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APOLOGIES Committee Services
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CHIEF EXECUTIVE'S OFFICE
CHIEF EXECUTIVE
Fiona Marshall

08 November 2017

Dear Councillor

You are summoned to attend the meeting of the;

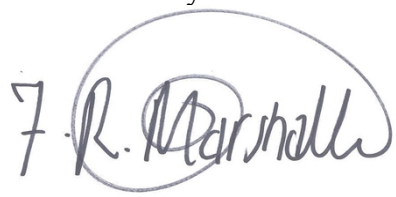
PLANNING AND LICENSING COMMITTEE

on **THURSDAY 16 NOVEMBER 2017** at **7.30 pm**.

in the Council Chamber. Maldon District Council Offices, Princes Road, Maldon**.**

A copy of the agenda is attached.

Yours faithfully



Chief Executive

COMMITTEE MEMBERSHIP	CHAIRMAN	Councillor Mrs P A Channer, CC
	VICE-CHAIRMAN	Councillor A K M St. Joseph
	COUNCILLORS	H M Bass B S Beale MBE R G Boyce MBE M F L Durham, CC A S Fluker M R Pearlman S J Savage Mrs M E Thompson

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AGENDA
PLANNING AND LICENSING COMMITTEE
THURSDAY 16 NOVEMBER 2017

1. **Chairman's notices (please see overleaf)**

2. **Apologies for Absence**

3. **Minutes of the last meeting** (Pages 7 - 96)

   To confirm the Minutes of the meeting of the Committee held on 14 September 2017 (copy enclosed).

4. **Disclosure of Interest**

   To disclose the existence and nature of any Disclosable Pecuniary Interests, other Pecuniary Interests or Non-Pecuniary Interests relating to items of business on the agenda having regard to paragraphs 6-8 inclusive of the Code of Conduct for Members.

   (Members are reminded that they are also required to disclose any such interests as soon as they become aware should the need arise throughout the meeting).

5. **Public Participation**

   To receive the views of members of the public on items of business to be considered by the Committee (please see below):

   1. A period of ten minutes will be set aside.
   2. An individual may speak for no more than two minutes and will not be allowed to distribute or display papers, plans, photographs or other materials.
   3. Anyone wishing to speak must notify the Committee Clerk between 7.00pm and 7.20pm prior to the start of the meeting.

6. **Economic Development Update** (Pages 97 - 102)

   To receive and note the report of the Chief Executive. (copy enclosed).

7. **2018 / 19 Revenue Budget and Fees and Charges** (Pages 103 - 112)

   To consider the report of the Director of Resources, (copy enclosed).

8. **Councillor Engagement in Pre-Application Discussions and Local Development Plan Discussions (Developer Meetings)** (Pages 113 - 126)

   To consider the report of the Chief Executive, (copy enclosed).

9. **Area of Special Control for Advertisements** (Pages 127 - 138)

To consider the report of the Chief Executive, (copy enclosed).

10. **Taxi and Private Hire Criminal Convictions Policy, Licensing Conditions and Scheme of Delegation** (Pages 139 - 164)

To consider the report of the Chief Executive, (copy enclosed).

11. **Taxi and Private Hire Medical Exemption Policy** (Pages 165 - 176)

To consider the report of the Chief Executive, (copy enclosed).

12. **Dengie Gateway Project Outcomes** (Pages 177 - 204)

To consider the report of the Director of Customers and Community, (copy enclosed).

13. **Planning Policy Update** (Pages 205 - 214)

To receive and note the report of the Chief Executive, (copy enclosed).

14. **Brownfield Land Register** (Pages 215 - 222)

To consider the report of the Chief Executive, (copy enclosed).

15. **Planning for the Right Homes in the Right Places** (Pages 223 - 234)

To consider the report of the Chief Executive (copy enclosed).

16. **Draft Maldon District Renewable and Low Carbon Technologies Supplementary Planning Document and Proposed Public Consultation** (Pages 235 - 318)

To consider the report of the Chief Executive, (copy enclosed).

17. **Code of Good Practice and Guidance on the Conduct of Planning Matters** (Pages 319 - 342)

To consider the report of the Chief Executive (copy enclosed).

18. **Any other items of business that the Chairman of the Committee decides are urgent**

NOTICES

Sound Recording of Meeting
Please note that the Council will be recording any part of this meeting held in open session for subsequent publication on the Council's website. At the start of the meeting an announcement will be made about the sound recording. Members of the public attending the meeting with a view to speaking are deemed to be giving permission to be included in the recording.

Fire
In event of a fire, a siren will sound. Please use the fire exits marked with the green running man. The fire assembly point is outside the main entrance to the Council Offices. Please gather there and await further instruction.

Health and Safety
Please be advised of the different levels of flooring within the Council Chamber. There are steps behind the main horseshoe as well as to the side of the room.

Closed-Circuit Television (CCTV)
This meeting is being monitored and recorded by CCTV.

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MINUTES of
PLANNING AND LICENSING COMMITTEE
14 SEPTEMBER 2017

PRESENT

Chairman	Councillor Mrs P A Channer, CC
Vice-Chairman	Councillor A K M St. Joseph
Councillors	H M Bass, B S Beale MBE, R G Boyce MBE, M F L Durham, CC, A S Fluker, M R Pearlman, S J Savage and Mrs M E Thompson

432. CHAIRMAN'S NOTICES

The Chairman drew attention to the list of notices published on the back of the agenda.

433. APOLOGIES FOR ABSENCE

There were none.

434. MINUTES OF THE LAST MEETING

RESOLVED that the Minutes of the meeting of the Committee held on 20 July 2017 be approved and confirmed.

435. DISCLOSURE OF INTEREST

Councillor S J Savage disclosed a non-pecuniary interest in Agenda Item 12 - Maldon and Heybridge Central Area Masterplan – Adoption as Supplementary Planning Document as he lived in Chelmer Terrace.

Councillor M F L Durham declared a non-pecuniary interest as a Member of Essex County Council and advised that he therefore had an interest in any item of business pertinent to that Authority.

Councillor A S Fluker declared in the interest of openness and transparency that he was a Maldon Harbour Commissioner and also a trustee of Stow Maries Great War Areodrome both which were mentioned in Agenda Item 7 – Planning Enforcement.

Councillor Mrs P A Channer declared a non-pecuniary interest as a Member of Essex County Council and any items pertinent to that Authority. She also declared an interest as Stow Maries fell within her division.

436. PUBLIC PARTICIPATION

No requests had been received.

437. ECONOMIC DEVELOPMENT UPDATE

Councillor Mrs P A Channer declared an interest in this item of business as she sat on the Overview and Scrutiny Committee.

Prior to consideration of this item of business the Chairman introduced Mr David Burrows, newly appointed Economic Development and Partnership Manager.

The Committee received the report of the Chief Executive providing an update on key issues relating to Economic Development. Appendix 1 to the report provided an update on the activities of various Economic Development workstreams.

The Economic Development and Partnership Manager presented the report and provided a number of updates and the following was noted:

- Stow Maries Great War Aerodrome had recently been awarded £4.3 million Lottery funding.
- Sense of Place – Councillor M F L Durham reported on a recent meeting with the Chairman of the Sense of Place Board and that the Council needed to be using the Sense of Place logos across all Council documents including emails and staff identification badges.

A number of questions were raised regarding the Superfast Broadband project and in response the Chief Executive provided Members with an update which had come from David Wilde at the recent Locality Board meeting. It was noted that Phase Three was being implemented. The Chief Executive advised she would seek to obtain information as to where the investment would be made and commented that it was essential to ensure that Essex County Council continued its focus on the Maldon District. It was requested that a report be brought to this Committee and the Finance and Corporate Services Committee on Superfast Broadband, including the monies invested by the Council.

Councillor S J Savage declared a non-pecuniary interest as he was a Maldon Town Councillor and the Town Council was referred to in Appendix 1 to the report.

RESOLVED that the contents of the report be noted.

438. PLANNING ENFORCEMENT

The Committee considered the report of the Chief Executive providing an update on the current status of the Planning Enforcement Policy, Practice and Guidance and the Harm Matrix. The current policy was attached as Appendix 1 to the report and Appendix 2 detailed the proposed revised policy with tracked changes to highlight the amendments made.

Members noted the current enforcement activity for the last six months. It was reported that the number of cases had significantly increased compared to previous years but that there had also been an increase in the number of cases closed. Appendix 3 to the report provided more information in relation to the quantum of work across the Enforcement Team.

When presenting the report, the Group Manager - Planning Services advised that the date on the front of the Policy would be changed to reflect the month the policy was approved. It was clarified that the flow chart shown on page 83 would not now be included in the revised policy.

In response to a question, the Group Manager - Planning Services confirmed that standard letter templates had been updated and were being used across the service.

RECOMMENDED that the revised Planning Enforcement Policy, Practice and Guidance (attached as **APPENDIX 1** to these Minutes) be adopted.

439. SECTION 106 AGREEMENTS - SIX MONTHLY UPDATE

Councillor Mrs P A Channer declared an interest in this item of business as she was a Member of the Overview and Scrutiny Committee.

The Committee considered the report of the Chief Executive providing an update on Section 106 (S106) agreements. The Overview and Scrutiny Committee had considered a report (attached at Appendix A) at its meeting on 30 August and the Planning Policy Manager advised Members of the issues raised which included Section 52 agreements, the Community Infrastructure Levy (CIL); and the collaboration between the S106 Monitoring Officer and other services.

Members were advised that the vacant S106 Monitoring Officer role within Planning services had recently been recruited into and a significant part of this role would be monitoring S106s and the introduction of CIL. In addition, an annual review of the non-financial contributions to S106s would be carried out to ensure compliance.

It was noted that S106 agreements were a way that the Council secured financial contributions, facilities or work to prescribe, compensate or mitigate the impacts of development. Members were advised of the process in place for negotiation, decision, monitoring and enforcement of such agreements and that this policy was regularly reviewed.

In response to a question regarding clawback dates, the Planning Policy Manager advised that these started from receipt of the relevant monies and clarified that the Council was only liable for monies where it was the recipient.

A particular development and its S106 arrangements and Essex County Council's assessment of costs were raised by a Member and in response the Planning Policy Manager advised he would look into this and advise all Members accordingly.

Members were advised that payments were index linked to inflation and cost appraisals had to take into account any limitations that a S106 agreement may have and any

options for further funding. Following this the Council has to decide whether to proceed with that particular project taking into consideration the implications.

RESOLVED that the contents of the report be noted.

440. BROWNFIELD LAND REGISTER

The Committee considered the report of the Chief Executive updating on work to prepare and publish a Brownfield Land Register, following the issue of guidance by the Department for Communities and Local Government (DCLG) on 28 July 2017.

An extract from National Planning Practice Guidance was attached at Appendix 1 to the report. It was noted that preparation of a Brownfield Land Register would involve a two stage process and a diagram explaining this was attached at Appendix 2.

The report detailed the work involved in each of the following parts and it was noted that part 2 would only take place following a suitability, availability and achievability assessment and consultation.

- Part 1: Identifying potential brownfield sites
- Part 2: Identifying sites for 'permission in principle'

In response to a question the Planning Policy Manager outlined the process and explained that currently 300 sites were being assessed.

RESOLVED

(i) that the Brownfield Land Register guidance outlined in the report be noted;

(ii) that draft Part 1 of the Brownfield Land Register be brought to the next meeting of this Committee (16 November 2017) for consideration.

441. MALDON DISTRICT GREEN INFRASTRUCTURE STRATEGY

The Committee received the report of the Chief Executive presenting the project brief for the Maldon District Green Infrastructure Strategy (Appendix 1 to the report).

It was noted that the need for a District wide Green Infrastructure Strategy had been identified in the Local Development Plan (LDP) Scheme in February 2016 and Appendix 1 would form the remit for consultants to prepare that strategy.

RESOLVED that the Maldon District Green Infrastructure Strategy Project Brief be noted.

442. HISTORIC REVIVAL WATERFRONT PROJECT OUTCOMES

The Committee considered the report of the Director of Customers and Community updating Members on progress made towards the completion of the Coastal Revival Funded, Historic Waterfront, Revival Project.

The report provided detailed background information regarding the project, including its links to the Maldon and Heybridge Central Area Masterplan and the aims of the feasibility study undertaken. A number of project outputs were set out in the report and an executive summary of the Historic Waterfront Project report was provided at Appendix 1. Appendix 2 set out the required project outputs, a summary of the consultants findings and how the Council may wish to take forward each output to delivery.

Councillor S J Savage raised some concern regarding the accuracy in relation to a map showing footpaths and in response the Chairman requested that he raise his concerns with the Group Manager (Leisure, Countryside and Tourism) outside of the meeting.

In response to a question, the Urban Design Officer provided the Committee with an update regarding the Combined Military Museum and discussions regarding relocation.

Some concern was raised regarding the ability to view documents containing large graphical images through the Modern.Gov system. In response, the Committee Services Supervisor advised that Committee Services were looking at ways to reduce the size of agenda packs.

RESOLVED

(i) that the findings of the consultants employed to undertake the Historic Waterfront Revival Project be noted;

(ii) that comments be collated

RECOMMENDED

(iii) that the Council's Corporate Projects Task and Finish Working Group be requested to manage the next steps of the project as set out in **APPENDICES 2** and **3** and below:

The Consultants recommendations are set out in the following list. The main project should be an application to the Heritage Lottery Fund Parks for the People fund for work that involves:

- restoring the qualities of the historic Edwardian park.
- creating a park café with new toilets for the public and changing rooms for the splash park to replace the current toilet block. We (the consultants) think that it would probably be optimal for it to incorporate a flexible space that can incorporate community events of different type and functions such as weddings. It would probably be a popular facility and offer a good return on investment.
- improving the appearance of the kiosks (if not replaced) and creating a more attractive outdoor seating area in their vicinity.
- extending and modernising Maldon District Museum, and employing a curator – manager. Maldon District Council (MDC) should help the museum to take a wider role in conserving and telling the whole Maldon story, including the maritime heritage.

- replacing the public realm at Hythe Quay with surfacing that is more attractive and in keeping with the heritage, and reduces the impact of parking, while not compromising the operation of the businesses there.
- adapting the Bailiff's workshop and classroom occupied by the Gig Club to provide flexible ground floor space that can be used for activities of different sort.
- providing a better interpretation and wayfinding system, including panels that tell the story of the Battle of Maldon and Maldon Salt. This would ideally extend to the town centre and along the river.

443. MALDON AND HEYBRIDGE CENTRAL AREA MASTERPLAN - ADOPTION AS SUPPLEMENTARY PLANNING DOCUMENT

The Committee considered the report of the Chief Executive presenting the final version of the Maldon Heybridge Central Area Masterplan (the Masterplan) (Appendix 1 to the report).

It was noted that the final copy of the Masterplan incorporated all of the approved amendments following the public consultation and consideration by this Committee which had resolved to remove 'the bridge' across the River Chelmer from the masterplan.

The revised Project 7 Heybridge Creek Connection was attached at Appendix 2 to the report) and highlighted a number of amendments made.

In response to concern raised regarding key intervention six as shown in Appendix 1 to the report, the Urban Design Officer explained that what was shown in the Appendix was indicative and any bollards, surface treatment, signage etc. would be subject to a full highways audit for safety and accessibility.

RESOLVED

(i) that the changes to the Maldon and Heybridge Central Area Masterplan as set out in this report including removal of the bridge across the River Chelmer, be agreed;

RECOMMENDED

(ii) that the Maldon and Heybridge Central Area Masterplan (as set out in Appendix 1 to the report), be adopted.

444. MALDON DISTRICT DESIGN GUIDE - REPORT ON PUBLIC CONSULTATION AND PROPOSED AMENDMENTS

The Committee considered the report of the Chief Executive presenting the findings of the comments received through public consultation on the Maldon District Design Guide (the Guide). The report also outlined a number of proposed amendments and additions to the Guide and seeking endorsement for Officers to prepare a final document for endorsement and subsequent adoption as a Supplementary Planning Document.

The draft Maldon District Design Guide was attached as Appendix 1 to the report. It was noted that 20 responses to the public consultation had been received and these were detailed in Appendix 2. Appendix 3 set out the responses, policy responses and proposed amendments.

The Guide set out the design considerations and design quality expected in the District for all development proposals and aligned with the Local Development Plan. It was noted that once adopted, the Guide would become a material consideration in the planning process.

Councillor A K M St. Joseph commented on the photographs of woodlands used in the introduction to the Design Guide and suggested that alternatives be sought. The Urban Design Officer advised that she would contact Councillor St. Joseph regarding this outside of the meeting.

The Chairman thanked the Urban Design Officer for her work on this project.

RESOLVED

(i) that the proposed amendments to the draft Maldon District Design Guide following public consultation be approved;

(ii) that the Chief Executive be authorised to prepare the final Maldon District Design Guide for adoption as a Supplementary Planning Document by the Council.

445. LONDON SOUTHEND AIRPORT: CONSULTATION CONCERNING THE INTRODUCTION OF NEW APPROACH PROCEDURES

The Committee received the report of the Chief Executive providing an overview of and seeking Members' views on a consultation being undertaken by London Southend Airport (LSA) on new procedures for the approach to the airport.

Councillor Mrs P A Channer advised that she had requested this matter be brought before the Committee. The Planning Policy Manager report that Councillor P G L Elliott (the Council's representative on the Southend Airport consultative body) and himself had recently attended a meeting with the air traffic control manager at LSA with representatives of Burnham-on-Crouch Town Council.

It was noted that the consultation related to proposed changes to the approach patterns for aircraft onto the final approach path into the airport. Members were advised that the proposals were part of a worldwide, European and UK roll out of performance based navigation designed to make the control of airspace around airports more efficient and safe. The report contained a number of maps which sought to illustrate the changes.

In response to a question, the Planning Policy Manager informed the Committee that routes highlighted by the LSA where possible mirrored those currently used and sought to minimise urban area over flight.

There was some discussion regarding over flying planes and the height of these, in response the Planning Policy Manager advised that this was not part of the consultation

but LSA at the recent meeting had been keen to identify the complaints procedure on their website should anyone have any concerns.

Councillor A S Fluker declared an interest in this item of business as he had written to the consultation team on behalf of the residents of Southminster, Asheldham and Dengie.

RESOLVED that the contents of the report be noted.

446. CODE OF GOOD PRACTICE AND GUIDANCE ON THE CONDUCT OF PLANNING MATTERS

The Committee considered the report of the Chief Executive seeking endorsement of the Code of Practice and Guidance on the Conduct of Planning Matters (attached as Appendix 1 to the report) prior to it being adopted by the Council as part of its Constitution in the light of further revision.

Following consideration and comments made by this Committee in June 2017, it was noted that the Chairman and Vice-Chairman of this Committee along with the Leader and Deputy Leader of the Council had met with Officers to review the document. The report set out the changes made to the document including Member training along with proposed changes to the constitution and site visit guidelines.

RECOMMENDED

(i) that the Code of Practice and Guidance on the Conduct of Planning Matters (**APPENDIX 4** to these Minutes) be endorsed and the Council is recommended to adopt it as an annexe to the Constitution;

(ii) that the changes to constitutional arrangements as set out below, be agreed:

Procedure Rule 13 – Voting
Add to (1) – If a Member has not been present at the meeting for the whole of the consideration of a planning application or related matter, or has not undergone fundamental induction training once such a programme has been introduced he/she shall not vote on the matter.

Planning and Licensing Committee Scheme of Delegation
To the Chief Executive (Director) –

In consultation with the Chairman of the Committee, to review the accuracy of agreed planning conditions due to the passage of time between the Committee decision and the issue of a decision notice consequent upon the completion of a S106 planning obligation.

Terms of Reference of Area Planning Committees

Delete provision (a) – To consider and report to the Council
Amend existing para. (b)(i)11 by the deletion of "The approval of"

447. APPROVAL OF THE MALDON DISTRICT HERITAGE AT RISK REGISTER 2017

The Committee considered the report of the Chief Executive seeking approval of the Maldon District Heritage at Risk Register 2017 (attached as Appendix 1 to the report) for publication.

It was noted that Policy D3 of the Maldon District Local Development Plan set out the Council's objective of 'safeguarding, enhancing and promoting the historic environment'. An up-to-date Heritage at Risk Register, which highlighted and promoted the Districts most vulnerable heritage assets was an essential tool in meeting these objectives. Members were advised that once approved the Register would be published on the Council's website and reviewed annually.

RESOLVED that the Maldon District Heritage and Risk Register 2017 be approved for publication.

There being no further items of business the Chairman closed the meeting at 8.57 pm.

MRS P A CHANNER, CC
CHAIRMAN

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APPENDIX 1

PLANNING ENFORCEMENT

POLICY, PRACTICE and GUIDANCE

MALDON DISTRICT COUNCIL

December 2016

APPENDIX 1

Maldon District Council

Planning Policy Enforcement Guidance

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APPENDIX 1

1.0 INTRODUCTION

1.1. The Town and Country Planning Acts give discretion to the Local Planning Authority (LPA) in the exercise of its powers for the control of unauthorised development. This document sets out the context for the operation of the planning enforcement service in Maldon District Council, and the approach that the District Council will take in promoting compliance with planning requirements and dealing with breaches of planning control.

1.2. Paragraph 207 of the National Planning Policy Framework (NPPF) states that:

"*Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate the alleged cases of unauthorised development and take action where it is appropriate to do so.*"

1.3. In the light of the above Framework, this policy statement has been prepared to outline the approach that will usually be adopted by the Council in resolving how will deal with unauthorised development and sets out the procedures that will expect to follow. This guide will enable us to work in a proportionate way according to the breach or offence committed.

1.4. This policy and guidance is in accordance with the National Planning Policy Framework (NPPF) by establishing a formal planning enforcement policy which provides a clear statement of the decision making framework in dealing with alleged breaches of planning control, explaining the Council's enforcement procedures and practices.

Maldon District Council – Enforcement Objectives

1.5. The District Council is committed to effective enforcement of planning control and when considering what action to take, regard will be paid in each instance to the prevailing circumstances and the particular impact of the unauthorised development in question. The Council views breaches of planning control very seriously and has an enforcement team within the Development Management section of the Planning and Regulatory Services to investigate and take action against unauthorised development. The service seeks to achieve the following objectives:

1.6. These objectives are:

- To promote compliance with planning requirements
- To remedy the undesirable effects of unauthorised development

- To bring unauthorised activity under control to maintain the credibility and achieve the purpose, of the planning system

- To strike an acceptable balance between protecting the amenity of the citizens of Maldon and other interests of acknowledged importance, and allowing development to take place

- To provide a service that will pursue pro-active initiatives that would improve the environment and built heritage, safeguard the amenities of the area and support the policies of the development plan

Expediency and the Public Interest

1.7. In considering whether to take any enforcement action, the determining issue for the Council will be whether the breach of planning control causes significant harm and it is in the public interest to take enforcement action.

1.8. Severe harm to public amenity will normally arise through those breaches of planning control which involve unauthorised works to a Listed Building, unauthorised works within a Conservation Area and unauthorised development which is contrary to Development Plan Policies. Action can also be taken to require owners to improve the appearance and condition of land and property, in the interests of local amenity.

The Council's Enforcement Objectives

1.9. An owner or occupier of land can, without a specific planning permission or certificate of lawful use, be at a disadvantage if they subsequently intend to dispose of their interest in the land in question, and have no evidence of any permission having been granted for development. The Council appreciates that some developments have occurred over time and have gone unnoticed, but it has to investigate when complaints are made, or consider through their own investigations that matters need to be formalised.

1.10. The Council will be responsive to all potential enforcement matters and will pursue the following key objectives:

- Respond to complaints about potential unauthorised development

- Ensure that development is carried out in accordance with planning approvals

- Be fair and take action that is proportionate to the breach or offence, in a responsive, helpful and consistent manner

2.0 POLICY POSITION National Policy

2.1. The Council is mindful that enforcement action is a discretionary power but it is important that Local Authorities develop their own policy on enforcement matters. The Council will take action when it is expedient to do so, and any action will be commensurate with the seriousness of the breach of control.

2.2. It is only an offence to carry out development without planning permission in ~~a few~~ certain instances. Section 73A of the Town and Country Planning Act 1990 (as amended) specifically provides that planning permission may be granted to regularise development already carried out.

2.3. Government Policy Guidance makes it clear that enforcement action should not be taken simply to remedy the absence of a planning permission where development is otherwise acceptable on its planning merits. However, it is important that the Council responds to complaints and seeks to remedy breaches of planning control.

Other Planning Policy Guidance

2.4. Some breaches are more serious than others, and some require immediate action, for example, to prevent the destruction of an historic fabric or structure, an important tree or belowground archaeology. Apart from the seriousness of the breach, the following matters have to be taken into consideration:

- The Adopted Maldon District Replacement Local Plan (2005) remains the current adopted Local Plan.
- The Maldon District Local Development Plan is the emerging Plan for the District and will constitute the new up to date statutory Development Plan for the District once adopted.
- Through the Localism Act 2011, the Government has introduced a new tier of planning at the neighborhood level. Local communities will be able to prepare a Neighborhood Development Plan for their area which sets out specific planning policies.
- Although they are not part of our statutory development plan, supplementary planning guidance documents (SPDs) (such as planning frameworks and briefs and conservation area appraisal and management strategies) play an important role in our planning decisions.
- The National Planning Policy Framework (NPPF) was published on 27 March 2012. Amongst other things, the new guidance replaces many existing Planning Policy Statements (PPSs), Planning Policy Guidance notes (PPGs) and Circulars. The guidance is a material consideration in planning decisions.

- The Planning Practice Guidance was first published on 6th March 2014. It was a result of a commitment to reform the Planning system to make it simpler, clearer and easier for people to use, allowing local communities to shape where development should go and not go.

- The provisions of the Human Rights Act 1998 when making decisions relating to planning enforcement.

- The principles of the Enforcement Concordat; Good Practice Guide for Small Businesses 1998 are proposed to continue to be applied. These principles include:

    - There will be openness in dealing with business and others.
    - Enforcers will be helpful, courteous and efficient.
    - Complaints procedures will be publicised.
    - Enforcement decisions will be taken in a proportionate manner.
    - Enforcement officers will strive for high standards of consistency.
    - To take into consideration the planning history of the site
    - To seek specialist help from legal, trees and conservation experts.
    - To be aware of relevant appeal decisions and case law decisions.
    - To note information provided by the owner/occupier or interested parties.

2.5 Government has given Councils the primary responsibility of taking whatever enforcement action may be necessary, in the public interest, within their administrative area. A private individual cannot initiate planning enforcement action, so they often look to the Council to act to remedy any concerns that they may raise.

3.0 ESTABLISHING A BREACH OF PLANNING CONTROL

3.1 A breach of planning control is defined in the Town and Country Planning Act 1990 as:

"the carrying out of a development without the required planning permission, or failing to comply with any condition or limitation subject to which planning permission has been granted."

3.2 A breach of planning control is normally a form of development (a building/engineering operation, use or other activity) that is unauthorised, in that it does not have the benefit of planning permission or other required consent. It includes development not carried out in accordance with a planning permission, and any breach of condition. The fact that something is unauthorised does not, in itself, amount to an offence.

3.3 This contrasts with other elements of planning law, where certain works and activities are in fact offences that can be prosecuted in the courts. These include:

- Unauthorised works to listed buildings
- Unauthorised works to or the removal of protected trees
- Unauthorised advertisements

3.4 Underpinning all of this is a large body of case law. There is a range of powers available to Local Planning Authorities to take enforcement action to deal with breaches of planning control and these are contained in the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act, 1991), the Planning (Listed Buildings and Conservation Areas) Act 1990 and related Regulations

APPENDIX 1

4.0 THE COUNCIL'S INITIAL INVESTIGATION

How to report a suspected breach

4.1 Most investigations into breaches of planning control result from complaints received from members of the public or from Ward Councillors. The Council can be contacted by letter, using the on-line form ~~telephone, email~~ or email~~in person~~. It is essential that complainants submit details in writing as this~~Written complaints are preferred as this~~ avoids ambiguity and provides the Council with an accurate basis on which to proceed with an investigation.

4.2 Complaints should be addressed to ~~the Group Manager~~Enforcement, Planning and Regulatory Services Directorate, Maldon District Council, Princes Road, Maldon, Essex, CM9 5DL (or as stated on the Council's web site) who will then ensure it is dealt with by the appropriate investigating officer(s).

4.3 The Council will need the following information before any investigation will take place:

- The precise location of the site or property to which the complaint relate.
- The exact nature of concern, i.e. the potential breach of planning control.
- An indication of any harm caused by the breach.

~~4.3~~4.4 The following information will assist the Council in investigating the alleged breach:

- When the breach occurred.
- Any information on the identity of the person(s)/organisation responsible, if known.

Comment [ML1]: Has been split to make clearer what information is essential.

Confidentiality

~~4.4~~4.5 All investigations are carried out in strictly confidential basis and the investigation team will not reveal the complainants' details. On serious breaches of planning control, which may warrant prosecution, or result in an appeal, the complainant may be invited to give a witness statement. However, such occasions are rare and involvement in those cases is on a voluntary basis.

Anonymous Complaints

~~4.5~~4.6 Anonymous complaints will not normally be investigated.

Recording Complaints

~~4.6~~4.7 All complaints of potential breaches are entered onto the enforcement records system upon receipt, and a unique reference is created so that progress on each complaint received can be monitored. The name, address and telephone number of the complainant and the details of the complaint are logged. ~~Complaints will usually by be acknowledged by email or letter within 5 working days, giving the~~

~~name and telephone number of the investigating officer. Complainants are kept informed throughout the investigation process and are welcome to contact the investigation officer at any time for a progress update.~~

Comment [ML2]: This is explained at 4.9 so deleted so it doesn't repeat itself.

~~4.7~~4.8 The initial investigation will usually involve checking the planning and any building regulation history of the particular site to establish any relevant development history and whether any conditions have been attached to any approval granted. Sometimes it is also necessary to check other records held by the Council such as council tax or business rates, environmental health records or outside organisations ~~such as the DVLC at Swansea,~~ in order to get a complete understanding of events.

~~4.8~~4.9 A site inspection may prove necessary to establish further facts and evidence. Investigation Officers identify themselves when on site and explain the reasons for the visit. The owner/occupier or people working on the site will be interviewed to obtain factual information and photographs and measurements may also need to be taken. A detailed note is made of the findings in the investigation file, which is used to record all visits and discussions at meetings or on the telephone.

Informing Complainants

~~4.9~~4.10 Following an initial acknowledgement the Council will keep all complainants informed of progress at the following key stages of the process including, where relevant:

- The initial assessment, advising what action will be taken
- Any Issue of enforcement notice, or outcome of other action
- If an appeal has been lodged against a formal notice
- Closure of the investigation

Rights of Entry

~~4.10~~4.11 Investigation officers have the immediate right of entry onto sites under the provisions of S196A, S196B and 196C of the Town and Country Planning Act 1990, to all non-residential land and buildings. Twenty four hours' notice must be given if access is required to a residential property. If access is denied for any reason, a formal Right of Entry Notice can be served. If entry is subsequently refused, a warrant to effect entry can be applied for from a serving Magistrate.

Obtaining additional information

~~4.11~~4.12 In some circumstances, when it has not been possible to establish the facts through normal investigation, or when the co-operation from the owner/occupier is not forthcoming, a formal Planning Contravention Notice (PCN) may be served. This requires the recipient to provide information relating to the breach within 21 days from the date of service of the Notice.

~~4.12~~4.13 The complainant may occasionally be asked to assist with the investigation, for example, by keeping a diary of events relating to the breach. This is helpful where problems occur in the evenings or at weekends or outside normal working hours. Such help is voluntary, but the evidence may be crucial when assessing

whether a breach has occurred and whether further action is considered expedient to remedy the breach.

~~4.13~~4.14 If there is no breach of planning control evident, then an explanation will be given to the complainant and the file will be closed.

~~4.14~~4.15 The impact of some developments and activities are more harmful than others. The Council will nevertheless seek to ensure that all reported breaches of planning control are resolved as quickly as possible. The Council however, needs to ensure that full and proper consideration is given to the matter and this can often take several weeks, occasionally months, prior to resolving whether a breach of planning control has occurred and determining what further action is merited.

~~4.15~~4.16 When there is enough evidence to establish whether a breach has taken place, the investigation officer will advise on the most appropriate course of action or, no further action, in some cases. The investigation officer will contact the complainant to inform them of the outcome.

5.0 PRIORITIES FOR ACTION

5.1 Some complaints will be more urgent than others and these will need to be given a higher priority including:

- Works to listed buildings, below ground archaeology and works to protected trees that cause immediate and irreversible harm, including any advertisement that may be affixed to them or other operational development such as builders storage, temporary buildings or parking areas that may be positioned next to them and likely to cause harm
- Councillor, MP enquiries and formal Parish Council complaints ~~where there appears to be a serious breach or an offence~~.
- Operational development/building works where substantial and ongoing loss of amenity is likely to occur
- Fly posting which appears to be intensive and is likely to cause an amenity or public safety issue
- Breaches of planning control that are likely to be immune from enforcement within six months
- Changes of use affecting residential amenity
- Other development (e. g building works/changes of use and untidy condition of land/buildings)
- Building works affecting the character and appearance of a Conservation Area.
- Other advertisements and satellite dishes attached to protected trees or listed buildings

5.2 On receipt of a complaint, it will be prioritised, as discussed below, and a preliminary investigation will be undertaken to establish whether a breach of planning control has, or is likely to, have occurred.

5.3 **Complaints classified as 'Immediate' – investigation within 1-2 working days**

- Works to listed buildings
- Works to protected trees
- Demolition of important unlisted buildings in conservation areas
- Significant unauthorised building works
- Breach of conditions where there is likely to be irreversible harm, e.g. contaminated land, archaeology and flood defence or drainage works

5.4 **Complaints classified as 'Urgent' - investigation within 15 working days**

- Councillor or MP complaints and formal Parish Council complaints ~~where there appears to be a serious breach or an offence~~.
- Operational/building works/change of use/compliance with conditions/ obligations affecting residential amenity where ongoing severe neighbour disturbance is being caused
- Operational development within conservation areas
- Where immunity rules are likely to shortly apply if action is not taken

5.5 **Complaints classified as 'Non-Urgent' – investigation within 25 working days**

- Other changes of use
- Other building works/condition of land/compliance with conditions
- Advertisements and satellite dishes (not attached to trees or listed buildings) (conservation areas to be prioritised)

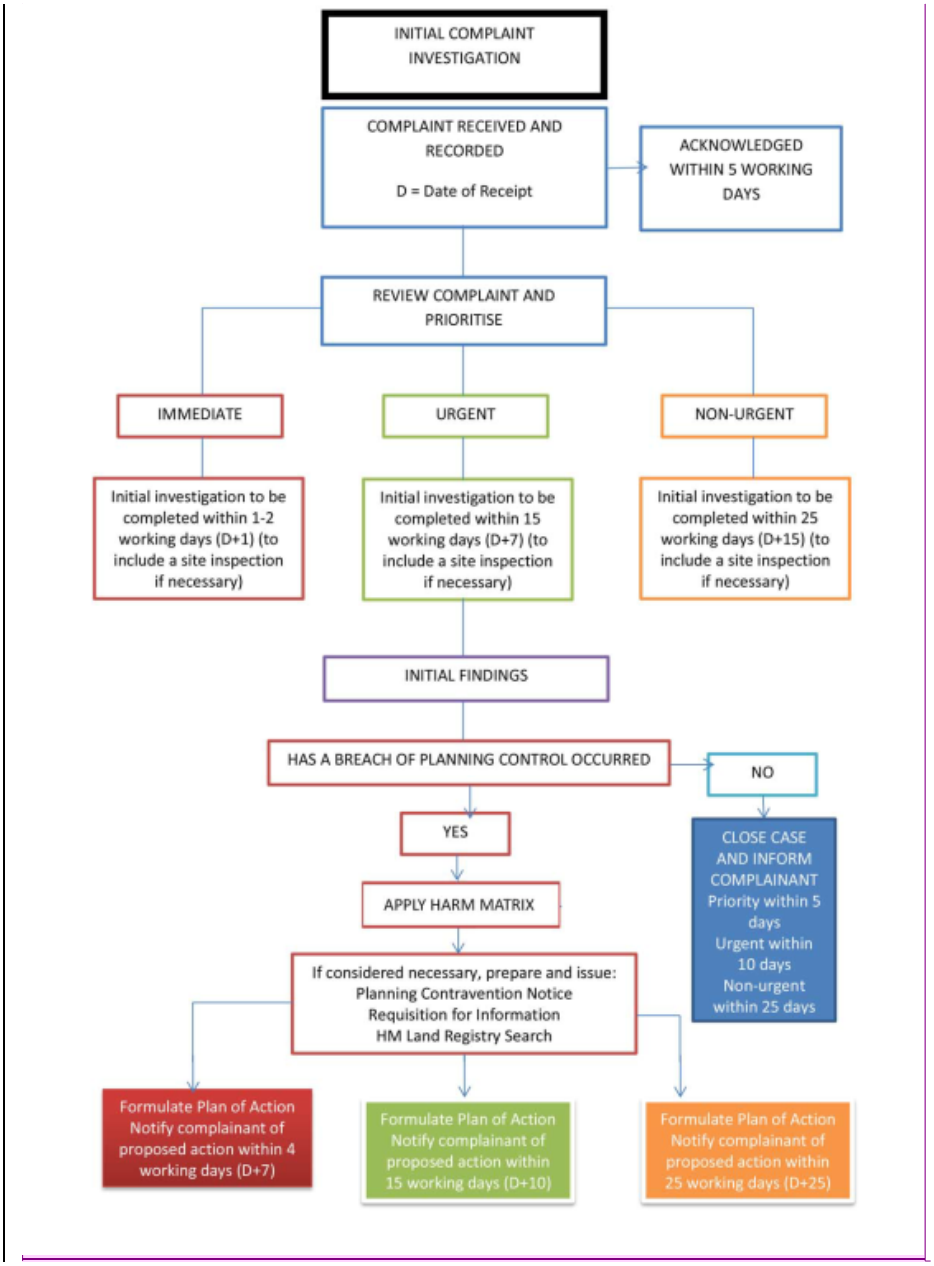
~~**Planning Advice and Enquiries**~~

~~5.6. For general planning enquiries and advice that do not constitute a complaint into a breach of planning control, the matter will be looked into within 10 working days.~~

Initial Investigation Flow Chart

5.6. The following flow chart shows the procedure followed when investigating complaints.

APPENDIX 1



Comment [ML3]: Amended flow chart inserted that includes application of the harm matrix.

