

Report to the Housing Scrutiny Panel



Date of meeting: 3 March 2006

Subject: Increasing the Amount of Affordable Housing in the District

Portfolio: Housing – Councillor Michael Heavens

Officer contact for further information: Alan Hall, Head of Housing Services

Committee Secretary: Adrian Hendry

Recommendation:

- 1) That the Panel considers each of the options set out in the report on possible ways of increasing the amount of affordable housing within the District;**
- 2) That consideration be given to whether or not there is any merit in exploring further the possibility of allowing some residential housing in the Metropolitan Green Belt, subject to it providing significant levels of affordable housing, on the basis that it would constitute very special circumstances and an exceptional reason for not applying the Council's normally strict policy of restraint, in view of the high affordable housing need;**
- 3) That, if the Panel feels there is merit in further exploration;**
 - (a) a more detailed report be submitted to a future meeting of the Scrutiny Panel;**
 - (b) the detailed report includes coverage of the issues listed in [Paragraph 36] of this report, and any other issues the Panel considers appropriate; and**
 - (c) the Cabinet be advised of the Panel's initial thoughts and that the Panel will be giving further consideration on receipt of a more detailed report;**
- 4) That consideration be given to whether or not there is any merit in exploring further the possibility of part of one or more urban open spaces in Loughton accommodating development to provide significant levels of affordable housing as well as enhancing the remaining open space;**
- 5) That, if the Panel feels there is merit in further exploration;**
 - (a) the Panel identifies which site(s) should be explored further;**
 - (b) a full feasibility study of the identified site(s) be undertaken by the Heads of Planning & Economic Development, Housing and Leisure Services, on what could be provided in terms of affordable housing and how the remaining open space could be enhanced;**
 - (c) at the appropriate time, and before a decision is made on whether or not to go ahead with any development, a consultation exercise be carried out; and**
 - (d) the Cabinet be advised of the Panel's initial thoughts and that the Panel has**

requested a full feasibility study of the identified site(s);

- 6) That consideration be given to whether or not the Panel wishes to make a recommendation to the Cabinet that an absolute minimum amount of affordable housing should be negotiated by officers for residential development on Section 106 sites, irrespective of other planning gains, (notwithstanding any other planning issues or requirements related to the current or proposed Altered Local Plan);
- 7) That, if the Panel feels that a recommendation should be made, an absolute minimum amount be proposed;
- 8) That consideration be given to whether or not the Panel wishes to make a recommendation to the Cabinet that more funding should be made available within the Capital Programme to allocate to the Council's Preferred RSL Partners to fund affordable housing schemes and, if so, that the Panel considers;
 - a) how much should be recommended;
 - b) whether it should be a one-off amount or an annual provision; and
 - c) a recommendation on when the funding should commence;
- 9) That the Panel notes the current position with regard to Phases 1 and 2 of the development of the Council's small housing sites;
- 10) That consideration be given to whether or not the Panel has any views on the approach that should be taken to any development of the Council's General Fund car parks that include the provision of housing and, if it does, that the Panel considers whether it wishes to pass any comments on to the Cabinet with regard to the feasibility studies that will be undertaken in the near future;
- 11) That consideration be given to whether or not the Panel wishes to make a recommendation to the Cabinet that the land associated with any General Fund assets that become surplus to requirements in the future, where residential housing would be acceptable in planning terms, should be used to provide affordable housing, instead of providing a capital receipt for the Council;
- 12) That, unless;
 - a) any of the London Housing Sub Regions offer at least 50% nomination rights to the Council, as host authority, to allow the use of funding allocated by the London Region of the Housing Corporation to develop sites within the District for affordable housing; or
 - b) such funding is able to be used to purchase existing housing in the District to let as affordable housing;the Council does not enter into any "Out of London Agreements" with London Sub Regions;
- 13) That consideration be given to whether or not the Panel feels the Cabinet should be asked to re-affirm its commitment to the Strategic Housing Partnership and the Scheme of RSL Partnering and Joint Commissioning;
- 14) That consideration be given to whether or not the Panel feels that the Cabinet should be recommended to seek Right to Buy (RTB) Hot Spot Status for the

District from the ODPM, which if obtained would reduce the maximum discount available to tenants under the RTB from £34,000 to £16,000, in order to slow the reduction in the Council's contribution to the affordable housing stock in the District; and

- 15) That consideration be given to whether or not the Panel would like to explore any other initiatives to increase the amount of affordable housing available within the District.**

Background

1. At its meeting held on the 6th June 2005, the Cabinet agreed the following as one of its Priority Actions for 2005/6:

"To take every opportunity to increase the amount of affordable housing in the District in order to contribute to meeting the needs of the local community."

2. At its meeting in November 2005, the Finance and Performance Management Scrutiny Panel considered the performance made in the Second Quarter of 2005/6 with the new set of Key Performance Indicators, previously agreed by the Cabinet. Two of these related to the amount of affordable housing being provided in the District.

3. At the meeting, the Leader of Council expressed concern at the relatively low levels of affordable housing being provided in the District, compared with the increasing need. The last Housing Needs Survey (2003) estimated that 665 new affordable homes were required *per annum* to meet the current and arising need over the following five years. As a result, the Panel agreed to recommend to the Overview and Scrutiny Committee that the Housing Scrutiny Panel be asked to consider ways in which the amount of affordable housing provided within the District could be increased. This was subsequently agreed by the Overview and Scrutiny Committee at its meeting on 10 November 2005.

4. At its meeting on the 7 December 2005, the Housing Scrutiny Panel considered the scope of the required report from the Head of Housing Services, and agreed that it should cover the following:

- Details of historic and forecast performance on the provision of new affordable housing;
- Consideration of the legal ability and desirability of allowing the development of residential accommodation in the Green Belt, providing significant levels of affordable housing, as a very special reason for departing from normal Green Belt policy – in advance of the allocation of land through the Council's future Local Development Scheme;
- The scope for developing affordable housing on parts of large urban open spaces within existing Council estates (suggested by the Council's Management Board);
- Setting an absolute minimum amount of 20% affordable housing that will be acceptable on large residential development sites, irrespective of other planning gains;
- The Council's ability to provide additional Social Housing Grant to RSLs;
- A review the Council's General Fund and HRA landholdings, to assess the scope and implications of providing land to an RSL, free of charge to provide 100% affordable housing, or to a developer to provide a mix of market and affordable housing (with the OMV being paid for the market housing land, with the affordable housing land

provided free), including “Phase 2” of the development of small Council housing sites;

- The scope for allowing the use of grant funding from the Housing Corporation’s London Region to fund the development of affordable housing schemes in the District, with nomination agreements being shared between the Council and London boroughs; and
- A commitment to comply with the Council’s agreed Joint Commissioning Scheme.

5. In addition, since the last meeting, the Joint Chief Executive (Resources) has asked that the Scrutiny Panel also considers whether the Council should seek “hot spot” status from the Office of the Deputy Prime Minister (ODPM), to deter Right to Buy sales (and therefore slow down the reduction in Council housing stock) by providing lower discounts to sitting tenants.

