as a local development document,*

*(b) direct the authority to consider adopting the document by resolution of the authority as a local development document, or*

*(c) (except where it was prepared or revised by the Secretary of State under subsection (2)(a)) reject the document.'*

In order for the Secretary of State to use his powers he will need to be aware of the risk of a sound plan not being adopted or withdrawn.

Secretary of State approval of a local plan is not something that is to be taken lightly. For the Council it indicates that there is a failing in the ability of the Council to adopt a plan. For the Secretary of State, although the powers exist, it is seen as imposing on local decision making.

The Secretary of State now knows the outcome of the examination process and that the Council did not adopt the plan in March 2022. The withdrawal of the unadopted plan may be taken by the Secretary of State as unsatisfactory and could trigger a call-in.

- f) The financial implications of withdrawing the unadopted plan and preparing a new plan are set out in paragraphs 7.1 to 7.10 of this report.

Members will need to note that in addition to the direct costs, the costs incurred in the preparation and examination of the unadopted plan amounted to £1.4 million. Much of this was spent on producing evidence, but also the examination costs which in themselves amounted to c£130,000.

Officers will test the evidence to see whether it needs updating or a completely new set, but a new local plan will need to be examined and similar costs could be incurred.

If the Council decides to prepare a new local plan, a full report will need to be made to Council on a Local Development Scheme which will set out the process (including engagement), resources and timetable for preparing a new local plan.

- g) There is a risk that a new plan will not be found sound.

A new plan that does not meet the requirements of the standard methodology is likely to be challenged and the Council should only proceed if it is certain it has the most robust justification for doing so. If it does not, there is a high likelihood that the plan would be found unsound.

- h) There could be a negative impact on infrastructure investment. The Infrastructure Delivery Plan that accompanied the unadopted plan set out the infrastructure needed to support growth. Securing that investment will be in doubt. Whilst the need for the new infrastructure to support growth is diminished, not having the tools to obligate developers and provide the strongest justifications for grant investment will impact on the Council's ability to address infrastructure issues in the Borough. This includes revenue from CIL.

After the Council meeting in March, the CIL Examiner has asked the Council to set out the implications of non-adoption and asked for an addendum to the Infrastructure Delivery Plan and Viability assessment, effectively stripping out the local plan sites.

- i) The Government require that each local planning authority has an up-to-date local plan in place by the end of 2023. The preparation of a new plan to replace the unadopted plan is unlikely to be completed by that date. The Council is at risk of failing to meet that deadline. It is not clear what the sanction from the government would be, however.

## Planning Reform

- 6.5 The Government published the Levelling Up and Regeneration Bill on 11 May 2022. That Bill contains changes to the planning system. There is no definitive timetable for the passage of the Bill towards enactment, although it was announced in the Queens Speech on 10 May for this parliamentary session.
- 6.6 The Government has also announced that there will be further revisions to national planning policy and a revised NPPF. It is not clear what that will contain. It would not be appropriate to speculate on what may or may not be in revised national policy.
- 6.7 If works start on a new local plan, any changes in national policy will need to be taken into account as they emerge.

## 7 Financial Implications

- 7.1 The Motion calls for the preparation of a new local plan. This will at some point require the withdrawal of the unadopted plan.
- 7.2 Should a new local plan be prepared; the Council will find itself with significant costs to fund. The estimated costs are shown in the following table. With such significant costs, this is very clearly an issue which could have an impact on the financial stability of the whole Council.