6.0 ASSESSING THE COMPLAINT

6.1 An important element of the Council's Enforcement Policy is a prioritisation or **Harm Assessment Matrix**. A number of local authorities have adopted an approach which attracts scores depending on the nature and location of an alleged breach of planning control. ~~and~~ Maldon Council first adopted this approach in April 2014. Following an initial site visit by an officer, an assessment of the breach is carried out in order to determine what level of officer time will be dedicated to investigating the breach further.

6.2 The matrix sets out a minimum score which needs to be achieved in order to ~~prompt justification for~~justify further investigations. A score below ~~the designated minimum~~5 would normally result in no further action by the Planning Enforcement Team ~~in respect of the breach, although a~~other than an invitation to submit a retrospective ~~application would normally be invited~~ in an attempt remedy/regularise the breach ~~and it will be expected that this is sum bitter in a short period of time~~.

6.3 As detailed in the next section ~~S~~scores are based on ~~(i)~~ matters of fact i.e. does it relate to a listed building or ~~whether~~ if the site is in a conservation area, plus ~~and~~ ~~,~~ ~~(ii) to~~ matters of judgement i.e. whether the breach would result in irreversible harm or ~~whether~~ or if ~~the development, if~~ permission was granted, would the development result in an undesirable precedent.

APPENDIX 1

HARM ASSESSMENT CRITERIA ~~(see APPENDIX 1)~~

1. IS THE BREACH?

For **operational development** - are the works ongoing, stopped, complete or stable?

For **change of use -** is the use intensifying, is there an increase in activity, is there a change in appearance/ activity. Is residential occupation involved?

2. HIGHWAY SAFETY

YES = New/altered access to a highway, significant increase in use of access, creates on street stopping and or parking

3. OTHER SAFETY ISSUES

YES = Hazardous materials stored, potential fire risk, interference with safety of other uses/users

4. CAUSING STATUTORY NUISANCE

YES = Where dust, vibration, smell, fumes, light creating adverse physical effect upon health, and or where Environmental Health are taking action

5. COMPLAINANT

Self-explanatory

6. AGE OF BREACH

Self-explanatory taking into account the '4 year' or the '10 year' rule.

7. DEGREE OF HARM

Is the harm widespread or localised?

Widespread – more than 10 residential properties directly affected, major policy breach i.e. dwelling in countryside or commercial operation in countryside, can be seen over several tens of metres, pollution is air borne and carried over neighbourhood.

Local – this is where there is harm but only to immediate neighbours affected.

8. IRREVERSIBLE HARM

YES = effectively a planning judgement as to whether retention of operational works or change of use can be permitted without causing permanent damage to the environment or living conditions. Would an application be refused planning permission?

9. FLOOD RISK

Development within its respective Flood Risk Zone [graded 1 (low risk to 3 high risk]

10. BREACH OF PLANNING CONDITION , ANY ARTICLE 4 DIRECTIONS,OR LIMITATIONS IMPOSED BY PERMITTED DEVELOPMENT RIGHTS

This will be a matter of fact and thus either yes or no

11. AFFECT ON THE CHARACTER OR APPEARANCE OF A CONSERVATION AREA

This will be a matter of fact and degree and a matter of either yes or no

12. LISTED BUILDING OR AFFECTING THE SETTING

This will be a matter of fact and degree and a matter of either yes or no

13. SPECIAL AREAS

This relates to whether the breach lies within a specific special project area such a the Maldon central regeneration area and is part of a specific proactive enforcement project

14. SENSITIVE AREAS

This will be a matter of fact and thus either yes or no. These special areas include:

AONB, SSSI, Ramsar Convention Site, Area of Archaeological Importance, Scheduled Ancient Monument

15. UNDESIRABLE PRECEDENT

A matter of judgement i.e. if similar work or a change of use has occurred would this undermine an important planning principle for the area or cumulatively cause harmful change to character of the area?

~~**Review against matrix**~~

~~An Enforcement Harm Assessment Form will normally be completed by an officer who has seen the development. Only complaints which score 5 or above will be further investigated. Those with a lesser score will be informed of the breach/likely breach and invited to remedy/regularise it. In both cases the complainant is to be notified of the Council's Actions.~~

7.0 WHAT HAPPENS WHEN BREACHES OF PLANNING CONTROL ARE CONFIRMED?

7.1. The majority of breaches of planning control are resolved informally and by negotiation with the owner/occupier. Formal action, only takes place when it is expedient, and where other means to resolve the problem have failed. **It is a last resort**. The Council will take effective enforcement action when it is essential to protect the amenity of the area, the public or highway safety, and to maintain the integrity of the development management process within the District. The impact of some developments are more harmful than others and therefore action will be in the public interest and commensurate with the breach of planning control.

7.2. Authorised officers will normally decide whether formal notices are justified, in accordance with agreed policies, and action will be approved under the powers delegated to The Director of Planning and Regulatory Services or through the relevant committee/councillor involvement according to the Council's Constitution at the time.

7.3. When it is clear that there is a breach of planning control, the Council will draw this to the attention of the person responsible and advise them of the most appropriate course of action. These may be:

- If the breach is minor with no significant effects – no further action required
- If the development is such that it is in line with relevant local plan policies – the Council will usually invite a 'retrospective' application for planning permission
- If the breach is likely to be immune from enforcement action due to the passage of time – an application for a Certificate of Lawfulness will be invited if permission is unlikely to be granted – the Council will ask for the use to cease, or unauthorised development to be removed. A suitable period of time is allowed, depending on what needs to be done. For example, tenants must be allowed reasonable time to find somewhere else to live
- As a last resort, formal notices can be issued, such as a Breach of Condition Notice or Enforcement Notice, if it is considered expedient having regard to the development plan policies and other material considerations. This is a discretionary decision, which is made on a case by case basis. The Council must be able to justify taking formal action and be sure that the steps specified in the notice and the period for compliance with each step, are reasonable
- In extreme cases, the Council can serve a notice to require any relevant activity to cease (a Stop Notice or Temporary Stop Notice) and there is provision to obtain a planning enforcement injunction to restrain an actual or apprehended breach of planning control

- When a Breach of Condition Notice has been served and has not been complied with, the person who has been served with the notice can be prosecuted in the Magistrates Court

- When an Enforcement Notice takes effect but is not complied with, any owner/occupier or person who has control of, or has an interest in the land, can be prosecuted in the Magistrates Court

- Where appropriate, and if other means have not secured a cessation of the breach being enforced against it, the Council will consider using its default powers to take direct action to remedy the breach of planning control, recovering the cost from the owner or placing a legal charge on the land

- When it is considered expedient not to pursue enforcement action against a breach of planning control, so no further action will be taken

7.4. A robust case supported by evidence needs to be made to ensure any subsequent appeal and prosecution can be supported.

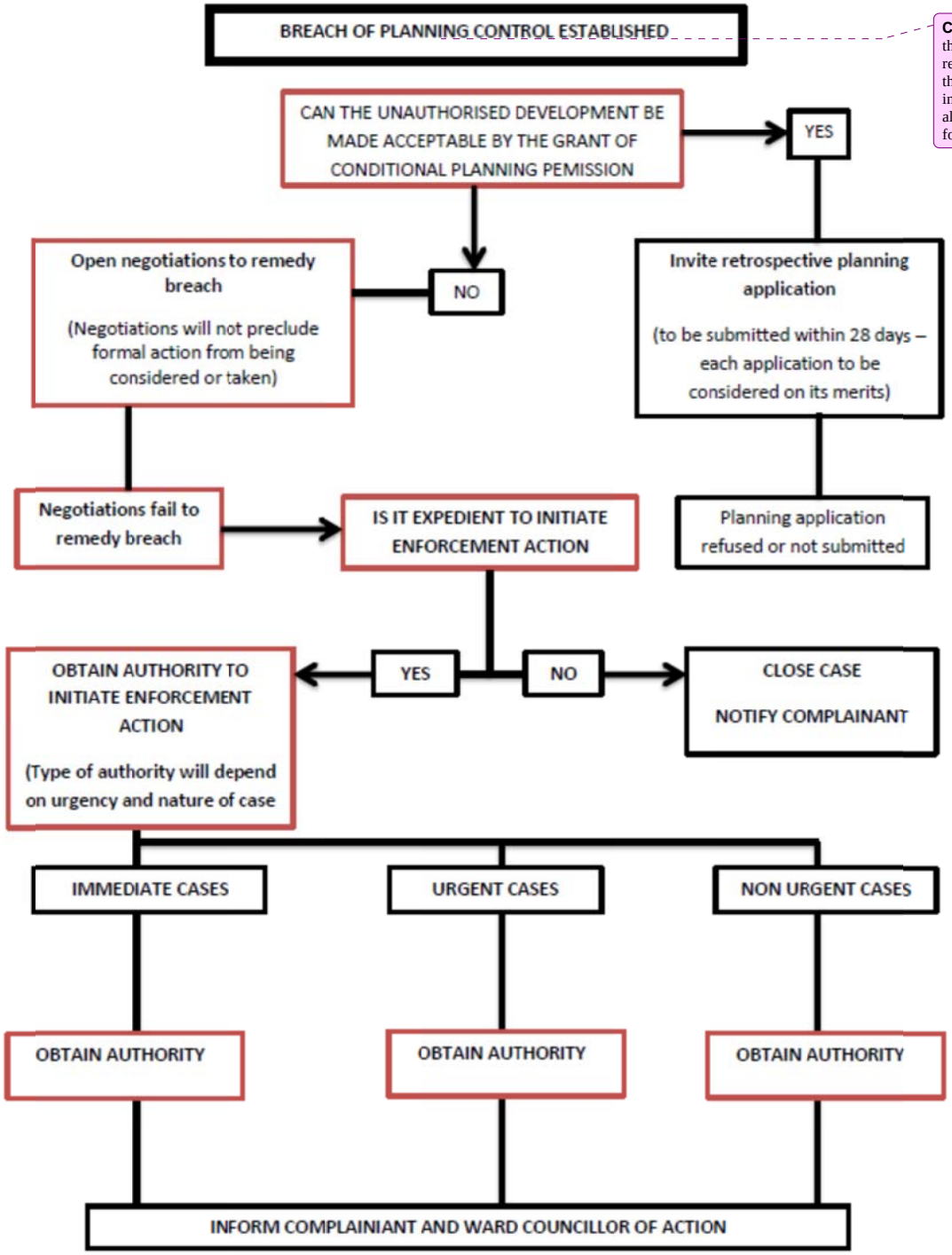
~~Flow Chart –~~ Breach of Planning Control Confirmed

7.5. Once a breach has been established, further investigation may be required and a time-table to be followed to resolve the breach according to its priority classification.

~~7.6. The flow chart below shows the procedure and time-table to be followed once a breach has been established.~~

APPENDIX 1

NFORCEMENT PROCEDURES FLOW CHART



Comment [ML4]: Was an addition to the original policy. However, agreed to be removed aa it is an internal process rather than being something that needs to be included within the formal adopted policy; also limits flexibility that might be required for individual cases.

(Appendix 1 – page 19)

8.0 SECURING COMPLIANCE WITH AN ENFORCEMENT NOTICE

8.1 An offence occurs when an owner/occupier fails to comply wit-h the requirement of an enforcement notice.

8.2 The Council will take action when the terms of an enforcement notice have not been complied with. Such action may involve:

- Prosecution of the parties concerned in the local courts
- The issue of an injunction through the court system
- Direct, or 'default' action

8.3 The Council will usually seek to bring the matter to a successful conclusion as quickly as possible through the pursuit of action in the courts. If someone is found guilty of failing to comply with the terms of an enforcement notice, a maximum fine of £20,000 may be imposed by the court. If the Notice is still not complied with, a further prosecution may be brought and this is likely to continue until the Notice has been complied with.

8.4 The Council will not necessarily withdraw from taking action in the courts once this has commenced, and this may apply even where the breach of planning control may be rectified before the case is heard.

8.5 In the case of a persistent offence against an unauthorised activity, an injunction may be sought through the County Court or High Court. More severe penalties may be imposed in these circumstances if the offence continues.

8.6 In exceptional circumstances, the Council will consider taking direct or default action to remedy a breach of planning control. This may involve the use of contractors to enter a site and physically remove or put right unauthorised building work. Such circumstances are likely to arise for example when the breach of planning control has not been remedied, despite the imposition of fines by the Courts or for continued breaches of planning control. In such cases, the Council will seek to recover its costs, in the form of a charge on the land for example, or by other means.

8.7 If an enforcement notice is served against a development, which is subject to a planning or listed building appeal which is currently under consideration by the Planning Inspectorate, the outcome of such an appeal may be awaited before taking further action to secure compliance with an enforcement notice. When an appeal has been dismissed, compliance with the requirements of an enforcement notice will then be pursued.

8.8 When the Council believes that an enforcement notice has been complied with, the fact will be confirmed to the owner/occupier of the land and to anyone who has complained about the development or activity. ~~Even though an enforcement notice has been discharged, the record will remain in the Land Charges Register unless specifically requested to be removed by the owner/occupier.~~

9.0 ENFORCEMENT APPEALS

9.1 S174 of the Town and Country Planning Act 1990 (as amended) provides a right of appeal against an enforcement notice. The Planning Portal (web site) provides a link to relevant information.

9.2 An appeal must be made before the notice takes effect (normally 28 days after the date of issue of the notice). An appeal cannot be entertained if it is made after the date the notice takes effect.

9.3 An owner, occupier or any other person, who has an interest in the land, even if a copy of the notice has not been issued on that person, may make an appeal.

Grounds of Appeal

Ground A – that planning permission ought to be granted (or a condition or Limitation be discharged)

9.4 This is the 'deemed application' seeking planning permission and requires payment of a fee both to the Council and the Planning Inspectorate. The Council will ensure that the reasons for issuing the notice are well founded and in accordance with the development plan (where appropriate). The Council will then be able to argue on the planning merits of the case that planning permission should not be granted, or that permission should only be granted subject to conditions.

Ground B – that as a matter of fact the alleged unauthorised development has not taken place

9.5 The Council will, by investigating the breach of planning control and through collection of appropriate evidence, ensure that the matter alleged in the notice has occurred and has, in fact, taken place.

Ground C – that the development (if it has taken place) does not constitute a breach of planning control

9.6 Enforcement action will only be taken when it appears to the Council that there may have been a breach of planning control. Before taking action, the Council will consider:

- Whether the alleged breach constitute development
- If it does constitute development, does it need planning permission
- Whether planning permission been granted

Ground D – that the time limit for taking enforcement action has passed

9.7 When there is any doubt about when the breach of control first took place, before taking enforcement action, the Council will initiate an investigation to establish when the breach first occurred. This investigation may include the service of a Planning Contravention Notice, a Requisition for Information and an HM Land Registry search. Evidence may also be sought from neighbours, previous owners and any other person with personal knowledge of the history of the site. This will ensure from the evidence available that the development has not achieved immunity from enforcement action due to the passage of time.

9.8 The immunity from taking enforcement action will be four years in respect of unauthorised building works or for the making of a material change of use of any building for use as a dwelling house, or non-compliance with a planning condition which prohibits the use of a building as a dwelling house.

9.9 In all other cases, the period from immunity will be ten years.

Ground E – that copies of the notice were not properly served

9.10 The Council will take all reasonable steps to issue a copy of the enforcement notice on every person with an interest in the land as required by the legislation based on the information obtained by a Requisition for Information, a Planning Contravention Notice or HM Land Registry search or by such other means necessary.

9.11 Notices will be issued by Recorded Delivery mail or by hand.

Ground F – that the steps required by the notice exceed what is necessary to remedy any injury to amenity

9.12 The Council will ensure that the steps required to be taken are both necessary and the minimum required in order to remedy the breach of planning control. The steps will be stated clearly so that there is no doubt about what has to be done.

Ground G – that the period for compliance is too short

9.13 The period for compliance will be a reasonable period having regard to the particular circumstances of the case and the actual or potential harm being caused to the amenity of the area by the unauthorised development.

9.14 When particular personal family hardship will result in order to comply with an enforcement notice, the Council will ensure an adequate period for compliance is granted.

An appeal made under Ground A

9.15 This ground of appeal relates solely to the planning merits of the case. If an appeal is successful under this ground, planning permission can be granted for the development enforced against.

An appeal made under Grounds B, C, D and E

9.16 An appeal made under any or all of Grounds B, C, D and/or E are grounds often referred to as the 'legal grounds' of appeal.

An appeal made under Grounds F and G

9.17 An appeal made under either Grounds F and/or G are not concerned with the planning merits of the case or legal issues but regards to the requirements of the Notice itself.

Appeal Methods

9.18 An appellant may elect an appeal to be heard at a public inquiry, an informal hearing or by way of an exchange of written statements.

9.19 It is the Planning Inspectorate who will make the final decision as to the appropriate method of appeal.

9.20 Unless complex planning issues or legal issues are involved, the Council will normally request enforcement appeals to be dealt with by way of an exchange of written statements.

Award of Costs

9.21 Costs can be awarded against both parties whichever method of appeal is used if either the Council or the appellant is found to have acted unreasonably in accordance with statutory procedures.

9.22 When it appears to the Council that an appeal has been made simply to delay or prolong the requirements of a notice taking effect, or if Ground A has been cited where the development is clearly contrary to planning policy, or some other ground is cited which clearly has no chance of success, the Council will apply for an award of costs against the appellant.

10.0 OTHER PLANNING ENFORCEMENT POWERS

10.1 Some breaches of planning control are the subject of separate legislative codes.

10.2 These include:

- Listed Buildings
- Advertisements
- Trees
- Condition of land or buildings affecting the amenity of an area

10.3 Where the legislative requirements are the same, this enforcement policy will form the basis for any action taken by the Council on these matters.

Listed Buildings

10.4 The Council attaches particular importance in ensuring that any alterations to listed buildings are properly authorised. The statutory provisions for the preservation of buildings of special architectural or historic interest are contained in the Planning (Listed Buildings and Conservation Areas) Act 1990. It is an offence under Section 9 of the Act to carry out unauthorised works to a listed building which would affect its character. The owner of a listed building or those who have an interest in the property or who have carried out the works may be prosecuted by the Council irrespective of whether consent is later obtained retrospectively or the unauthorised works later made satisfactory. A person found guilty of an offence may be liable to a fine of up to £20,000 and/or a term of imprisonment of up to two years. There is no time limit upon the District Council to pursue listed building enforcement action.

10.5 A Listed Building Enforcement Notice may also be served requiring remedial works to the building within a certain time scale. There is a right of appeal but failure to comply with the Notice is an offence, where a penalty of up to £20,000 may be imposed.

Advertisements

10.6 The display of advertisements is controlled under the Town and Country Planning (Control of Advertisements) Regulations 1992 (as amended) and the Anti-Social Behaviour Act 2003 (part C) Penalty Notices for Graffiti and Fly Posting.

10.7 Advertisements are divided into three main groups:

- Those advertisements that are expressly excluded from local planning authority control
- Those that have 'deemed consent' so that the local planning authority's consent is not required provided the advertisement is displayed under certain rules
- Those advertisements that require the local planning authority's consent

10.8 The rules are complicated and seek to control amongst other things, the height, size and illumination of the advertisement.

10.9 Any person who displays an advertisement, without consent, is acting illegally. It is open to the Council to take a prosecution in the Magistrates Court for an offence under Section 224 of the Town and Country Planning Act 1990 (as amended).

10.10 The Council can issue a Fixed Penalty Notice in relation to the display of an advertisement to any person that there is reason to believe that that person personally affixed or placed the advertisement to, against or upon the land or object on which the advertisement is or was displayed under the Anti- social, Crime and Behaviour Act 2014; this is discussed further below.

Comment [ML5]: Added paragraph to explain fixed penalty notices.

10.11 Unless the offence is particularly flagrant or repeated, the planning authority may not initially consider it necessary to prosecute for an advertisement offence. Instead, they may invite the advertiser to apply for the consent required and if refused, there will be a right of appeal. The continued display of an advert after consent has been refused, and any subsequent appeal dismissed, may well result in prosecution. The maximum fine on conviction is currently £1,000 with an additional daily fine of one-tenth of the maximum penalty of a continuing offence.

10.12 Any display of an advertisement without consent is an offence which is immediately open to prosecution, or in some cases to the removal or obliteration if the Council decide to take such action. If the advertisement identifies the advertiser, the Council must give 48 hours before obliteration or removal takes place, where the regulations apply.

10.13 Some advertisement may be displayed on highway land in which case there are powers that Essex County Council (ECC) has to remove these directly. The Council will seek ECC to remove these where complaints are received but in some cases, such as fly posting joint action may be necessary.

Action available to Councils either as the Local Planning Authority (LPA) and / or the Highway Authority

10.14 The Council could take a number of actions including:-

1. Remove the signs directly (with or without an attempt to attempt to recover the costs)
2. Proceed to prosecute in the magistrates court
3. Where the signs are on highway land or fixtures seek Essex County Council to take direct action using their highways powers.
4. Possible use of ~~an anti- social behaviour order (ASBO)~~a Fixed Penalty Notice under the Anti- social, Crime and Behaviour Act 2014.
5. Do nothing (depending on the scale of the matter)

Comment [ML6]: Changed to take into account FPN

10.15 The only two reasons local authorities can take into account in dealing with advertisements under the Advertisement Regulations are public safety an amenity.

10.16 Failure to comply with these conditions will allow the LPA to immediately serve a removal notice giving a reasonable time for such signs to be removed otherwise the LPA could undertake the work and recover the costs.

10.17 **Removal (as the Local Planning Authority):** Local planning authorities have specific powers to deal with unauthorised advertisements under planning legislation and allows local planning authorities to remove and dispose of any display structure which, in their opinion, is used for the display of illegal advertisements. This provision does not apply to signs in a building to which the public have no right of access. Where possible, the owners / advertisers should be notified before removal.

10.18 **Prosecution (as the Local Planning Authority):** The local planning authority is empowered to prosecute those who display advertisement signs without consent including the beneficiary of such advertisement signs. The fine for displaying without consent is up to £1,000 (level 3 of the standard scale) and £100 per day as fine if after conviction, the advertisement continues to be displayed. A person shall be deemed to have display an advertisement if is:

(a) The owner of the property or the occupier of the land on which the advertisement is displayed

(a) The advertisement gives publicity to his goods, trade, business or other concerns

10.19 Notices should be served on both the owner / occupiers of land on which the advertisement is displayed as well as the beneficiaries of the advertisement unless:

(a) They have no knowledge of the advertisement displayed

(b) They have not given consent to the advertisement displayed

10.20 The local planning authorities do not need to give notice of removal if the advertisements are displayed on land or properties belonging to the Council.

10.21 **Removal (by the Highway Authority).** The Highway Act 1980 makes provisions for Highway Authorities to remove advertisement signs, painting, etc. affixed to the surface of Highway or any other structure in the Highway. Illegal signs can be removed without giving notice to the perpetrators.

10.22 **Prosecution (by the Highway Authority).** Prosecution under the Highway Act1980 attracts a fine of up to £1000.

10.23 **Anti – social behaviour orders (ASBOs).** This was new measure introduced in 1999. Graffiti and fly-posting are defined as an offence and a Penalty Notice can be served. 14 days' notice is required to be given of impending action. This type of action is considered more appropriate where there is an extensive problem of illegal fly posting.

Trees

10.24 Under Section 198 of the Town and Country Planning Act 1990, the local planning authority has the right to make provision for the preservation of trees in their area by issuing a Tree Preservation Order. Any unauthorised works to such protected trees is an offence under Section 210 of the Act. It is an offence to cut down, uproot or wilfully destroy a tree, or wilfully damage, top or lop a tree in such a manner as to likely destroy it. The offence is liable on summary conviction to a fine of up to £20,000.

10.25 Trees in Conservation Areas are similarly protected subject to the size of such a tree and under Section 211 and Section 212 of the Act, the same penalties apply.

Land or buildings that adversely affect the amenity of an area

10.26 Under Section 215 of the Town and Country Planning Act 1990, the local planning authority may take steps to require land or buildings to be cleaned up when its condition adversely affects the amenity of an area. The Council may serve a notice on the owner and occupier of the land requiring steps to be taken within a specified period.

10.27 The notice takes effect after 28 days from date of service. There is a right of appeal to the Magistrates Court and then to the Crown Court, during which time the notice is of no effect. If an appeal is unsuccessful, the notice takes effect and it is an offence not to carry out the steps required. If the notice is not complied with, the Council will consider prosecution proceedings or enter the land and carry out the required works. The costs incurred in carrying out the works will be recovered from the owner of the land.

Proceeds of Crime Act - POCA

10.28 The Proceeds of Crime Act 2002 (POCA) sets out the legislative scheme for the recovery of criminal assets with criminal confiscation being the most commonly used power. Confiscation occurs after a conviction has taken place. The aim of the asset recovery schemes in POCA is to deny criminals the use of their assets, recover the proceeds of crime and to deter criminality.

10.29 During the enforcement process the authority seeks full recovery of costs, where possible. Consideration will be given ~~for the~~to the appropriateness and expediency of the use of POCA powers, including but not limited to the seeking of confiscation orders, in appropriate cases in which a defendant has benefited from criminal conduct or a criminal lifestyle. This will both ~~to~~ help cover the costs of enforcement and ~~to~~ ensure an effective disincentive to ongoing breaches of planning control.

Comment [ML7]: New section

APPENDIX 1

11.0 ENFORCEMENT POLICY FOR MALDON DISTRICT COUNCIL

11.1 Taking into account updated national policy guidance, local pressures and resources available the following policies will be applied across the district:

POLICY ENF1

The Council is committed to a planning enforcement function prioritised in the following order:

Category 1. Immediate – investigation expected within 1-2 working days

- Works to listed buildings
- Works to protected trees
- Demolition of important unlisted buildings in conservation areas
- Significant unauthorised building works
- Breach of conditions where there is likely to be irreversible harm, e.g. contaminated land, archaeology, flood defence and drainage
- Advertisements that may cause immediate harm such as 'A' boards affecting pedestrian safety, advertisements including fly posting which are intensive in scale or are affixed to trees and/or listed buildings

Category 2. Complaints classified as 'Urgent' - investigation within 15 working days

- Councillors, formal Parish Council and MP ~~complaints where there appears to be a serious breach or an offence~~.
- Operational/ building works/ change of use/ compliance with conditions/ obligations affecting residential amenity where ongoing severe neighbour district being caused
- Operational development within conservation areas
- Where immunity rules are likely to shortly apply if action is not taken including mobile homes/ caravans

Category 3. Complaints classified as 'Non-Urgent' – investigation within 25 working days

- Other changes of use

- Other building works/condition of land
- Compliance with conditions unless significant harm is likely e.g. flood defence or contaminated land issues
- Advertisements and satellite dishes (not attached to trees or listed buildings) (conservation areas to be prioritised)

POLICY ENF2

Complainants shall receive an email or letter of acknowledgement that the complaint is being investigated normally within 5 working days of receipt. They will receive updates based on the priority category of the investigation informing them what action the council intends to take or to close the case.

POLICY ENF3

Formal enforcement action to remedy a breach of planning control will only take place when it is considered expedient and in the public interest to do so.

POLICY ENF4

If there is severe harm to public amenity as a result of the failure to comply with planning conditions or unauthorised development, the Council will consider the use of stop notices, breach of condition notices, temporary stop notices and injunctions to speed up the effectiveness of the enforcement process.

POLICY ENF5

When investigating alleged breaches of planning control involving small business uses, the Council will take a positive approach towards the continuation of the activity and it being regularised by the grant of planning permission. If, however, there is a sustainable planning objection, the Council will endeavour to assist possible relocation to alternative premises. Provided there is not a severe impact on local amenity, the Council will seek to ensure that reasonable time is given to comply with enforcement action taken against business use activities.

POLICY ENF6

The Council will pursue, whenever possible, legal proceedings and/or the taking of direct action in the event of failure to comply with formal enforcement and related planning notices. The Council will consider the Proceeds of Crime Act for prosecutions.

POLICY ENF7

The Council will seek to address certain enforcement matters through other appropriate enforcement agencies such as the County Highway Authority (Essex County Council), Natural England and The Environment Agency where they have more immediate or effective enforcement powers.

APPENDIX 1

The following is a brief explanation of some of the more technical terms used throughout this policy document

Breach of Condition Notice (BCN)

The power to serve a BCN is contained in Section 187A of the Town and Country Planning Act 1990. A notice can be issued where a condition attached to a planning permission has not been complied with. There is no right of appeal against the serving of a BCN. Failure to comply with a BCN constitutes a criminal offence.

Breach of Planning Control

This is a term used when development has taken place that requires specific planning permission and no such permission has been granted. The term will also apply to failure to comply with a planning condition or limitation; carrying out works to a listed building; the display of illegal advertisements; unauthorised works to protected trees and trees within conservation areas and the condition of land or buildings which affect the amenity of an area.

Certificate of Lawfulness

Under Section 191 of the Town and Country Planning Act, application can be made to a local planning authority for a Certificate of Lawfulness in order to confirm whether an alleged breach of planning control is now lawful for planning purposes and therefore immune from enforcement action because of the time that has elapsed since the breach first took place. For a use to become immune from enforcement action and become lawful for planning purposes the following timescales apply:

- Erection of buildings and other works. 4 years
- Changes of use of a building to a single dwelling house. 4 years
- Changes of use of buildings or land other than a dwelling house. 10 years
- Non compliance with a condition relating to the occupation of a building as a dwelling house 4 years
- Non compliance with a condition other than occupation of a building as a dwelling house 10 years

(There may be exceptions and questions of interpretation that should first be discussed with the Planning Authority)

APPENDIX 1

GLOSSARY OF TERMS

Default Powers (or Direct Action)

Under Section 178 of the Town and Country Planning Act, local planning authorities have the right to enter land or property and carry out works which the owner or occupier has failed to comply with any steps required to be taken in an effective enforcement notice. The costs are recovered from the landowner. The costs can be made as a charge on the land, to be recovered at the time of a future sale of the land or property, if the costs cannot be recovered at the time works are carried out in default.

Development Orders

The Town and Country Planning (General Permitted Development) Order 1995 grants 'deemed consent' for certain forms of development without the need to specifically apply for planning permission.

The Town and Country Planning (Use Classes) Order 1987 groups common uses together in a number of classes and confirms that changes occurring within the same Class would not normally require the submission of a planning application.

Enforcement Notice

The power granted to local planning authorities to issue and serve an enforcement notice is conferred under Section 172 of the Town and Country Planning Act 1990. The Notice must clearly state:

- The alleged breach of planning control
- The steps required to remedy the breach
- The reasons why an enforcement notice has been served
- The time available to comply with the steps

The notice has to be served on anyone having an interest in the land.

There is a right of appeal against the notice provided the appeal is lodged with the Planning Inspectorate before the date the notice takes effect. Once an appeal has been lodged, the enforcement notice no longer has any effect until such time as the appeal has been determined.

Fixed Penalty Notice

Under the Anti- social, Crime and Behaviour Act 2014 authorised enforcement officers of the District Council can issue a Fixed Penalty Notice for a number of offences. This includes fly-tipping, graffiti and fly posting.

Formatted: Font:

Injunctions

When the Council consider it necessary or expedient for a breach of planning control to be restrained because it is causing serious harm to the amenity of an area, application can be made to the county court or high court for an injunction, whether or not they have exercised or are proposing to exercise any other powers of enforcement.

Such cases are rare but could be used for example when it is believed there is good evidence that works are likely to occur to protected tress or listed buildings which will result in irretrievable harm.

An injunction may be issued against a person whose identity is unknown but who is able to be identified by other means.

Local Planning Authority

Maldon District Council is the local planning authority for most matters relating to the control of development within the administrative boundary except for the extraction of minerals and the deposit or waste, which is the responsibility of Essex County Council.

Planning Contravention Notice (PCN)

The power to issue a Planning Contravention Notice (PCN) is conferred by Section 171 of the Town and Country Planning Act 1990. A PCN can be served when the Council wishes to find out from the owner or occupier of the land when the suspected breach has occurred and additional information relating to the breach to enable a more detailed assessment to be made. A PCN is only served if a suspected breach has occurred and invites the owner or occupier of the land to make representations or submit a planning application.

Serving a PCN cannot rectify a breach if it has occurred. Failure to respond to a PCN within a specified time limit constitutes an offence and the recipient of the notice becomes liable to prosecution proceedings being taken.

Requisition for Information

A Requisition for Information will be served by the Council in order to establish the names and addresses or all persons who have an interest in land. A Notice is served when the Council intends to initiate formal enforcement action.

Standing Orders

Standing Orders made under the Council's Constitution grants certain delegated powers approved by the Council to allow the Director of Planning and Regulatory Services and other officers to serve certain notices and initiate prosecution proceedings which are updated from time to time.

Stop Notices

The power to issue a Stop Notice is conferred under Section 183 of the Town and Country Planning Act 1990. A Stop Notice can be issued to support an enforcement notice and has the general effect of requiring a breach of planning control to cease almost immediately.

The issue of a Stop Notice is usually made when a breach is causing harm to the amenity of an area. Compensation is payable in some cases if the enforcement notice to which the Stop Notice relates is quashed on appeal on legal grounds.

Proceeds of Crime Act - POCA

The Proceeds of Crime Act 2002 (POCA) sets out the legislative scheme for the recovery of criminal assets with criminal confiscation being the most commonly used power. Confiscation occurs after a conviction has taken place. The aim of the asset recovery scheme in POCA is to deny criminals the use of their assets, recover the proceeds of crime and to deter criminality.

Confiscation orders under POCA are frequently used against fraudsters and drug-dealers to deprive criminals of the financial gain they have received from their criminal conduct. Less frequently used though, is the power to obtain confiscation orders against people who commit crimes under legislation administered by local authorities.

For POCA to apply there must have been a successful prosecution for the offence and the prosecutor must have asked for the confiscation order during the proceedings, or the court otherwise believesd it iwas appropriate to make it. The order will not be made unless the defendant has benefited from the criminal conduct.

The confiscation order must be made in the Crown Court. Before making the order the Court must consider, on the balance of probabilities, whether the defendant has a criminal lifestyle or has benefited from the particular criminal conduct. The term 'criminal lifestyle' comes directly from the legislation. The key tests for deciding if an individual has a criminal lifestyle or has benefited from particular criminal conduct are found in section 75(2) and will frequently mean "an offence committed over a period of at least six months and the defendant has benefited from the conduct which constitutes the offence" (section 75(2)(c)). The confiscation order is in addition to any other penalty (e.g. fine) which may have been imposed by the Court.

APPENDIX 1

APPENDIX 2

ENFORCEMENT HARM ASSESSMENT FORM

~~TO~~ SHOULD BE COMPLETED BY AN OFFICER WHO HAS SEEN THE DEVELOPMENT

- All complaints arising from all retrospective refusals of planning permission will automatically receive a full investigation so it is not necessary to mark the harm score
- All Category 1 complaints under ENF1 will be investigated
- Each new complaint will be allocated scores as set out below to assess its harm. The total will provide its harm score in which its priority will be based
- Where there is no breach of planning control found the file will be closed accordingly.

POINTS ALLOCATION		**SCORE**
Is the breach	Ongoing Development ~~Worsening~~ (1)	
	Recently Commenced (1)	
	Stable (0)	
** Highway safety issue	Yes (2)	
	No (0)	
**Other safety issue (e.g. contaminated land)	Yes (~~1~~2)	
	No (0)	
**Causing a Statutory Nuisance	Yes (~~1~~2)	
	No (0)	
Complainant where full information has been provided as referred to in section 4	Immediate neighbour (2)	
	Members, ~~immediate neighbour,~~ MP, MDC Officer, Parish Council (1)	
	Other neighbour or member of public (1)	
	Anonymous, Malicious (0)	
Age of breach	Within 6 months of immunity (2)	
	~~Less than 1 month (1)~~ Less than 1 Year (1)	
	More than 1 year old (0)	
Degree of Harm	Widespread (2)	
	Local (1)	
	None (0)	
Irreversible Harm	Yes (3)	
	No (0)	
Breach of condition or Article 4	Yes ~~9~~1(1)	
	No (0)	
** Flood risk	Zone 3 (2)	
	Zone 2 (1)	
	Zone 1 (0)	
**Conservation Area (or adjacent to)	Yes (2)	
	No (0)	
**Listed Building	Yes (~~3~~2)	

(Appendix 1 – page 34)

(or affecting character or setting of)	No (0)	

Special ~~exercise~~ operations or taks (Please provide details)	Yes (1) No (0)	
**Sensitive site (please provide details)	Yes (1) No (0)	
Undesirable precedent (please provide details)	Yes (1) No (0)	
TOTAL POINTS (HARM SCORE)		

Only Complaints which score 5 or above will be further investigated. Those with a lesser score will be informed of the breach/ likely breach and invited to remedy/regularise it. In both cases the complainant is to be notified of our actions.

Note: ** These areas are likely to need specialist input from other agencies/organisations and therefore the time periods referred to in this document may be affected if any responses from the agencies/organisations are delayed.