General ability to increase affordable housing in the District

6. The Council’s ability to increase the amount of affordable housing to date has been constrained by three main issues:

- Land – The Council has exceeded its existing Essex and Southend-on-Sea Structure Plan targets for new housebuilding, and all allocated sites have been developed. Therefore, for a number of years, all new developments (including associated affordable housing) have been on unplanned “windfall” sites. This will not change until the Council allocates additional land through its the new Local Development Scheme that will be produced in response to the requirements of the East of England Plan, or agrees to allow housing development on land not allocated for housing within the existing Local Plan (e.g. in the Green Belt or on urban open spaces).
- Grant – Although affordable housing can be provided without grant from the Housing Corporation or the Council, the amount (compared to the percentage of market housing on Section 106 sites) is significantly reduced without grant. In any event, land is still needed.
- Members’ Priorities – The Council is responsible for delivering many different – often conflicting - policies and services, and must balance these priorities. It is possible that more affordable housing could be provided in the future, but at the expense of other priorities.

The Council’s current approach to affordable housing

7. Under Planning Policy Guidance (PPG) 3: Housing and ODPM Circular 6/98, local authorities are able to negotiate an appropriate amount of affordable housing on large development sites, subject to there being sufficient housing need, evidenced by a Housing Needs Survey. It should be noted that the ODPM is consulting on a Draft Planning Policy Statement (PPS) 3 on Housing, which if/when adopted will replace PPG 3 and Circular 6/98, although the Council’s ability to negotiate affordable housing will continue.

8. Following completion of the Council’s first Housing Needs Survey in 1999, the Council increased the amount of affordable housing it seeks on large sites from 20% to 30%. As a result of the subsequent Housing Needs Survey carried out in 2003, the Council is proposing, through the Alterations to the Local Plan currently under consideration, to increase the amount of affordable housing sought to 40%. In addition, the Council is proposing:

- An acceptance that a lower proportion of affordable housing can be provided if social housing grant is not available, although the same level of developer subsidy would be required;

- A reduction in the threshold above which affordable housing is sought on development sites in urban areas, from 1 ha or 25 units to 0.5 ha or 15 units (as proposed in the Government's Consultation Paper on PPG 3);
- A reduction in the site threshold for affordable housing in rural areas to 2 or more dwellings on a greenfield site or 3 or more dwellings on a previously developed site;
- An expectation that 50% of new properties developed in rural areas on greenfield sites, and 33% on previously developed sites will be affordable housing; and
- A requirement that the mix of affordable housing reflects the mix of market housing on sites, which is the Council's current practice.

9. The Public Inquiry into the proposed Alterations is being held during February 2006, with adoption planned for June 2006.

10. In April 2005, the District Development Control Committee agreed that an element of shared ownership (now called New Build Homebuy) should be sought as part of the overall affordable housing provision required on large sites, subject to it representing no more than 25% of the overall affordable housing provision. At least 75% of the affordable housing should be "social rented housing".

Housing Needs Survey 2003

11. The key findings of the last Housing Needs Survey were as follows:

- The District's housing market excludes many families and single person households who are currently seeking access to local housing.
- Any household with an income below £30,000 to £48,000 per annum (depending on location within the District) would struggle financially to access the smallest, acceptable quality units in the local housing market, i.e. one bed flats.
- Around 99% of new households forming in the next year have incomes below £35,000.
- The local relationship between house prices and incomes is such that around 88% of new forming households are unable to purchase in their own right.
- The largest proportion of additional affordable units are required as rented properties, both for new forming households and existing families.
- The private rented sector makes only a limited contribution to accessing affordable housing and this almost certainly underlies the problem of concealment that exists in the District.
- Around 5,512 households plan to leave Epping Forest in the next five years. The single most common reason given by existing households moving outside the District was lack of affordable housing locally (39%).
- 665 new affordable properties *per annum* are required over the following five years to meet both the current and anticipated housing need over that period.

12. More recently, research by the National Housing Federation established that house prices in Epping Forest rose to 8.9 times local income levels in 2004. This is the highest ratio

in Essex (with an average of 7.9). It also identified that the average property price in Epping Forest in 2004 was £279,000.

Housing Register

13. As at 1 February 2006, there were 3,624 applicants on the Council's Housing Register. This can be compared with 1,478 in March 2002. As can be seen, the numbers of applicants on the Housing Register seeking affordable rented housing has increased by around 145% over the past four years.

Affordable housing completions and pipeline schemes

14. The following table summarises the number of affordable properties completed over the past 4 years and expected for 2005/6. As can be seen, the numbers are far lower than the 665 properties per annum assessed as being required from the latest Housing Needs Survey:

	2005/6 (Expected)	2004/5	2003/4	2002/3	2001/2
Rented	31	83	7	0	27
Shared Ownership	4	18	0	2	2
Supported Housing	28	5	0	0	1
TOTALS	63	116	7	2	30

15. There are only 2 schemes currently on site that will complete in 2006/7, which will provide 25 affordable properties, one of these being a special needs scheme of 6 flats for people with learning difficulties. The other scheme comprises 19 rented flats at the former Buckhurst Hill Reservoir Site, Buckhurst Hill.

16. The Council's Preferred RSL Partners have made bids to the Housing Corporation for funding for the following schemes in the two year period 2006/7-2007/8, that are not included in the figures above, some of which do not have detailed planning permission. The outcome of the bids is expected at the beginning of March 2006:

Scheme	Units
Merlin Way, North Weald	38
EFDC Housing Sites	17
St Margarets Hospital (Key Worker)	46
Mason Way (Physical Disabilities)	5
Young Parent Scheme (Nominations shared with Uttlesford and Brentwood BCs)	8
Total	114

17. Again, the reason for the relatively low numbers is because of the lack of land availability within the District.

Provision of affordable housing in the Green Belt

Introduction

18. In view of the high evidenced need for affordable housing, and the shortage of identified residential land until such time as the Council introduces new housing targets through its new Local Development Scheme, members may want to consider whether or not there is any merit in considering further the possibility of the Council allowing some housing in the Green Belt, where appropriate, subject to it providing significant and high levels of affordable housing and each application being considered on its individual merits. This would

be on the basis that it constitutes very special circumstances or an exceptional reason for not applying the Council's normally strict policy of prohibiting development in the Green Belt, because of the high affordable housing need.

Existing planning exceptions policy for affordable housing in the Green Belt in rural locations

19. The Council already has a policy within its existing Local Plan to provide affordable housing in rural locations (under 3,000 population) to assist in meeting a local housing need. This allows a housing association to provide a small amount of affordable housing on land for which planning permission would not normally be granted for residential accommodation. To qualify, applicants must have an established local connection with the village – either through current or past residency, or employment.

20. To date, the Council has allowed two such rural exceptions schemes, and is actively considering a third (at Matching Tye). This type of scheme continues to have an important and specific role within the Council's Housing Strategy and Local Plan – to meet the local housing need, specifically, of the local rural population.

21. However, this section of the report considers the possibility of allowing affordable housing in the Green Belt, but not necessarily in rural areas to meet local housing need, nor in accordance with the Council's adopted "planning exceptions policy".

National planning policy on Green Belts

Planning Policy Guidance

22. Generally, development within the Metropolitan Green Belt is firmly resisted by the Council. "Planning Policy Guidance 2: Green Belts" (PPG 2) issued by the Office of the Deputy Prime Minister, states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It explains that the most important attribute of Green Belts is their openness and that Green Belts can shape patterns of urban development at sub-regional and regional scale, and help to ensure that development occurs in locations allocated in development plans.