	<b>2022/23</b>	<b>2023/24</b>	<b>2024/25</b>	<b>Total</b>
	<b>£000s</b>	<b>£000s</b>	<b>£000s</b>	<b>£000s</b>
Plan formulation	855	855	0	1,710
Staffing	150	150	0	300
Costs of appeals	338	1,262	295	1,895
<b>Total</b>	<b>1,343</b>	<b>2,267</b>	<b>295</b>	<b>3,905</b>

- 7.3 The cost of appeals is an estimate based on planning applications being submitted on all of the strategic allocations in the green belt in the unadopted plan and the costs the Council may incur if the developments are allowed on appeal and costs awarded against the Council. This will be offset to some extent by the additional planning application fees and does present a worst-case scenario.
- 7.4 The table does not include the Government intervention costs likely to be recharged to the Council by the Department for Levelling Up, Housing and Communities should they intervene under section 27 of the Planning and Compulsory Purchase Act 2004.

- 7.5 Also excluded is North West Thundersley which is referenced in the unadopted plan as a possible area for long term development. If the Council was to pursue that area in a new local plan the costs of evidence and master planning is estimated at about £900,000.
- 7.6 Every year, the Council's Section 151 Officer (Strategic Director, Resources) is required under section 25 of the Local Government Act 2003 to report on the adequacy of the proposed financial reserves, and this is done within the Policy Framework and Budget Setting Report.
- 7.7 Whilst a very small amount is allowed for as a provision for planning appeals, that envisages only the usual 'business as usual' type appeals rather than appeals on larger sites such as those coming forward in the local plan. Consequently, the Council does not have the reserves earmarked to meet the estimated costs shown above, whilst any significant use of the reserves could result in the Section 151 determining the proposed financial reserves are inadequate.
- 7.8 With reserves unavailable to fund the estimated costs, the Council would instead need to find new savings in order to balance the budget. Service areas have already, as part of the 2023/24 budget process, been identifying savings so that the existing budget gap of £1.4m (as reported in the Policy Framework and Budget Setting for 2022/23 report) can be closed.
- 7.9 Given services have already been identifying savings, and against the backdrop of the Council needing to find savings in prior years as Government funding as reduced, there are no easy options that remain. Should the Council need to incur the estimated costs above, the Council's activity will need to be scaled back significantly with a number of non-statutory services being reduced or, more likely given the scale of the issue, ceased altogether.
- 7.10 The Council has a legal requirement to set a balanced budget, with a risk of significant Government intervention if there is or, in the opinion of the Section 151 Officer, is likely to be an unbalanced budget. Therefore, in the event significant additional savings are required, a report containing an initial analysis of available options will be presented to a future Council meeting for consideration.

## **8. Corporate Implications**

### **(a) Financial Implications**

These are set out in a main report

### **(b) Legal Implications**

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

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

There is also a risk of judicial review into any decision by the council to withdraw the plan.

**(c) Human Resources and Equality Implications**

**Human Resources**

It is likely that should applications on sites allocated in the draft plan result in appeals, the Council will need to employ consultants to represent the Council at those appeals. Officers who represented the Council in support of the plan would be precluded from arguing against the development of the same sites by the RTPI Code of Ethics and Professional Standards (rtpi.org.uk).

Preparing a new plan will require new staff. The new plan will need to be adopted by the end of December 2023, to meet the Government's deadline. This is less than two years away. In response to the decision to withdraw the Plan, the Housing Minister advised Basildon Council that he may consider intervention, unless progress is made towards a new plan.

It will be more difficult for the Council to attract new professional staff, and retain existing staff, if the uncertainty of the local plan remains.

Should the Council be in the position of needing to find new savings to fund the costs shown in paragraph 7.2 above, it is likely that a reduction in services will be required.

**Equality Implications**

A new local plan will be subject to an equalities impact assessment at each stage.

**(d) IT and Asset Management Implications**

The unadopted Local Plan includes green belt releases of two parcels of land owned by the Council: the Former WRVS site in South Benfleet and land to the east of Kings Park Village. The Plan also includes the allocation of the Hadleigh Island site, which is partly owned by the Council.

The Government have announced greater investment in a digital approach to planning, including plan making. Details of this are awaited, but investment in IT may be required by the Council, unless New Burdens Funding is made available.

**8. Background Papers**

As highlighted in the report

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