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Options for Regeneration of Maldon Historic Waterfront

EXECUTIVE SUMMARY REPORT

MARCH 2017

PREPARED FOR MALDON DISTRICT COUNCIL

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1 INTRODUCTION

The purpose of the study is to assess options for enhancement of the Hythe Quay and Promenade Park area of Maldon. The brief is specifically to assess the viability of 5 different projects for potential improvement:

- Use of Hythe Quay area for commercial activities such as specialist markets.
- A “destination hub” in Promenade Park that could include a visitor centre, heritage centre and restaurant(s).
- Improvement of facilities for visiting yachts / craft at Hythe Quay.
- Enhancement of St Mary’s Church to form a community hub.
- Improvements to Maldon District Museum.

The report also considers other options, however.

The work has been done by a consortium of professionals led by the Destination Consulting team of Colliers International. Destination Consulting specialises in providing consultancy services to places that attract visitors.

The other members of the consortium are:

- Thomas Ford Architects.
- The Morton Partnership – civil and structural engineers.
- WMC Retail Partners – consultants specialising in markets.
- Michael Copeman – historic buildings specialist.

The research for the study included an online survey of stakeholders. 75 responses were received. A separate report reproduces them in full. We also facilitated three stakeholder forums on 17 February which had large attendance. A note of points made has also been produced.

There is a detailed report with the full analysis and conclusions.

Figure 1 to Figure 7 summarise the context of the study and the current situation.

Figure 1: Study Area

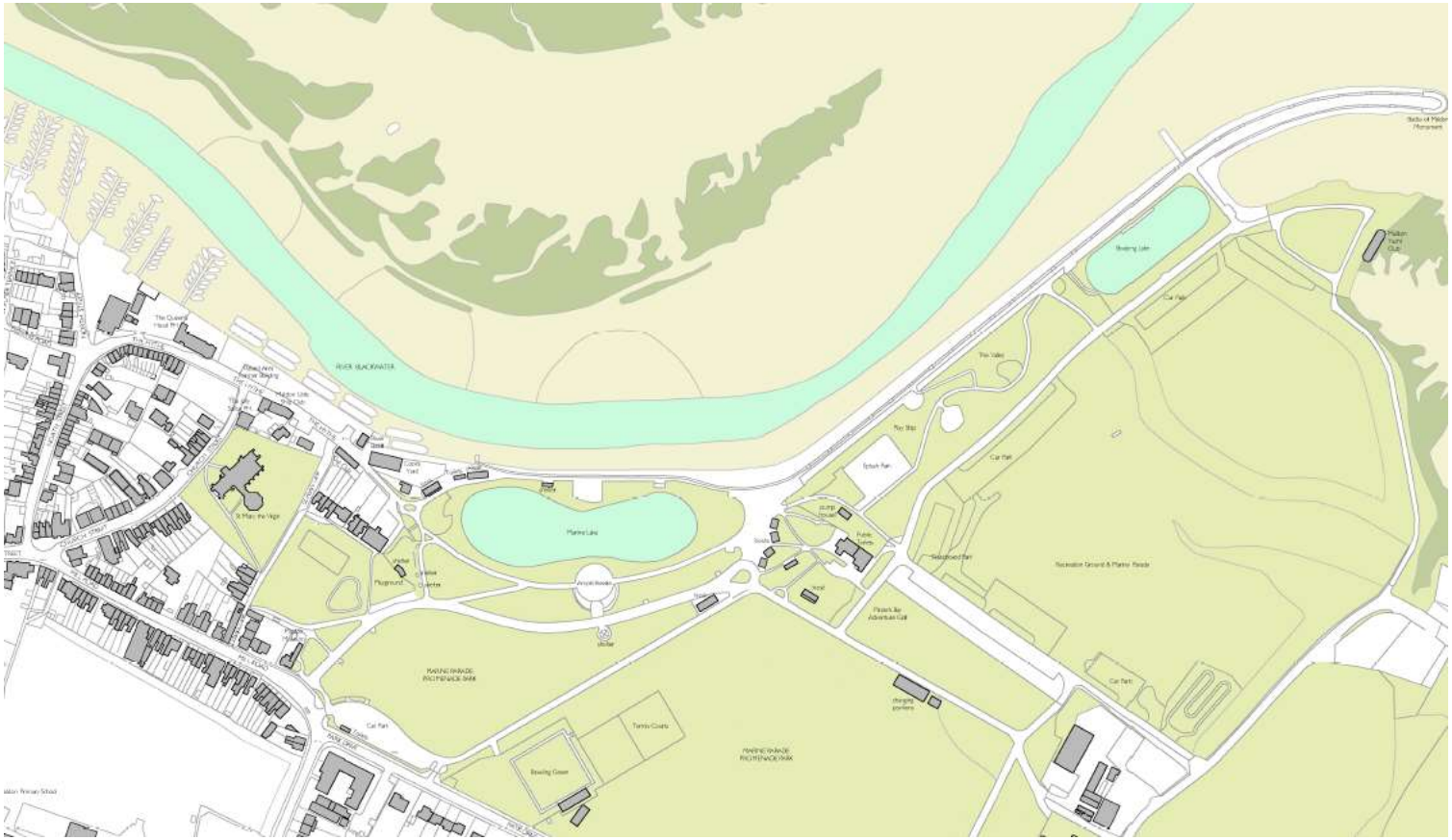
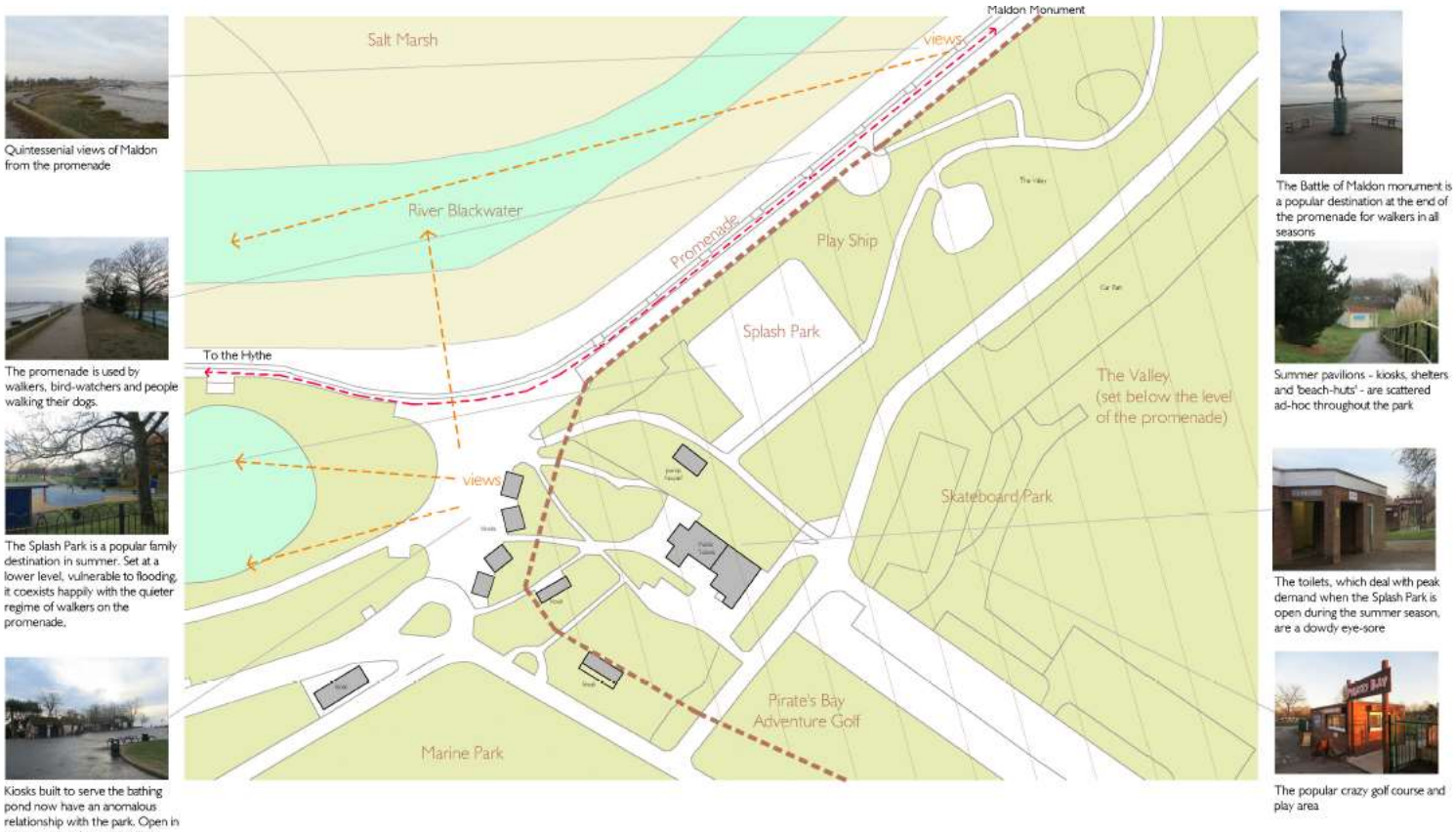


Figure 2: Assessment of current situation at Family Fun Area of Promenade Park



Quintessenial views of Maldon from the promenade

The promenade is used by walkers, bird-watchers and people walking their dogs.

The Splash Park is a popular family destination in summer. Set at a lower level, vulnerable to flooding, it coexists happily with the quieter regime of walkers on the promenade.

Kiosks built to serve the bathing pond now have an anomalous relationship with the park. Open in summer, they have a desultory appearance off-season

The Battle of Maldon monument is a popular destination at the end of the promenade for walkers in all seasons

Summer pavilions - kiosks, shelters and 'beach-huts' - are scattered ad-hoc throughout the park

The toilets, which deal with peak demand when the Splash Park is open during the summer season, are a dowdy eye-sore

The popular crazy golf course and play area

Figure 3: Assessment of current situation at Historic section of Promenade Park



Figure 4: Current situation with toilets and kiosks in Promenade Park



Figure 5: Assessment of current situation at Hythe Quay

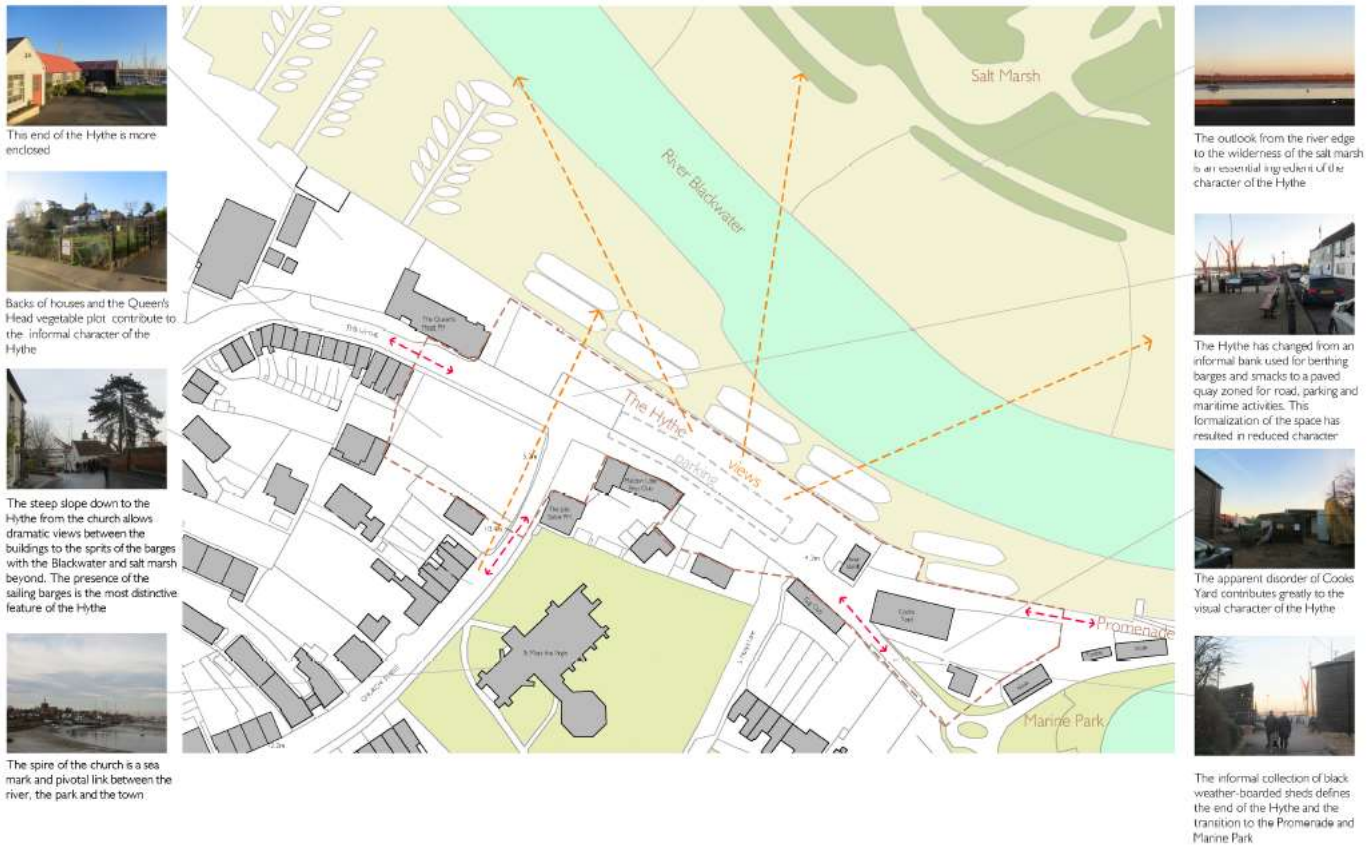


Figure 6: Key pedestrian routes

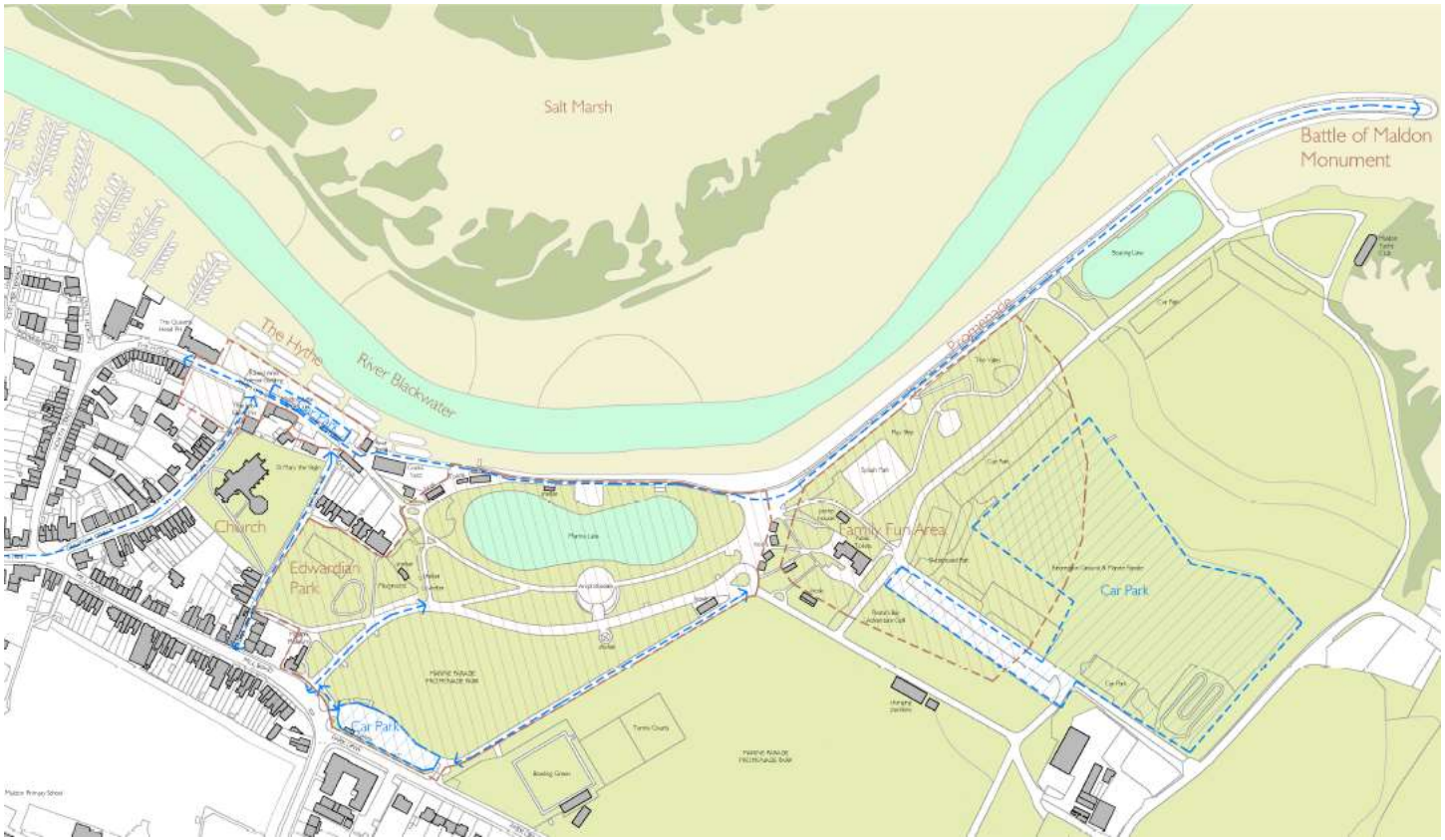
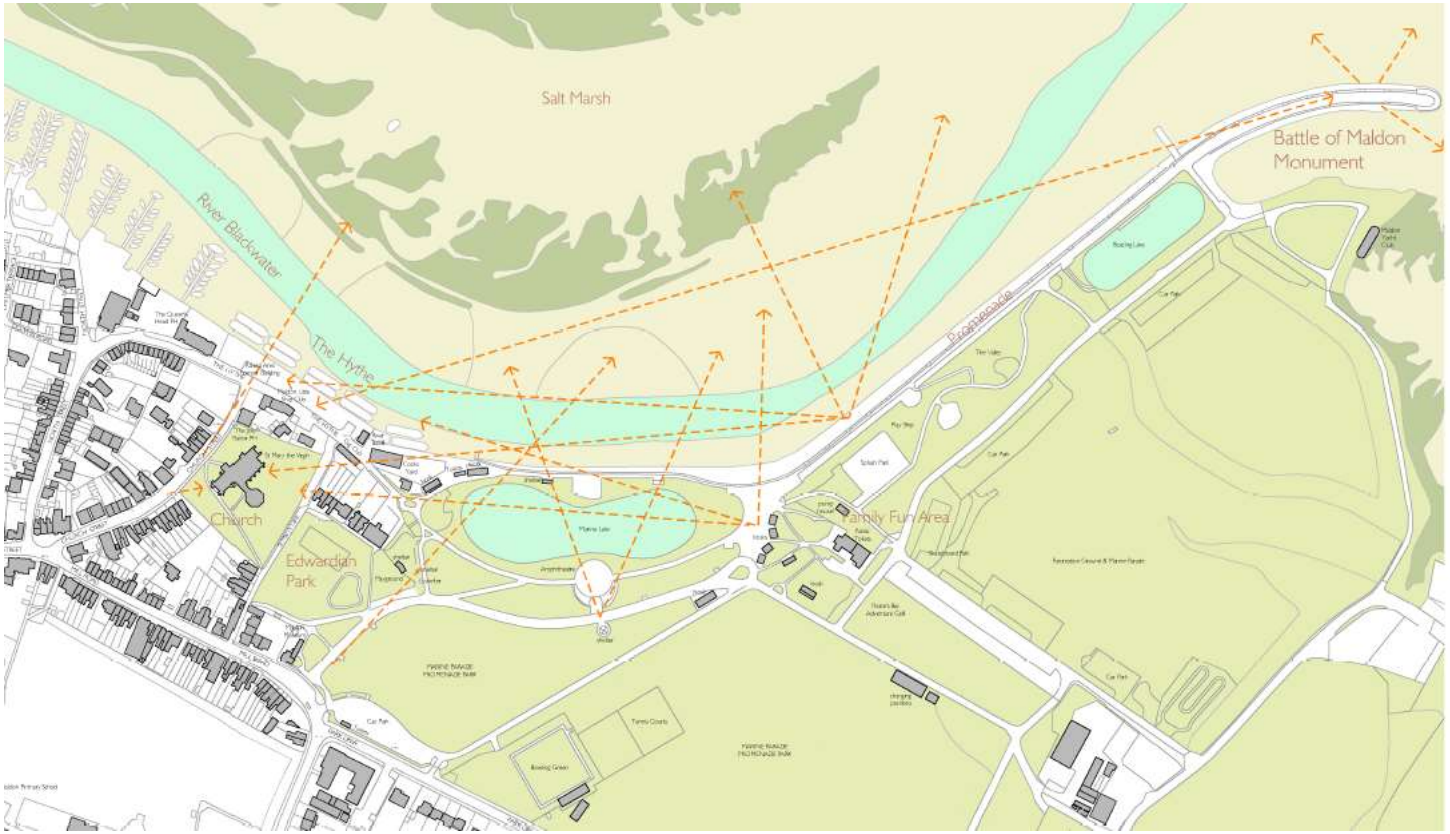


Figure 7: Key Views



2 EXECUTIVE SUMMARY

The study concludes the following in relation to the specific projects that we were asked to analyse:

- Hythe Quay is not appropriate for commercial activities such as specialist markets if they require any form of permanent or semi-permanent structures because they would compromise the operation of the maritime-related businesses there, would be out of keeping with the heritage townscape, and be affected by the regular flooding of the quay. A pop-up market with stalls that are put up and taken down on the same day could, in our opinion, be a success, albeit there is little support for the idea amongst stakeholders. Our view is that there is a case for undertaking a trial.
- Our advice is that a "destination hub" that includes a visitor centre or heritage centre of size would be difficult to fund, would probably require a substantial revenue subsidy and would not be an attraction that would entice a large number of people to the area. An extension to the museum, alongside a wayfinding and interpretation system, is likely to be a better and more sustainable long term approach to telling the story of the area and encouraging visitors to move between the waterfront and the town centre.
- We advise against endeavouring to establish an exhibition-orientated maritime heritage centre at Hythe Quay for the same reason of lack of sustainability and also because it would have to take space from Cook's Yard which would be better used for workshops.
- The large tidal range at Hythe Quay, giving a limited window of access to yachts, and reluctance of owners of modern yachts to rest them in mud, means that Hythe Quay / Promenade Park is unlikely to be a significant destination for visiting craft and that there would not be a return on investment in substantially improving facilities for them. The Maldon Harbour Improvement Commissioners have submitted plans for moderate improvement to the current pontoon which seem to be a pragmatic way forward.
- A project to repair St Mary's Church and make it more flexible so that it can be used more easily for events like musical and theatrical performances, and exhibitions, would be a useful addition to the range of facilities in the area.

Our recommendation is that the main project should be an application to the Heritage Lottery Fund Parks for the People fund for work that involves:

- Restoring the qualities of the historic Edwardian park.
- Creating a park café with new toilets for the public and changing rooms for the splash park to replace the current toilet block. Figure 11 and Figure 12 show variations of this, one with existing kiosks replaced and the other with them refurbished. We think that it would probably be optimal for it to incorporate a

flexible space that can incorporate community events of different type and functions such as weddings. It would probably be a popular facility and offer a good return on investment.

- Improving the appearance of the kiosks (if not replaced) and creating a more attractive outdoor seating area in their vicinity.
- Extending and modernising Maldon District Museum, and employing a curator – manager. MDC should help the museum to take a wider role in conserving and telling the whole Maldon story, including the maritime heritage. Figure 13 shows what this could be like.
- Replacing the public realm at Hythe Quay with surfacing that is more attractive and in keeping with the heritage, and reduces the impact of parking, while not compromising the operation of the businesses there.
- Adapting the Bailiff's workshop and classroom occupied by the Gig Club to provide flexible ground floor space that can be used for activities of different sort. Figure 14 shows how this could be done.
- Providing a better interpretation and wayfinding system, including panels that tell the story of the Battle of Maldon and Maldon Salt. This would ideally extend to the town centre and along the river.

The project should probably not include lighting on the promenade because of the adverse impact it would have on the heritage environment and I creating light pollution that could have an adverse impact on navigation.

MDC should support the endeavours of Topsail Charters to open a tea room on a barge at Cook's Yard and to create workshops in the yard that are occupied either by craftspeople that do work related to the maintenance and restoration of historic craft, and / or artisan craftspeople that make and sell items on site, assuming that Topsail continue to operate Cooks as an active yard involved in maintaining and restoring barges and other historic craft. Figure 14 shows what this could be like. Topsail are not requesting public funding.

Figure 10 summarises the proposed project. The stakeholder consultation indicated that a project of this nature would have a high level of stakeholder support. Figure 8 and Figure 9 have indicative capital cost and funding package.

Figure 8: Indicative Cost

	Capital Cost
Hythe Quay Public Realm Renewal	£700,000
Wayfinding and Interpretation System	£120,000
St Mary's Church Events Centre	£300,000
Historic Park Renewal	£1,250,000
Park Café, toilets and changing	£1,500,000
Revitalised Museum	£1,000,000
Project Planning & Applications	£130,000
Total:	£5,000,000

Figure 9: Indicative Funding

Heritage Lottery Fund	£4,300,000
Private Sector	£200,000
Other Charitable Foundations	£250,000
MDC	£250,000
	£5,000,000

We recommend that MDC considers options for the management of Promenade Park and Hythe Quay, with the objective of ensuring that it is treated as a business unit with a clear manager and appropriate branding and marketing for the major visitor destination that it is.

MDC should support other initiatives to maintain the vitality of the boatyards in Maldon and providing training in traditional skills. This could be the subject of a Coastal Communities Fund application that benefited all yards.

Figure 10: Proposed projects for regeneration of Maldon Historic Waterfront

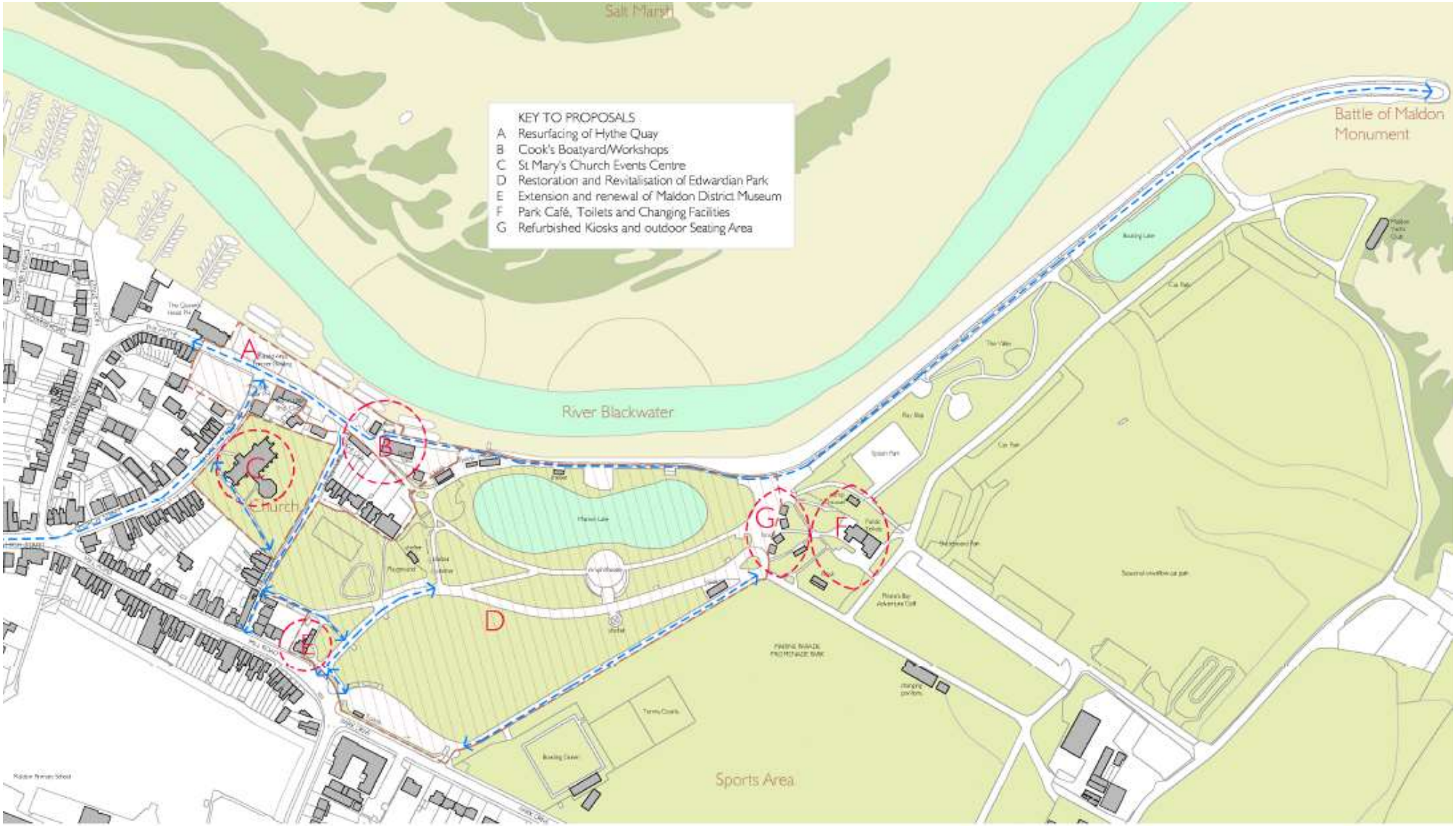


Figure 11: New park café and toilets, with new kiosks to replace existing



Figure 12: New park café, with existing kiosks retained and refurbished

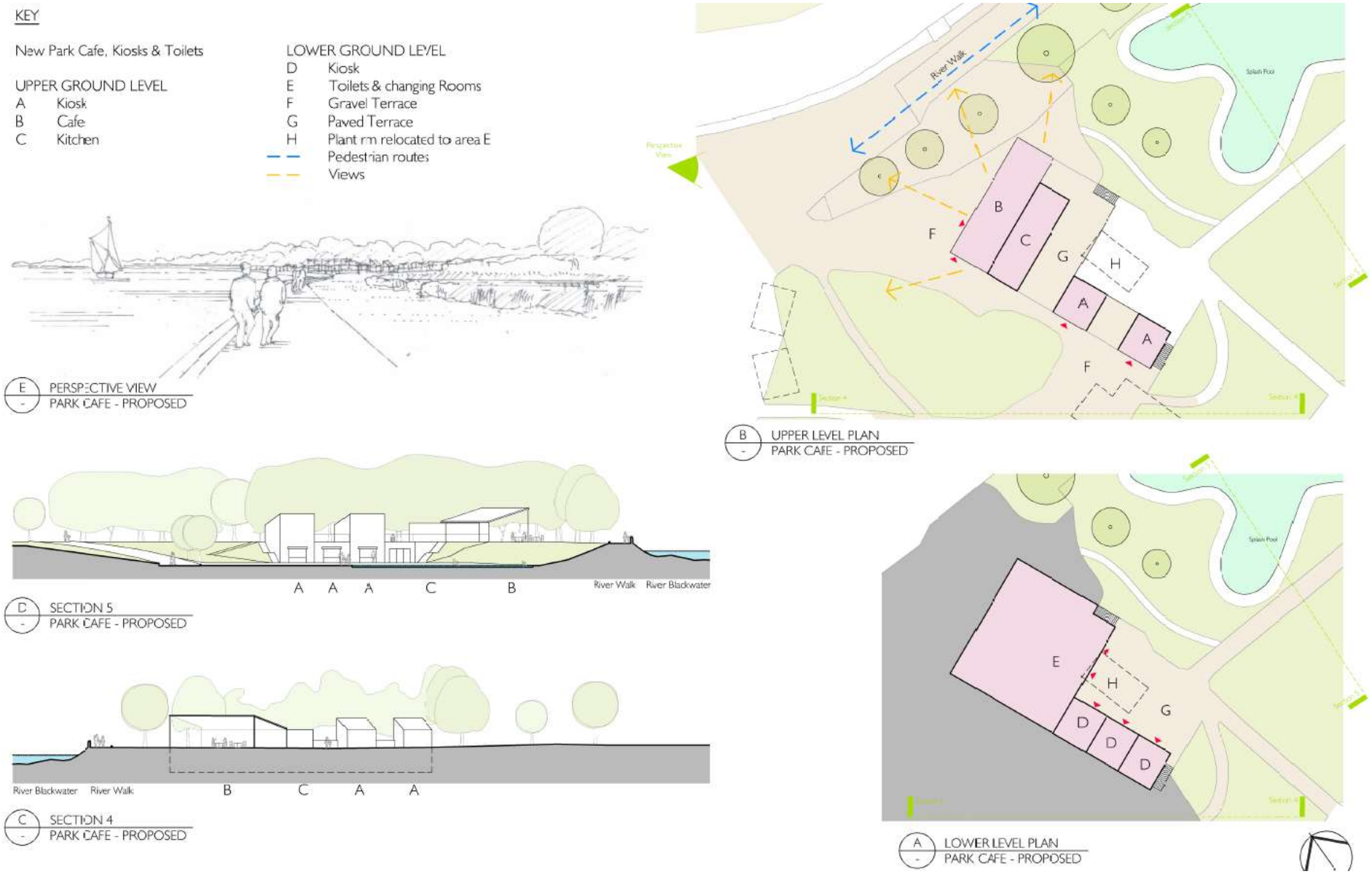


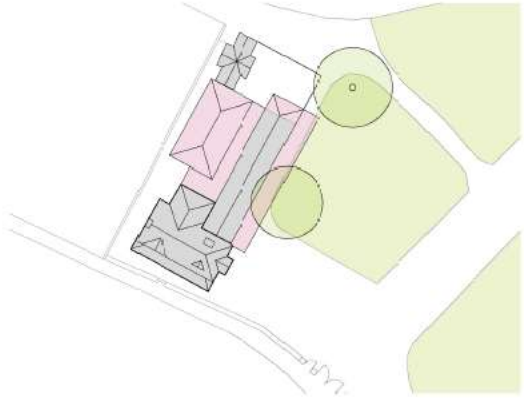
Figure 13: Improvements to Museum



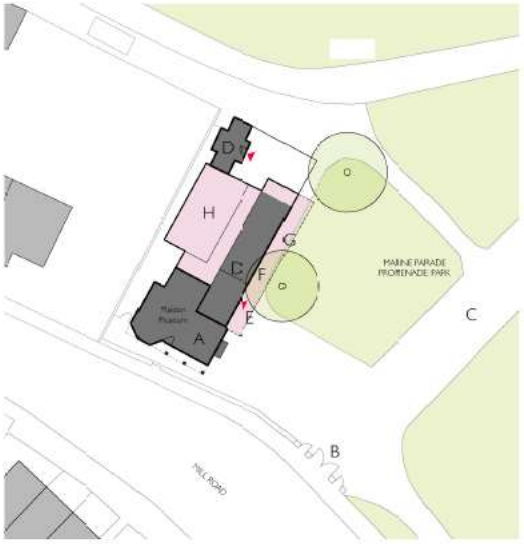
C - PROPOSED PERSPECTIVE VIEW
MALDON MUSEUM



D - EXISTING VIEW
MALDON MUSEUM



B - ROOF PLAN
MALDON MUSEUM



A - GROUND FLOOR PLAN
MALDON MUSEUM

A Existing Museum
(former Gatekeeper's odge)

B Edwardian Park Gate

C Edwardian promenade & landscape re-instated

D Existing Museum & out-buildings adapted

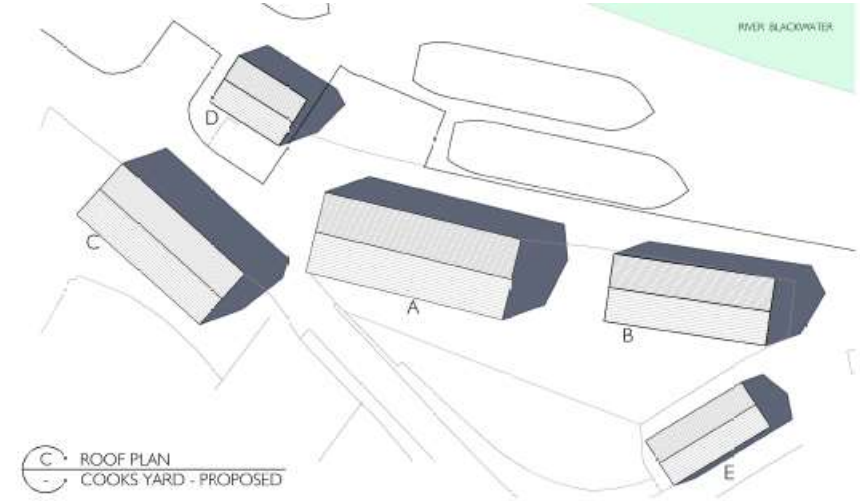
E New entrance & cafe

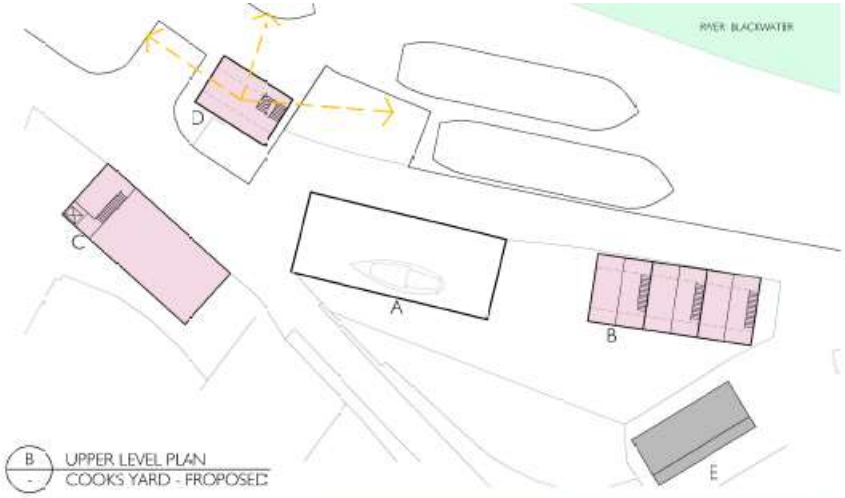
F New display window

G New entrance canopy

H New accommodation
(the remodeled Museum will include renovated & new displays, additional education/communications room, accessible toilet and storage)

Figure 14: Workshops at Cooks Yard





KEY

All new building will be clad in black finish board with corrugated metal roofing to complement traditional 'Hythe Sheds'.