23. PPG 2 goes on to state that there are five purposes of including land in Green Belts:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns from merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

24. PPG 2 explains that, once Green Belts have been defined, the use of land in them has a positive role to play in fulfilling the following objectives:

- to provide opportunities for access to the open countryside for the urban population;
- to provide opportunities for outdoor sport and outdoor recreation near urban areas;
- to retain attractive landscapes, and enhance landscapes, near to where people live;
- to improve damaged and derelict land around towns;
- to secure nature conservation interest; and

- to retain land in agricultural, forestry and related uses.

25. PPG 2 states that, once the general extent of a Green Belt has been approved, it should be altered only in exceptional, or very special, circumstances. If such an alteration is proposed, which is to be through the development plan process, the Secretary of State will wish to be satisfied that the authority has considered opportunities for development within the urban areas contained by and beyond the Green Belt. Detailed boundaries should not be altered or development allowed merely because the land has become derelict.

26. PPG 2 goes on to state that, for planning applications for inappropriate development, (such as housing), it is for the applicant to show why permission should be granted, and that very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development.

Determination by the Secretary of State

27. Prior to January 2006, national planning policy required certain planning applications which did not accord with the provisions of the Local Plan, and which the Council did not propose to refuse, to be notified to the Secretary of State. This included “any development which, by reason of its scale or nature or the location of the land, would significantly prejudice the implementation of the Local Plan’s policies and proposals”, which included applications involving inappropriate development in the Green Belt.

28. The previous requirement did not, therefore, specifically require the referral of planning applications affecting the Green Belt to the Secretary of State. Instead, local authorities had to decide whether or not to refer such applications, depending on their view of whether a proposed inappropriate development in the Green Belt was likely to cause ‘significant prejudice to the implementation of the development plan’s policies and proposals’. Interestingly, of the 300-400 applications per annum involving development in the Green Belt referred to the regional Government Offices (in the first instance) under this policy, only 3% – 6% were subsequently called-in by the Secretary of State for his own determination. The remainder were left for determination by the appropriate local planning authority.

29. However, from January 2006, the situation has changed and a new Town and Country Planning (Green Belt) Direction 2005 has been introduced. The effect of the Direction is to require local planning authorities to refer to the Secretary of State any application for planning permission involving inappropriate development on land allocated as Green Belt in an adopted local plan, in respect of which the authority is minded to approve, and which would involve:

(a) the construction of a building or buildings with a floor space of more than 1,000 square metres; or

(b) any other development which, by reason of its scale or nature or location, would have a significant impact on the openness of the Green Belt.

30. The Secretary of State will then decide whether he wishes to exercise his powers of intervention by calling-in any such referred application for public inquiry and his own determination. If the application is called-in, the Secretary of State must be sent:

(a) a copy of the application;

(b) a copy of any representations made to the authority in respect of the application;

(c) a copy of any report on the application prepared by an officer of the authority; and

(d) unless contained in the officers' report, a statement providing sufficient information to demonstrate that, in reaching a decision on the application, the local planning authority has assessed the application in the light of the policies for protecting the Green Belt set out in PPG2.

Possible exceptional/very special circumstances for development

31. Notwithstanding the guidance within PPG2 and the requirements of the Town and Country Planning (Green Belt) Direction 2005, in view of the high levels of affordable housing need within the District, the Panel may want to consider whether, in principle, the Council should consider allowing some residential development in the Green Belt, as an exception to the Council's normal policy of restraint, provided that it offered significant levels of affordable housing.

32. Such an approach would not be intended to remove the proper consideration of applications, in particular having regard to Section 38(6) of the Town and Country Planning Compensation Act 2005 (which requires applications to be determined in accordance with development plan policies) and to the national Green Belt policy set out above, nor to ignore other technical or practical constraints, but would be to consider carefully justified applications by land owners or developers on this basis.

33. Members may be aware that the Leader of Council is an advocate of such an approach and, as a result, a number of planning applications and proposals have been received from landowners for development in the Green Belt, albeit providing differing levels of affordable housing. Only one such application has been determined to date, for the provision of 6 affordable houses for rent at Albion Terrace, Waltham Abbey. In view of these applications now being received, it is the view of officers that it would be helpful to have an agreed approach on the response to such applications; an unco-ordinated reaction to individual proposals may create undesirable precedents, which is to be avoided.

34. The benefit of allowing some development in the Green Belt would be that, since planning permission would not normally be given, the land value would be significantly less than normal residential land, yet still more than existing use value (e.g. commercial / agricultural). Therefore, landowners and developers would have to be prepared to come forward with suitable developments, on terms set by the Council, that ensure affordable housing was provided.

35. However, there are a number of other considerations that would need to be taken into account before taking such an approach, including:

a) The Council has always been protective of its Green Belts - an approach which, generally, appears to be supported by many residents. There is therefore likely to be opposition from residents if the Council allows significant development in the Green Belt, even for affordable housing.

b) The Council's current Local Plan sets out a clear intention to protect the Green Belt and the proposed Alterations to the Local Plan make no reference to allowing development in the Green Belt to increase the provision of affordable housing.

c) It looks likely that the proposed new Green Belt Direction will result in either the majority or all applications for residential development in the Green Belt to be referred to the Secretary of State. The views of the Secretary of State on whether he considers that the need to provide affordable housing, in an area like Epping Forest with high levels of housing need, constitutes very special circumstances or an exceptional reason

for not applying the normally strict policy of restraint is unknown. However, he may have regard to the fact that the Council has made no mention of such an approach within its proposed Alterations to the Local Plan.

d) If the Council agreed to a number of applications for the provision of affordable housing in the Green Belt, could it be argued that it is no longer a very special circumstance or an exceptional reason ?

36. If the Panel feels that such an approach merits further consideration, it is suggested that a detailed report be submitted to a future meeting of the Panel, to agree any recommendations to be made to the Cabinet. Consideration would need to be given at that time on such issues as:

- The maximum number of properties considered appropriate within any one development;
- Whether there should be an overall maximum number of affordable properties allowed in the Green Belt, and if so, what the maximum should be;
- General suitability of sites (e.g brownfield sites and not greenfield sites, proximity to existing residential developments, landscape quality, access to services);
- Minimum levels of affordable housing considered acceptable;
- Amounts of “landowner subsidy” required to enable the affordable housing to be delivered;
- Types of affordable housing to be allowed;
- Acceptable property sizes, related to the tenure;
- Whether applications received should be considered direct by the District Development Control Committee, in order to ensure a consistent approach;
- The effect that the development would have on the existing community infrastructure (e.g. roads, schools, health facilities etc); and
- The likelihood and effects of planning decisions being “called in” by the Secretary of State.

37. The Scrutiny Panel is invited to consider whether any other issues should be covered as part of any future report.

Relationship with the proposed housing allocation from the East of England Plan

38. The East of England Plan seeks to make changes to the amount of affordable housing to be delivered within the Region and the District, and to the total volume of housing to be built. The Examination in Public of the Plan commenced in November 2005 and is still taking place.

39. Although the East of England Plan will not be finally adopted for some time, it should be noted that any developments agreed in the Green Belt in advance of its adoption and implementation would count towards the overall housing provision required for the District by the East of England Plan. Such schemes would therefore have the added benefit of comprising much higher levels of affordable housing than the 30%-40% affordable housing that will be required on sites that are released for residential housing, through the Council's

Local Development Scheme.

Development on large urban spaces within existing housing estates

40. When the draft KPI Action Plan for Affordable Housing was considered by the Management Board, the Board suggested that the Scrutiny Panel may want to consider whether a study into the possibility of part of one or more urban open spaces within the District should be undertaken.

41. National planning policy, within PPG 17, states that existing open space, sports and recreational land should not be built on unless an assessment has been undertaken which has shown the open space to be surplus to requirement. Developers have to consult the local community and demonstrate that their proposals are widely supported by them. However, local authorities are encouraged to seek opportunities to improve the value of existing facilities and enhanced quality may offset a reduction in quantity.

42. The Council's local planning policies relating to the development of urban open spaces are covered by Policies LL5 and LL6 within the Council's Local Plan.

43. Policy LL5 states:

“ The Council will not grant planning permission for development which would result in either:-

(i) the total loss of; or

(ii) any excessive adverse effect upon

any urban open spaces which contribute, or have the potential to contribute, significantly to the amenity of the locality. ”

44. Policy LL6 states:

“ In granting planning permission for partial development of any area of urban open space, the Council will need to be satisfied that:

(i) The predominantly open nature of the remainder of the site is retained; and

(ii) The scheme provides for the appropriate management of the remainder of the site to enhance its:-

(a) visual importance; and or

(b) nature conservation interest; and/or

(c) recreational potential. “

45. As can be seen from these policies, although development of the whole of an urban open space is prohibited, development of part of an open space is allowed, provided that the requirements set out in the above policies are met.

46. Discussions with planning officers have established that the only significant areas or urban open space within the District that could potentially be suitable for residential development, if members wanted to investigate such an initiative, are in Loughton. Such open spaces are in the ownership of either the District Council or Loughton Town Council (following transfer from the District Council on the formation of the Town Council).

47. The urban open spaces in Loughton above 0.7 hectares are as follows:

Location	Area	Ownership
Colebrook Lane / Jessel Drive	8.6 Ha	EFDC
Pyrles Lane / Rectory Lane	5.1 Ha	Loughton Town Council
Rectory Lane /Newmans Lane	1.27 Ha	EFDC
Rectory Lane / Lawton Road	0.69 Ha (Total = 1.96 Ha)	
Rochford Green / Sandford Avenue	0.97 Ha	EFDC
Rookwood Gardens	0.90 Ha	EFDC
Willingale Road	0.74 Ha	Loughton Town Council (but see below)
Total	18.27 Ha	

48. It should be noted that, although the freehold interest of 0.74 Ha of land at Willingale Road has been transferred to Loughton Town Council for use as an urban open space (in addition to 1.27 Ha of adjacent land for allotments), an “option” has been included within the Title which enables the District Council to repurchase the freehold interest of the urban open space for £1, upto 2026, if the District Council wants to use the land “for housing purposes”. This is subject to the District Council consulting the Town Council and their comments being taken into account.

49. Location plans of these six urban open spaces are attached as appendices. Clearly, the issue that members will need to balance is, on the one hand, the need to increase the amount of land available for affordable housing developments and, on the other, the potential effect on the loss of an amenity area.

50. One of the benefits of developing part of one or more urban open spaces is that most of them are in the Council’s ownership, which would enable the land to be transferred to a housing association free of charge, thereby maximising the amount of affordable housing that can be provided. Moreover, it could enable the remaining area(s) of open space to be improved, perhaps through better landscaping, shrubs and trees, or the provision of a play area. However, members need to be aware that the development of such areas is likely to result in strong objections from local residents, concerned at the loss of amenity.

51. In view of the need to enhance any urban open spaces where development is undertaken, it may be necessary to provide some market housing on the site(s) - perhaps smaller properties for first time buyers - with the “profit” from the sale being used to fund the enhancements to the open space(s).

52. If the Scrutiny Panel wishes to pursue this option, the Panel is asked to suggest which site(s) should be explored further, in which case it is suggested that the Panel considers whether it would be better to explore a number of the smaller sites, or one large site. A full feasibility study of the selected site(s) would then need to be undertaken by the Heads of Planning & Economic Development, Housing and Leisure Services, on what could be provided in terms of affordable housing and how the remaining open space could be enhanced. At the appropriate time, and before a decision was made on whether or not to go ahead with any development, a consultation exercise would also need to be carried out.

Development of affordable housing on allotments

53. It has been suggested that the Scrutiny Panel could consider the possible development of allotments for the provision of affordable housing. However, there are a number of legal difficulties associated with such a proposal.

54. Section 8 of the Allotments Act 1925 states that where a local authority has purchased or appropriated land for use as allotments, the local authority cannot sell, appropriate, use or dispose of the land for any purpose other than for use as allotments,

without the consent of the Deputy Prime Minister. Such consent may be given unconditionally or subject to such conditions as the Deputy Prime Minister thinks fit, but should not be given unless he is satisfied that adequate provision will be made for the allotment holders displaced by the action of the local authority or that such provision is unnecessary or not reasonably practical.

55. Furthermore, the Deputy Prime Minister will, as well as the statutory requirements, consider whether adequate provision for displaced allotment holders has been made and take into account the number of vacant plots and any objections to the application. He will also consult whoever he thinks appropriate (e.g. the National Society of Allotment and Leisure Gardens and the Horticultural Society).

56. Therefore, in view of the difficulties associated with such a proposal, it is suggested that such an option is not pursued.

Absolute minimum percentage of affordable housing on large development sites

57. As explained earlier, the Council currently seeks the provision of 30% affordable housing on Section 106 sites in excess of 1 ha or 25 units and is seeking to increase this, through the Alterations to the Local Plan, to 40% on sites in excess of 0.5 ha or 15 units.

58. Generally, after extensive negotiation with landowners, the provision of 30% affordable housing is achieved. However, there have been some instances when Area Plans Sub-Committees and/or the District Development Control Committee have agreed to lower percentages, because of other planning gains being obtained from the development.

59. An example is the development of 3.67 hectares of Green Belt land for residential purposes at St Johns School, Epping, where planning permission was granted for only 10% affordable housing (and a sum of £100,000 to contribute towards the funding of affordable housing). The development was agreed to enable the proceeds from the sale of the residential land to be used to fund the provision of a new school on the site. More affordable housing could have been provided, but the Committee accepted the applicant's proposal that 1.77 hectares of public open space should be provided between the proposed new school and residential development, at the expense of providing more affordable housing. The effect was that the likely affordable housing provision will be reduced by around 45 affordable homes, from around 60 homes to 15 homes.

60. Clearly, on some proposed residential developments, like this one, there will be other planning gains that the Council and the community will wish to seek, which will have an impact on the amount of affordable housing that can be provided. However, the Scrutiny Panel may want to consider whether it feels there should be an absolute minimum amount of affordable housing that officers should seek to negotiate on residential Section 106 sites, in view of the importance now being placed on the provision of affordable housing by the Council.

61. If the Panel considers that there should be an absolute minimum, it is suggested that a recommendation be made to the Cabinet accordingly, and that the minimum amount should take account of the proposed increase in the amount of affordable housing that would normally be sought, through the Alterations to the Local Plan.

62. For discussion purposes, it is suggested that (notwithstanding any other planning issues or requirements related to the current or proposed Altered Local Plan) the absolute minimum affordable housing sought on Section 106 sites, irrespective of other planning gains, should be:

- 20% - under the Council's current planning policy (generally 30%); and
- 25% - under the Council's proposed planning policy (generally 40%)

Provision of additional social housing grant by the Council

63. Between 1993 and 2005, the Council provided social housing grants to RSLs totalling £8.5m (an average of £700,000 per annum), which contributed to the required funding for the 870 affordable homes that were provided over that period.