A Cooks Yard - Existing shipwright: barge & Smack repair

B New Workshops - Two levels with flexible unit sizes

C New Community Hall/Gig Club
Lower level - Toilets & showers for visiting craft, open under-croft for parking, occasional craft market & demonstrations; and community events.
Upper level - Community Hall / Gig Clubhouse with toilet facilities

D River Bailiff's Office
Lower level - Paddin & other storage
Upper level - River Bailiff's office

E Existing kiosk

Pedestrian routes

Views

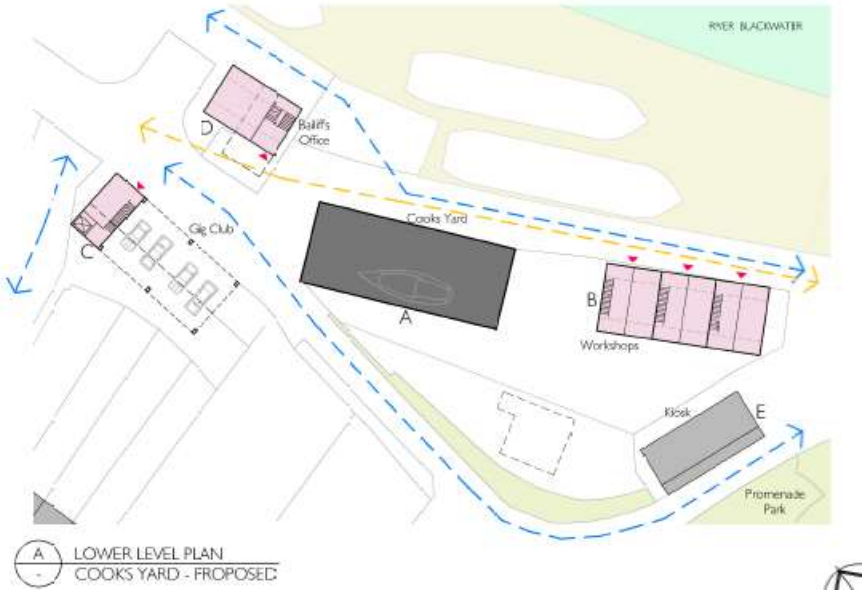


Figure 15:Ideas for revamping Bailiff's Workshop and Gig Club Building



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Title	Description / Outputs	
Hythe Quay Improvement Initiative	It has been identified that the Hythe Quay area could be used for commercial activities such as specialist markets. We expect this concept to be developed and tested with Quay users and other stakeholders to understand practical issues this may raise and the viability of the scheme. Identify potential delivery options and solutions to barriers that would need to be resolved.	Hythe Quay is not appropriate for commercial activities such as specialist markets if they require any form of permanent or semi-permanent structures because they would compromise the operation of the maritime-related businesses there, would be out of keeping with the heritage townscape, and be affected by the regular flooding of the quay. A pop-up market with stalls that are put up and taken down on the same day could, in our opinion, be a success, albeit there is little support for the idea amongst stakeholders. Our view is that there is a case for undertaking a trial.
Destination Hub – combined visitor centre and specialist restaurant	There have been suggestions of a combined visitor's centre which also replaces key infrastructure within the Promenade Park or close to Hythe Quay. Specialist restaurants and a potential marine heritage centre have all been suggested as potential usages for a new facility. It is believed that there are two separate offerings and that there is a need for both. We expect the successful bidder to understand stakeholders' needs and ambitions, and develop a clear business case on what can be achieved either in 1 or 2 locations. Within the business case we expect information to be provided on likely delivery models to improve the chances of seeking funding. The final project document should also include :- • Information on likely uses for the any buildings • Indicative costs related to any buildings • Outline design concepts Potential commercial income	Our advice is that a "destination hub" that includes a visitor centre or heritage centre of size would be difficult to fund, would probably require a substantial revenue subsidy and would not be an attraction that would entice a large number of people to the area. An extension to the museum, alongside a wayfinding and interpretation system, is likely to be a better and more sustainable long term approach to telling the story of the area and encouraging visitors to move between the waterfront and the town centre. We advise against endeavouring to establish an exhibition-orientated maritime heritage centre at Hythe Quay for the same reason of lack of sustainability and also because it would have to take space from Cook's Yard which would be better used for workshops

Title	Description / Outputs	
Visitor Moorings / Pontoon improvements	Explore the potential to improve facilities for visiting yachts / day boats to the Hythe Quay. What facilities would be required, what are the estimated costs of such facilities?	The large tidal range at Hythe Quay, giving a limited window of access to yachts, and reluctance of owners of modern yachts to rest them in mud, means that Hythe Quay / Promenade Park is unlikely to be a significant destination for visiting craft and that there would not be a return on investment in substantially improving facilities for them. The Maldon Harbour Improvement Commissioners have submitted plans for moderate improvement to the current pontoon which seem to be a pragmatic way forward.
St Mary's Church Community Hub	St Mary's Church wish to create a sustainable use for their community facility and wish to explore options to make sensitive improvements to a historic site. We expect the successful bidder to understand stakeholders needs and ambitions, and develop a clear business case on what can be achieved	A project to repair St Mary's Church and make it more flexible so that it can be used more easily for events like musical and theatrical performances, and exhibitions, would be a useful addition to the range of facilities in the area.
Maldon Museum Improvement to accommodation	The Maldon museum is a Council owned facility that is operated by the Maldon Museum. Consider future options for delivery of this service either stand alone or as part of a heritage or visitor centre.	Extending and modernising Maldon District Museum, and employing a curator – manager. Maldon District Council (MDC) should help the museum to take a wider role in conserving and telling the whole Maldon story, including the maritime heritage

Table 1 (Description & Outputs)

MALDON DISTRICT COUNCIL

ANNEXE TO CONSTITUTION

Part __

CODE OF GOOD PRACTICE AND GUIDANCE ON THE THE CONDUCT OF PLANNING MATTERS

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Draft June 2017

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1 BACKGROUND AND INTRODUCTION

1.1 This document sets out the way in which the Maldon District Council ("the Council") will discharge its planning functions and responsibilities, in particular the determination of planning applications and related matters. In this document, the term "Planning Committees" means the Area Planning Committees and/or the Planning and Licensing Committee. It will also apply to extraordinary meetings of the Council called to deal with defined strategic planning applications.

1.2 This document applies to Members and Officers at all times when involved in the planning process. (This includes, where applicable, when part of decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers, the public and consultative meetings). It applies as equally to planning enforcement matters as it does to planning applications.

1.3 This Guidance supplements the Members' Code of Conduct. It is unlikely that there will be any conflict between the two documents but, if there is, the provisions of the Members' Code of Conduct will take precedence.

1.4 One of the key purposes of the planning system is to manage development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that the local planning authority, both planning officers and the planning committee, make~~,~~ planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for suggesting that a decision has been partial, biased or not well founded in any way.

1.5 An important reference document is Probity in Planning for Councillors and Officers (April 2013) issued jointly by the Local Government Association and the Planning Advisory Service.

2 COUNCILLORS AND OFFICERS – ROLES, RELATIONSHIPS AND CONDUCT

2.1 The successful operation of the planning system relies on mutual trust between Members and Officers, and an understanding of each other's roles. It also relies on each ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so. Councillors and Officers have different but complementary roles. While both serve the public in different ways, Councillors are elected and therefore have a responsibility towards the electorate. Officers are employed by and therefore responsible to the Council as a whole. It follows that although Officers will advise Councillors, both individually and collectively, they may only take instructions from the Council or a Committee. Officers are responsible for the implementation of decisions of the Council and its Committees.

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2.2 Both Councillors and Officers are guided by codes of conduct. Councillors have signed up to the Council's own Local Code of Conduct and must have regard to and follow this in all their official actions. Breaches of the Code may result in complaints to the Council's Monitoring Officer who may decide to refer the matter to the Standards Committee. Should a breach of the Code be found, sanctions may be imposed on the Councillor concerned. Breaches of the code may also result in complaints of maladministration to the Local Government Ombudsman.

2.3 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of this Code may result in disciplinary action by the Institute. The Council also has in place a Code of Conduct for its staff. In addition to these Codes, its Council and Committee Procedural Rules govern the conduct of Council business, and the Protocol on Member/Officer Relations sets out in greater detail and provides guidance on how the working relationship between Councillors and Officers should operate.

2.4 Councillors must not instruct officers to make a particular recommendation nor to take a particular course of action other than through a decision of the Council or one of its committees. Officers must give objective, impartial planning advice, based on their professional judgement and not be compromised or influenced by political considerations. Chartered Town Planners may only advocate their own professional view. Under the Local Government and Housing Act 1989 the Council is able to place restrictions on the outside activities of senior and other designated Officers, particularly in relation to membership of political parties and other Councils.

2.5 The Council's Local Development Plan is adopted in the interests of the whole community, following public consultation. It therefore reflects the overall public interest, rather than those of individuals or organisations. Councillors and Officers must support the Council's planning policies and make decisions in accordance with them, unless there are sound planning reasons for not ~~doing~~ so doing.

2.6 In dealing with planning applications, Councillors will be acting both as representatives of the people and also as decision makers, objectively considering all relevant issues and deciding upon them. Councillors will justifiably take into account matters of public concern, representations they have received and an assessment of what may or may not be appropriate for the area.

2.7 Not all planning decisions are a matter of planning law or policy. Many decisions require~~d~~ an element of judgment, and therefore Councillors need to retain a fair and open-minded approach to the decision making process. So too will Officers in determining applications under delegated powers. In addition, Officers through their professional responsibilities will be involved in the processing of planning applications including negotiating with and

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providing assistance to applicants and their agents and also members of the public.

2.8 While Councillors may sense a particular responsibility to serve their Ward electors, they have an overriding duty to the people of the Maldon District as a whole. It follows that since planning decisions are being taken on behalf of the Maldon District Council they must be reflective of the interests of the District community as a whole. The decision making process is covered in greater detail in section 6 of this document.

3 COUNCILLORS' TRAINING

3.1 Planning is a complex area, and planning decisions are open to challenge both on appeal and in the courts. It has long been a constant theme of national advice, that all Councillors regardless of their experience should receive adequate training to assist them in the performance of their duties.

3.2 By 01.12.17 aAll Councillors will be required to have completed anthe agreed programme ofof training prior to being able to take part in decision making in planning applications and related matters. Once this training has been completed, it will remain valid for a period of three years, and then refreshed. Any new Councillors who have not undertakenwill be required to undertake the agreed training programme will be able to participate in the discussion but not vote on planning applications and related mattersbefore taking part in decision making in planning matters.

3.3 The training programme in planning will be determined by the Director of Planning & Regulatory Services, in consultation with the Leader and Deputy Leader and the Chairman and Vice-Chairman of Planning & Licensing Committee.

3.42 In addition, all Councillors will be given regular updates to keep them informed of important changes in legislation, procedures or practices, mainly through briefing presentations by Officers at committee meetings. Officers will also arrange training on more specialised planning issues and all members of the Council will be strongly encouraged to attend.

4 PROBITY IN THE PLANNING PROCESS

4.1 Involvement in the planning process creates considerable potential for conflicts of interest, whether it is through an issue directly affecting a Councillor or an Officer, or indirectly in terms of family, friends or possibly an organisation with which he or she is associated. It is a fundamental principle that decisions should not be made by those who have a pecuniary interest in the outcome. This is vital to avoid public confidence in the planning system being eroded.

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4.2 The general rule is that a Councillor or Officer should not use his or her position to further a private or personal interest, rather than the general public interest, or give grounds for any suspicion. The key issue is whether a member of the public would reasonably think that they might be influenced by their interest.

4.3 Councillors engaged in the determination of planning applications must ensure that they do not use their position improperly to confer on or secure for themselves or any other person, an advantage or disadvantage.

Pre-determination/Pre-disposition

4.4 Councillors taking planning decisions are required to have an 'open mind' and listen to all the evidence before taking a decision. The Localism Act 2011 (S25) provides Members with a degree of assurance should they wish to indicate their views in advance without fear of being regarded as having pre-determined the issue and subsequently excluded from the decision making. To do so may still indicate pre-judgment of the application and expose the Council to the possibility of legal challenge.

4.5 The intended effect of the Localism Act provision has still to be determined in the courts, but even if it were held to reduce the prospect of or prevent a legal challenge to the validity of a decision it offers no protection against allegations of maladministration or a breach of the Local Code of Conduct. Members should not make up their minds until they have read the relevant committee reports, heard the evidence and considered the representations, including any public speakers. It is important that Members hear all the evidence and representations prior to reaching a decision.

4.6 The concept of pre-determination is different to that of pre-disposition. While carefully wishing to avoid any show of bias of view, it is acceptable for a Member to indicate a view, and ~~-~~even campaign, on planning issues in a general way. This is relevant where Members of a Planning Committee are also Parish/Town Councillors and where they may wish to contribute to a particular discussion at a more local level. Members must still avoid specific statements on how they will vote on individual planning applications or types of planning application prior to the relevant District Council Planning Committee meeting to avoid any impression of bias and pre-determination. I~~f~~ such statements have been made, they should declare an interest, withdraw from the Chamber and not take part in the debate or vote.

4.7 Councillors on a Planning Committee who are also members of Town or Parish Councils may speak and vote at Town or Parish and District levels if they are genuinely willing to listen to the later debate and weigh the considerations material to the later decision.

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Interests and the Local Code of Conduct

4.8 Membership of another body would constitute a non-pecuniary interest, particularly if it is an organisation whose primary purpose is to lobby to promote or oppose planning proposals. Depending on the degree of involvement there is the prospect of fettering a Councillor's discretion and limiting the ability to participate in the consideration and determination of a planning application.

4.9 Members of Planning Committees who are also Parish/Town Councillors should be aware of the potential repercussions of their involvement in the consideration of planning proposals at Parish/Town Council level. They should make it clear at that time that any views they may express, including the exercise of a vote, on the comments to be made to the District Council, can only be based on the information available to the Parish/Town Council at thate time.

4.10 Members of Planning Committees not affected by an interest through being Parish/Town Councillors are equally advised to take great care about responding to local opinion and publicly declaring a firm view on a proposal at an early stage. It is important that they do not 'fetter their discretion', but rather leave themselves free to reach a view at District Council level, based on all the facts and information.

4.11 The Local Code of Conduct sets out requirements and guidance for Councillors, for the registration and declaration of interests. These must be followed scrupulously and Councillors should review the situation regularly. It must be borne in mind that not only should impropriety be avoided but also any appearance, or grounds for suspicion, of improper conduct.

4.12 It is for the individual Councillor to decide whether he or she has an interest in any matter considered by a Planning Committee, and if so whether that interest is a pecuniary or non-pecuniary or other one. Councillors with a pecuniary interest must not speak or vote in the decision making process. The Local Code of Conduct explains the effect of interests on participation.

4.13 When declaring an interest at a committee meeting this should be done at the relevant point in the meeting or as soon during the consideration of the matter that the interest becomes apparent. Councillors should be clear and specific in identifying the item on the agenda in which they have an interest and, if so, the nature of that interest. Councillors do not need to declare interests that are not covered by the Code of Conduct, e.g. that they know the applicant, agent or an objector, or that they use the premises the subject of the application. If they feel that such an interest is material they should explain the nature and relevance of it.

4.14 Officers must declare any personal or financial interest in any planning matter before the Council, must not deal with such matters on behalf of the Council and must not give advice to Councillors or other Officers on them. An Officer with a personal or financial interest in a planning matter must withdraw from

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any relevant committee meeting whilst that matter is discussed. Planning Officers must maintain their professional integrity and should avoid becoming associated in the public mind with representatives of the development industry or environmental or other pressure or amenity groups.

Gifts and Hospitality

4.15 Councillors and Officers should be very cautious about accepting gifts and hospitality and must follow their respective Codes of Conduct.

5 PRE-DISCUSSION AND LOBBYING

5.1 This theme is closely linked to issues covered in the previous Probity section. It is inevitable that Councillors will be subject to lobbying, particularly on planning applications. Again, it is emphasised that great care needs to be taken to maintain the integrity of the planning process, the Council, and the Councillor concerned. Lobbying can lead to the impartiality of a Councillor being called into question and could even cause public mistrust of the Council.

Lobbying

5.2 Lobbying is an attempt to influence Councillors' views in order to achieve a particular decision. It can be by applicants, agents or objectors or by other Councillors. Lobbying may be verbal or by the circulation of letters or documents to all or some Councillors. Planning decisions must be made strictly on the facts and policies relating to each application. Lobbying can, unless care and common sense are exercised by all parties concerned, lead to the impartiality and integrity of a Councillor being called into question.

5.3 Notwithstanding the provisions of s.25 of the Localism Act 2011 (as mentioned in 4.2 above) when being lobbied, Councillors, and members of a Planning Committee in particular, should take care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such circumstances they should restrict themselves to giving procedural advice, including suggesting to those who are lobbying that they should speak or write to the relevant Officer in order that their opinions can be included in the Officer's report to the Committee. If they do express an opinion they should make it clear that they will only be in a position to take a final decision after having received and considered all the relevant evidence and arguments at the Committee meeting.

5.4 A Committee member who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If a Member responds to lobbying by deciding to go public in support of, or against, a particular outcome it would be very difficult

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for that Member to argue convincingly when the Committee takes its decision that he has carefully weighed the evidence and arguments presented at committee. Although not amounting to a disclosable or other pecuniary interest according to the Code of Conduct the proper course of action for such a Member would be to make an open declaration not to vote. However, this is a severe restriction on the Member's wish - duty, even – to represent the views of the electorate. Councillors should therefore generally avoid organising support for or opposition to a planning application and avoid lobbying other Councillors. Such actions can easily be misunderstood by parties to the application and by the public.

5.5 Councillors should not excessively lobby fellow Councillors regarding their concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.

5.6 Individual Councillors should avoid visiting application sites upon the request of applicants or objectors as this may result in those parties attempting to unduly influence the views of Councillors and give the impression of bias.~~may often be asked by both applicants and objectors to visit application sites. Such visits may be valuable in gaining an understanding of the implications of proposals~~. It is important however that the parties are clear in the understanding that the reason for Councillors' involvement in this way is purely to gather information. Where this occurs, Councillors should advise the Director of Planning and Regulatory Services~~Planning Director~~ and make known their involvement at the relevant Committee meeting at which the application is considered. An approved protocol for site visits organised by a Planning Committee is at Appendix 1.

Pre-application discussion

5.7 It is likely that in certain cases discussions will take place between potential applicants and Officers prior to the submission of a planning application. Such discussions may be beneficial in terms of applications being prepared for submission which can then proceed without undue delay to determination. Potential appeals may be avoided by good communication at an early stage of the process. Advice given should be consistent and based on the development plan and material considerations. An approved protocol for Pre-Application Discussions is at Appendix 2.

5.8 If Councillors receive information that is relevant to a prospective planning decision they must declare that information to the relevant planning officers and to the committee. Discussions with applicants, agents or objectors should be reported and any correspondence made available to officers before the committee meeting. Where information has been provided to Councillors or Officers on a confidential basis, it shall not be disclosed to third parties.

5.9 Where Councillors are acting as agents for people pursuing a planning matter with the Council or submitting planning applications on behalf of their

employers as part of their job, they should make it clear to their clients that they cannot and will not use their position as a Councillor to influence the outcome of an application.

5.10 Councillors should not meet applicants or agents or third parties in connection with a current ~~or proposed~~ application. If Councillors do agree to meet they should only do so in the presence of a planning officer~~. In exceptional circumstances, where it is not possible to arrange a meeting in the presence of a planning officer without causing undue delay, Councillors should notify the relevant planning officer of the proposed meeting beforehand and the notification recorded in the application file.~~ Councillors should listen and may ask questions but should not comment nor seek to negotiate. They must make clear that any views they express are personal, rather than those of the Council. A note should be taken of the meeting and placed on the application file. The fact that a Councillor has discussed any proposal with the applicant, agent, supporters or objectors must be made clear when the application is before the Committee for determination.

Planning Enforcement

5.11 Councillors may also become involved in matters that are the subject of a complaint or investigation, and on which enforcement or other legal action may be under consideration. In these circumstances, Councillors are strongly advised to ensure that any action on their part does not prejudice the Council's position, that any enquiries on specific issues are restricted to matters of fact or general case progress, and acknowledge that enforcement cases will be dealt with in accordance with the Council's Planning Enforcement Policy (see Appendix 3).

Contact with Application Case Officer

5.12 Councillors will often need to contact the Planning Case Officer on development proposals. Contact should however be limited to requests for factual information and the seeking of advice on progress and the nature of consultation responses received. While Councillors are encouraged to discuss their concerns with Officers, they must ~~should~~ not attempt to influence or pressure Officers in the making of particular recommendations. If a Councillor is unhappy with the way in which a case is progressing, the matter should be discussed with a senior officer of at least Team Leader level.

5.13 Officers should remain free of any outside influence to make recommendations on planning matters based on their own professional judgements and having regard to all material and other considerations. Councillors should not put improper pressure on Officers for a particular recommendation and, as required by the Code of Conduct, should not do anything which compromises, or is likely to compromise, their impartiality.

Availability and Veracity of Information

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5.14 Planning applications must be determined on the basis of the documents and information formally submitted. Any submissions from applicants' agents or objectors which are formally received by the Council can properly be taken into account in making a decision. It can cause problems if Councillors are given information or assurances by applicants which are not part of the formal application and which are not, therefore, enforceable. Problems can also arise if Councillors are given information by objectors which may be misleading, untrue or irrelevant. It can be problematical if officers are unaware of submissions by applicants and objectors and are therefore unable to consider them and advise the Committee about their relevance or enforceability. Councillors should forward such information to the officers for consideration prior to the Committee meeting.

6 PLANNING DECISION MAKING AND RELATED PROCESSES

Committee Decisions

6.1 All planning applications to be determined by a Committee will be the subject of comprehensive, written reports from Officers. These reports will describe the site and the proposal, relevant planning history, development plan policies and other material considerations including, where appropriate, national or local guidance, and also representations made by statutory consultees, local residents and other interested parties. They will also contain an assessment of the proposal against those considerations and a reasoned recommendation. Reports will contain all the relevant material known at the time when produced and published as part of the Agenda for a particular meeting. Councillors should endeavour to obtain factual information from officers prior to the meeting. This can assist in reducing delays which may be caused by deferment to obtain further information.

6.2 Sometimes applicants and objectors write directly to Committee Members, after the report has been published, commenting on the report or providing further material. If Planning Services have not been copied into the correspondence, Committee Members should forward any correspondence to the Case Officer as soon as possible.

6.3 Any information material to the decision-making process that is received subsequent to the publication of the Committee Agenda and no later than noon on the last working day prior to the meeting will be reported to the Committee at its meeting. At the meeting, the Planning Officer will advise if the late material raises any matters which should be taken into account by the Committee. The Officer report and last-minute papers should be read and plans/photographs seen before decisions are made. Councillors will also have

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an opportunity to put questions to Officers and hear the views of their fellow Councillors, the Applicants and other third parties during the course of the debate.

6.4 The law requires that where the Development Plan is relevant to a decision, then that decisions should be taken in accordance with it, unless material considerations indicate otherwise (s54A, Town and Country Planning Act, 1990). The Development Plan is therefore the starting point of the decision making process. Proposals having been identified as amounting to a departure from the Development Plan need to be advertised as such. An Officer recommendation to approve contrary to the Development Plan would need to be justified in the most careful terms, and if the Committee is mindful to approve then the application may then need to be referred to the Secretary of State.

6.5 Planning decisions will not always be dictated by planning law or policy. They will sometimes be matters of fine judgment where the balancing of considerations may be difficult. The Officer's report and recommendation will be founded on adopted planning policy and guidance. Planning Committee Members should take care, if expressing any opinion on the planning applications before them, that they confine their comments to matters which are material planning considerations. Regardless of any political group discussion prior to the Committee meeting, Committee Members must consider applications on their merits and not simply feel bound by decisions made at group meetings. Committee Members cannot be "whipped" to vote in a particular way; this advice is supported by the Local Government Ombudsman. Any decisions taken in this way may be viewed as maladministration and could be subject to legal challenge.

6.6 Where Councillors disagree with the Officer recommendation, a proposition can be made to overturn that recommendation. The Committee remains bound by law to make decisions in accordance with the Development Plan and all other material planning considerations. It will therefore need to demonstrate that this requirement has been met in its deliberations, making clear what material considerations are leading it to a decision contrary to professional advice. Failure to do so could result in an appeal against the decision, with potential for an award of costs against the Council in the event that unreasonable behavior on its part is found. It could also render a decision subject to legal challenge (judicial review).

6.7 A proposition contrary to an Officer recommendation, together with the reasoning behind it, needs to be clearly presented and will be recorded in the Minutes. It must then be seconded. Before any debate, the Chairman shall afford the Officers an opportunity to respond to the proposition by way of advice on the implications in terms of risk. Depending on the circumstances and complexity of the case it may be that Officers will need to consider those implications in greater detail and report back. Any proposal for deferment must be disposed of ahead of any conclusion being reached on the decision itself. The Chairman will summarise, or cause to be summarised, the salient

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points of the debate and will seek to ensure the terms of the proposition are clearly understood before putting the matter to the vote.

6.8 Whilst the Committee must clearly set out the reasons for its decisions contrary to Officer recommendation, ~~s~~ the final drafting of conditions and reasons will normally be carried out by Officers. Reasons for refusal must be clear, unambiguous and justified by the evidence of the case. Conditions attached to permissions should be necessary, relevant to planning and the proposed development, enforceable, precise and reasonable in all other respects. The text of non-standard conditions and reasons will be determined by the Director of Planning and Regulatory Services in consultation with the Committee Chairman (or Vice Chairman in his/her absence) following the meeting. The same mechanism will be used for the updating of any planning conditions agreed by a Committee which may be required through the passage of time between the ~~a~~ Committee decision and the issue of a decision notice consequent upon completion of a S106 agreement/planning obligation.

6.9 During Committee Meetings, everything said may be scrutinised by Applicants, objectors, legal advisers and the Press, so Councillors and Officers should be circumspect. Councillors who serve on a Planning Committee should ensure they do not speak to members of the public, or pass or accept notes from them, during the course of a meeting. Councillors who leave the room during the Meeting should avoid speaking to any Applicants or objectors/supporters who may be waiting outside the room. Councillors who leave the room during debate or whilst an application is before the Committee will not take part in the debate or vote on that application.

6.10 Given the nature of the decisions to be taken, it is vital that the means by which decisions are reached are clear and understood by everyone present. The role of the Chairman is therefore important. Although the Council's Procedure Rules allow decisions to be reached through general assent of the Councillors present at a meeting, best practice with regard to decisions on Planning Applications suggests that a show of hands is far preferable.

Decisions delegated to Officers

6.11 Not all decisions on planning applications and related matters will be taken by a Committee. The Council has agreed, and will keep under review, a Scheme of Delegation (alongside the Terms of Reference of Committees) which enables decisions to be taken by responsible Officers. Decisions taken under delegated powers will be subject to the same process and analysis of the facts and all material considerations, as if they were referred to a Committee for determination. A statement to support each delegated decision will be produced and placed on the case file as a matter of record and also for the benefit of interested Councillors and the public.

6.12 Officers take instructions from Councillors only through a decision of the Council or one of its Committees. In the exercise of delegated powers, Officers may in certain cases be required to consult with individual Councillors, and take the views of those individual Councillors into

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consideration. Officers must always act impartially and advise the Council according to their own professional opinion.

Deferments

6.13 A decision on an application should not be deferred without proper justification. For example, the justification might be to ensure that all the proper information is to hand and this might include a site visit. The reason for requesting a deferment must be clearly set out by the proposer and recorded in the Minutes.

Public Attendance at Committee Meetings

6.14 All planning applications referred to a Committee for determination will be considered in public session and all background information will be made available for public inspection upon publication of the agenda papers, unless there are specific reasons for not disclosing or publishing 'exempt information' in accordance with the Local Government Act 1972. Applicants, agents and members of the public, representatives of Parish/Town Councils may speak on planning applications being considered at the meeting. The Council's public participation scheme is at Appendix 5.

7 DEVELOP MENT PROPOSALS BY THE COUNCIL, COUNCILLORS AND OFFICERS

7.1 Committee Terms of Reference provide for the determination of planning applications for the District Council's own development or affecting Council land and applications submitted by Council Members or Officers, by a Planning Committee rather than under delegated powers.

7.2 Such applications will be processed and handled~~treated~~ no differently to any other application and the requirements of the Town and Country Planning legislation and ministerial guidance will be followed in the usual way. Officer recommendations and Committee decisions will be made strictly on planning merits without regard to any financial or other gain which might accrue to the Council if the development is permitted, or to other issues which may need more properly to be considered by another Committee of the Council. It is important that the Council not only treats, but is seen to treat such applications the same as any other.

7.3 Councillors or Officers proposing to submit a planning application should notify the Monitoring Officer. If a Councillor or Officer submits a planning application, they should take no part in its processing by the authority at any point. It is important that neither Councillors nor Officers take any part in the preparation of Local Development Plan policy or supplementary planning guidance they may influence, or be seen as influencing, with a view to future planning proposals they may wish to submit.

8 PLANNING APPEALS

8.1 A Planning Appeals Protocol has been approved and is at Appendix 6. In the event of a decision taken to refuse contrary to the recommendation of the Director of Planning and Regulatory Services, the Committee may nominate a Member to assist in agreeing the precise reasons for refusal and with the preparation and presentation of the Council's case should the decision be appealed.

8.2 As referred to earlier, Officers must always act impartially and advise the Council of their professional opinion. Chartered Town Planners are obliged to follow the Royal Town Planning Institute's Code of Professional Conduct. Whilst Chartered Town Planners appearing as the Council's expert witnesses at planning inquiries and hearings have a duty to set out the Council's case, they must, if asked, give their own professional view in accordance with that Code.

8.3 The Council is at risk of an award of costs against it if the Planning Inspector finds that there has been unreasonable behaviour. Common examples of unreasonable behaviour are failure to comply with procedural requirements for inquiries or hearings, failure to provide planning evidence to support reasons for refusal, and failure to take into account relevant policy statements in departmental guidance.

9 COMMITTEE SITE VISITS

9.1 Committee ~~S~~site visits can cause delay and additional costs and should only be used when the expected benefit is substantial. A site visit is only likely to be necessary if the impact of the proposed development is difficult to assess from the plans and any supporting material, including any photographs taken by Officers. Site visits may be arranged following publication of the agenda but before the actual meeting. Where requested at the actual meeting, t~~T~~he reason ~~for requesting a site visit~~ must be clearly set out by the proposer and recorded in the Minutes. All site visits must be carried out in accordance with the Council's agreed guidelines set out in Appendix 1 to this document.

9.2 Site visits are not part of the formal committee proceedings and are not a forum for debate or making planning decisions. Site visits are not open to the public and should not be used to canvass local opinions or as an opportunity for lobbying or advocacy. Councillors should not express personal opinions during site visits.

10 PLANNING OBLIGATIONS

10.1 Under section 106 of the Town and Country Planning Act 1990, the Council as local planning authority may seek planning obligations in connection with grant of planning permission. Planning Obligations may be given by way of unilateral undertaking or agreement, and for the most part will regulate the use

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or development of land as distinct from the controls that may be available through the imposition of planning conditions. In addition, they may be used to secure off-site improvements or financial contributions towards local infrastructure provision.

10.2 To avoid any public mistrust or suspicion, it is important that arrangements in connection with planning obligations are operated in accordance with the principle that planning permission may not be bought or sold. The Council must conduct any negotiations and arrangements in a way which is seen to be fair, open and reasonable.

10.3 If a planning obligation is created in isolation or before a planning application is determined, a copy will be placed as required in Part 1 of the statutory Planning Register and therefore made available for public inspection. Similarly, if a planning obligation is created following determination of an application, a copy will be placed in Part 2 of the Register.

11 ADMINIST RATION

Monitoring of Decisions

11.1 The Council should monitor planning decisions taken, on an annual basis, both in terms of quality and consistency. Annually, Councillors will visit a sample of implemented planning permissions to assess the quality of the decisions. The committee should formally consider the annual report and decide whether it gives rise to the need to review any policies or practices. The review may include information identifying the number of cases where Officers' recommendations were not accepted and the outcome of any related appeal decisions. The results of the monitoring will be reported to Councillors along with any recommendations to improve quality, consistency or performance.

Records management

11.2 The planning application files should be complete and accurate containing sufficient information and a record of events so that the decision and the process leading to it can be easily understood. Only "background papers" as defined in the Local Government Act 1972 (and listed in committee reports) are automatically available to the public. These would include, in addition to the application document, associated letters and supporting information, replies from consultees and letters from supporters and objectors. The same principles apply to applications determined under Officers' delegated powers. Such decisions should be as well documented and recorded in the same way as

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those taken by Committees. These principles apply equally to enforcement and development plan and associated policy matters.

Complaints

11.3 Any complaints received about the way in which a planning application or other planning matter has been dealt with in terms of procedures or fairness will be investigated under the Council's complaints procedures. The fact that someone may disagree with the decision the Council has reached is not a complaint which will normally necessitate investigation, although Officers will explain the reasons for the Council's decision in such a case.

12 INTERPRETATION

12.1 The Chief Executive, Legal and Democratic Services Manager and Director of Planning and Regulatory Services, as appropriate, will provide advice or clarification on any matters of a planning nature contained within this document or otherwise. Issues of probity or otherwise requiring interpretation should be referred to the Monitoring Officer.

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REPORT of
CHIEF EXECUTIVE

to
PLANNING AND LICENSING COMMITTEE
16 NOVEMBER 2017

ECONOMIC DEVELOPMENT UPDATE

1. PURPOSE OF THE REPORT

1.1 Economic Development works towards strengthening and encouraging development of the local economy. It was agreed that a regular report would be submitted to this Committee to update Members on key issues and provide an opportunity for feedback and input.

2. RECOMMENDATION

That Members note the contents of the report;

3. SUMMARY OF KEY ISSUES

3.1 **APPENDIX 1** to the report provides an update on activity on various economic development workstreams as follows:

- Coastal Community Teams (CCT);
- Bradwell Legacy Partnership (BLP);
- Business Support;
- Business Engagement;
- Skills;
- Sense of Place;
- Economic Development and Partnerships Manager.

4. IMPACT ON CORPORATE GOALS

4.1 The work of the Economic Development Team in partnership with key stakeholders will help to create opportunities for economic growth and prosperity.

5. IMPLICATIONS

(i) **Impact on Customers** – Engagement with businesses and organisations across the district as well as supporting the District at sub-region level.

(ii) **Impact on Equalities** – None identified.

(iii) **Impact on Risk** – Work of the Economic Development Team helps to mitigate against Corporate Risk 12 – Failure of the Council to influence regional partners to support and encourage economic prosperity and inward investment to the Maldon District and Corporate Risk 13 - Failure to have a co-ordinated approach to supporting new and existing businesses

(iv) **Impact on Resources (financial)** – The Team are being proactive in seeking funding to create opportunities for economic prosperity in our District.

(v) **Impact on Resources (human)** – None identified.

(vi) **Impact on the Environment** – None identified.

Background Papers: None.

Enquiries to:
David Burrows, Economic Development & Partnerships Manager, (Tel: 01621 875825).

APPENDIX 1

ECONOMIC DEVELOPMENT TEAM UPDATE

20 October 2017

1. COASTAL COMMUNITY TEAMS (CCT)

1.1 Maldon and Blackwater Estuary CCT

1.1.1 A meeting of the Maldon and Blackwater CCT was held on Tuesday 10th October 2017 on the Hydrogen Barge at Hythe Quay. Items discussed included developing a River Blackwater Activities Leaflet, similar to that produced by the River Crouch CCT. They will also be looking at the potential of a walking / camping route incorporating potentially shepherd huts/yurts or something similar. A discussion was also held regarding a Historic Vessels Apprenticeship Scheme and a possible grant application for a development officer (one year) to set up the Historic Vessels Apprenticeship Scheme. Funding options to be considered include the CCF, Magnox and others that support heritage. Cllr. Prof. Lewis Schnurr also discussed the Lock Hill proposal, which seeks funding for conversion of a derelict building in Heybridge Basin into a heritage and visitor centre if suitable funding can be found.

1.2 River Crouch CCT

1.2.1 The River Crouch CCT met on 18 September 2017 at the Burnham-on-Crouch Council Chamber. The participants were informed the group about the successful display publicising the work of the CCCT at Quay Day held in Burnham-on-Crouch on Bank Holiday Monday 28 August. Assisted by great weather, the turnout from the public was good. A recent video by local school children and the coastal footpath were also discussed. A new CCCT project proposal for a second ferry crossing from North to South Fambridge (Middle Crouch crossing) was discussed which can potentially begin operating by May 2018. The ferry will be a foot ferry that can take some bikes. Planning consents are in place but financial help was requested sourcing 40% funding to make up the shortfall. The Crouch CCT Working Group is also continuing to develop a project proposal for a new, all-weather and wheelchair friendly Lower Crouch River Crossing from Burnham-on-Crouch to Wallasea Island. On 1 November a further meeting will be held to take a decision on whether to continue with the current private jetty proposal or to work with Maldon District Council to adapt their pontoon for disabled access.