64. Prior to April 2003, there was a “double benefit” to the Council of providing Local Authority Social Housing Grant (LA SHG). Not only did it fund affordable housing, the Council also received an equivalent amount re-imbursed back from the Housing Corporation. The only drawback was that the re-imbursed amount had to be “set aside” either to pay off Council debt or to be invested.

65. However, LA SHG was abolished in April 2003. From this date, although local authorities can still provide capital grants to RSLs to fund affordable housing schemes, there is no re-imburement from the Housing Corporation.

66. At the time of the abolition, the Council had included £1.8m LA SHG within its Capital Programme, which was then withdrawn by the Cabinet due to the negative financial effects of the abolition. However, the Cabinet has subsequently included within the Capital Programme a one-off provision of £1 million, to provide a capital grant to Estuary Housing Association to fund up to 39 affordable homes on Council-owned housing sites (see below). However, no further provision has been included, other than £210,000 that has been received from developers on Section 106 sites, in lieu of the provision of affordable housing.

67. The Scrutiny Panel may wish to consider whether or not it feels that the Cabinet should make more funding available within the Capital Programme to allocate to the Council’s Preferred RSL Partners to fund affordable housing schemes in the District. As a guide, the average grant requirement for the affordable housing schemes recently submitted by the Council’s Preferred RSL Partners to the Housing Corporation for funding over the next two years was £58,000 (compared to a sub-regional average of £34,000). Therefore, a capital grant of £500,000 to an RSL would, on average, currently fund around 8 or 9 affordable homes. In reality, it is likely that the number would either be more or less than this, since the numbers will depend on whether free land has been provided and whether the affordable housing is “social rented” or New Build Homebuy (shared ownership), the latter requiring much less grant.

68. If the Scrutiny Panel feels that the Cabinet should be recommended to make further financial provision within the Capital Programme for social housing grants, the Panel is asked to recommend how much should be allocated, and whether it should be in the form of either a one off amount or an annual provision.

69. In considering amending the Council’s Capital Programme the Head of Finance advises that there are three options for members to examine. Firstly, members might feel that a five-year Capital Programme exceeding £50m was already ambitious enough and that any additional scheme should only be accommodated at the expense of other schemes currently included. The programme currently includes £15.5m of non-housing schemes over the five-year period. Major schemes within this figure include Town Centre Enhancements (£4.1m), the Customer Service Transformation Programme ((£2.2m) and Bobbing worth Tip (£1.8m). If members are so minded, some flexibility may come from a reduction in spending on Traffic Calming (£1.1m). Members may also feel it appropriate for some of the £206,000 currently included for housing estate car parking to be re-allocated to fund affordable housing, although there continues to be an increasing need for such schemes. It is clear that additional funding for affordable housing could only come from the existing programme if members were prepared to sacrifice one of the major schemes currently included.

70. If members are prepared to increase the five-year capital programme further beyond

£50m, then the schemes could be funded from capital receipts. It is currently predicted that the balance of usable capital receipts will have fallen from £21.2m to £7.9m over the life of the current programme. The Council is currently benefiting from the revenue income generated by the investment of these balances. The full year effect of funding £1m of additional expenditure from receipts would be to reduce investment income by approximately £50,000. This would clearly have to impact on either the level of the Council Tax or the level of other services being provided.

71. Members' attention is also drawn to the Capital Strategy approved by Council on 13 December 2005. The Capital Strategy identified 8 key capital priorities and meeting housing needs was only ranked seventh, although this was partly based on the relatively low levels of capital investment on meeting housing need in the current capital programme. The Council has also adopted a policy of actively seeking the investment of capital resources in revenue-generating assets, in order to minimise the detrimental effect of capital receipt usage on the Council's General Fund. Capital housing grants to housing associations will not generate revenue and the allocation of funds to them may prohibit any subsequent scheme for generating revenue.

72. Having considered the impact of funding these schemes from alterations to the current programme or from capital receipts, members also need to consider whether, in fact, they wish to fund additional capital housing grants at all, and to rely on the Housing Corporation to fund all affordable housing schemes. Within the five-year programme of £50.3m, around £34.8m is already allocated to housing expenditure (mainly on the Council's own stock), which represents nearly 70% of the programme.

73. A recent study by the London Commuter Belt Sub Regional Housing Group (which includes Epping Forest) has established that, of the other 14 local authorities in the Sub-Region:

- 5 local authorities **do not** intend to provide any capital grants to housing associations in the current year (2005/6)
- 9 local authorities **do** intend to provide capital grants in the current year, ranging between £200,000 and £5 million, with an average amount of £2.4 million per local authority

General Fund and HRA landholdings

74. In simple terms, the Council's landholdings fall into two categories, those held under housing act powers and accounted for within the HRA, and those held within the General Fund. Generally, the former are managed by the Head of Housing Services and the latter by the Head of Legal Administration and Estates.

HRA landholdings

75. With regard to the HRA's landholdings, nearly all of the available areas of land have been transferred to RSLs in the past, free of charge, to develop affordable housing. Indeed, between 1992 and 2005, over 9 hectares of land have been given to RSLs, at a total value of over £7 million.

76. The only opportunities that arise now are either where small areas of land on housing sites are identified, or where garage blocks have become difficult to let and can be redeveloped. As a result of these opportunities, the Council is working with Estuary Housing Association to develop 8 Council-owned housing sites to provide (subject to planning permission) 57 properties, of which 18 will be sold on the open market, to cross subsidise 39 affordable homes. As explained above, the Council is providing £1 million SHG. This package of developments is referred to as "Phase 1" and Estuary Housing Association will be

submitting detailed planning applications shortly.

77. In addition, over the past couple of years, 10 additional potential development sites on Council-owned land have been identified which, potentially, could provide up to 35 properties. At the meeting of the Cabinet on 6 February 2006, it was agreed that the Council would work with Warden Housing to investigate the development potential and, where possible, to proceed to undertake the development (referred to as "Phase 2").

78. It was also agreed by the Cabinet that the general approach to be taken should be to maximise the amount of affordable housing on the majority of the sites, cross-subsidised with free land and the sale of some properties on the remaining sites. The Housing Portfolio Holder was authorised to consider and agree the development proposals for each of the sites, the proposed tenures, the numbers of properties to be sold to provide the cross subsidy, and to approve the submission of planning applications where appropriate. Furthermore, the Housing Portfolio Holder was asked to consider the overall effects that different levels of social housing grant would have on the viability of the development proposals and, if considered appropriate, report to the Cabinet to seek approval to use some, or all, of the Council's unallocated social housing grant – referred to above - in order to increase the viability.

79. For those sites that receive planning permission, it was agreed that the Council land for the affordable housing should be leased to Warden Housing for 125 years at a peppercorn rent, in return for the Council 100% nomination rights on initial letting and 75% subsequently. The freehold of the land for the market housing would be also be transferred to the Housing Association free of charge.

General Fund landholdings

80. With regard to the General Fund's landholdings, again, nearly all of the unused and under-utilised land has been disposed, the latest sale (currently in progress) being the former Parade Ground at North Weald Airfield, which is being sold with an outline planning permission for residential development.

81. The Head of Legal Administration and Estates has advised that, with the exception of public car parks, all of the Council's main General Fund landholdings are related to industrial/employment use, and are zoned as such within the Local Plan. There is one vacant area of land (0.56 Ha) adjacent to the Oakwood Hill Industrial Estate that could potentially be used for affordable housing but, again, is zoned for employment use; the Head of Planning and Economic Development has expressed concern that if this was used for a different purpose, it could affect the Council's ability to meet the Structure Plan targets for employment land.

82. The Council owns a number of public car parks and the Cabinet has asked the Head of Legal Administration and Estates to appoint a planning and development consultant to undertake a feasibility study into the development potential of the following car parks, whilst retaining an equivalent amount of car parking (e.g. development over car parks):

- Bakers Lane, Epping (Long and Short Stay)
- Church Hill, Loughton
- Cornmill, Waltham Abbey
- Burton Road, Loughton
- Queens Road, Buckhurst Hill

83. It is likely that these feasibility studies will result in proposals that will include residential housing (as well as retail and office use). One of the key issues for members will be to determine whether the Council's priority should be to maximise any capital receipt that may arise, or to maximise the amount of affordable housing that is provided within the overall

housing provision. For example, for the Parade Ground sale, the Cabinet decided that only 30% of the properties should be required to be provided as affordable housing - the same requirement as the Council expects from developers - resulting in a significant capital receipt to the Council.

84. The Scrutiny Panel may want to consider whether it has any views on the approach that should be taken to any development of the Council's car parks that includes the provision of housing and, if it does, to consider whether it wishes to pass any comments on to the Cabinet, with regard to the feasibility studies that will be undertaken.

85. If the Panel feels that, should any other General Fund assets become surplus to requirements in the future - where residential housing would be acceptable in planning terms - the land should be used to provide affordable housing, instead of providing a capital receipt for the Council, the Panel may want to make a recommendation to the Cabinet accordingly. Clearly, both the Panel and the Cabinet will need to take into account the adverse effect that such an approach would have on the Council's ability to fund other capital projects - for example, the expected capital receipt from the sale of the Parade Ground is likely to be used to fund a number of important Council capital projects.

Use of grant funding from the Housing Corporation's London Region

86. Housing Corporation funding for affordable housing developments is distributed through their regional offices, in accordance with the policy agreed by regional housing boards. Epping Forest is within the East of England Region. Recent experience has been that whilst, generally, land and associated development opportunities in the East of England far exceed the amount of Housing Corporation funding available to the region, the converse is the case in London, where there is insufficient land and developments to utilise the funding available. Moreover, development costs in London are far higher than in the East of England.

87. As a result, all of the local authorities in the London Commuter Belt Housing Sub Region (which includes Epping Forest) have been approached by both the North London Sub Region and the East London Sub Region seeking "Out of London" agreements. In general terms, the London Sub Regions are offering to use funding allocated by the London Region of the Housing Corporation to develop sites within the London Commuter Belt Sub Region for affordable housing. Under the agreement, nomination rights for the affordable homes would be shared between the boroughs within the London Sub Region and the "host authority", with the latter receiving 25% nomination rights.

88. Generally, to date, most potential affordable housing schemes within the Epping Forest District have been funded by the Housing Corporation at some time, even if later than required on some occasions. Therefore, with the relatively low number of affordable housing developments coming forward at present (due to the unavailability of land), the associated Housing Corporation funding is not a significant problem at present. However, should some of the potential initiatives outlined in this report be taken forward by members, and certainly when the Council allocates more land through its Local Development Scheme in the future - in response to the East of England Plan - there may be insufficient funding available to deliver the required levels.

89. If/when this becomes the case, the Council will need to determine whether more affordable housing for the benefit of Epping Forest applicants can be provided on a site *without* the provision of any social housing grant (i.e less affordable housing than the 30%-40% usually sought) or through receiving just 25% nomination rights on schemes funded by a London Sub Region.

90. A recent exercise undertaken by the East Thames Housing Group relating to a large Section 106 site in the District has established that the provision of 30% affordable housing on the site *with grant* and the usual required developer subsidy (providing 80% social rented

and 20% shared ownership) would need to be reduced to 21% *without grant*, with the *same* level of developer subsidy (providing 100% social rented) or, alternatively, the tenure for the 30% affordable housing would need to be changed to 50% social rented and 50% shared ownership.

91. This exercise suggests that a development without any grant from the Eastern Region of the Housing Corporation, with less affordable housing as a result, would still assist more Epping Forest applicants than if the Council entered into an Out of London Agreement with one of the London Sub Regions. Therefore, it is suggested that, unless the London Sub Regions offer more nomination rights to the host authority, this option is not pursued any further.

92. At present, it appears that there would only be a benefit to the Council if London Region funding was used to purchase *existing* properties on the open market, with the Council having nomination rights. In the past, the Council has worked successfully with the London Borough of Camden for two consecutive years on an Out of Borough Scheme, whereby the Council agreed to Camden providing SHG funding to an RSL to purchase and repair 17 existing properties in the Epping Forest District, with Camden and Epping Forest Councils having nomination rights to 12 and 5 properties respectively in perpetuity. The scheme helped Camden provide affordable homes to their applicants, at a lower cost than if purchased in London, and assisted this Council by providing around £500,000 SHG to accommodate Epping Forest applicants. However, since that time, the Housing Corporation has stated that it will no longer normally fund the purchase of existing properties, since they do not increase the overall amount of housing provision.

Commitment to the Council's Scheme of RSL Partnering and Joint Commissioning

93. In March 2005, the Cabinet agreed the Council's Scheme of RSL Partnering and Joint Commissioning. Under the Scheme, the Council has selected - in a transparent and open way - a small, predetermined, number of Preferred RSL Partners who, according to the Housing Corporation:

- are well-governed;
- are viable;
- have a proven track record of successfully developing affordable housing in the District; and
- provide a good housing service to tenants.

94. The Council and the Preferred RSL Partners have then worked together as the Epping Forest Strategic Housing Partnership to discuss potential RSL developments that arise in the District (usually on Section 106 Sites) and have agreed which RSLs should be nominated to develop the affordable housing on each of those sites.

95. The purpose of the Partnership and the Scheme is to avoid the situation that occurred previously, whereby a number of RSLs would be negotiating with developers for the same sites, which enabled the developers to lead the process and select the RSL to work with that gave *them* the best deal. This invariably led to higher bids having to be submitted by RSLs to the Housing Corporation for funding, which not only reduced the value for money, but also risked the Housing Corporation not providing funding, because better value for money was offered by other RSLs in other parts of the Region. As a result, lower numbers of affordable housing would be provided in the District. Furthermore, it inhibited the Council's ability to involve RSLs in the planning and development of affordable housing sites at an early stage, sometimes even before a developer had purchased a site.

96. The Partnership and Scheme has operated very successfully since its introduction, with each of the RSLs operating in a true partnership fashion. However, a problem did arise over the Council's approach to the sale of the Parade Ground site since in this case,

unusually, the Council is the landowner.

97. Originally, the Council selected Warden Housing as its Preferred RSL Partner to undertake the affordable housing on the development, which it stipulated in the Invitation to Tender. Accordingly, Warden Housing devoted a lot of time responding to developers' enquiries during the tender stage and providing costs for the affordable housing, which the developers incorporated within their tenders. These costs were based on an associated grant requirement, which was likely to be funded by the Housing Corporation. However, subsequently, following pressure from the Council's preferred developer, the Council agreed that the developer could work with any of the Council's main Preferred RSL Partners. As a result, the RSLs were forced into a competition, against the spirit and objectives of the Partnership. This led to Warden Housing having to increase their offer to the preferred developer, funded from an increased grant requirement.