2. BRADWELL LEGACY PARTNERSHIP

2.1 The Bradwell Legacy Partnership will be meeting on 23 November at Bradwell Marina. While the agenda is still being finalised, a key project for discussion is the Maldon District Enterprise Centre Feasibility Study Bid. Magnox have approved the "Magnox Application 2927 - Maldon District Enterprise Centre Business Case" project on 26 / 09, awarding £60,000 together with a £10,000 contribution from Essex County Council towards the cost of this feasibility study. The Economic Development Manager subsequently met with Haf Morris from Magnox in Southminster on 05 / 10 to discuss next steps. Once a list of milestones and outcomes has been approved by Magnox, the project can begin. A preliminary project outline is being prepared considering the following milestones:

- Prepare project brief and detailed terms for contracting service by mid-November;
- Open call for bids with closing date 30 days later, i.e. mid-December;
- Project start date early January;
- Regular updates with the consultants – fortnightly;
- Report delivered by 31 March 2018.

3. BUSINESS SUPPORT

3.1 BEST Growth Hub

3.1.1 Economic Development(ED) continues to work closely with the BEST Growth Hub with whom we now have an engagement plan and who have agreed to take over the functions previously provided by the Dengie Enterprise Support.

3.2 Dengie Enterprise Support

3.2.1 A decision has been taken to end ED support for the DES website, as no further funding was forthcoming from Magnox and we have negotiated an agreement with the BEST Growth Hub to take over the functions previously performed by the DES, with no cost to MDC.

3.3 The Grape and Grain Trail

3.3.1 The Grape and Grain Trail (a joint project between Braintree District Council and Maldon Tourist Information Centre) promoting the great range of vineyards and breweries in the wider area has been really well received and has built momentum including receiving press coverage recently by ITV news and from another freelancer this week regarding the Crouch valley.

http://www.itv.com/news/anglia/2017-10-06/corner-of-essex-thats-becoming-one-of-the-countrys-finest-wine-producing-areas/

3.3.2 Information on the Grape and Grain Trail is also available in a well-received brochure and on the Visit Maldon District website - http://www.visitmaldondistrict.co.uk/eat-and-drink/grape-and-grain-trail.aspx

3.3.3 The next step is to work with the TIC to better integrate the Grape and Grain Trail with other local tourist attractions in order to develop visitor itineraries that encourage visitors to stay longer in the area.

4. BUSINESS ENGAGEMENT

4.1 **Causeway Business Forum –** The Economic Development team, assisted by Nadine Daines, Programme and Stakeholder Liaison Manger, organised an event held on 5 October 2017 from 3.30 - 5pm, at Maldon Town Council, to instigate and implement the formation of a Causeway Business Forum with the hope that this will also lead to the creation of a Business Improvement District. The event included speakers from

Maldon District Council who provided updates on the Heybridge and Maldon Central Area Masterplan, Flooding Alleviation for the Causeway, Skills, Sense of Place and the Maldon District Enterprise Centre. Guest speakers provided further information on Business Improvement Districts and Superfast Broadband, as well as a discussion as to where the Causeway Businesses would like to go from here. A decision was taken to establish a formal Causeway Business Forum and a business breakfast has been scheduled for Thursday 23 November to discuss Terms of Reference for the new grouping. This meeting will be directed by local businesses and Maldon District Council (MDC) will only be present as observers and to provide administrative support.

4.2 **Burnham-on-Crouch Chamber of Commerce –** The Annual General Meeting (AGM) was held on the evening of Monday 23 October at Burnham-on-Crouch Town Council Offices. Following a year of three very successful events already since its re-launch at the beginning of April 2017, membership continues to grow as businesses see the many and varied benefits of being part of this organisation. Mention was made of the new Burnham-on-Crouch Chamber of Commerce Chairman's Member Awards, the winner of which will be announced in January 2018, as well as Maldon District Council's Business Chairman Awards, nominations of which are requested by no later than 12 noon on 18th December 2017. Members were also reminded of the Small Business Saturday bus tour, taking place between 10am and 2pm on Thursday 16 November, in Butt Lane, Maldon. An apprenticeship event will be held in January, organised by Burnham-on-Crouch Chamber of Commerce in conjunction with Orniston Rivers Academy in January (Date to be confirmed).

4.3 **Small Business Saturday** - The Small Business Saturday bus tour will be taking place between 10am and 2pm on Thursday 16 November, in the Butt Lane Car Park, Maldon. There is going to be a large bus (looks more like a coach) and two awnings on site that can facilitate up to eight businesses under cover. There will also be a blue couch where they will be interviewing people and publicising Live on Facebook. A couple of businesses from Burnham-on-Crouch Chamber will be acting as two of the mentors on the bus and the BEST Growth Hub and Small Business Saturday are providing some others. Secret Hamper, a Maldon District based business was chosen as one of the Top 100 businesses being highlighted as part of this year's campaign.

4.4 **Chairman's Visits** - The Economic Development team is working with the Chairman of MDC, Cllr. Henry Bass to accompany him on some of his visits to local businesses. The objective is to gather their views and provide advice on what initiatives could be put in place to support the growth and sustainability of local businesses. On 12 October the Economic Development Manager accompanied Cllr. Bass on his visit to Tollesbury.

4.5 **Business Newsletter –** On 27 October the Economic Development Team distributed a business newsletter by e-mail. Topics covered included a request to participate in our Business Skills survey, the Chairman's Business Awards, promoting use of the BEST Growth Hub, The Plume Community Academy Business Fair and to promote the Sense of Place. The Economic Development Team has received several positive public responses from readers.

4.6 **Superfast Broadband** – Connie Kerbst, Senior Programme Manager, Information Services, Essex County Council, presented an update on the progress of Superfast

Broadband at the Causeway Business Forum meeting on 5 October. Superfast Broadband is working with the service providers, but are ultimately dependent on these providers to deliver their stated objectives. They require feedback regarding issues to take back to the providers for solution. The emphasis of the project is now shifting to how to best use the available broadband to best effect.

4.7 **Engagement with Department of International Trade (DIT) and Invest Essex** – The Economic Development Manager met with the Essex DIT Partnership Manager on 13 October, together with Simon Papworth, Inward Investment Manager at Invest Essex, to discuss better integration of Maldon District Council into the work of Invest Essex. Invest Essex receives inward investment enquiries from the Department of International Trade, collected from their missions abroad, and puts forward an Essex response. The Economic Development team is putting together an inward investment offer for Maldon District for this purpose and in the meantime is forwarding information about available employment sites and other relevant information about the kinds of businesses that we would like to attract to our district.

5. SKILLS

5.1 The Economic Development Team has recently completed a draft Maldon District Skills Strategy. This document is now being revised and is awaiting data from the Maldon District Business Skills survey (currently open) to finalise the report which will be launched shortly. The Economic Development Manager will be participating in the Plume Academy Careers Fair on 8 October and making a presentation entitled: Made in Maldon - Opportunities on your Doorstep.

6. SENSE OF PLACE

6.1 The Sense of Place was presented at the Causeway Business Forum event on 5 October 2017 and was very well received by the businesses present. The Economic Development Team is working with local businesses to promote adoption of Sense of Place branding and act as ambassadors for Sense of Place on Maldon District and beyond. The new Blackwater Retail Park Ground Breaking Ceremony was held on 11 October and the developers Aquila have agreed to the erection of highly visible Sense of Place Branding on hoardings to be erected around the site. Once outstanding technical and planning issues have been resolved, these hoardings will be produced and erected.

6.2 Charlie Fillingham, Chairman of the Sense of Place Board, led a Board Meeting on Wednesday 25 October. The Board now has a renewed sense of purpose and has adopted a number of projects, such as support for a Christmas food and drink fair to be held at Braxted Park in 2018, linked to Sense of Place.

REPORT of
DIRECTOR OF RESOURCES

to
PLANNING AND LICENSING COMMITTEE
16 NOVEMBER 2017

2018 / 19 REVENUE BUDGET AND FEES AND CHARGES

1. PURPOSE OF THE REPORT

1.1 The purpose of this report is to consider the revenue growth and fees and charges policy proposals that have been put forward by Officers, prior to the approval of the 2018 / 19 budget and updated medium term financial strategy in January 2018. The proposals only show items that are relevant to this Committee.

2. RECOMMENDATIONS

(i) that the contents of the report be noted;

To the Finance and Corporate Services Committee:

(ii) that Members consider the proposals set out in **APPENDIX A** for growth items;

(iii) that the updated fees and charges policy areas within the purview of this Committee outlined in **APPENDIX B** for 2018 / 19 be adopted.

3. SUMMARY OF KEY ISSUES

3.1 For 2018 / 19, the Council is building a zero based budget, this in its nature identifies savings and builds them into the core budget building.

3.2 In line with previous Council approval that there should be no additional budget growth, this has been reinforced through the zero budget process to ensure that budgets are only built for the existing service provision. Officers have been advised that growth bids should only be put forward if statutory.

3.3 It was reported to the Finance and Corporate Services in September 2017, that the current budget gap is £98,000. It is envisaged that the zero based budget process will generate sufficient savings / additional income to bridge this gap for 2018 / 19.

3.4 **Revenue Budget Growth**

3.4.1 There are a number of budget growth proposals relevant to this Committee as set out in **APPENDIX A** for consideration.

3.4.2 Homelessness Reduction Act

3.4.2.1 This is in relation to the Homelessness Reduction Act that will be coming into force as from April 2018, there are two main aspects to enable the implementation of the act; the growth bid is for the new IT system requirement, however there is also a staffing need. A new burdens grant of £60,000 is being received over three years which will cover this fixed term post for two years. The full impact of the Homelessness Reduction Act is not yet known, and there could be an increase on the demand for bed and breakfast and other types of temporary accommodation, however the budget has been prepared with a conservative view and will be reviewed mid-way through the year and officers will come back to members if necessary.

3.4.3 Building Control

3.4.3.1 Local authorities are under a duty to provide an at-cost building control service to the public under the Building Act 1984. This includes a duty to enforce the act in their jurisdiction and retain ultimate responsibility for decision-making with regard to enforcement action. However, unlike other statutory services Local Government building control services compete with the private sector (Approved Inspectors) and this has resulted in a loss of business to local authorities.

3.4.3.2 A building control service contains two fundamentally different types of work (Fee earning and non-fee earning). Non-fee earning activities are work that the Council has a statutory obligation to provide for which it cannot charge a fee, such as identifying unauthorised building work, enforcement and prosecutions, demolitions and dealing with dangerous buildings. Fee income is for chargeable services such as the passing of plans for building works and site inspections.

3.4.3.3 The current establishment for Maldon District Council building control service is 1 Building Control Manager, 2.6 Building Control Officers and 0.5 Technical Support Officer. It is not considered that the current quantum of resource facilitates an effective and resilient service. This has been clearly visible over the last twelve months during which time there has been a high level of absence due to sick leave. The lack of resilience within the service, particularly in relation to experienced staff, has resulted in the need to employee agency staff at a direct additional cost to the Council; for 2017 / 18 the cost has been approximately £50,000

3.4.3.4 The current Building Control Manager, alongside the Group Manager for Planning Services, has been tasked with reviewing the service and seeking ways to reduce the current deficit. A number of options to grow the service have come forward including proactively working with developers, undertaking partnership working and also working on behalf of Approved Inspectors. However, the need for the Building Control Manager to cover day to day site inspections, the limited level of experience within the service and limited service resilience has meant that a guaranteed customer service has not been met and these options have not progressed fully. Notwithstanding this, it should be noted that the service has already entered into an agreement to undertake site inspections on behalf of one Approved Inspector. The Council is reimbursed at a competitive hourly rate, including travel time, for any work undertaken on behalf of the Approved Inspector.

3.4.3.5 Within the service there is currently a vacancy for one full time Building Control Officer. Regrading this role as a Senior Building Control Officer would provide a greater level of resilience within the team as well as providing additional experience within the service. It is considered that this would allow for an improved customer service, ability to undertake a greater level of fee generating work and allow for the Building Control Manager to work closely with developers to promote and grow the service. It would also assist in supporting and growing our existing staff. The increased cost to the Council of this change would be a maximum of £6,900 per annum.

3.4.3.6 It is worth noting that there has already been an interest from agents in the services that the Council can offer. It is however important to recognise that to effectively grow the service there will need to be a proactive campaign to market our offer once the resources are in place and the service has capacity to deliver. There will inevitably be lead time before the investment starts to have demonstrable pay back.

3.4.3.7 A minor increase in administrative cover for the team is also proposed. The increase in hours for this change would be a maximum of £1,200 per annum.

3.4.3.8 It is envisaged that the increase in income through additional fee earning income will meet the increase in cost to the Council after the initial lead in period.

3.4.4 Planning Services

3.4.4.1 Within the current financial year a number of increased costs have been funded from vacancy savings, the Local Development Plan (LDP) reserve and an increased income generated through planning fees. A number of these costs are recurring and will therefore need to budgeted for 2018 / 19.

3.4.4.2 The recurring costs are as follows and are explained in more detail below:

- Two Planning Policy Salary Supplements - £18,100
- Four Development Management Salary Supplements - £20,400
- Extend temporary enforcement assistant post by twelve months - £27,000
- Extend temporary Planning Officer post within 'Major Applications Team' by twelve months - £34,600.

3.4.4.3 Market supplements have been paid to a number of individuals to address difficulties in recruitment that the Council has previously experienced. The supplementary offers are subject to review on a rolling twelve month basis to assess whether they are still appropriate.

3.4.4.4 A new Corporate Fraud and Enforcement Team was formed in October 2015. This new team was designed to provide a more holistic approach to enforcement matters; one of the primary roles that this team provides management of complaints regarding and breaches of planning control. At the time of inception there were a large number of complex and historic cases within an extensive backlog of work. Since then there has been a demonstrable increase in the number of complaints received by the Council; with a percentage increase of some 64% between 2013 / 14 and 2016 / 17. There has been a corresponding increase in the number of enforcement cases closed

(71% increase between 2013 / 14 and 2016 / 17) and the amount of open cases has stabilised. An 'Enforcement Assistant' that has primarily concentrated on initial site visits and the resolution of more minor and less complex cases currently supports the team. This post has been funded through in year savings. It is considered that this has been a successful addition to the team and allows for the more complex and time consuming cases to be prioritised by the Corporate Fraud and Enforcement Officers. It is proposed that it is necessary to retain this role for a further twelve months to ensure that the service continues to grow.

3.4.4.5 A Planning Officer post within 'Major Applications Team' has previously been funded through the Local Development Plan resource as this was dedicated to support delivery of the strategic sites allocated through the Local Development Plan. Due to a number of circumstances outside of the Council's control the delivery of these sites has not been at the rate first considered likely by the Council. It is therefore, considered necessary to fund this additional resource for a further twelve months.

3.4.4.6 The income for planning fees, excluding the strategic sites is projected to be £80,100 higher than originally budgeted for 2017 / 18 and £56,100 for 2018 / 19 (compared to original 2017 / 18). In addition the Government have provisionally tabled an increase in planning fees by 20% which will be included in budgets for 2018 / 19. When the Government originally proposed the increase it was stated that it would need to be 'ring fenced' for additional growth within the planning service. This expected increase will contribute towards the additional costs outlined in paragraphs 3.4.4.1 to 3.4.4.4 above by £104,200. It should however be noted that there is a projected £283,000 shortfall in income generated from strategic sites against that originally budgeted for 2017 / 18. This is due to delays in strategic sites coming forward. This also has a projected negative impact of £166,800 in 2018 / 19 (compared to original 2017 / 18).

3.4.5 Other Matters

3.4.5.1 Groups or areas within the District are entitled to create their own Neighbourhood Plan detailing their aspirations for their local area, but must tie into our Local Development Plan. There is no budget set for this, and it is unknown which areas may wish to make a designation, or how complex a designation may be, and therefore this hasn't been included as a growth bid. A reserve is available that has been created from previous unused Neighbourhood Grant funding, but should additional funds be required, then this will be dealt with by way of a supplementary estimate.

3.5 **Fees and Charges**

3.5.1 Fees and charges set by the Council are one area where the Council may have the ability to generate increased resources, however each area is subject to different constraints. In looking at these policies, the following factors need to be considered:

- Corporate and service objectives / priorities;
- Seeking to make services self-financing, where there is scope to do so;
- The level of charges levied by commercial competitors and other local authorities;
- The introduction of new charges, where appropriate;

- Whether concessionary charges for specific users of the service would apply.

3.5.2 **APPENDIX B** shows the fees and charges policy for the approval of this committee with detail where a policy is proposed to be amended.

4. CONCLUSION

4.1 It is essential for members to consider the proposals set out in this paper in order to allow sufficient time for this to be built into the 2018 / 19 budget setting process.

4.2 It is considered that the indicated budget gap in 2018 / 19 is manageable at this time and can be dealt with once the detailed budgets for 2018 / 19 are built up. However, more work will be needed to close down the predicted budget gaps for future years.

5. IMPACT ON CORPORATE GOALS

5.1 The Strategic and Financial Planning process contributes towards our Corporate Goal "Delivering good quality, cost effective and valuable services".

5.2 Each of the revenue proposals is also linked to the corporate goals.

6. IMPLICATIONS

(i) **Impact on Customers –** The fees and charges are for discretionary services and therefore impact on service users.

(ii) **Impact on Equalities** – None.

(iii) **Impact on Risk –** The implementation of the budget setting process is designed to minimise the risk of not having a robust Medium Term Financial Strategy.

(iv) **Impact on resources (financial)** – As outlined in this report.

(v) **Impact on Resources (human)** – As well as financial factors, availability of staff has been considered for each of the projects and this has been included.

(vi) **Impact on the Environment** – None.

Background Papers: None.

Enquiries to: Carrie Cox, Finance Manager, (Tel: 01621 875799).

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Budget Growth 2018 / 19 - 2021 / 22

Directorate	Service Team	Title of the proposal	Full Description of the proposal	2018/19 £	2019/20 £	2020/21 £	2021/22 £	Staffing implications Full Time Equivalent (FTE) (-)	Corporate Goal	Linked to Capital project / revenue savings?	Categorisation Invest to Save / Essential / Desirable	Justification for Proposal Why is the growth required? Can it be funded externally by external grant or other partner organisations?
Planning & Regulatory Services	Strategic Housing	Implementation of the Homelessness Reduction Act requirements	Implement a new system to manage the requirements of the act.	12,000	12,000	12,000	12000		Helping Communities to be safe, active and healthy	No	Essential	A new statutory requirement to reduce homelessness. A new burdens grant is receivable for the next three years at £20,000 per annum, this covers most of the staffing costs, but not ongoing system costs.
Planning & Regulatory Services	Building Control	Increase Building Control Officer to senior grade	Increase Building Control Officer from grade H to grade I	6,900	6,900	6,900	6,900			No	Invest to save	This will provide a greater level of resilience within the service and allow for the Building Control Service to actively seek to increase the level of fee generating income
Planning & Regulatory Services	Building Control	Increase Hours for admin cover	Increase hours from 18.5 to 20 hours per week	1,100	1,200	1,200	1200	0.04	Strengthening communities to be safe, active and healthy and aiming to be an organisation that delivers good quality cost effective and valued services in a transparent way	No	Desirable	This will allow for an increase in customer service as well as provide a greater degree of support to the existing Building Control Officers
Planning & Regulatory Services	Enforcement	Extend contract for Enforcement Officer	Extend fixed term Enforcement Officer post	27,000	-	-	-	1	Strengthening communities to be safe, active and healthy and aiming to be an organisation that delivers good quality cost effective and valued services in a transparent way	No	Essential	The role provides assistance to the Corporate Fraud and Enforcement Officers and ensure that these officers are able to prioritise more complex cases whilst also ensuring that all of the initial site visits are undertaken within the agreed time limits. It was intended that the increase in planning fees by 20% would pay for this, but due to a drop in projected fee income this will no longer be covered by the increase.
Planning & Regulatory Services	Development Management	Extend contract for Major Applications Planning Officer	Extend fixed term Major Applications post	34,600	-	-	-	1	Strengthening communities to be safe, active and healthy and aiming to be an organisation that delivers good quality cost effective and valued services in a transparent way	No	Desirable	To provide additional support to ensure that the sites allocated through the Local Development Plan (LDP) come forward
Planning & Regulatory Services	Planning Policy	Salary supplements	up to 15% market supplement was offered to attract candidates to accept the advertised posts.	18,100	18,100	18,100	18,100		Protecting and Shaping the District Focussing on Key Projects	No	Essential	It was intended that the increase in planning fees by 20% would pay for this, but due to a drop in projected fee income this will no longer be covered by the increase.
Planning & Regulatory Services	Development Management	Salary supplements	up to 15% market supplement was offered to attract candidates to accept the advertised posts.	20,400	20,400	20,400	20,400		Strengthening communities to be safe, active and healthy and aiming to be an organisation that delivers good quality cost effective and valued services in a transparent way	No	Essential	It was intended that the increase in planning fees by 20% would pay for this, but due to a drop in projected fee income this will no longer be covered by the increase
		TOTAL		**120,100**	**58,600**	**58,600**	**58,600**					

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Committee	Directorate	Policy Area	Current Policy	Existing Concessions	Proposed Policy for 2018/19
Planning and Licensing (P&L)	Customers & Community	River Moorings	Charges are aligned with those of sailing clubs operating on the River Blackwater.	None	Retain existing policy
P&L	Customers & Community	River Wharfage	Set fees to compete with alternative berthing facilities on the east coast	Quarterly charges discount daily fee by 50%. Discounts available to Charitable Trusts.	Retain existing policy
P&L	Planning and Regulatory Services	Land Charges	Self Financing Service subject to regulations	None	Retain existing policy
P&L	Planning and Regulatory Services	Public Hire Vehicle & Hackney Carriage Licensing	Self financing service	None	Retain existing policy
P&L	Planning and Regulatory Services	Building Control - Chargeable Services	Self financing service (by regulation) Break even over a five year period	None	Retain existing policy
P&L	Planning and Regulatory Services	Development Control and Conservation - Pre Application Advice	Charge for advice	Not Applicable	Retain existing policy
P&L	Planning and Regulatory Services	Development Control - Planning Performance Agreements (PPA)	Charge on a basis of number of dwellings in the proposed development	Not Applicable	AMENDED POLICY - Charge based on generic officer cost rates to complete the tasks in the PPA.
P&L	Planning and Regulatory Services	Planning Fees (Development control fees)	No Policy - no powers at present	Not Applicable	No Change. Although awaiting amendment to central legislation allowing a 20% uplift to planning fees. We will be implementing this following prior Council approval.
P&L	Planning and Regulatory Services	Licensing Act 2003	Set fees in line with the costs incurred in providing the service	None	Retain existing policy
P&L	Planning and Regulatory Services	Gambling Act 2005	Set fees in line with the costs incurred in providing the service	None	Retain existing policy
P&L	Planning and Regulatory Services	Scrap Metal Dealers Act 2013	Recover reasonable costs of administration in accordance with statutory guidance	None	Retain existing policy
P&L	Planning and Regulatory Services	Pre Application for Tree Preservation Order advise	Charge for advice previous a free service. Charge to be based full recovery of Officer time	Not Applicable	Retain existing policy
P&L	Planning and Regulatory Services	Street Naming and numbering	Charges to developers and property owners based on cost recovery	Not Applicable	Retain existing policy
P&L	Planning and Regulatory Services	Revisit to rescore food hygiene ratings	Set fees in line with the costs incurred in providing the service. New legislation is expected but it is not clear if fees will be set nationally or locally	Not Applicable	Retain existing policy

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REPORT of
CHIEF EXECUTIVE

to
PLANNING AND LICENSING COMMITTEE
16 NOVEMBER 2017

COUNCILLOR ENGAGEMENT IN PRE-APPLICATION DISCUSSIONS AND LOCAL DEVELOPMENT PLAN DISCUSSIONS (DEVELOPER MEETINGS)

1. PURPOSE OF THE REPORT

To consider and agree revisions to the above Protocol.

2. RECOMMENDATION

That the Councillor Engagement in Pre-Application Discussions and Local Development Plan Discussions (Developer meetings) be amended as set out in paragraphs 3.3 and 3.4 below and also in the general terms as shown in **APPENDIX 2** to this report.

3. SUMMARY OF KEY ISSUES

3.1 The current Protocol, which sits alongside related constitutional documentation and is at **APPENDIX 1** to this report, was agreed by the Committee in August 2013.

3.2 At a recent meeting of the Planning Committee Chairmen, the need for two revisions was identified. The first is to ensure that in the initial arrangements for the setting up of the discussion meeting, the availability of the Ward Member(s) is taken into account. The second is to remove any terminology that might be confused with the definition of strategic development used for the determination of certain planning applications at extraordinary meetings of the Council.

3.3 It is therefore proposed that paragraph 2.2.1 be revised to read as follows:

Step 2 Assessment and arrangement

Development management:
Officers will assess the pre- application proposals against the criteria for strategically important major development as described in section 5 of this Protocol. Should the proposals be considered to be fitting with this criteria then the case officer will approach the developer with a view to arranging a pre-application with Members. Officers shall seek / pursue two dates (convenient to the Ward Member(s) with the developer at which a meeting with Councillors can be held (Development Management performance criteria require a first written response to developers to be returned no later than 21 days from the receipt of an enquiry). Subject to these dates

being convenient to the Ward Member (s), Councillors shall be notified via an all Member e mail at no fewer than five days before any meeting date. The Development Control Management Forum shall be set for whichever the greatest number of Councillors is available to attend the forum*.

3.4 So far as the description of the categories of development covered by this Protocol is concerned it is thought that 'strategically important major development' is correct and the above revision includes a cross-reference to section 5 where these categories are set out. Section 5 can then be headed up 'STRATEGICALLY IMPORTANT MAJOR DEVELOPMENT CRITERIA' with the line at 5.1 below being deleted.

3.5 In looking further at this Protocol, it appears there is scope for further revision. When the Protocol was introduced it was designed to cover both potential Development Management and Local Development Plan submissions. Given the recent finalisation and adoption of the Local Development Plan it is considered that these provisions in the Protocol are no longer required, and that the Protocol itself can be renamed. **APPENDIX 2** to this report shows the entirety of the proposed revisions as tracked changes.

4. IMPACT ON CORPORATE GOALS

4.1 The review and updating of the corporate governance arrangements of the Council underpins the decision making processes of the Council, is in part a matter of compliance with the law and is also linked to high level outcomes associated with the corporate goal of delivering good quality, cost effective and valued services in a transparent way. It is important that all elements of the Council's Constitution and supporting documentation are kept up to date and able to be clearly understood by Members, Officers and also the public.

5. IMPLICATIONS

(i) **Impact on Customers** – It is right and proper that the Council is able openly to explain, through well-presented and user-friendly constitutional documentation, the way in which it is set up and operates, and how it conducts its business. It is important that the Council's procedures are seen as open and transparent.

(ii) **Impact on Equalities** – None identified.

(iii) **Impact on Risk** – None identified.

(iv) **Impact on Resources (financial)** – None identified.

(v) **Impact on Resources (human)** – None identified.

(vi) **Impact on the Environment** – None identified.

Background Papers: None.

Enquiries to: Stuart Jennings, Corporate Governance Project Officer, (Tel: 01621 875745).

APPENDIX 1

PROTOCOL FOR MEMBER INVOLVEMENT IN PRE APPLICATION AND LOCAL DEVELOPMENT PLAN (LDP) DISCUSSIONS

1. PROCEDURAL ELEMENTS FOR PRE APPLICATION DISCUSSIONS

(i) LDP Developer forums – The local authority apply the existing protocol and invite a developer to a forum run by the authority with invited Members, and other attendees to hear and comment on an officer's introduction and developer's explanation of the emerging proposal. No fee will be charged for these forums. The forum can provide a clear context for Members to listen to proposals and give views as to what issues need to be addressed in any formal submission to the LDP process. These forums will be only upon the invitation of the Council and will be solely for the purposes of progression of the LDP. Any LDP forum will be chaired by a senior officer and will be restricted to discussions of matters which will be strictly restricted to matters related to the LDP alone.

(**ii) Development Management forums** – Upon receipt of a formal pre-application enquiry with appropriate fee the local authority consider the proposals to be a strategic major development (see section 5). The Council request the developer to attend a forum run by the authority with Councillors, representatives of consultees and various interested parties invited to hear and comment on an officer's introduction and developer's explanation of the emerging proposal. External invitees will be selected by officers from the Council's statutory planning application consultation list. The forum can provide a clear context for Members to listen to proposals and give views as to what issues need to be addressed in any formal submission.
Such forums should be arranged, chaired and publicised by the local authority. Consultees including, parishes, amenity societies and public representatives may be invited to speak. The Officer explains the process, the context of the proposals and the Councillors' roles. Officers note the issues arising and record any actions.

2. PROTOCOL FOR PRE APPLICATION DISCUSSIONS WITH COUNCILLORS

2.1 Step 1 Initiation of pre-app process – (development management only)

2.1.1 For Development Management Forums a prerequisite will be that a formal pre-application enquiry shall have been submitted and an appropriate fee shall have been paid to the Council before any forum is arranged.

2.1.2 Within five full working days of a valid Development Management enquiry the details shall be entered onto a Pre-Application Register, held by the Planning Service.

2.2 Step 2 Assessment and arrangement

2.2.1 Development management:

2.2.1.1 Officers will assess the pre- application proposals against the criteria for Strategic Major Developments. Should the proposals be considered to be fitting with this criteria then the case officer will approach the developer with a view to arranging a pre-application with Members. Officers shall seek two dates with the developer at which a meeting with Councillors can be held (Development Management performance criteria require a first written response to developers to be returned no later than 21 days from the receipt of an enquiry). Councillors shall be notified via an all Member e mail at no fewer than five days

before any meeting date. The Development Control Management Forum shall be set for whichever the greatest number of Councillors is available to attend the forum*.

2.2.2 LDP:

2.2.2.1 At key stages of the drafting of the LDP it may be desirable for Members to engage with developers. This will be at the invitation of the Council not instigation via developer enquiry. On such a basis no fee will be payable to the Council. The LDP forum will be arranged to assist and inform the LDP process. Officers shall seek two dates with the developer at which a meeting with Councillors can be held. Councillors shall be notified via an all Member e mail at no fewer than five days before any meeting date. The LDP Forum shall be set for whichever the greatest number of Councillors is available to attend the forum*.

** where any dispute over the date of a meeting arises then arbitration shall be given within 48 hours by e mail agreement between the Chief Executive and Chairman of Planning and Licensing Committee*

2.3 Step 3 – At the Meeting

2.3.1 Where Members are present, the meeting will be conducted as follows:

a) A senior officer will introduce the purpose of the meeting and advise how it will be conducted. Members will be advised as to the confidentiality status of the proposal. The meeting will be chaired by a senior officer. Any LDP forum will be strictly chaired to an agenda drawn to reflect only those matters relating to the progress of the LDP. If at any time the discussion departs from these considerations then the chair will have discretion to close the forum.

b) Introductions will then be made.

c) The potential applicant will then present their proposal (the presentation having first been viewed by a Senior Planning Officer and if necessary a legal officer, to ensure that it will not lead Members into negotiations and to check for accuracy).

d) Members will then have the opportunity to ask questions and seek clarification, but care will need to be taken that personal views are not expressed. They may alert the developer to what they perceive as the likely view of their constituents, but this must be in the context of the LDP or alternative policy framework.

e) The Chairman will then conclude the meeting. Members may advise Officers of any concerns they may have with the proposal and any elements which they feel would benefit from negotiation with the developer. Officers will provide professional advice and guidance as to what negotiations would be reasonable and align with the Local Development Plan or alternative policy. Negotiations will be undertaken by Officers only.

f) A Planning Officer will record the meeting and take a note of all present, plus any issues identified. Officers will take appropriate follow up action. The note of the meeting will be placed on file at the earliest opportunity (taking account of the need for commercial confidentiality). The involvement of Members will be recorded in any subsequent committee report.

2.4 Step 4 - Pre-application Feedback

2.4.1 Written pre-application guidance will then be prepared by Planning Services and sent to the applicant. The pre-application guidance letter will be circulated to those Members who have attended the event or otherwise given a written indication to be advised of the outcome.

2.5 Step 5 Additional meetings on request

2.5.1 Further meetings with potential developers and officers may be necessary to provide further information and clarification, after the provision of pre application guidance and prior to any application or final submission under the LDP.

2.5.2 These further meetings will not as a rule involve Councillors. Only at the discretion of Chief Executive or the express request by ward member/s or relevant committee chairman shall subsequent meetings be the subject of further member engagement. In such circumstances, the case officer will approach the Director for a view as to the necessity to invite members, where upon an e mail notification requesting response within 48 hours shall be circulated to Ward Member/s or relevant committee chairman to ascertain any interest in the second (etc.) meeting with the developer.

2.5.3 Only in these exceptional circumstances will Officers then circulate an all Member email to advise of these further meetings (Step 2 then applies for notification and response, i.e. five days' notice, minimum of two meeting dates).

3 PRE-DETERMINATION AND PRE-DISPOSITION

3.1 A reason given for Councillors not getting involved in schemes before a formal consideration at planning committee is the appearance of injustice, i.e. being said to have pre-determined a scheme. As long as a councillor remains clear that they have not made up their mind and that they are willing to listen to all material consideration presented to a planning Committee before voting then they cannot be said to have pre-determined the outcome. In such circumstance a Member may be said to be pre- disposed by expression of a view, but clearly will remain open to consideration of other material considerations before finally making their mind up and voting at the planning committee.

3.2 The following considerations also apply:

a) Members should only attend those meetings organised in accordance with this protocol and not arrange private meetings with developers.

b) Members should promote community aspirations through the Sustainable Community Strategy and the Local Development Plan or alternative policy process.

c) Members are at the meeting to learn about an emerging proposal, to help identify issues to be dealt with by further submission and negotiation and may wish to avoid expressing any firm view on the proposal which might indicate to third parties that the Member has 'pre-determined' the application. Although the Localism Act 2011 has provided greater freedom on this, the legal position remains that if pre-determination at the planning decision stage is evident, then this could give rise to legal challenge.

d) Any Planning Committee Member who elects to express a firm view for or against the proposed development at this stage should be mindful that further opinions, advice and evidence may arise during the LDP or planning application process. So

long as Members clearly state that the opinion is subject to receipt of further evidence and advice, and that they have not closed their mind on the matter, this may then be seen as pre-disposition which is legitimate. Officers will be pleased to advise Members further on this prior to any meeting.

e) Training will be available on request for Members who wish to attend pre application and LDP discussions.

4. GENERAL CONCLUSIONS

4.1 Pre-application discussions should always be conducted at the appropriate officer level. However, it should be made clear that the views expressed may be subject to review by officers at a more senior level or by Members at Committee. Advice should be consistent with statutory plans, government planning policy guidance and statements and any other material considerations.

4.2 Officers should make a detailed written note of any pre-application meetings as soon as practicable. Confirmation of the advice given should always be supplied in writing when requested by or on behalf of the applicant or when deemed appropriate by the section manager.

4.3 The involvement of Members should be recorded in any subsequent committee report.

4.4 In the case of potentially contentious meetings, two or more officers will attend.

5 STRATEGICALLY IMPORTANT DEVELOPMENT CRITERIA

5.1 Development which will automatically be deemed of strategic major interest

5.1.1 Residential

- Any application of 50 dwellings or more; or any outline residential development proposals whose site is 2 hectares or more
- Any residential proposal promoted as an allocated site within the LDP.

5.1.2 Affordable Housing

- Any 100% Affordable Housing proposals of six dwellings or 0.3ha or more in outline form.

5.1.3 Non-residential development

- Any non-residential development proposal, whose floor area is 1,500 square metres or more or whose site area is 2 hectares or more.
- Any non-residential proposals relating to development proposals allocated within the LDP.

5.1.4 Retail

- Any retail development 1,000 square meters or more or which of 250 square metres or more and is proposed to be beyond existing town centres as defined in the local plan or emerging LDP.

5.1.5 Mixed use development

- Any mixed use development proposals whose site area is 2 hectares or more, or is of 50 dwellings or 1,000 square metres commercial floor area or more.

5.1.6 Renewable Energy

- Wind Turbines
- Any wind energy proposals whose output capacity is 1Mw or more or which proposes three or more turbines of 30m or more.
- Solar energy
- Any Solar energy proposals whose output capacity is 1Mw or more or which proposes 4,000 or more solar panels.
- Energy from Waste
- Energy from Waste Scheme which is 1MW capacity or more.

NOTE: Development Management Enquiries - Consideration of other strategic or corporate merit:
Some applications which do not fit the thresholds or development types outlined above may demand discretion to be exercised as to their specific merits. These enquiries may have a local strategic importance or in some other way make a major contribution to the delivery of corporate objectives. In such circumstances the Chief Executive in consultation with the appropriate Ward Member(s) will determine whether it is appropriate to engage Members in the pre-application process.

Originally agreed and endorsed by the Planning and Licensing Committee – 1 August 2013

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APPENDIX ~~1~~2

DEVELOPMENT MANAGEMENT - PROTOCOL FOR MEMBER INVOLVEMENT IN PRE APPLICATION ~~AND LOCAL DEVELOPMENT PLAN (LDP)~~ DISCUSSIONS

1. PROCEDURAL ELEMENTS FOR PRE APPLICATION DISCUSSIONS

~~**(i) LDP Developer forums** – The local authority apply the existing protocol and invite a developer to a forum run by the authority with invited Members, and other attendees to hear and comment on an officer's introduction and developer's explanation of the emerging proposal. No fee will be charged for these forums. The forum can provide a clear context for Members to listen to proposals and give views as to what issues need to be addressed in any formal submission to the LDP process. These forums will be only upon the invitation of the Council and will be solely for the purposes of progression of the LDP. Any LDP forum will be chaired by a senior officer and will be restricted to discussions of matters which will be strictly restricted to matters related to the LDP alone.~~

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2.2 Step 2 Assessment and arrangement

~~2.2.1 Development management:~~

2.2.1 Officers will assess the pre- application proposals against the criteria for strategically important major development as described in section 5 of this Protocol. Should the proposals be considered to be fitting with this criteria then the case officer will approach the developer with a view to arranging a pre-application with Members. Officers shall seek/pursue two dates (convenient to the Ward Member(s) with the developer at which a meeting with Councillors can be held (Development Management performance criteria require a first written response to developers to be returned no later than 21 days from the receipt of an enquiry). Subject to these dates being convenient to the Ward Member (s),

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long as Members clearly state that the opinion is subject to receipt of further evidence and advice, and that they have not closed their mind on the matter, this may then be seen as pre-disposition which is legitimate. Officers will be pleased to advise Members further on this prior to any meeting.

e) Training will be available on request for Members who wish to attend pre application ~~and LDP~~ discussions.