98. The outcome was that Warden Housing's bid to the Housing Corporation was far higher than originally envisaged, and more than the regional average for bids, which has put the likelihood of grant funding at greater risk yet, in the event, they are still the RSL that the Council's original preferred developer and current developer have worked with. The outcome of the bid is expected at the beginning of March 2006.

99. To avoid a similar situation happening in the future, the Panel may want to consider whether it feels the Cabinet should be asked to re-affirm its commitment to the Strategic Housing Partnership and the Scheme of RSL Partnering and Joint Commissioning.

“Right to Buy Hot Spot” status

100. In March 2003, the ODPM designated 41 local authority areas in London, the South East and the East of England as “Right to Buy (RTB) Hotspot Areas”, where there is significant housing need and house prices are excessive. With this status, the local authorities in these areas are allowed to reduce the maximum discount available to tenants under the RTB from £38,000 (in London and the South East) and £34,000 (in the East of England) to £16,000. The purpose is to reduce the number of Council properties being lost to the RTB, thereby slowing a reduction on the amount of affordable housing available.

101. Epping Forest was not given this status, but the local authorities in the following areas have:

- All London boroughs, except Barking & Dagenham and Havering
- 9 local authorities in the South East
- 1 local authority in the East of England (Watford)

102. However, following the ODPM's announcement, although not invited to do so, a number of local authorities applied to the ODPM to obtain this status and some were successful (included in the list above). Some also applied to have the status removed.

103. At the time, the Council's Management Board took the view that it was not in the Council's interest to seek the status, because of the potential impact on the capital receipts which were required to support the Council's Capital Programme. However, now that the Council is debt-free and 75% of the capital receipts arising from RTB sales have to be returned to the Government under the pooling arrangements (subject to the last year of the transitional arrangements in 2006/7), the Management Board has suggested that the Scrutiny Panel may want to consider whether a recommendation should be made to the Cabinet to seek RTB Hot Spot status.

104. If obtained, the main benefit to the Council would be that it may slow the reduction in the Council's contribution to the affordable housing stock in the District, enabling more housing applicants to be assisted in the long term, and slow the reduction in rental income to

the HRA. Although such a retardment would result in a reduction in the amount of income the Council receives from the 25% of the capital receipts that the Council can retain, dependent on the number of sales and the number discouraged from buying, the overall income may actually be increased, since an additional £18,000 capital receipt would be received from each sale (due to the lower discount), of which the Council would be able to retain £4,500.

105. However, the main disadvantage would be to those Council tenants who want and are able to access home ownership through the RTB, who would have to pay an additional £18,000 to purchase. Not only would this be unpopular, it may also just push the opportunity for home ownership out of the reach of some tenants. In simple terms, the household would require an additional income of around £6,000 per annum, to support an additional £18,000 mortgage.

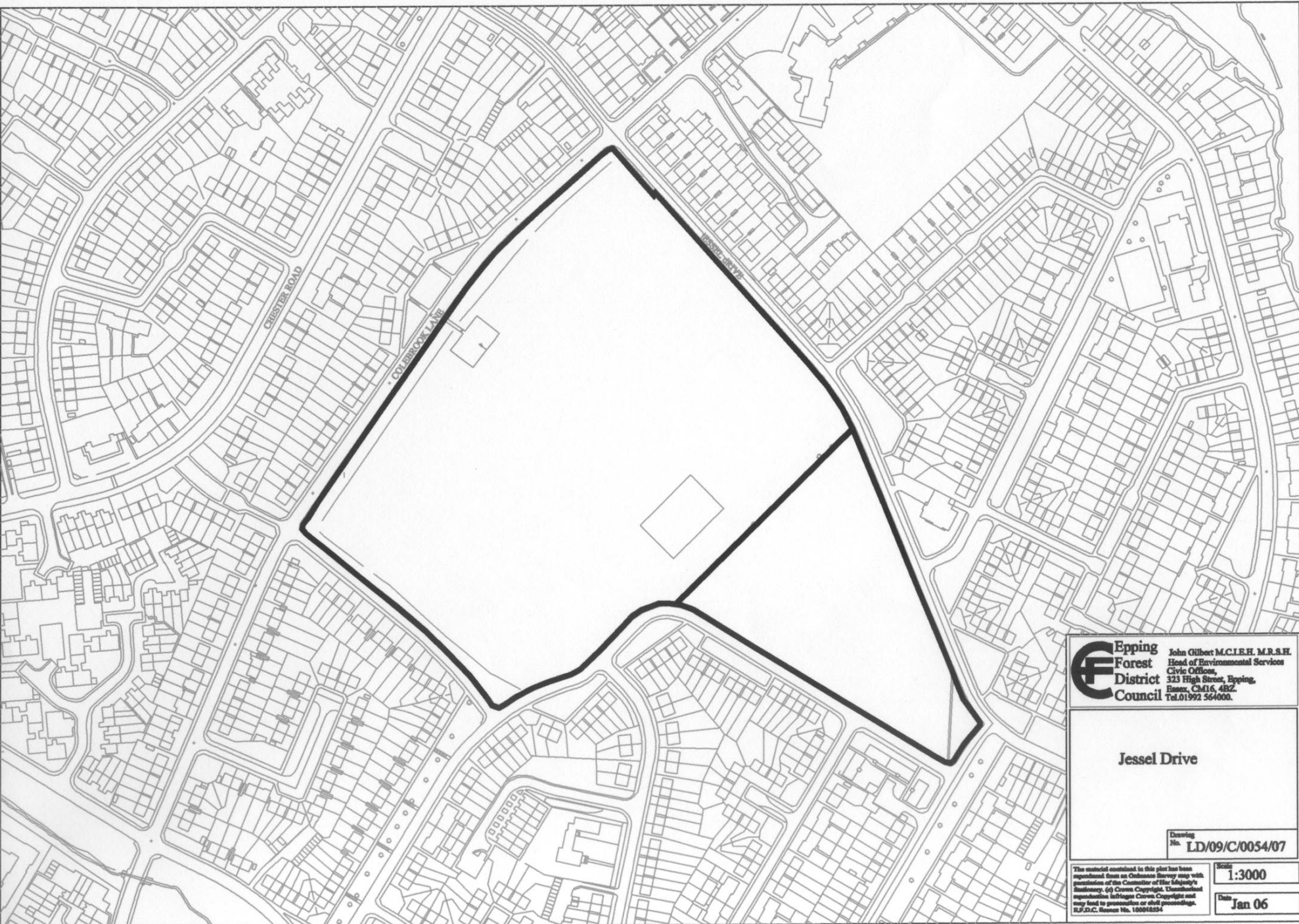
106. The numbers of properties sold under the RTB over the past four years are as follows:

2002/3	2003/4	2004/5	2005/6 (Est)
100	139	61	40

107. Taking these issues into account, the Panel may want to consider whether or not it feels that the Cabinet should be recommended to seek RTB Hot Spot Status for the District from the ODPM.

Other initiatives suggested by the Scrutiny Panel

108. The Panel is invited to suggest any other initiatives that it feels should be explored to increase the amount of affordable housing available within the District.