4. GENERAL CONCLUSIONS

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5 STRATEGICALLY IMPORTANT MAJOR DEVELOPMENT CRITERIA

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- Any 100% Affordable Housing proposals of six dwellings or 0.3ha or more in outline form.

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- Any non-residential proposals relating to development proposals allocated within the LDP.

5.1.4 Retail

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5.1.5 Mixed use development

- Any mixed use development proposals whose site area is 2 hectares or more, or is of 50 dwellings or 1,000 square metres commercial floor area or more.

5.1.6 Renewable Energy

- Wind Turbines
- Any wind energy proposals whose output capacity is 1Mw or more or which proposes three or more turbines of 30m or more.
- Solar energy
- Any Solar energy proposals whose output capacity is 1Mw or more or which proposes 4,000 or more solar panels.
- Energy from Waste
- Energy from Waste Scheme which is 1MW capacity or more.

NOTE: Development Management Enquiries - Consideration of other strategic or corporate merit:
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Originally agreed and endorsed by the Planning and Licensing Committee – 1 August 2013

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REPORT of
CHIEF EXECUTIVE

to
PLANNING AND LICENSING COMMITTEE
16 NOVEMBER 2017

AREA OF SPECIAL CONTROL FOR ADVERTISEMENTS

1. PURPOSE OF REPORT

1.1 The purpose of this report is to review the existing Area of Special Control Order in terms of whether it should be modified or revoked.

2. RECOMMENDATION

That the Area of Special Control Order be retained without modification.

3. SUMMARY OF KEY ISSUES

3.1 **Background**

3.1.1 The display of advertisements is subject to a separate consent process within the planning system. This is principally set out in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

3.1.2 Advertisements are controlled with reference to their effect on amenity and public safety only, so material considerations are reduced to those that can be considered within the system for obtaining planning permission for development.

3.1.3 An Area of Special Control Order places additional restrictions on the display of advertisements. For example, some deemed consent classes are subject to reduced size limits if they are located in an Area of Special Control. Areas of Special Control are designated in locations where a local planning authority considers that additional control above and beyond its powers to restrict deemed consent and take discontinuance action are required.

3.1.4 Where an Area of Special Control Order is in force, a local planning authority must consider at least once in every five years whether it should be revoked or modified. It is important to ensure that the standards adopted in first making the order are consistently maintained throughout the whole Area of Special Control whilst it remains in effect. The last review of the Area of Special Control within the Maldon District was reported to Members on 17 January 2013.

3.1.5 The Maldon District Area of Special Control was made by the Council on 22 March 1988 and confirmed by the Secretary of State on 9 June 1988. The order was confirmed with the **exception** of the following substantially built up areas:

- Maldon;
- Heybridge;
- Burnham-on-Crouch;
- Tollesbury;
- Southminster;
- Mayland;
- St. Lawrence.

3.1.5.1 Those exceptions were agreed following consultation with the Outdoor Advertising Council. A copy of the Order is attached at **APPENDIX 1**.

3.1.6 Other than the exceptions above the order covers the whole district.

3.2 **Assessment**

3.2.1 The effect of the Order is to apply more stringent controls over the display of advertisements. The Order covers the areas in the District which requires special protection to preserve its visual amenity. The restricted areas are those in which advertisements are generally a less prolific or conspicuous feature.

3.2.2 Three main categories of outdoor advertising would continue to be permitted within the Area of Special Control, which are:

- Public notices;
- Advertisements inside a building;
- Advertisements for which there is deemed consent.

3.2.2.1 A full list can be seen in the Order (**APPENDIX 1**).

3.2.2.2 Additionally, the local planning authority may give express consent for certain categories of advertisements such as:

- Advance or directional signs;
- Signs for public safety reasons;
- An advertisement in any normal deemed consent class if it is considered reasonable for the normal limits on that class to be exceeded.

3.2.3 The Area of Special Control was drawn to exclude all land in the settlements referred to in paragraph 3.1.5 which are the more built up settlements within the district (as per enclosed maps at **APPENDIX 1**). The boundary of the Area of Special Control was drawn up based upon the defined development boundaries at that time. When reviewing the Order in terms of whether it should be modified, regard should be had to the development of any land within the Area of Special Control, most commonly whether there has been any substantial industrial or commercial development.

Residential development is often located within Areas of Special Control and is not readily associated with advertisements.

3.2.4 Since the last review of the Area of Special Control there has been new development built across the District. The majority of the development has been small scale residential development; however there have been a couple of larger developments to the edges of Maldon and Southminster which are two of the settlements which are mostly excluded from the Area of Special Control. There has been no significant or large industrial or commercial development in areas not already excluded from the Order.

3.2.5 The new residential developments to the outskirts of Maldon (Land off Park Drive) and Southminster (Southminster West Business Park) are both located on the edges of the built up areas and contain entirely residential development. The developments are not of a scale which warrants modification of the Area of Special Control. However, it is considered that once the strategic development sites have been built out, which contain a mixture of uses and are of a significant scale, it is likely that the Area of Special Control Order will require modification.

4. CONCLUSION

4.1 No commercial or industrial development of land of a scale significant enough to impact on the existing designated Area of Special Control Order has taken place since the Order was last reviewed in 2013. The residential development which has taken place is not of a scale significant enough to warrant modification of the Order. The Order remains an important and effective measure to protect the character and visual amenity of the more rural parts of the District and should be retained.

5. IMPACT ON CORPORATE GOALS

5.1 The Area of Special Control for Advertisements supports the Council's corporate goals, particularly protecting and shaping the District.

6. IMPLICATIONS

(i) **Impact on Customers** – The protection of the visual amenity of the area of the District covered by the Area of Special Control for Advertisements is important to the quality of life of customers.

(ii) **Impact on Equalities** – none identified.

(iii) **Impact on Risk** – none identified.

(iv) **Impact on Resources (financial)** – none identified.

(v) **Impact on Resources (human)** – none identified.

(vi) **Impact on the Environment** – Retention of the Area of Special Control for Advertisements supports the protection of the more rural areas and landscapes within the District.

Background Papers:
The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
Report to Planning and Licensing Committee on 17 January 2013 – Area of Special Control for Advertisements

Enquiries to: Matt Leigh, Group Manager - Planning Services, (Tel 01621 875740).

AREA OF SPECIAL CONTROL

Area of Special Control relates to all of the Maldon District unless it falls within the areas outlined in black on the attached plans.

AREAS OF SPECIAL CONTROL

THE TOWN AND COUNTRY PLANNING (CONTROL OF ADVERTISEMENTS) REGULATIONS 1984

Within an Area of Special Control four main categories of advertisements are permitted.

These areas:

a) election notices, statutory advertisements and traffic signs, (Regulation 9);

b) advertisements inside a building (Regulation 12);

c) advertisements with a deemed consent (Regulation 14). Theses include functional advertisements of local authorities and statutory undertakers, small professional signs, signs on hotel and inns, certain temporary advertisements such as "for sale" signs, advertisements on the forecourts of business premises, flag advertisements; and

d) temporary advertisements for travelling circuses and fairs (Regulation 23).

Additionally express consent may be granted only for the display of advertisements of the following categories:-

e) notices about local events or activities

f) advance signs or directional signs which area "reasonably required" to direct people to the place identified on the sign;

g) advertisements required for public safety reasons, and

h) an advertisement which could be displayed with deemed consent {(c) above} if it is reasonable for the normal size, height or illumination limits to be exceeded.

With regard to advertisements displayed with deemed consent {(c) above} slightly more stringent requirements apply to advertisements which may be displayed within an Area of Special Control. Generally letters, figures etc. cannot exceed 0.3m and advertisements must not be displayed at a height exceeding 3.6m above ground level. Advertisements on business premises must not exceed 10% of the area of the face of the building up to a maximum of 3.6m above ground level.

The foregoing is a summary of the relevant provisions of current legislation and is intended for guidance only. Anyone who requires further clarification or detail on any point is advised to consent The Town and Country Planning (Control of Advertisements) Regulations 1984 (S.I. 1984/421) and Department of the Environment Circular II.84 in respect of those Regulations.



BURNHAM-ON-CROUCH

INSET 2

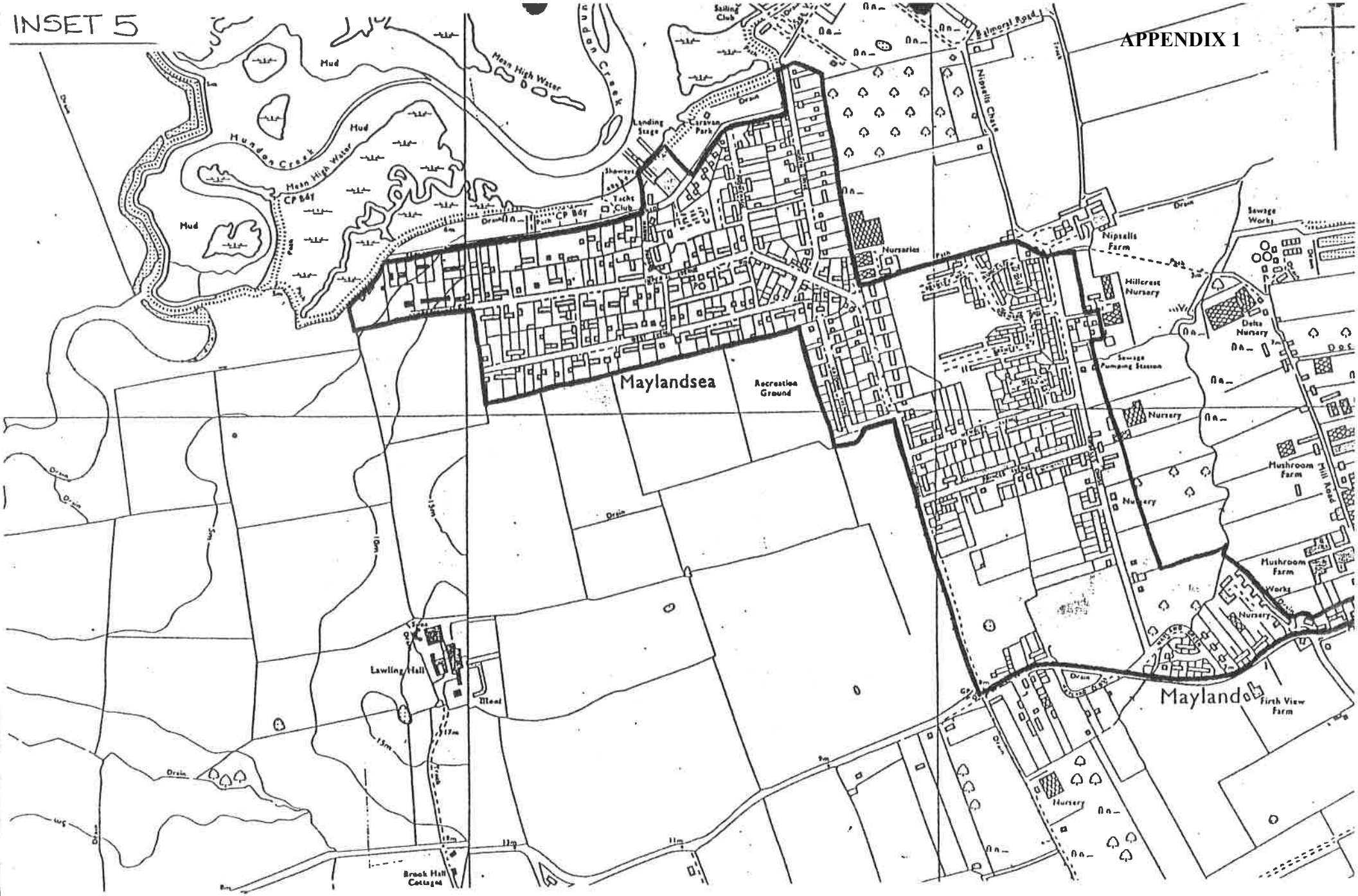
APPENDIX 1

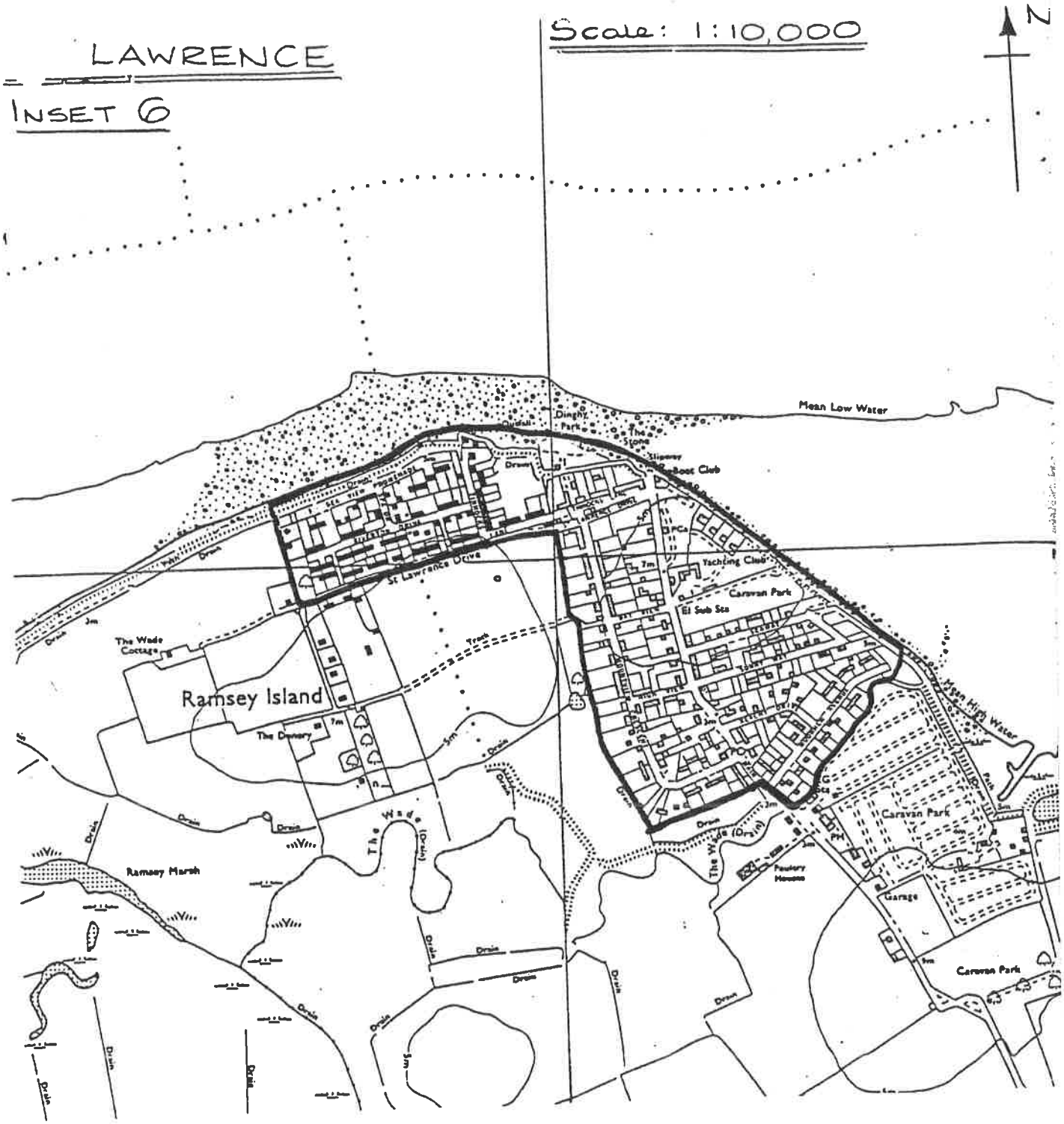
MALDON & HEYBRIDGE

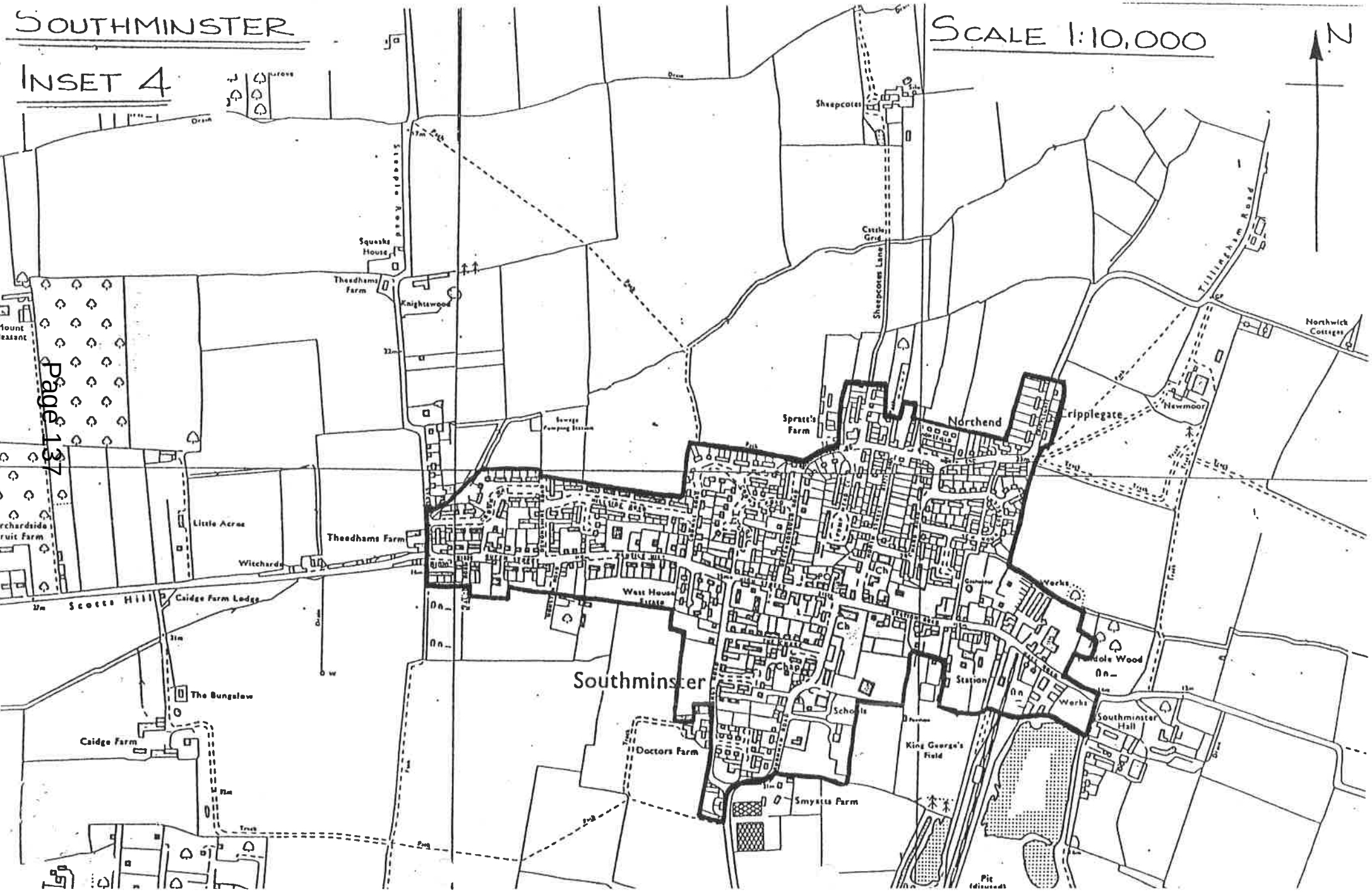
INSET 1

SCALE 1:10,000

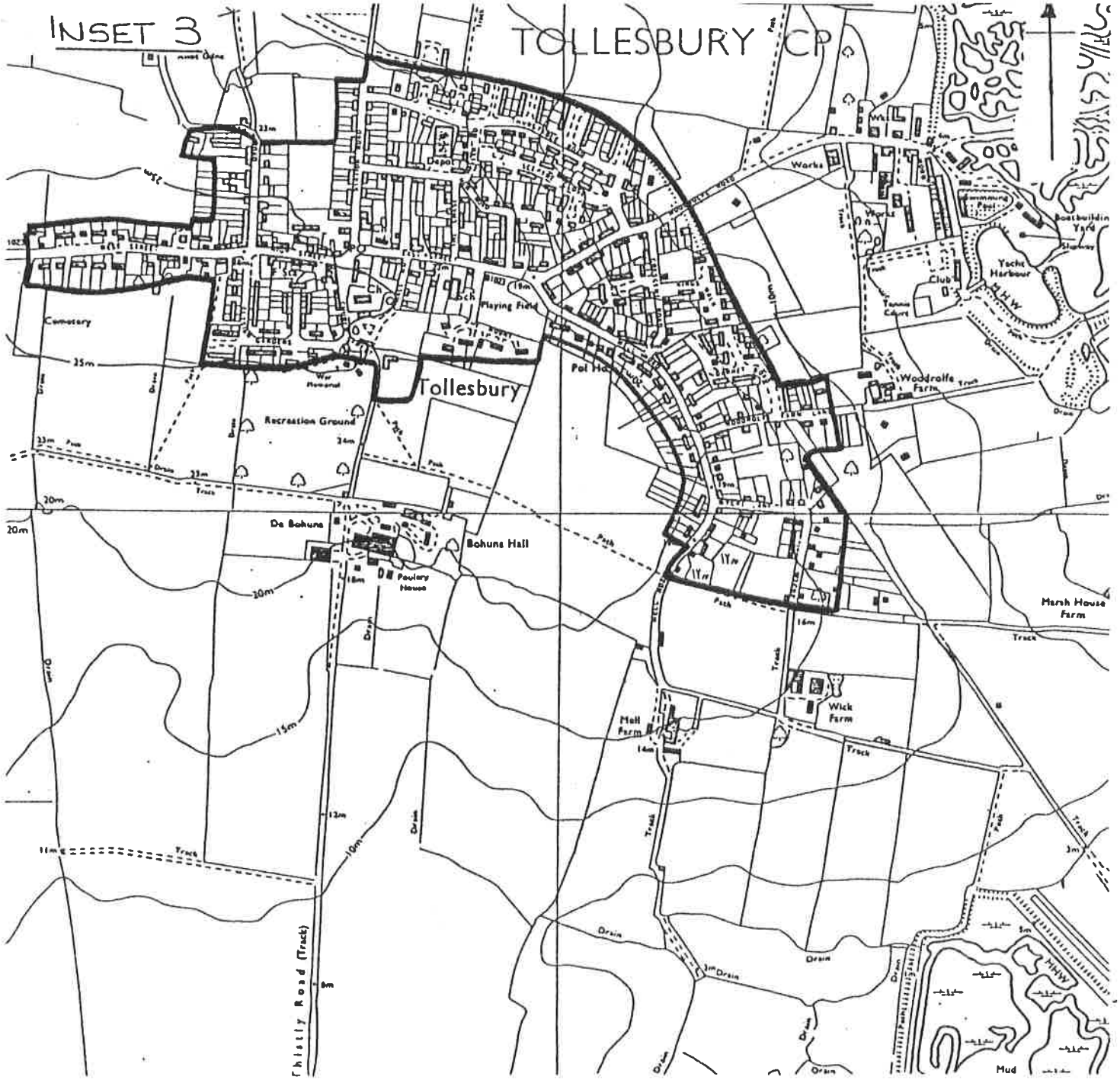



INSET 5
Mud
Mean High Water
Hundon Creek
Landing Stage
Caravan Park
Sailing Club
Yacht Club
CP Bdy
Nipsells Chase
Nipsells Farm
Sewage Works
Nurseries
Hillcrest Nursery
Delta Nursery
Sewage Pumping Station
Maylandsea
Recreation Ground
Nursery
Mushroom Farm
Hill Road
Mushroom Farm Works
Lawling Hall
Moat
Brook Hall Cottages
Firth View Farm
Drain
Path


LAWRENCE
INSET 6
Scale: 1:10,000
N
Mean Low Water
Dinghy Park
The Stone
Slipway
Boat Club
St Lawrence Drive
Yachting Club
Caravan Park
El Sub Sta
The Wade Cottage
Ramsey Island
The Dowery
Ramsey Marsh
The Wade (Drain)
Mean High Water
Caravan Park
Poultry Houses
Garage
Caravan Park


SOUTHMINSTER
INSET 4
SCALE 1:10,000
N
Southminster
Northend
Cripplegate
Newmoor
Northwick Cottages
Sheepcotes
Sheepcotes Lane
Cattle Grid
Squeaks House
Theedhams Farm
Knightswood
Sprats Farm
Little Acres
Witchards
West House Estate
Caidge Farm Lodge
Scotts Hill
The Bungalow
Caidge Farm
Doctors Farm
Smyrells Farm
King George's Field
Schools
Station
Works
Southminster Hall
Tyttlingham Road
Pit (disused)

APPENDIX 1


INSET 3
TOLLESBURY CP
Tollesbury
Cemetery
Recreation Ground
Playing Field
Tennis Courts
Club
Yacht Harbour
Boatbuilding Yard
Works
Woodrolfe Farm
Da Bohuns
Bohuns Hall
Poultry House
Marsh House Farm
Mall Farm
Wick Farm
Track
Drain
Path
Mud
Chitty Road (Track)

REPORT of
CHIEF EXECUTIVE

to
PLANNING AND LICENSING COMMITTEE
16 NOVEMBER 2017

TAXI AND PRIVATE HIRE CRIMINAL CONVICTIONS POLICY, LICENSING CONDITIONS AND SCHEME OF DELEGATION

1. PURPOSE OF THE REPORT

1.1 To consider a draft policy for the taxi and private hire trade in relation to the suitability of new applicants and current licence holders with criminal convictions. To make changes to the taxi and private hire licensing conditions and the scheme of delegation to reflect the draft policy and to bring it up to date.

2. RECOMMENDATIONS

To the Council:

(i) That the policy for the taxi and private hire trade in relation to the suitability of new applicants and current licence holders with criminal convictions (**APPENDIX 2**) is endorsed;

(ii) that the licensing conditions and scheme of delegation are updated and changed to reflect the policy.

3. SUMMARY OF KEY ISSUES

3.1 Criminal Convictions

3.1.1 Before granting a driver's licence, the Council is required by the Local Government (Miscellaneous Provisions) Act 1976, section 51, to be satisfied that the applicant is a fit and proper person to hold a driver's licence. To ensure that the applicant is a fit and proper person, the Council requires all applicants to submit an enhanced Disclosure and Barring Service (DBS) certificate which reveals whether or not they have any criminal convictions.

3.1.2 In determining an application for a driver's licence, the Council checks the DBS certificate and the history of criminal convictions. The current Criminal Convictions Policy (**APPENDIX 1**) is very basic and out of date. A new policy (**APPENDIX 2**) is proposed based on the Local Government Association's (LGA) recommended template. A number of local authorities, including other Essex licencing authorities, have adopted policies based on the LGA's recommended template.

3.1.3 A comprehensive policy will assist Officers and Members when considering and determining licensing applications. A policy gives customers information and transparency about the process. It also ensures that applicants are treated fairly and consistently when decisions are being made regarding their application. By using a policy based on the LGA's template, it will also aid consistency across district boundaries.

3.1.4 The draft policy requires that applicants who have spent 6 continuous months or more overseas to provide evidence of a criminal record check from the country or countries covering the period before a licence application can be granted. The criminal record check must be in English, if not, it must be translated into English at the applicant's expense by a certified translator acceptable to the Council. It is proposed that the pre-licensing conditions for drivers (**APPENDIX 3**) are amended to reflect this requirement.

3.2 **Licensing conditions for taxis and private hire**

3.2.1 The Council's current licensing conditions (**APPENDIX 3**) require the following of current licence holders:

'The driver shall within 7 days disclose to the Licensing Authority, in writing, details of any conviction, fixed penalty or caution imposed on or accepted by him or her during the period of the licence.'

It is proposed that this condition is amended to include arrest and driving licence endorsements as proposed in the draft policy:-

'The driver shall within 7 days disclose to the Licensing Authority, in writing, details of any arrest, criminal conviction (including cautions), fixed penalty notice or driving licence endorsement during the period of the licence.'

3.2.2 The Council's current licensing conditions state that a licence will not be granted if an applicant has been convicted of or received a caution in relation to a serious criminal offence during the past five years or three years for less serious offences. The conditions will need to be amended to ten years for very serious criminal offences and five years for serious offences to align with the draft policy and the LGA's recommendations.

3.2.3 The Council's current licensing conditions state that an applicant must have one year post driving experience. The draft policy stipulates a minimum of three years post-qualification driving experience (or if not, successful completion of an advanced driving assessment). The conditions will need to be amended to align with the draft policy and the LGA's recommendations.

3.2.4 The Council's current licensing conditions allow applicants with Great Britain (GB), European Union (EU) or Northern Ireland driving licences. Following a Member's concerns about the suitability of applicants with EU driving licences, this matter has been considered on the grounds of safety. It is proposed that applicants with EU driving licences have at least a year's experience of driving on UK roads within three years of their application for a driver's licence. In order to reflect this requirement, the licensing conditions will need amending to stipulate that applicants evidence this,

for example, by providing proof of insurance; UK vehicle registration forms; or employment as a driver in the UK. This could be subject to challenge from an EU citizen as the Driver and Vehicle Licensing Agency (DVLA) recognise the right of EU citizens to drive in the UK, including in a commercial capacity. The Council's Senior Solicitor, however, feels that such a challenge could be defended on the grounds of safety.

3.2.5 The Council's current licensing conditions require the following in terms of lost property:-

'If any such property is found it shall be returned to the owner within a reasonable period of time or if this is not practical, it shall be taken within 48 hours to the Maldon District Council Offices for deposit.'

Feedback from the trade about the draft policy questioned this condition saying that there is so much lost property, the Council would possibly need extra staff and a secure unit for storage. As this condition places an unnecessary burden on the Council, it is proposed that this condition be amended to the following:

'If any such property is found, it shall be returned to the owner within a reasonable period of time.'

3.2.6 In the notes that accompany the licensing conditions, the following advice is given to drivers:

'The original paper copy of the full driving licence is required to be presented as part of the application. Copies will not be accepted'.

Driving licences are no longer issued in this format. In order to check an applicant's driving record, a mandate is completed by the applicant that allows the Council to check their driving record through the Driver and Vehicle Licensing Agency (DVLA). It is proposed that this advice is amended as follows:

'Applicants are required to submit a DVLA Driving entitlement consent form with their application.'

3.2.7 The Council has the power so suspend as well as revoke current licences. The scheme of delegation refers to revocation but not suspension of licences: it is proposed that this is addressed, giving the Council the full range of enforcement powers. This change in delegation will also reflect the draft policy. The yearbook terms of reference and scheme of delegation in relation to 'Other Licensing Functions' (including the taxi and private hire trade) delegates 'To the Environmental Health and Licensing Manager':

'5. In consultation with the Chairman of the Planning and Licensing Committees, the revocation of Hackney Carriage and Private Hire Drivers' licences.'

It is proposed that this is amended to include suspension as follows:

'5. In consultation with the Chairman of the Planning and Licensing Committees, the suspension or revocation of Hackney Carriage and Private Hire Drivers' licences.'

4. CONCLUSION

4.1 A policy will assist Officers and Members when determining licensing applications. It informs the public about the process, offering transparency to the Council's decisions. It ensures that applicants are treated consistently and fairly. The licensing conditions and scheme of delegation also need to be amended to reflect the draft policy and to bring them up to date.

5. IMPACT ON CORPORATE GOALS

5.1 The licensing function plays a key role in delivering the corporate goal of helping communities to be safe, active and healthy. By ensuring applicants are fit and proper persons before granting a licence, it ensures the safety of the passengers using taxis and private hire vehicles.

6. IMPLICATIONS

(i) **Impact on Customers** – A policy will help ensure that customers are treated fairly and consistently whilst ensuring that applicants are fit and proper persons thereby protecting the safety of their passengers.

(ii) **Impact on Equalities** – None.

(iii) **Impact on Risk** – There may be some reputational damage if applicants are treated differently and a policy provides information and ensures transparency of process.

(iv) **Impact on Resources (financial)** – It would help avoid any civil claims if an applicant felt they had been treated unfairly.

(v) **Impact on Resources (human)** – None, although a policy should assist officers and Members when making decisions.

(vi) **Impact on the Environment** – None.

Background Papers:
LGA's recommended template for a criminal convictions policy.
Licensing conditions for taxi and private hire drivers.

Enquiries to:
Gill Gibson, Environmental Health Manager - Commercial, (Tel: 01621 875813).

Appendix 1

Maldon District Council

Hackney Carriage and Private Hire Drivers' Licences
Guidelines relating to the Relevance of Convictions

1. The Council will decide each case on its own merits.
2. A person with a recent conviction of serious crimes cannot expect to obtain a licence unless they remain free of conviction for several years but the Council may make exceptions where the offence is isolated and there are strong mitigating circumstances. However, the overriding consideration will be the protection and safety of the public.
3. In general, a stronger line will be taken with a new applicant for a licence than with one who already relies upon a licence for his livelihood.
4. Where the Police suggest that there are relevant convictions but the applicant denies that those convictions relate to him, the applicant may be asked to substantiate his assertion. In many cases this will only be possible by providing fingerprints to the Police so that they may check them against their records but if fingerprints are taken for this purpose, they will not be retained.
5. The following examples afford a general guide on the action to be taken where the applicant has had convictions:

    a) Violence and Indecency
    As hackney carriage and PHV drivers often carry unaccompanied passengers and maintain close contact with the public, applicants with convictions for violent or sexual offences will not generally be considered for a licence. This applies both to new applicants and applications for renewal of licences.

    b) Drunkenness and Drugs
    A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink or drugs. If an applicant is disqualified from driving, it is unlikely that the Council will grant a new licence or renew an old licence for at least twelve months following the end of the period of disqualification. References may be called for as evidence that the applicant is not an alcoholic nor regularly drinks to excess.

    If the applicant has convictions for drink or drugs unrelated to driving, this will not necessarily debar an applicant from holding a licence. However, investigations including references will be conducted in an endeavour to ensure that the applicant is a suitable candidate for a licence and has undergone adequate medical treatment/rehabilitation where necessary.

c) Dishonesty
Hackney carriage and PHV drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that people place in drivers. Moreover it is comparatively easy for a dishonest driver to defraud the public by demanding more than the agreed fare etc. For these reasons a serious view will be taken of any conviction involving dishonesty. An existing licence is likely to be withdrawn if the driver has a prison sentence on a conviction and new licences are unlikely to be granted for a period of three years following a conviction for dishonesty.

d) Traffic Offences
Offences such as dangerous driving and multiple minor offences will be regarded seriously and it is unlikely that the Council will grant a new licence within a period of two years from conviction or for at least twelve months following the end of any period of disqualification. Whilst existing licence holders will not necessarily lose their licence in the same situation, the Council's overriding consideration will remain the protection and safety of the public and every such case will be thoroughly investigated before the Council decides what action it will take.

6. Any application for a Taxi or Private Hire Licence from persons with previous unspent convictions, or endorsements exceeding 6 penalty points accrued on their driving licence, shall be decided by the Planning and Licensing Committee.

Rehabilitation of Offenders

Sentence	Rehabilitation Period
A sentence of imprisonment for life.	None.
A sentence of imprisonment, youth custody, detention in a young offender institution or corrective training for a term exceeding 30 months.	None.
A sentence of preventative detention.	None.
A sentence of detention during Her Majesty's pleasure or for life or under Section 205(2) or (3) of the Criminal Procedure (Scotland) Act 1975 or for a fixed term exceeding 30 months passed under Section 53 of the Children and Young Persons Act 1933 (Young Offenders convicted of grave crimes) or under Section 206 of the said Act of 1975 (detention of children convicted on indictment) or a corresponding court-martial punishment.	None.
A sentence of custody for life.	None.
A sentence of imprisonment, youth custody detention in a young offender institution or corrective training for a term exceeding 6 months but not exceeding 30 months.	Ten years (from date of conviction).
A sentence of cashiering, discharge with ignominy or dismissal with disgrace from Her Majesty's Service.	Ten years (from date of conviction).
A sentence of imprisonment, detention in a young offender institution or youth custody for a term not exceeding 6 months.	Seven years (from date of conviction).
A sentence of dismissal from Her Majesty's Service.	Seven years (from date of conviction).
Any sentence of detention in respect of a conviction in service disciplinary proceedings.	Five years (from date of conviction).
A fine or **any other sentence** subject to rehabilitation under the Act (not being a	Five years (from date of conviction).

sentence to which Table B or any of subsections (3) to (8) applies).	
Any Other Sentence e.g. Community Service.	Five years (from date of conviction).
Subsection (3) Absolute discharge.	6 months (from the date of conviction).
Subsection (4) Conditional discharge. Bind Over. Probation.	One year from date of conviction or a period beginning with that date and ending when the order for conditional discharge, or probation order or the recognizance a bond of caution to keep the peace or be of good behaviour ceases or ceased to have effect whichever is the longer.
Subsection (5) relates to **Subsection (6)** children. **Subsection (7)** relates to hospital orders under Mental Health Act 1983.	
Subsection (8) Order imposing any disqualification disability, prohibition or other penalty.	The period beginning with the date of conviction and ending on the date on which the disqualification, etc., ceases to have effect.