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Scale **1:3000**

Date **Jan 06**



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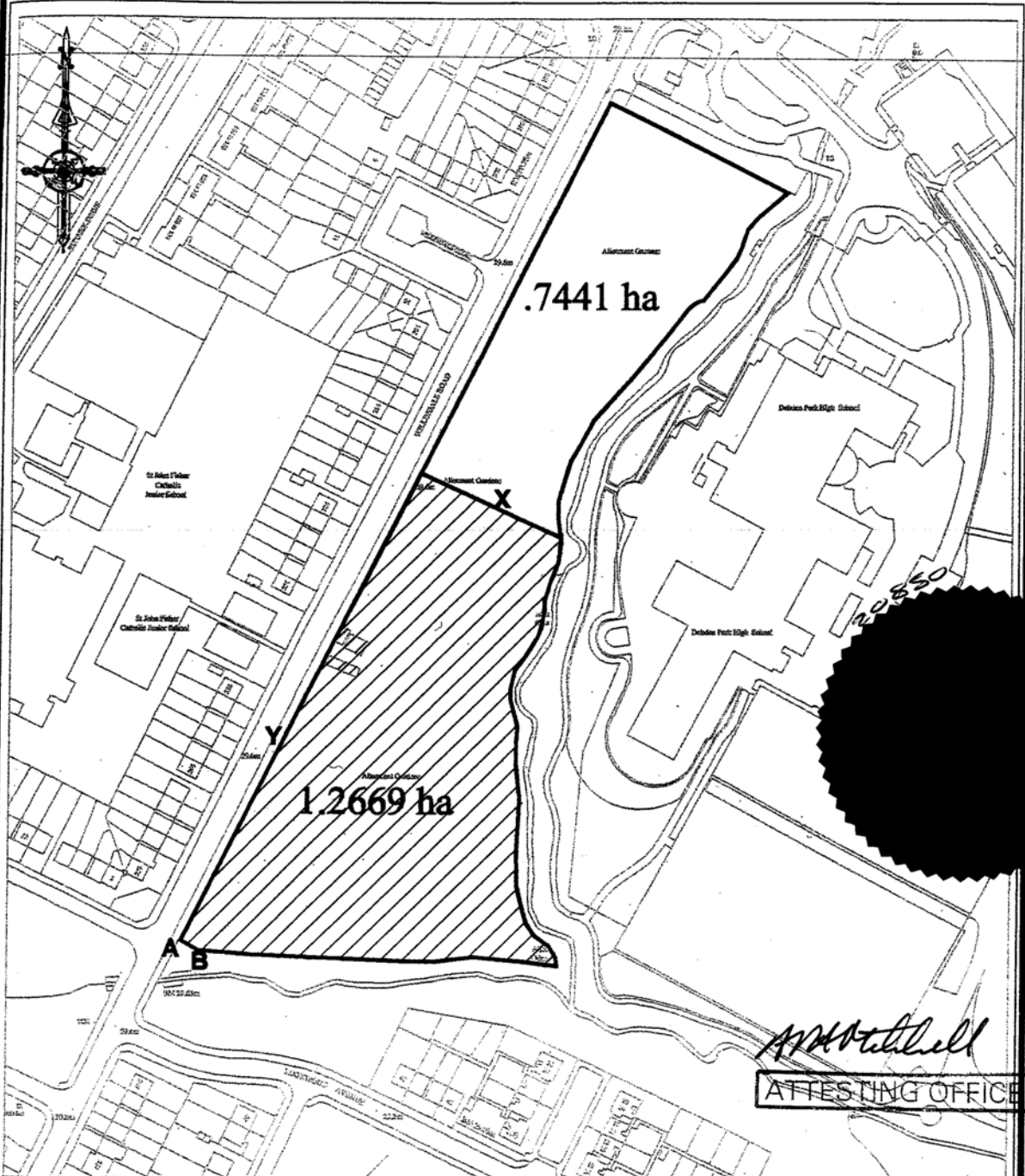
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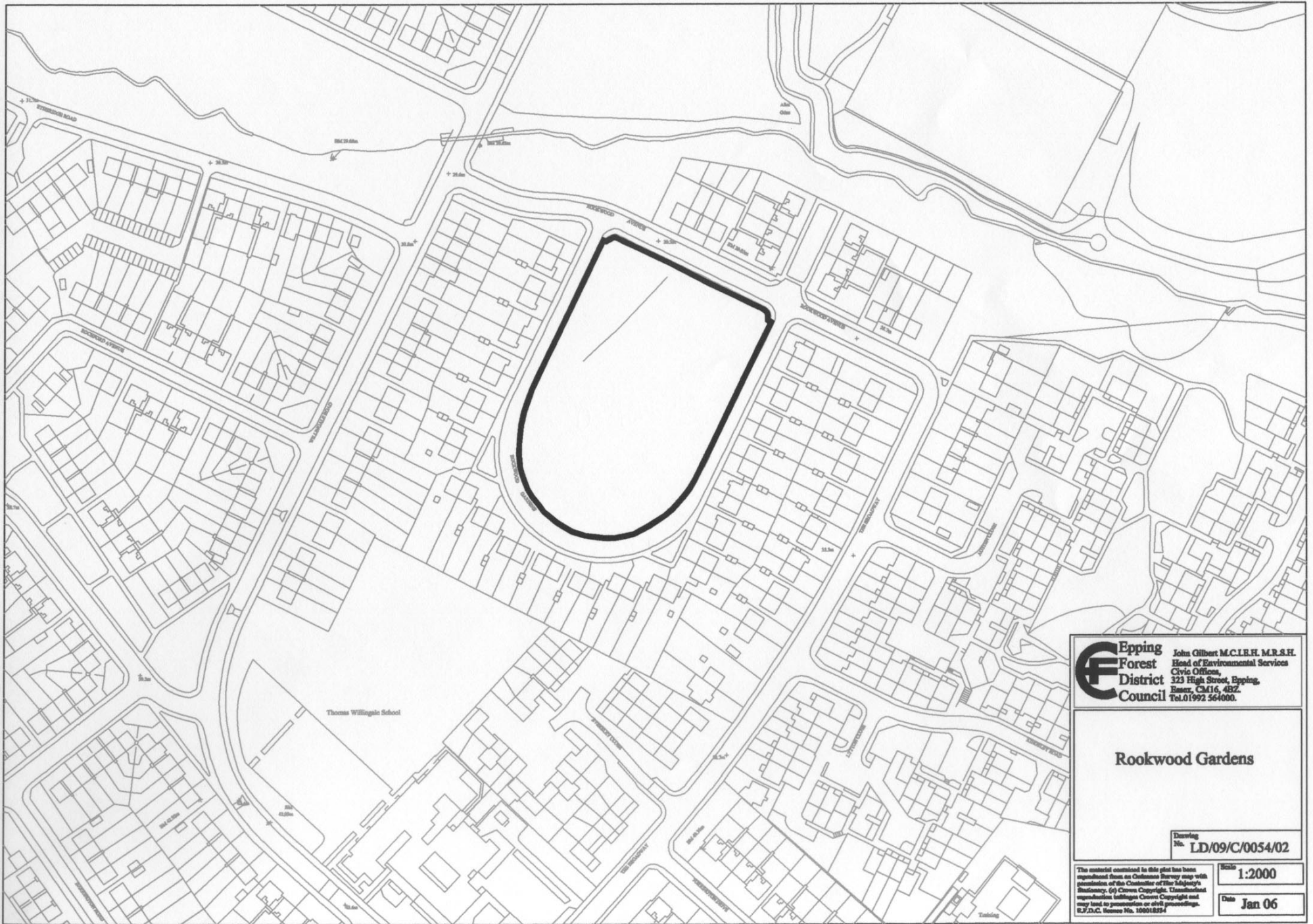
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EPPING FOREST DISTRICT COUNCIL



A.M. Mitchell
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Rookwood Gardens

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