The commission of further offences

If during a rehabilitation period for an offence the person is convicted of a further offence and a sentence is imposed which is subject to rehabilitation, the rehabilitation period which is due to end earlier shall be extended so as to end the same time as the other.

This does not apply where the future offence committed is a summary offence only.

MALDON DISTRICT
COUNCIL

Taxi and Private Hire Criminal Convictions Policy

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Contents

1. Introduction
2. General policy
3. Pre-requisites to making an application
4. Appeals
5. Powers
6. Consideration of disclosed criminal history
7. Serious offences involving violence
8. Possession of a weapon
9. Sex and indecency offences
10. Dishonesty
11. Drugs
12. Driving offences
13. Licensing offences
14. Insurance offences
15. Outstanding charges or summonses
16. Non-conviction information
17. Cautions
18. Once a licence has been granted
19. Summary

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1. Introduction

The purpose of this policy is to provide guidance on the criteria taken into account by the Council when determining whether or not an applicant or existing licence holder is a fit and proper person to hold a taxi or private hire licence.

The over-riding aim is to protect the safety of the public and to ensure the:-

- person is a fit and proper person;
- person does not pose a threat to the public;
- public are safeguarded from dishonest persons; and the
- safeguarding of children and young persons.

2. General policy

Each case will be determined on its own merits. Whilst the Council may consider that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, it would normally be expected that the applicant would be required to:-

- remain free of conviction for an appropriate period; and
- show adequate evidence that he or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

Where an applicant has been convicted of a criminal offence, the Council cannot review the merits of the conviction.

The Council will take into account all convictions recorded against the person whether spent or not. The standards set out in this policy are those that would normally be applied, although the Council may depart from these in exceptional circumstances.

3. Pre-requisites to making an application

Every application for a driver's licence must be accompanied by satisfactory evidence that the applicant has (incomplete applications will not be deemed to have been made until such time as they are complete):-

- the right to live and work in the country;
- an enhanced criminal record check and evidence that they are not on a child and / or vulnerable adult barring list;
- a current certificate of medical fitness (to group 2 standard);
- authorisation to drive a vehicle of the same classification as that of their licence;
- a minimum of 3 years post-qualification driving experience (or if not, successful completion of an advanced driving assessment) and, if an EU passport, evidence of at least one year's experience of driving on UK roads;
- adequate literacy and numeracy skills, including sufficient ability to speak and understand English, to provide the service that they wish to be licensed for.

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If an applicant has spent 6 continuous months or more overseas, the Council will expect to see evidence of a criminal record check from the country / countries covering this period. The criminal record check must be in English, if not, it must be translated into English by a certified translator acceptable to the Council.

4. Appeals

Any person who has their application for a licence refused or their licence suspended or revoked on the grounds of not being a fit and proper person has a right of appeal to the Magistrates' Court within 21 days of being given notice of refusal, suspension or revocation.

5. Powers

The Council can refuse, suspend or revoke a licence if the applicant / licence holder has been convicted of an offence involving dishonesty; indecency; violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.

The Council can take into account all convictions recorded against the applicant or holder of a driver's licence, whether spent or not. The Council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.

6. Consideration of disclosed criminal history

If an applicant or licence holder has any convictions, warnings, cautions or charges awaiting trial, the Council will consider:-

- how relevant the offence(s) are;
- how serious the offence(s) were;
- when the offence(s) were committed;
- the date of conviction;
- circumstances of the individual concerned;
- sentence imposed by the court;
- the applicant's age at the time of conviction;
- whether there is a pattern of offending;
- any other character check considered reasonable (e.g. personal references); and
- any other relevant factors.

Existing holders of drivers' licences are required to notify the Council in writing within 7 days of being arrested, receiving a driving endorsement, fixed penalty notice or criminal conviction (including cautions).

Applicants can discuss further what effect a caution / conviction may have on any application by contacting a licensing officer in confidence for advice.

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The Council checks enhanced disclosures from the Disclosure and Barring Service (DBS) obtained by the applicant at their expense. The Council will also use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Council or other Councils and information disclosed by the Police.

It is an offence for any person to knowingly make a false declaration or to omit any material facts when making an application. Where an applicant has given a false statement or declaration, the licence will normally be refused.

7. Serious offences involving violence

As licensed drivers have close contact with the public, a firm line is taken with those who have convictions involving violence.

A licence will not normally be granted where the applicant has a conviction for the following and it is less than 10 years prior to the date of application. Likewise, a licence may be suspended or revoked where an existing licence holder is convicted of the following.

- Murder
- Manslaughter or culpable homicide while driving
- Terrorism
- Similar offences (including attempted or conspiracy to commit)
- Arson
- Malicious wounding or grievous bodily harm
- Actual bodily harm
- Grievous bodily harm
- Robbery
- Possession of a firearm
- Riot
- Violent disorder
- Resisting arrest
- Similar offences (including attempted or conspiracy to commit)

A licence will not normally be granted where the applicant has a conviction for the following and it is less than 5 years prior to the date of application. Likewise, a licence may be suspended or revoked where an existing licence holder is convicted for the following.

- Criminal damage
- Racially aggravated offence
- Assault (Police assault, common assault and assault occasioning actual bodily harm)
- Affray
- Section 5 Public Order Act 1986 offence (harassment, alarm or distress)
- Section 4 Public Order Act 1986 offence (fear of provocation of violence)
- Section 4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Criminal damage
- Similar offences (including attempted or conspiracy to commit)

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A licence will not normally be granted if an applicant has more than one conviction for an offence of a violent nature.

8. Possession of a weapon

If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public. Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer). Likewise, a licence may be suspended or revoked where an existing licence holder is convicted for possession of a weapon.

9. Sex and indecency offences

As licensed drivers carry unaccompanied and vulnerable passengers, the Council will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. All sexual and indecency offences will be considered as serious. The Council will not grant a licence to any applicant who is currently on the Sex Offenders Register. If an existing licence holder is added to the Sex Offenders Register, the licence will be revoked.

Applicants with convictions for sexual or indecency for the following offences that involve a third party will normally be refused a licence. Likewise, a licence may be suspended or revoked where an existing licence holder is convicted for the following.

- Rape
- Assault by penetration
- Offences involving children and vulnerable adults
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Possession of indecent photographs, child pornography, etc.
- Indecent exposure
- Soliciting (kerb crawling)
- Any sex or indecency offence committed in the course of employment as a taxi or private hire driver
- Similar offences (including attempted or conspiracy to commit)

10. Dishonesty

A licensed driver is expected to be a trustworthy person. The practice of delivering unaccompanied property is indicative of the trust that people place in drivers. They deal with cash transactions and property may be left in their vehicles. The Council's licensing conditions require drivers to return property to the owner within a reasonable period of time. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the agreed fare. For these reasons, a serious view is taken of any conviction involving dishonesty.

In general, minimum periods of 5 years free of conviction or at least 3 years from completion of sentence (whichever is longer) should be required before a licence is granted for the

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following offences. A licence may be suspended or revoked where an existing licence holder is convicted for the following offences.

- Theft
- Burglary
- Fraud (including benefit fraud)
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Deception (including obtaining money or property by deception)
- Taking a vehicle without consent
- Similar offence (including attempted or conspiracy to commit)

A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence. Applicants or existing licence holders that are found to have intentionally misled the Council, or lied as part of the application process, will not be issued with a licence. Likewise, existing licence holders may have their licence suspended or revoked.

11. Drugs

A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply, are issues that will be considered. A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs or more than one conviction related to the possession of drugs and has not been free of conviction for 5 years. Likewise, a licence may be suspended or revoked where an existing licence holder is convicted of a drug-related offence.

An applicant who has an isolated conviction for an offence related to the possession of drugs (other than for supply) within the last 3-5 years may be granted a licence, but consideration will be given to the nature and quantity of drugs.

If there is evidence of persistent drug use, misuse or dependency, a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If an applicant was an addict, they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

12. Driving offences

As licensees are professional vocational drivers, a serious view is taken of convictions for driving or being in charge of a vehicle while under the influence of drink or drugs or for driving whilst using a mobile phone. A licence will not normally be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or whilst using a mobile phone.

An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence, but there is a significant risk to his / her licence status in the event of re-offending and this may be suspended or revoked. Normally, at least 3 years after the restoration of the driving licence following a drink / drug drive conviction should elapse before an application will be considered. If there is any suggestion that the

applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. Unless there are exceptional circumstances, a licence will not be granted where there is a conviction for the following offences.

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- Any similar offences

13. Licensing offences

Certain offences under taxi or private hire legislation, e.g. plying for hire, overcharging or refusing to carry disabled persons, would normally prevent a licence being granted until 3 years has passed. A licence will not normally be granted if an applicant has more than one conviction for a licensing related offence. Likewise, a licence may be suspended or revoked where an existing licence holder is convicted of licensing offences.

14. Insurance offences

A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided the applicant has been free of conviction for 3 years. A licence will not normally be granted if an applicant has more than one conviction for an insurance related offence. Likewise, a licensed driver convicted of driving or being in charge of a vehicle without insurance may have their licence suspended or revoked.

An operator found guilty of aiding and abetting the driving of passengers whilst without insurance will normally has his operators' licence revoked immediately and be prevented from holding a licence for at least 3 years.

15. Outstanding charges or summonses

If the applicant is the subject of an outstanding charge or summons, their application can be processed, but the application will be reviewed at the conclusion of proceedings. If the outstanding charge or summons involves a serious offence and the applicant's conviction history indicates a pattern of unlawful behaviour, the application may be put on hold until proceedings are concluded or the licence may be refused. For existing licence-holders, each case will be determined on its merits: the licence may be suspended or revoked.

16. Non-conviction information

If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence, the application may be refused. For existing licence-holders, each case will be determined on its merits: the licence may be suspended or revoked.

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Cautions

Admission of guilt is required before a caution can be issued: each case will be considered on its merits. Likewise, for existing licence-holders, the licence may be suspended or revoked.

Once a licence has been granted

If a licence holder's conduct is such that, were they applying for a new licence their application would normally be refused, consideration will be given to the suspension and revocation of their licence.

A suspension or revocation of the licence takes effect at the end of 21 days, beginning with the day the notice is given to the driver. In the interests of public safety, however, the suspension or revocation of the licence may have immediate effect.

A suspension or revocation of an operator's licence will take effect at the end of 21 days, beginning with the day the notice is given to the operator.

17. Summary

A criminal history in itself will not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. In most cases, an applicant would be expected to remain free from conviction for 3 to 10 years before an application can be considered. There may be occasions, however, when an application can be allowed before 3 years free from convictions have elapsed.

Whilst an applicant may have a number of convictions that individually meet this policy, the overall offending history must be considered. A series of offences over a period of time is more likely to give cause for concern than an isolated, minor conviction. Some discretion can be afforded if an offence is minor and isolated with mitigating circumstances, but the overriding consideration is the protections of the public.

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Pre Licensing and Licensing Conditions for Hackney Carriage Drivers and Vehicles

MALDON DISTRICT
COUNCIL

PRE LICENSING CONDITIONS FOR DRIVERS

In order to ensure that licensed drivers are reliable and of good character, a person applying for a Hackney Carriage and Private Hire Vehicle Driver's Licence shall:-

1. Be vetted by the Disclosure and Barring Service by completing the form for an Enhanced Disclosure and providing the response from the Disclosure and Barring Service as part of the application and any renewal.[1]

2. Fully complete an application form showing all convictions, spent and unspent, including any conviction for which the applicant has been rehabilitated under the Rehabilitation of Offenders Act 1974, as amended. [2]

3. Not have been convicted or cautioned for a criminal offence during the previous three years or convicted or cautioned for a serious criminal offence or a sexual offence during the previous five years.

4. Produce a current GB, EU or Northern Ireland Driving Licence which is a full licence to drive a motor car and has been held for at least one year prior to the date of application.[3]

5. Produce a medical certificate in the prescribed form on application for initial and renewal of the licence and on an annual basis once reaching 65 years of age.[4]

6. New applicants for licence after 1st April 2010 shall complete a knowledge and community awareness test to the satisfaction of the Council's Licensing Officer.[5]

7. Be over 21 years of age.

8. Supply the names and addresses of two people for character references.

NOTES TO ACCOMPANY THE CONDITIONS

1. DBS applications may be submitted through a "DBS Umbrella Organisation" or through a special arrangement with Chelmsford Borough Council. The applicant must pay the fee direct to the processing body on application. The fee is not refundable if the licence application is refused. DBS disclosures must be current and issued no more than 28 days before the licence application.

2. The licensing of Hackney Carriage and Private Hire Drivers is an exemption to the non disclosure rule set out in the Rehabilitation of Offenders Act. A licence will not be granted to an applicant who has been convicted of, or received a caution in relation to a serious criminal offence during the past five years. Older convictions and less serious offences will be considered in relation to their relevance to the application.

3. The original paper copy of the full driving licence is required to be presented as part of the application. Copies will not be accepted.

4. The medical examination should be completed by your own doctor at your expense. A medical certificate should be returned by your doctor directly to the Council. Licensees who have reached the age of 65 years shall submit themselves for an Annual Medical Examination. The Council reserve the right to demand additional medical examinations at any time.

5. The knowledge test will cover geographical knowledge of the Maldon District, awareness of the legislation covering Hackney Carriages and Private Hire vehicles and drivers, and passenger safety and comfort. The test will not apply to existing drivers who renew licences without a break.

6. All relevant facts will be taken into account when consideration is given to an application for a Driver's Licence. Each applicant is considered on its own merit and where any doubt exists the applicant will be interviewed by the Licensing Sub-Committee. Any applicant refused a drivers licence on the ground that the applicant is not a fit and proper person to hold such a licence has a right of appeal to a Magistrates Court.

7. Hackney Carriage & Private Hire Vehicle Driver's Licences are renewable every three years.

LICENSING CONDITIONS FOR DRIVERS

1. The driver shall immediately report to the Licensing Authority, in writing, any health matter which could affect his or her driving. If requested by the Licensing Authority, a medical certificate shall be provided within seven days.

2. The driver shall within seven days disclose to the Licensing Authority, in writing, details of any conviction, fixed penalty or caution imposed on or accepted by him or her during the period of the licence.

3. The driver shall notify the Licensing Authority in writing of any change to his or her name or address within seven days of such change taking place.

4. A driver shall at all times when driving a Private Hire Vehicle or Hackney Carriage affix to his / her clothing the identity badge issued by the Licensing Authority and display the window badge in the vehicle so as to be clearly and distinctly visible to passengers and prospective hirers.

5. The driver shall produce this licence on request to any authorised officer of the Licensing Authority or Police Officer.

6. The driver shall not carry, or permit to be carried, a greater number of persons than that prescribed in the licence for the vehicle.

7. The driver shall give reasonable assistance to passengers with luggage, wheelchairs or walking aids.

8. The driver shall, on request, carry free of charge Guide Dogs, Hearing Dogs or any other 'assistant dogs' as specified in section 37 of the Disability Discrimination Act 1995.

9. The driver shall not call out or otherwise importune any person to hire the vehicle and shall not make use of the services of any other person in hiring the vehicle.

10. The driver shall not at any time play a radio or other sound reproducing equipment in the vehicle without the express consent of the hirer., unless for the sending and receiving of messages in connection with the operation of the vehicle.

11. The driver shall search the vehicle immediately after completion of a hiring for any property left by a passenger. If any such property is found it shall be returned to the owner within a reasonable period of time or if this is not practical it shall be taken within 48 hours to the Maldon District Council Offices for deposit.

12. The licence is not transferable and must be renewed at the end of the period for which the licence is in force; such period shall not exceed three years.

13. If not renewed, or on revocation or surrender, the driver shall forthwith return the driver and window badges to the Licensing Authority.

NOTES TO ACCOMPANY THE CONDITIONS

1. For the purpose of these conditions the Licensing Authority shall be the Maldon District Council.

PRE LICENSING CONDITIONS FOR HACKNEY CARRIAGES

A vehicle subject to an application for a Hackney Carriage Licence is expected to comply with the following conditions:-

1. The vehicle shall be in satisfactory mechanical order and body condition, and in operational order in all respects.

2. The applicant shall submit the vehicle for mechanical inspection at his or her own expense at an approved testing station as directed by the Licensing Authority and provide a completed certificate of inspection. The frequency of testing required thereafter is set out in the Conditions below.

3. No vehicle shall be licensed once it is more than 10 years old, from the date of first registration except in exceptional circumstances and at the discretion of the Licensing Authority.

4. A vehicle shall be either:

   - A saloon, hatchback, estate vehicle, minibus or people carrier type, which is unaltered from the manufacturer's original technical specification with the exception of approved conversions to alternative fuels.
   - A purpose built vehicle or a vehicle suitably converted to a disabled access vehicle.

5. The vehicle shall be right hand drive.

6. All vehicles submitted for licensing shall meet the following standards for design and equipment:

   a) The vehicle shall have at least two doors for use by passengers, in addition to a separate door for the driver (except for minibus and similar vehicles).

   b) The vehicle shall have rear seat accommodation for not less then three persons.

   c) The vehicle shall have separate front seats for at least one person in addition to the driver (with the exception of London style cabs).

   d) Where the vehicle is a minibus or 'people carrier' type, with two rows of seats behind the driver and front passenger seats, the seat nearest the door of the middle row must be able to fold or move forward as per the manufacturers original specification to allow ingress or egress to the rear seats. Clear instructions for operating the seats must be provided in full view of the rear seat passengers. Where this is not possible the seat must be permanently removed.

   e) The vehicle shall:

   - Be of such design that the driver can communicate verbally with any passenger carried.
   - Be fitted with an interior light capable of illuminating the interior and for the use of any passenger carried.
   - Be fitted with flooring of proper matting carpet or other suitable material.
   - Be fitted with cushioned seats, the upholstery of which is free from splits, holes, cuts or other damage.
   - Provide a means of opening and closing not less than one window on each side of the vehicle.
   - Have the roof covered and kept watertight.
   - Be fitted with adequate seatbelts for use by passengers.
   - Be capable of accommodating a reasonable amount of luggage in a safe and secure manner. If the vehicle is a hatchback or estate vehicle it shall be fitted with a guardrail of approved construction to separate the luggage area from the passenger compartment.
   - Be capable of accommodating a wheelchair either constructed or collapsed in a reasonable manner.

   f) The vehicle shall be equipped with a suitable fire extinguisher.

   g) The vehicle shall be fitted with a spare wheel that is in a serviceable condition.

h) All Hackney Carriages, with the exception of a London Style taxi, shall display a roof sign which is white in colour and bearing the word 'TAXI' in black letter to the front and rear. It will be a minimum size of 450mm (18 inches) in length and 150mm (6 inches) in height. The sign shall be capable of being illuminated when the vehicle is plying for hire in its controlled area and if a taximeter fitted to the vehicle must work in conjunction with that meter.

7. The vehicle proprietor must submit the following documents prior to issue of the licence. The documents must be current at the time the licence commences:

   a) An insurance certificate or cover note that expressly indicates ON RISK cover for hire and reward.

   b) A mechanical inspection certificate

   c) A Department of Transport certificate (as required by Section 47 Road Traffic Act 1988), when the vehicle is 1 year old from the date of first registration.

   d) A current vehicle excise licence.

   e) The Vehicle Registration Document showing the vehicle proprietor's current name and address.

8. No advertising shall be displayed on the vehicle that in the opinion of the Licensing Authority detracts from the visibility of its Hackney Carriage Licence Plates and such other forms of livery and identification required by the Licensing Authority.

9. In the case of a Hackney Carriage to be licensed in the name of a Company, all Directors, Managers, Secretary and other similar officers of the Company must be persons who would not otherwise be refused a Licence to drive a Hackney Carriage Vehicle by reason of a conviction recorded against them.

NOTES TO ACCOMPANY THE CONDITIONS

1. These conditions apply to vehicles presented for licensing as a Hackney Carriage after 1st April 2010.

2. Transitional arrangements for the renewal of existing vehicle licences will apply as follows:

   i) The requirement for removal of a seat from mini bus, and mpv vehicles in condition 6d will only apply to vehicles licensed for the first time from 1st April 2010. The remaining requirements of that condition will apply to the renewal of licences for all relevant vehicles from 1st April 2010.

   ii) The requirement for a roof sign in condition 6 h shall apply to all vehicles licensed for the first time from 1st April 2010 and only to the renewal of licences for existing vehicles that currently have no roof sign.

   iii) An exemption in relation to condition 8 may be granted at the discretion of the Licensing Authority in relation to renewal of existing licences if substantial repainting is required and it can be shown that the cost of that refinishing is prohibitive. Such exemptions will apply for a maximum of three years.

LICENSING CONDITIONS FOR HACKNEY CARRIAGES

A District Council may attach to the grant of a Hackney Carriage Vehicle Licence any such conditions as it may consider reasonable or necessary and accordingly may at any time vary, alter or impose new conditions. The following conditions apply to all Hackney Carriage Vehicle Licences issued by Maldon District Council.

Vehicle Identification

1. The identification plates issued by the Licensing Authority shall be fixed to the front and rear of any vehicle being operated as a Hackney Carriage in a position that is clearly visible to the public.

2. The door stickers provided by the Licensing Authority shall be permanently attached and displayed on the upper panels of both front doors.

3. The vehicle and driver identity badges shall be displayed in the passenger compartment in a conspicuous position that is clearly visible to passengers.

4. A roof sign in the form approved by the Licensing Authority shall be fitted and maintained at all times.

5. No advertising shall be displayed on the vehicle that in the opinion of the Licensing Authority detracts from the visibility of its Hackney Carriage Licence Plates and such other forms of livery and identification required by the Licensing Authority.

Vehicle Maintenance

6. The vehicle shall be kept in a clean and well maintained condition.

7. No material alteration or change to the manufacturer's specification, design, condition or appearance of the vehicle shall be made at any time when the licence is in force without the prior approval of the Licensing Authority.

8. Adequate and secure luggage facilities must be provided and maintained at all times.

9. The vehicle shall be equipped with a fire extinguisher maintained in accordance with ISO 7165.

10. In respect of any minibus or people carrier type vehicle where a seat has been removed to meet pre-licensing conditions, the seat shall not be replaced at any time the vehicle is licensed as a Hackney Carriage.

Vehicle Testing

11. The vehicle shall be submitted for mechanical inspection at an approved testing station at the licensee's expense and provide a completed certificate of inspection provided for the Licensing Authority at the following intervals:
    a. Vehicles less than 3 year's old, one test per year on application for renewal.
    b. Vehicles between 3 and 6 years old, two tests per year at 6 monthly intervals.
    c. Vehicles older than 6 years, three tests per year at 4 monthly intervals

12. The vehicle shall be submitted for mechanical or other inspection at any time if required by the Licensing Authority in addition to the intervals set out in 11 above.

13. The vehicle shall be submitted for inspection in a condition that renders it suitable for that inspection, including being clean inside and out.

14. A completed test certificate shall be submitted to the Licensing Authority as soon as practicable after the test has been completed. If the vehicle fails the test for any reason it shall not be used as a Hackney Carriage until such time as the defects are corrected and the vehicle passes a re-test.

15. A proprietor of a licensed Private Hire shall report to the Licensing Authority as soon as practicable, and in any case within 72 hours, the occurrence of any accident involving the Hackney Carriage involving any damage to the vehicle, whether or not the damage affects the safety, performance or appearance of the vehicle or the comfort or convenience of passengers.

Insurance and Documentation

16. A Hackney Carriage vehicle proprietor must:

    a. Comply with the relevant legislation in relation to the insurance cover of the vehicle.

    b. Ensure a current certificate of motor insurance is on display or available in the vehicle for inspection on request.

    c. Produce to the Licensing Authority proof of continuous insurance cover for the vehicle.

17. A Hackney Carriage vehicle proprietor must:
    a. Produce the vehicle licence on request to any Authorised Officer of the Licensing Authority or a Police Officer.
    b. Permit the Licensing Authority to photocopy or otherwise deal with any document produced as evidence to support the application for renewal of the licence or enforcement of licence conditions.

18. A licensee who permits or employs any person to act as the driver of the Hackney Carriage shall retain in his or her possession the licence of such driver while the driver is permitted or employed to drive the vehicle.

Conduct of Business

19. Whilst a vehicle is being used as a Hackney Carriage, it shall not be driven by anyone other than a driver licensed to drive a Hackney Carriage by the licensing authority and wearing the official badge as required by the conditions of their Driver's Licence.

20. The vehicle shall not be permitted to carry more than the number of persons specified on the Licence, irrespective of the age of the passenger.

21. The vehicle shall not be used as a Hackney Carriage whilst towing a trailer or whilst fitted with a roof box without the express consent of the Licensing Authority who may call for an additional inspection certificate.

22. Any trailer authorised by the Licensing Authority for use with a Licensed Vehicle will, at all times, be fitted with a suitable spare wheel and be fitted with a Licence Plate issued by the Licensing Authority.

23. A daily record of the mileage covered by each Licensed Driver and the time and condition of the vehicle at handover shall be kept in the Hackney Carriage. The record shall be kept for 12 months and must be produced on the request of an Authorised Officer of the Licensing Authority or a Police Officer.

24. If drivers are unable to accept cheques, debit card or credit card payments, a clear notice to that effect must be displayed and clearly visible to passengers and potential passengers.

Renewal

25. This licence must be renewed annually.

NOTES TO ACCOMPANY THE CONDITIONS

1. These conditions apply to vehicles licensed as Hackney Carriages after 1st April 2010.

2. Transitional arrangements for the renewal of existing vehicle licences will apply as follows:

i) The requirement to maintain a roof sign in condition 4 shall apply to existing roof signs of those vehicles exempted from the standard specified in the pre-licensing conditions.

ii) An exemption in relation to condition 2 may be granted at the discretion of the Licensing Authority if it can be shown that the stickers would be ineffective without redesigning the vehicle graphics. Such exemption will apply for a maximum of three years.

iii) An exemption in relation to condition 5 may be granted at the discretion of the Licensing Authority in relation to vehicles first licensed before 1st April 2010 if substantial repainting is required and it can be shown that the cost of the refinishing is prohibitive. Such exemptions will apply for a maximum of three years.

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REPORT of
CHIEF EXECUTIVE

to
PLANNING AND LICENSING COMMITTEE
16 NOVEMBER 2017

TAXI AND PRIVATE HIRE MEDICAL EXEMPTION POLICY

1. PURPOSE OF THE REPORT

1.1 To consider a policy for the exemption of taxi and private hire drivers from the duties placed upon them by the Equality Act 2010.

1.2 To consider an amendment to the taxi and private hire licensing conditions to take account of the new duties placed upon drivers of designated wheelchair accessible vehicles.

2. RECOMMENDATIONS

To the Council:

(i) that the policy for the exemption of taxi and private hire drivers from the duties placed upon them by the Equality Act 2010 (**APPENDIX 1**) is endorsed;

(ii) that the amendments to the taxi and private hire licensing conditions (as set out in paragraph 3.1.6 below) are agreed.

3. SUMMARY OF KEY ISSUES

3.1 Equality Act 2010

3.1.1 The Equality Act 2010, section 167, gives the Council the power to make a list of wheelchair accessible vehicles (designated vehicles). Members agreed to the publication of such a list at a Committee meeting on 13 June 2017.

3.1.2 The Equality Act 2010, section 165, places duties on drivers of designated wheelchair accessible vehicles to:

- carry the passenger while in the wheelchair;
- carry their wheelchair should the passenger choose to sit in a passenger seat;
- not to make any additional charge for doing so;
- take such necessary steps to ensure that the passenger is carried in safety and reasonable comfort;

- give the passenger such mobility assistance as is reasonably required to:
    - enable the passenger to get into or out of the vehicle, including in the wheelchair if they wish to remain in it;
    - load the passenger's luggage into or out of the vehicle;
    - load the wheelchair into or out of the vehicle if the passenger does not wish to remain in the wheelchair.

3.1.3 The requirements of section 165 of the Act do not apply to drivers who have a valid exemption certificate and are displaying a valid exemption notice in the prescribed manner. Section 166 of the Act allows the Council to exempt drivers on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for them to comply with their duties.

3.1.4 Procedures need to be in place to deal with applications for exemption based on medical grounds. A policy (**APPENDIX 1**) will assist Officers and Members when considering and determining applications for exemptions. A policy gives customers information and transparency about the process. It also ensures that applicants are treated fairly and consistently when decisions are being made regarding their application for exemption.

3.1.5 The taxi and private hire licensing conditions state the following:

'The driver shall on request carry free of charge Guide Dogs, Hearing Dogs or any other 'assistance dogs' as specified in section 37 of the Disability Discrimination Act 1995'.

3.1.6 It is proposed that the condition is amended to reflect the Equality Act 2010 and the duties placed upon drivers of designated wheelchair accessible vehicles by amending the above condition to:-

'The driver shall carry a disabled person's dog (e.g. guide or hearing dogs) and allow it to remain with that person or, if a driver of a designated wheelchair accessible vehicle, wheelchair passengers at no additional cost, as specified in sections 165 and 168 of the Equality Act 2010, unless exempted by the Council on medical grounds'.

4. CONCLUSION

4.1 A policy will assist Officers and Members when determining medical exemption applications. It informs the public about the process, offering transparency around the Council's decisions. It ensures that applicants are treated consistently and fairly.

5. IMPACT ON CORPORATE GOALS

5.1 The licensing function plays a key role in delivering the corporate goal of helping communities to be safe, active and healthy. A policy will ensure transparency and consistency of decision making. It allows drivers who are unable to undertake duties placed upon them by the Equality Act 2010 on medical grounds to be exempt, allowing them to continue working and remaining active without being in breach of

the law or subject to complaint and prosecution. Also, by only allowing taxi and private hire drivers exemptions on medical grounds, it gives disabled passengers access to a mode of transport with the mobility assistance they require, enabling them to be safe, active and healthy.

6. IMPLICATIONS

(i) **Impact on Customers** – A policy will help ensure that applicants are treated fairly and consistently whilst ensuring disabled people are offered sufficient assistance when using wheelchair accessible taxi or private hire vehicles.

(ii) **Impact on Equalities** – Implementation of the Equality Act 2010 by the Council in relation to designated wheelchair accessible vehicles will assist disabled customers by ensuring that they receive the assistance they require from taxi and private drivers when choosing to travel by this mode of public transport.

(iii) **Impact on Risk** – There may be some reputational damage if licence-holders are treated differently and a policy provides information and ensures transparency of process. There may also be some reputational damage from disabled groups if the Council does not promote or implement the Equality Act 2010: there have already been several Freedom of Information (FOI) requests around this subject.

(iv) **Impact on Resources (financial)** – It would help avoid any civil claims if an applicant felt they had been treated unfairly. Likewise, it can help protect the Council from any complaints or challenges from disabled groups for non-implementation of the Equality Act 2010.

(v) **Impact on Resources (human)** – A policy should assist officers and Members when making decisions and it may avoid resources being spent on replying to complaints and challenges.

(vi) **Impact on the Environment** – None.

Background Papers:
Equality Act 2010.
Secretary of State's statutory guidance, 'Access for wheelchair users to Taxis and Private Hire Vehicles: Statutory Guidance: Moving Britain Ahead' published by the Department for Transport'.
Maldon District Council's Licensing Conditions.

Enquiries to:
Gill Gibson, Environmental Health Manager - Commercial, (Tel: 01621 875813).

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MALDON DISTRICT
COUNCIL

Taxis and Private Hire Drivers

Equality Act 2010

Medical Exemption Policy

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1. Introduction
2. Published List of Designated Wheelchair Accessible Vehicles
3. Equality Act 2010
4. Exemption Certificates
5. Outcome
6. Dispute Resolution

Appendices

1. Application for an exemption certificate

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1. Introduction

To provide better services for disabled people, the Council endorses the provisions of the Equality Act 2010. We want to ensure that passengers with assistance dogs or wheelchair users receive lawful treatment and have the same access to public transport services, confident of receiving the assistance they need to travel safely.

This policy applies to all drivers who possess a current hackney carriage (taxi), private hire or dual taxi / private hire driver's licence. The policy applies where a licensed driver wishes to be exempt from the requirements placed upon them under the Equality Act 2010 with respect to the carriage of passengers in wheelchairs and assistance dogs.

2. Published List of Designated Wheelchair Accessible Taxi and Private Hire Vehicles

The Councils wants to ensure that wheelchair passengers are better informed about the accessibility of the taxi and private hire vehicle fleet within the Maldon District. In order to do this, the Council provides a list of designated taxis or private hire vehicles which are able to take passengers in their wheelchairs should they prefer. To be placed on the designated list, vehicles must be capable of carrying some, but not necessarily all, types of occupied wheelchairs. Vehicles shall only be included if it is possible for a wheelchair passenger to enter, leave and travel in the passenger compartment in safety and reasonable comfort whilst seated in their wheelchair.

There is a right of appeal against a decision to place a vehicle on the designated list to the magistrates' court within 28 days of being included in the list.

3. Equality Act 2010

3.1 Wheelchair Users

The Act places duties on drivers of designated wheelchair accessible taxis and private hire vehicles to:-

- carry the passenger while in the wheelchair;
- carry their wheelchair should the passenger choose to sit in a passenger seat;
- not make any additional charge for doing so;
- take such necessary steps to ensure that the passenger is carried in safety and reasonable comfort;
- give the passenger such mobility assistance as is reasonably required to:-
    - enable the passenger to get into or out of the vehicle, including in the wheelchair if they wish to remain in it;
    - load the passenger's luggage into or out of the vehicle;
    - load the wheelchair into or out of the vehicle if the passenger does not wish to remain in the wheelchair.

3.2 Assistance Dogs

The Act places duties on drivers of taxis and private hire vehicles to:-

- carry a passenger's (guide, hearing or assistance) dog, allowing the dog to remain with the passenger;
- not make any additional charge for doing so.

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3.3 Exemption Certificates and Notices

If satisfied that it is appropriate to do so, the Act allows the Council to exempt taxi and private hire drivers from their duties on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for them to comply with their duties.

3.4 Offences

It is an offence for a driver of a designated wheelchair accessible taxi or private hire vehicle to refuse to carry a passenger in a wheelchair if on the Council's published designated list. It is also an offence not to comply with any of the duties placed upon them as set out in section 3.1 above.

It is an offence for a taxi driver hired by or on behalf of a disabled person who is accompanied by an assistance dog (or by another person who wishes to be accompanied by a disabled person with an assistance dog) to refuse to carry the assistance dog. It is also an offence not to comply with the duties placed upon them as set out in section 3.2 above.

It is an offence for the operator of a private hire vehicle to refuse to accept a booking for the vehicle if the booking is requested by or on behalf of a disabled person with an assistance dog (or by another person who wishes to be accompanied by a disabled person with an assistance dog) and the reason for the refusal is that the disabled person will be accompanied by an assistance dog. The operator also commits an offence if they make an additional charge for carrying an assistance dog which is accompanying a disabled person.

It is an offence for the driver of a private hire vehicle to refuse to carry out a booking accepted by the operator if the booking is made by or on behalf of a disabled person (or by another person who wishes to be accompanied by a disabled person) and the reason for the refusal is that the disabled person is accompanied by an assistance dog.

3.5 Defences

It is a defence if a driver has a valid exemption certificate and is displaying a valid exemption notice. It is also a defence if the vehicle can't carry larger or heavier wheelchairs safely. Religious or cultural beliefs cannot be cited as a reason for refusal to carry assistance dogs.

If a complaint of discrimination is substantiated, the Council may suspend or revoke a driver's licence.

4. Exemption certificates

4.1 Medical

In some circumstances, a taxi or private hire driver may be unable to fulfil the requirements of the Equality Act 2010 for medical reasons (in the short or long term). The Council can grant an exemption to drivers from the duties to assist passengers in wheelchairs or to transport assistance dogs if they are satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for them to comply with their duties.

There are no exemptions, medical or otherwise, for a driver in respect of conveying a reasonable quantity of luggage or providing reasonable assistance in the loading and unloading of luggage.

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4.2 Obtaining and Exemption Certificate

Drivers considering applying for an exemption in relation to the carriage of passengers in wheelchairs may wish to first determine whether the vehicle they drive (or may drive in the future) has been designated as wheelchair accessible.

To check which vehicles have been designated as wheelchair accessible, please refer to the published list on the Council's website.

The licensed driver must obtain and supply a letter from their own General Practitioner (G.P) explaining what duties the driver:

- cannot undertake;
- why the duties cannot be undertaken; and
- for how long the duties cannot be undertaken for.

The letter must be accompanied by an application (Appendix 1) which must be submitted to the Council. There is no fee attached to this process, however, the cost (if any) of obtaining the letter from the driver's G.P. must be paid for by the applicant.

If the G.P.s letter states that the driver is unfit to carry passengers in wheelchairs and / or assistance dogs for a specified period of time (up to a maximum of 3 months), a temporary 'Exemption Notice' will be issued by the Council with an expiry date in line with the information provided on the G.P.'s letter. If the applicant's G.P. does not specify a period of time, then the Council will reject the application.

If the G.P.'s letter is not clear or is ambiguous in any way, the matter will be referred to the Council's Licensing Sub-Committee for consideration. If a Committee is convened, the applicant will be invited to attend and explain the nature of the exemption request and the matter will be determined.

Upon the expiry of the Exemption Notice, drivers will be deemed fit to undertake all duties and the Exemption Notice must be returned to the Council within 7 days. If it is not returned within this period, the driver's licence could be suspended until such time as the Notice is returned and the matter will be referred to the Council's Licensing Sub-Committee.

If the driver expects that the temporary Exemption Notice will be extended beyond 3 months, then prior to the expiry date of the notice, the driver will need to contact the Council to discuss the next steps and timescales. The driver is strongly advised to make contact at the earliest opportunity: it will not be possible to extend the temporary Exemption Notice outside of this process.

During the period of the temporary Exemption Notice, the driver will be required to contact their own G.P. to arrange for an in-depth medical report to be compiled (the cost for which must be paid for by the driver) and following receipt of this, will then be required to make an appointment with the Council's approved medical practitioner to present the report from their own G.P. and to undergo an examination / consultation where the practitioner will complete the 'Statement of Fitness' on the applicant's capability to undertake the duties in terms of their medical grounds and / or physical condition, and for how long. The driver will be required to pay for the statement of fitness supplied by the Council's approved medical practitioner.

The driver will need to submit the 'Statement of Fitness' to the Council for determination.

DRAFT

5. Outcome

If the statement confirms that the driver is able to undertake the duties and is fit for work, the temporary Exemption Notice must be returned to the Council and the driver will be expected to resume normal duties. If the temporary Exemption Notice is not returned to the Council, the driver's licence could be suspended until such time as the Notice is returned and driver will be referred to the Licensing Sub-Committee.

If the statement of fitness confirms that the driver is able to undertake duties, with reasonable adjustments, a further temporary Exemption Notice of up to 3 months may be issued. It is expected that within those 3 months, the driver will undertake the reasonable adjustments to allow a return to full duties. At the end of 3 months, the temporary Exemption Notice must be returned to the Council and the driver will be expected to resume normal duties. If the temporary Exemption Notice is not returned to the Council, the driver's licence could be suspended until such time as the Notice is returned and the driver will be referred to the Licensing Sub-Committee.

If the statement of fitness confirms that the driver is temporarily unfit to carry passengers in wheelchairs and / or assistance dogs, a temporary Exemption Notice will be granted for the length of time as determined by the approved practitioner. The driver will then be expected to attend a further assessment / consultation with the approved practitioner prior to the expiry date of the temporary Exemption Notice.

If the driver is declared permanently unfit to carry passengers in wheelchairs and / or assistance dogs, an Exemption Notice will be issued. The Exemption Notice must be displayed prominently in the vehicle for public viewing. The exemption may be reviewed every 5 years, with reference to expert medical evidence / advice and each case will be determined on an individual basis. This could include a further referral to the approved practitioner.

If the driver disagrees with the medical recommendation and subsequent determination by the Council, the matter will be referred to the Licensing Sub-Committee for consideration.

6. Dispute Resolution

If a driver does not agree with the decision of the Licensing Sub-Committee, he / she is able to appeal the decision through the Magistrates' court. The driver has 28 days from the date of refusal to appeal.

DRAFT

Appendix 1

Application for an exemption certificate

MALDON DISTRICT COUNCIL

Princes Road
Maldon
Essex CM9 5DL

Surname:	
First Name(s):	
Title: Miss, Mrs, Ms, Mr, Other	
Address:	
Postcode:	
Tel. No:	Mobile No:
Date of birth:	
Driver licence number:	Expiry date:

Exemption request

I request that the Council considers granting me an exemption from the following, TICK the appropriate box(es):

Carrying wheelchair users ☐

Carrying assistance dogs ☐

G.P. details

Name of G.P.: _____

Practice name and address of G.P.: _____

_____

Tel. No. of G.P.: _____

Brief details of why the request for medical exemption is being made: _____

_____

_____

DRAFT

To be completed by the applicant

I declare that the answers given above are true. I understand that if I have made any omissions or statements I know to be false, my application may be refused. I have read the Council's policy in relation to exemption certificates.

Signed: …… Dated: …….. /…….. / ……..

You may render yourself liable to prosecution for an offence if you fail to comply with the conditions of the licence, the law in relation to the Equality Act 2010 and exemption certificates and notices.

(The Council is under a duty to protect the public funds it administers and it may use the information you have provided on this form for the prevention or detection of fraud. It may share this information with other bodies responsible for auditing and administering public funds for these purposes.

Once completed, please return the application form with the relevant documentation to:
Maldon District Council, Princes Road, Maldon CM9 5DL.

If you have any enquiries, contact Licensing, telephone 01621 854477 or email licensing@maldon.gov.uk.

	Checklist
Application form completed	
G.P.'s letter (cost borne by the applicant)	

For office use only
Date medical exemption application received:
Exemption agreed ☐ Exemption declined ☐
If exemption declined, give reasons and details of any further action taken (have you notified the driver within 28 days): Signed: …… Dated: …….. /…….. / ……..
Date Temporary Exemption Notice Issued: Date of Expiry: Entered on to Uniform By:

DRAFT

REPORT of
DIRECTOR CUSTOMERS AND COMMUNITY

to
PLANNING AND LICENSING COMMITTEE
16 NOVEMBER 2017

DENGIE GATEWAY PROJECT OUTCOMES

1. PURPOSE OF THE REPORT

1.1 To update the Committee on progress made towards the completion of the Dengie Gateway Project that was funded by the Coastal Communities Fund.

2. RECOMMENDATIONS

(i) that the Project Outcomes of the Dengie Gateway Project be noted;

(ii) that Members provide comments on and note the contents of the Destination Marketing Strategy (**APPENDIX 1**).

3. THE DENGIE GATEWAY PROJECT

3.1 Background

3.1.1 Members will be aware that the Council was successful in obtaining a total of £330,000 of funding to undertake the Dengie Gateway Project. The bulk of the funding (£292,000) was received through the Coastal Communities Fund and the remaining money provided by the Magnox Socio-economic fund (£20,000) and match funding from the District Council (£17,000).

3.1.2 The money was awarded to the Council on the basis that the project would help mitigate the economic impact of the closure of Bradwell power station and would indirectly support 37.5 tourism related jobs. It was hoped that as a result of the project an additional 50,000 visitors would visit the District and that this in turn would generate an additional £1.8M visitor spend in the local community. Visitor data would be established using the Economic Value of Tourism Report that is produced annually.

3.1.3 A number of project objectives were also included within the original bid and are detailed below:

- Promotion of the Dengie and Maldon District as a visitor destination;
- Promotion of the District as a key gateway to visitors to the Royal Society for the Protection of Birds (RSPBs) Wild Coast Project at Wallasea;

- Establishment of a 75 mile coastal trail;
- Expansion of the Burnham-on-Crouch Town Pontoon.

3.2 **Update on Project Outcomes**

3.2.1 Members will receive a short presentation detailing how the project has been developed and delivered. Members will have recently received a copy of the latest Economic Impact of Tourism report which highlights a number of successes including growth in visitor numbers and spend. It is clear that tourism is contributing an increasing amount to the local economy.

3.2.2 The project aim was to deliver 50,000 additional visitors over the two years of the project. It is calculated that visitor numbers across the District have increased by 140,000 and 128,000 compared to the previous years in 2015 and 2016 respectively.

3.3 **Promotion of the Dengie and Maldon District**

3.3.1 The promotion of the Dengie and Maldon District has been a major area of work during the project. The following provides a list of achievements that have been delivered as a result of the Dengie Gateway Project:

- Sense of Place branding has been developed and available for businesses, attractions or organisations within the District to use. The branding has been used on a number of refreshed publication and promotional campaigns.
- A new branding website www.WeAreMaldonDistrict.co.uk and a range of downloadable assets are available for use by partner organisations.
- Launch of a new website www.visitmaldondistrict.co.uk that has improved functionality and links to the new branding.
- Launched a Tourist Information Centre (TIC) e-shop allowing goods to be sold online and bookings to be taken for Promenade Park Beach Huts.
- Two Tourism Summits held to pull together tourism providers to help develop the sense of place brand and encourage collaborative working between all parties.
- Improved social media presence and impact.
- New Destination Marketing Strategy for 2017-2022 has been developed (a copy of the Marketing Strategy is included as **APPENDIX 1**).
- Establishment of 'hub' concept at Burnham-on-Crouch, Bradwell St Peter's Chapel, Maldon Promenade Park, Heybridge Basin and Tollesbury.
- New District Guide and mini guides have been produced and are being distributed in accordance with the marketing plan.
- Refreshed maps have been produced to help ensure consistency throughout publications and online resources.
- Continued working with the RSPB to promote the Wallasea Wild Coast Project.

3.3.2 The aim of this element of the project was to maximise the resources from the funding to enable lower cost promotions to be sustained after the Dengie Gateway project ends.

3.3.3 A destination marketing plan has been produced and is one example where the funding has enabled the production of something that will have a lasting legacy alongside the physical infrastructure discussed later.

3.3.4 Members' comments are sought on the marketing strategy and they are asked to note that it is intended the strategy will be the driving force behind marketing carried out by the Council's Tourism Information Centres over the next five years.

3.4 **The Saltmarsh Trail and Saltmarsh Coast**

3.4.1 Officers have been working with Natural England, the lead organisation in delivery of the new England Coastal Path (ECP). Work has concentrated on developing hub infrastructure to help promote sustainable use of the coastal trails to help avoid potential duplication with the ECP project. The following have been achieved:

- New coastal trail signage and branding reflecting the 'Saltmarsh Coast' have been designed and purchased. Installation is taking place at key locations.
- Talking posts have been purchased and are being installed. The posts provide audio interpretation at various points on the trail. An example is available to view in the reception area.
- Visitor counters are being installed at hubs and other locations across the district to help establish benchmark data for the number of trail users.
- Waymark signs have been produced to make the trail easy to follow and help prevent trespass onto private land and or sensitive habitats. These will be installed over the winter with land owner consent.
- A new Saltmarsh75 website has been create to help celebrate the Saltmarsh Coast's annual walking and running challenge.
- Social media efforts to promote the event have increased and the event is now followed by 1,300 people on Facebook.

3.5 **Expansion of the Burnham-on-Crouch Town Pontoon**

3.5.1 One of the focus points of the Dengie Gateway Project has been to establish strong links with the RSPB Wild Coast project on Wallasea Island across the river Crouch from Burnham-on-Crouch. A key part of this would be improved ferry connectivity with Essex Marina and in time, the RSPBs pontoon that will allow direct access to the Wild Coast Project. At the time of writing the RSPB have not yet identified funding for a pontoon on their land but have now applied for planning permission from Rochford District Council. It is also worth noting that whilst a lot of work has been carried out at Wallasea there are no visitor facilities other than a small car park and shelter.

3.5.2 The Crouch Coastal Communities Team (CCT) has been exploring various projects to improve ferry crossings between the Maldon and Rochford Districts including proposals that would include a brand new ferry pontoon on private land within

Burnham on Crouch. After some lengthy discussion with land owners it now seems that the CCTs would now like to base the Burnham-on-Crouch access point on the Council's Town pontoon.

3.5.3 Whilst these discussions have been ongoing it has been prudent not to carry out the works originally proposed to the Pontoon as the CCT may have been seeking funding from the Coastal Communities Fund in future. However, in the background, Officers have been preparing to purchase a new pontoon section in accordance with the original plan.

3.5.4 Discussions with the Crouch CCT have now progressed further and they have requested that the Council investigates the costs of improving wheelchair access to the existing pontoon and to increase the pontoon's length to allow larger vessels to berth at lower states of tide.

3.5.5 At this point in time these discussions are ongoing but it is possible that the original budget to improve the pontoon could be spent as planned and further funding is sought to improve access. It is worth noting that the Department for Communities and Local Government (DCLG) have been informed of these developments and changes to the original project timetable.

3.5.6 Officers will provide more detail in their presentation.

4. CONCLUSION

4.1 The Coastal Communities Fund provided a substantial grant to Maldon District Council to implement the Dengie Gateway project. The project is now reaching its conclusion and the majority of the project has been completed as planned.

4.2 The latest report on the Economic Impact of Tourism to the local economy has proven that visitor numbers have increased beyond the targets set within the original project bid and the project has achieve the outcomes originally set.

4.3 The improvements to the Burnham-on-Crouch Town pontoon will be implemented once certainty has been achieved with regards to the Crouch Coastal Team's plans for an improved ferry crossing.

5. IMPACT ON CORPORATE GOALS

5.1 The Tourism Team working with stakeholders contributes towards protecting and shaping the District and balances the future needs of the community.
The promotion of the District, especially the use of open space such as the Coastal trail encourages an active local population with healthy lifestyles and contributes to a diverse, sustainable and vibrant local economy.

6. IMPLICATIONS

(i) **Impact on Customers** – The Dengie Gateway Project has had a positive impact on customers and has contributed to an overall increase in visitor numbers

(ii) **Impact on Equalities** – Not applicable.

(iii) **Impact on Risk** – To be confirmed.

(iv) **Impact on Resources (financial and human)** – The Project has been delivered within the allocated budget.

(v) **Impact on the Environment** – Tourism can have a negative impact on the wider environment as a result of increased pressure on sensitive areas or through increased movement of people. The Dengie Gateway project has concentrated on creating hubs in locations that are less sensitive and that have existing visitor infrastructure.

Background Papers:
Economic Value of Tourism report 2015 and 2016.
Crouch Coastal Team minutes.

Enquiries to:
Ben Brown, Group Manager – Leisure, Countryside and Tourism, (Tel: 01621 876107).

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A DESTINATION MARKETING STRATEGY FOR

MALDON DISTRICT

2017-2022



MALDON DISTRICT

WWW.VISITMALDONDISTRICT.CO.UK

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OUR GOAL

TO DEVELOP AND PROMOTE MALDON DISTRICT
AS A VISITOR DESTINATION

TO SUPPORT THE DEVELOPMENT OF LOCAL TOURISM
THROUGH INNOVATION AND PARTNERSHIP

TO ADD VALUE TO THE EXPERIENCE
OF LOCAL RESIDENTS AND VISITORS

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ACHIEVING THE GOAL

WORKING IN PARTNERSHIP TO MAKE MALDON DISTRICT A BETTER PLACE TO VISIT, LIVE, WORK & ENJOY

BRAND DEVELOPMENT

Working with the Maldon District 'Sense of Place' to develop a strong and recognisable visual identity. Adopting a thematic approach to promoting Maldon District's varied assets.

MARKETING

Producing cost effective and high quality marketing materials that promote Maldon District as a visitor destination. Increasing the number of new and repeat visitors and spend per visit.

COLLABORATION

Developing a strong partnership with local tourism operators and supporting their marketing efforts. Working with local businesses to create unique marketing initiatives that promote Maldon District.

VISITOR EXPERIENCE

Improving the visitor experience through consideration of information provision, sense of arrival and amenities. Ensuring that visitor trips to Maldon District are as enjoyable and memorable as possible.

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HEADLINE	ACTION / DETAIL
QUALITY	Ensure that the Maldon District 'Sense of Place', which was designed to reflect the character, vibrancy and appeal of the area, is used to its best effect and is taken full advantage of throughout branding and marketing development. Ensure all brand and marketing work positively contributes to Maldon District's image, reputation and profile. Use fresh, bright and inspirational creative and design ideas to reflect and deliver key messaging about Maldon District. Ensure any marketing undertaken is (accurately) perceived as appropriate and useful. Keep all marketing initiatives within Maldon District simple and effective. Ensure all marketing materials produced are consistent collectively and work individually to achieve marketing objectives.
BRAND DEVELOPMENT	Establish the Maldon District 'Sense of Place' as a working brand. Create a more formal logo, mark or seal to represent Maldon District's 'Sense of Place'. Develop clear guidelines for using the creative brand assets and the 'Sense of Place' toolkit already produced. Design and produce initial promotional materials. Replicate the brand feel across Social Media logos and posts. Ensure consistency of approach to design and production.
THEMATIC APPROACH	Focus on promoting the context of Maldon District, its unique location and the qualities of the area. Focus on key themes to help visitors understand Maldon District's varied and diverse attractions. Develop marketing materials that communicate and resonate with the context and themes, individually and collectively. **MALDON DISTRICT CONTEXT:** Riverside, Coastal, Rural, Historic Towns & Villages. **MALDON DISTRICT THEMES:** Coastal, Tranquil, Colourful, Creative, Gastro, Quaint, Historic, Scenic, Active, Artisan, Maritime, Friendly, Rustic, Family.
LONGER TERM	Work with Maldon District's in-house design team and / or a trusted design agency to ensure that all opportunities for future brand development and application are capitalised on.

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MALDON DISTRICT MARKETING OPPORTUNITIES (1 OF 4)

HEADLINE	ACTION / DETAIL
MARKETING OBJECTIVES	Promote Maldon District as a scenic, vibrant, colourful and characterful destination, great for year-round visits. Increase new and repeat visitor numbers and visitor spend. Contribute to the prosperity of the leisure and tourism industry in Maldon District. Capitalise on Maldon District's riverside, coastal and rural location with historic towns and villages. Design and execute all marketing in an innovative and modern style, whilst being sympathetic and adding value to the heritage, history and integrity of Maldon District. Ensure all marketing materials add value to their location and environment and improve the visitor experience. Create materials that are appealing, thought provoking, eye catching and that spark positive conversation and interest. Develop assets that work across print, online and experiential marketing.
MARKETING MATERIALS	Use the 'Sense of Place' brand assets to design and produce a range of promotional materials for Maldon District. To include for print: Postcards, Tabletalkers/Mini Brochures, Business Cards, Posters and Stickers. To include for digital: Graphics for Social Media, Digital versions of Print Materials (where relevant). Create graphic designs for these promotional materials that resonate with Maldon District's culture, history and heritage whilst also portraying the area as a forward looking, innovative and creative destination. Use a strong typographic approach to marketing materials and their design, capitalising on the use of the themed concept. Combine this smart, eye-catching and confident typesetting with professional formatting and a full-bleed approach to photography, using strong images that help to convey the natural beauty of the rural, coastal and riverside locations and the heritage and history of the town and village locations. Utilise available photographic stock to maximum effect, using simple headlines to capture the promotional item's messaging. Use brand colours where required to help highlight text that is not easily legible over full-bleed photographs. Use the 'Sense of Place' print (in line with guidelines) consistently, but creatively across all materials. Ensure white space across the print work is considered, in order to create a strong visual identity that is simple and un-cluttered. Produce Logos, Marks or Seals for easy application online and in print. Ensure all marketing materials produced are consistent in terms of approach to design and production. Develop a good working relationship with an external design agency who can, when relevant, work with Maldon District's in-house design team to help generate on-message creative ideas, and offer advice and services to ensure the quality and consistency of marketing materials whilst also maintaining the integrity of the 'Sense of Place' and its objectives. **Longer Term:** Consider simple updates to the printed materials in terms of design and photography every 1 to 2 years, ensuring that the look and feel is retained, whilst the creative work itself is updated in keeping with the 'Sense of Place'. Ensure any design updates are on trend, whilst still adhering to the style and feel of the 'Sense of Place'.

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HEADLINE	ACTION / DETAIL
PROMOTIONAL ACTIVITY	Print and distribute promotional materials across relevant accommodation, hospitality, food & drink, retail, gallery, leisure, activity, museum and heritage sites in Maldon District. Ensure the same promotional materials are displayed in all Tourist Information Centres. Print and distribute promotional materials across accommodation and hospitality operators within 1 hour drive of Maldon District. Consider which print material is most appropriate for different venues before distribution. *Example: postcards for smaller venues and tabletalkers OR mini brochure for restaurants and hotels.*
PRESS ADVERTISING	**Larger Budget:** Consider press advertising in local publications to target day visitors. Consider press advertising in national publications to target day and overnight visitors from London, the Home Counties and further afield in East Anglia and the UK. Ensure the design of any press advertisments matches other promotional materials produced.
BILLBOARD ADVERTISING	**Larger Budget:** Consider outdoor advertising on large format billboards within relevant catchment radius (c. 50 miles). Ensure the design of any billboard adverts matches the other promotional materials produced.
SOCIAL MEDIA	Continue to generate positive PR and visitor interest via Social Media. Use Graphics produced (see Marketing Materials) in conjunction with photography to convey on Social Media the range of visitor attractions Maldon District has to offer. Ensure all photography is of a high standard. Focus on 1. Maldon District generally, 2. specific locations in Maldon District and 3. specific venues and attractions in Maldon District. Curate photography to produce a range of posts around each of the key Maldon District themes. Encourage visitor engagement using Hashtag campaigns. *Examples: #MaldonDays or #MaldonDaysOut.* Consider collaboration online with residents and visitors via Social Media and Website to source great new photography for future use in terms of Social Media and marketing. Consider using Instagram to take advantage of its large and broad demographic. **Larger Budget and Longer Term:** Consider multimedia campaigns featuring videos or GIFs. *Examples: a video campaign featuring visitors and residents talking about their favourite 'Maldon Days' or 'Maldon Days Out' OR the production of animated GIF files or videos about why visitors and residents 'Love Maldon'.*

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MALDON DISTRICT MARKETING OPPORTUNITIES (3 OF 4)

HEADLINE	ACTION / DETAIL
PR	Consider reviewing press release programme and recipients list to maximise any possible free press coverage. Develop professional format and design template for all tourism related press releases. Consider collaboration with journalists and bloggers to create editorial features and placed articles. Consider collaboration with local tourism businesses to invite bloggers and journalists to visit and review their experiences. Work to actively promote any installations or visitor sites or destinations created as part of other marketing initiatives (see Visitor Experience).
PROMOTIONAL SIGNAGE	Identify new and current locations that could be used more effectively for promotional purposes. Consider using relevant signs or posters to promote Maldon District (example: roundabout signs and/or public posters). Consider any innovative large format locations for promotional designs that add value to their surroundings and landscape and that provide a positive talking point for the location *Example: large scale traditional sign-writing style designs that appear on the sides of buildings or on large format poster spaces, where available cost effectively.* Consider updating the format of paid advertising opportunities within Maldon District (example: roundabout signs).
MERCHANDISE	Consider the design of new staff uniform for Tourist Information Centres. **Larger Budget:** Increase promotional sales and add more value to the customer shopping experience in Tourist Information Centres. Consider developing design work to produce unique merchandising ideas across a range of products. Consider working with local artists and manufacturers to develop a gift product range unique to Maldon District.
PHOTOGRAPHY	Develop Maldon District's photography assets (see also Collaboration) for use in marketing and promotional activity. Taking a lead from the photography produced as part of the 'Sense of Place' work, source photos that genuinely showcase the range of Maldon District's offering for tourists; from stunning riverside, coastal and rural locations through to vibrant and colourful towns and villages with plenty of character, history and heritage. Ensure all photography used as part of any marketing is excellent quality, very high resolution with strong and vibrant colour tones. **Larger Budget:** Consider commissioning new professional photography to showcase Maldon District (to be used in print and online).
EVENTS	Take advantage of any cost effective event or exhibition opportunities, and collaborate with tourism and business partners to provide excellent quality print marketing materials for events and exhibitions.

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HEADLINE	ACTION / DETAIL
DESIGN APPROACH	Ensure that good design practice is employed throughout the design and artworking of all materials for print. Ensure typography, layout, colours and formats are all considered, and produced consistently across all materials, with key changes made where required by size or format limitations to ensure the 'Sense of Place' is replicated appropriately in all formats.
PRINTING & MATERIALS	Ensure all printing jobs are run as cost effectively as possible, whilst not compromising the quality of the end results. Use paper stock that resonates with 'The Sense of Place' - un-coated paper stock, as heavy weight as practical. Use appropriate materials for any signage, ensuring the end products are long lasting and sympathetic to their surroundings.
TARGET MARKET	Target new day and overnight visitors who can be reached through word of mouth, referral and recommendation from tourists having enjoyed their visit or stay. Target day visitors who are already staying near to Maldon District. Target day visitors who live within c.1 hour car drive of locations within Maldon District including East Anglia and East London residents looking for riverside, rural, coastal or country town and village days out within easy reach. **Larger Budget:** Target day and overnight visitors who live further afield, up the East Coast and out towards London and the Home Counties (see Press Advertising).
MONITORING SUCCESS	Develop strong relationships with tourism and leisure operators in Maldon District in order to get regular updates and feedback about the tourism market in Maldon District, thus helping to source headline data about any impact of recent marketing work. **Larger Budget:** Establish how to source key information for tracking success of marketing work. Assess feasibility of sourcing information about Maldon District specifically (as per 'Economic Impact of Tourism - Essex 2015'). Key ROI data for yearly comparison to include at least: number of overnight trips, number of day trips, spend per trip. Consider questionnaire or survey format for visitors to feedback on their visit or stay. Consider questionnaire or survey format for tourism businesses to feedback on their visitor activity. Surveys could include simple, printed cards that visitors can fill in and leave either with the venue they visited, or with Tourist Information Centres in Maldon District. An online survey format could also be considered in order that visitors fill in a simple questionnaire online to leave feedback about their visit. Target outcomes (depending on format for assessing feedback) could include positive feedback from visitors, tourism operators and businesses, positive social media engagement with visitors, positive press response, positive blogger coverage, and / or positive resident response.

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MALDON DISTRICT COLLABORATION OPPORTUNITIES (1 OF 1)

HEADLINE	ACTION / DETAIL
COLLABORATION OBJECTIVES	Work in partnership with tourism and leisure operators, businesses, developers and residents in Maldon District to promote the area as a visitor destination and to add value to the visitor and resident experience where possible.
PROMOTION	Work in partnership with local accommodation, hospitality, food & drink, retail, gallery, leisure, activity, museum and heritage sites to distribute printed Maldon District marketing materials (see Marketing). Consider the creation of a Promotional Pack. This should include Maldon District logos for tourism businesses to use on their own printed material and websites; window stickers featuring the logo to display in shop windows; and print ready artwork for postcard and poster printing in order that local tourism businesses can take advantage of high quality print materials promoting the area. Consider working in partnership to offer marketing advice and expertise to local businesses involved in the tourism industry.
SHOPFRONT	**Larger Budget:** Consider working in partnership with businesses in key locations in order to add as much value to the appearance and presentation of Maldon District as possible, thus appealing to visitors and strengthening the visitor experience. *Example: work with local businesses to offer advice on signage and shopfronts.* Consider guidelines for new and existing businesses in terms of shop frontage and signs.
HOARDING	**Larger Budget:** Work in partnership with developers and town planning officials to maximise the possibilities of promotional hoarding, quality signage and other possible initiatives to improve visitor and resident experience at development locations, during development and once development is completed. *Examples: Causeway Regeneration Area, Maldon Central and the Leisure Quarter.* Ensure any hoarding, signage or other installations are undertaken in line with the 'Sense of Place' and other marketing materials. These large format projects should be approached in an original and innovative way in order to attract the maximum positive PR and interest.
RESIDENTS & VISITORS	Collaborate with residents and visitors to generate a large library of Maldon District photography that could be used in future marketing and promotional materials. Promote this proposed collaboration online and via Social Media. Ensure the quality of any photography actually used.
EVENTS	**Larger Budget:** Consider developing more events across Maldon District. *Examples: Events that work with the Maldon District themes (Gastro, Active, Heritage, Maritime) OR Christmas Markets.*

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MALDON DISTRICT VISITOR EXPERIENCE OPPORTUNITIES (1 OF 4)

HEADLINE	ACTION / DETAIL
VISITOR EXPERIENCE OBJECTIVES	Strengthen and add value to the Visitor and Tourist Experience across the region, making it as positive and memorable as possible . Increase visitor awareness of varied attractions throughout Maldon District. Attract new visitors and repeat visitors, day and overnight visitors, aiming to increase their spend per visit. Define visits to Maldon District more clearly for visitors, adding value to their experience and increasing likelihood of recommendation.
BEFORE A VISIT	Consider the visitor's experience before they arrive in Maldon District. Continue to use www.visitmaldondistrict.co.uk to promote the area and its attractions. Increase number of online business listings for all relevant accommodation, hospitality, food & drink, retail, gallery, leisure, activity, museum and heritage sites in Maldon District.
THEMED EXPERIENCES	**Larger Budget:** Develop the concept of grouping attractions in multiple locations (as currently featured online) in order to produce leaflets and additional online guides about specifically themed experiences or trails. *Example: 'Coastal Guide', including a range of coastal attractions, walks, bike rides and amenities or 'Historic Guide' including heritage attractions and museums in Maldon District OR 'Gastro Guide' outlining some of the key food and drink experiences in Maldon District.* Make these guides available online to help visitors plan their visit or stay depending on their interests, and display these guides in Tourist Information Centres and at other relevant tourism businesses to help promote a wide range of attractions. Ensure the design and production of these themed leaflets is consistent with other marketing materials, and that they have an 'editorial' tone and design style, which reflects the quality of Maldon District as a destination and appeals to a wide demographic.
TOURIST GUIDE	**Larger Budget:** Use the themed guides and current walking maps and leaflets to develop and produce an overall Maldon District Tourist Guide. Ensure the new guide looks bright, fresh and smart and reflects the Maldon District 'Sense of Place'. Make available to visitors in print and online (distribute widely to all relevant accommodation, hospitality, food & drink, retail, gallery, leisure, activity, museum and heritage sites and to all Tourist Information Centres in and around Maldon District). Consider selling advertising and features in the Tourist Guide to local businesses. Consider making this Tourist Guide an annual publication and including specific events, features and editorial.

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HEADLINE	ACTION / DETAIL
DESTINATION	Consider low cost ad hoc destination sign posting. *Examples: lamp post wrapping and bollard covers featuring themed 'Coastal', 'Discover' or 'Scenic' messaging.* **Larger Budget:** Consider new destination and route signage between key locations, helping visitors to explore and discover Maldon District more easily on foot and by bicycle and to promote the diversity of attractions available. *Example: Route signage and information provision between Maldon Central, The Causeway and the new Coastal Path.* Develop recreational signage to define and strengthen visitor experience on foot or bicycle, also to help visitors plan their trip and activities. *Example: 'Tea Rooms 500 metres ⇨' or 'Museums & Galleries ⇨' or 'The Saltmarsh Coast ⇨'.* All signage should be bright, colourful and vibrant; using plenty of white space to help create signs that have a contemporary and professional feel, whilst also relating to the 'Sense of Place' and being sympathetic to their environment.
ARRIVAL	**Larger Budget:** Strengthen sense of arrival and welcome at key locations and attractions across Maldon District, including those for new developments. Consider all routes into Maldon District, and into key villages and towns within Maldon District. Ensure all arrival/location signage looks consistent with the 'Sense of Place' and other marketing materials produced. Create smart, professional and modern signage, designed to last and to add value to the cultural character of locations within Maldon District. Arrival signage should be sympathetic to its natural environment and appropriate to each location. Signage should be designed to make sure visitors feel a strong 'sense of arrival' and 'welcome' which will increase the likelihood of recommendation and improved perception of the destination. On arrival signage, where possible, provide information on other nearby attractions in order to add value to the visitor experience. *Example: Riverside Park.*
INFORMATION PROVISION	**Larger Budget:** Continue the work to develop more sites for Interpretation Boards and Visitor Information Points. Ensure any Interpretation Boards or Visitor Information Points work with the 'Sense of Place' and look consistent with other marketing materials, whilst being sympathetic and adding value to their location and environment. Consider the Visitor Experience when planning Interpretation Boards and when producing content or written copy for large format signs. Create information boards, signs and hubs that are innovative in design, interesting in content and add to the overall visitor experience. *Example: in conjunction with planned visitor centre.*

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HEADLINE	ACTION / DETAIL
INSTALLATIONS	**Larger Budget:** In-house design team to consider working with a design agency or artists to create new, small scale visitor destinations through creative design and installation. *Example: capitalising on the riverside, coastal, rural, town or village locations through the design and creation of innovative public seating at key locations with a great view.* Source inspiration for any installation ideas or designs from the Maldon District 'Sense of Place' and each individual location. Ensure that any designs considered are totally sympathetic to their natural environment and that they add value and character to their location, effectively creating new destinations for visitors and residents. *Example: using any available public wall space to display striking and original designs based on the 'Sense of Place' combined with a slight street-art or traditional sign-writing style.* Use these installations and larger format design opportunities to add to the cultural feel of their location, and also generate interest from a visitor, resident and PR perspective. Consider lighting projects which add interest to locations for visitors who may enjoy evening trips. When considering the manufacture of any installations, consider how to work with (local where possible) suppliers who are able to deliver a sustainable, environmentally friendly and high quality product at a sensible price. Time should be taken to source the best suppliers to ensure any installations are innovative and original.
NEW DESTINATIONS	**Larger Budget:** Consider ways to attract visitors for new and diverse attractions. *Examples: Pop Up Shops or Restaurants in vacant premises OR Street Art (using 'Sense of Place' approach to design).* Consider ways of attracting new investors and businesses to the area, focusing in particular on new tourism focused businesses that offer great visitor experiences and that contribute to the prosperity of Maldon District generally. *Example: encouraging food and drink businesses that appeal to visitor priorities and spending habits. Growth in this sector would add value to the visitor experience and fits in with with current regeneration and development plans in Maldon.*
ONE-OFF PROMOTIONS	**Larger Budget:** Consider launching a voucher, loyalty card, discount scheme or similar. Provide details using printed or downloadable options. Scheme to be run in conjunction with tourist and leisure businesses in Maldon District. Consider this promotional activity in terms of Monitoring Success (see Marketing).

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HEADLINE	ACTION / DETAIL
RESEARCH	**Larger Budget:** Consider undertaking initiatives to gain data from visitors about their experiences in Maldon District. Learn as much as possible about how visitors perceive their visits, with highlights and areas for improvement included in questions. Consider undertaking initiatives to gain data from local tourism and leisure operators about their experiences running a business in Maldon District. Learn as much as possible about how they perceive their customers' visits, with highlights and areas for improvement included in questions. *Examples: feedback card or online survey.* Use this information as part of Monitoring Success (see Marketing).

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MALDON DISTRICT SCHEDULE (1 OF 1)

TIMEFRAME	ACTION / DETAIL
YEARS 1 - 3	Focus on **Brand Development** and promotion of key Maldon District themes. Undertake production and printing of promotional and **Marketing Materials**. Undertake **Promotional Activity** to distribute these materials. Consider developing and produce **Promotional Pack** to support tourism businesses. Consider developing **Information Provision** across Maldon District. Consider developing **Destination** and **Arrival** signage to work with Information Provision. Consider developing **Promotional Signage**. Consider sourcing new **Photography**. Consider developing **Themed Experiences** and corresponding printed guides for the District (already started with Walking Guides). Consider developing larger format **Tourist Guide** to showcase Maldon District. Consider the production of **Hoarding** for relevant developments across Maldon District. Consider strengthening **PR** and **Social Media** presence for Maldon District. Consider **Collaboration** and **Installation** projects.
YEAR 3 - 4	Continue the work from Year 1 - 3. Develop printed **Marketing Materials** (update **Photography** and refresh designs). Consider **Press Advertising** or **Billboard Advertising**. Consider larger scale **Collaborations** and **Installations**.
YEAR 4 - 5	Continue the work from Year 1 - 4. Consider larger scale **Merchandise**, **Professional Videos**, **Events**, **Loyalty Cards** and/or **Research**.

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MALDON DISTRICT COSTS (1 OF 1)

BUDGET	SPEND
BUDGET OF UP TO £10K	**Print promotional materials.** Rough pricing guide, for digital printing: Business Cards - 10,000 - c. £250 + vat Four Fold Mini-Brochure or Paperfold Mini-Brochure - 10,000 - c. £500 + vat Postcards - 10,000 - c. £250 + vat Stickers - 2,000 - c. £850 + vat Folders - A4 or A5 - 500 - c. £350 - £550 + vat **Signage materials** (quotes to be confirmed by signage company per specification).
BUDGET OF UP TO £10K +	**Signage materials** (quotes to be confirmed by signage company per specification). **Tourist Guide** or similar. Rough pricing guide, for digital printing: 24 page A5 saddle stitched brochure - 10,000 - c. £5,000 + vat plus Design and artwork production - c. £2,500 - £5,000 + vat **Hoarding.** To be costed individually. **Installations.** To be costed individually. **Press advertising** - in regional publications. Rough pricing guide: Essex Life - Quarter page c. £547 + vat or Half page c. £862 + vat or Full page c. £1464 + vat Jimmy's Farm Magazine - tbc Colchester Zoo - Quarter page c. £300 + vat or Half page c. £600 + vat or Full page c. £1200 + vat **Merchandise.** To be costed individually. **Professional Photography.** Rough pricing guide: £500 - £1200 + vat per day plus expenses **Videos or multi-media graphics**. Rough guide for production: GIF files or animated videos - c. £250 - £1,500 + vat Video production - c. £3,000 - £10,000 + vat **Billboard advertising** - within a 1 hour drive, at key locations. Rough pricing indication: 6 Sheet advert near Colchester train station c. £300 - £500 per week 6 Sheet advert in Chelmsford, near grammar school, c. £200 - 300 per week **Events.** To be costed individually. **Loyalty Card, Voucher or Discount Scheme.** To be costed individually. **Research.** To be costed individually.

NOTE:

With any increase in budget, priority should be given to marketing projects that add maximum permanent value to Maldon District, whilst also working towards achieving marketing strategy objectives.

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MALDON DISTRICT NOTES (1 OF 3)

SOURCE	HEADLINE
MALDON & HEYBRIDGE CENTRAL AREA MASTERPLAN 2016	The aims of the Masterplan's proposed development and regeneration work include adding value to the character, vitality and cultural importance of Maldon and contributing to its increased prosperity. This Marketing Strategy aims to portray this character and vibrancy through the production of bright and creative promotional materials and the generation of innovative and creative marketing ideas.
	Regeneration of key areas (Maldon Central, The Causeway, Leisure Quarter, Garden Suburb housing developments etc) is central to the Masterplan. This Marketing Strategy is designed to develop a format for signage and visitor information to work alongside these new developments, helping Maldon develop a clear visual identity.
	Making use of all Maldon's assets is another key theme throughout the Masterplan. This Marketing Strategy proposes the promotion of these assets (including waterways, heritage, green spaces, coastline etc) throughout all marketing initiatives, and the use of themes to help portray the range of local attractions.
	Protecting the environment and the local history is also important in the Masterplan, as is blending this heritage with the new. This Marketing Strategy proposes the careful design and production of any materials to ensure that they look fresh, modern and aspirational whilst also being sympathetic to their environment, adding genuine value to their location and to resident and visitor experiences alike.
	Details are included in the Masterplan about how to capitalise on increased visitors to the new Coastal Path in 2017/2018. It is noted that gateways to the Town Centre should be better signposted, and route signage (particularly on foot) between key areas and destinations should be improved. This Marketing Strategy proposes new designs and formats for signage across Maldon District and in particular between key locations and attractions. New signage and information boards or points should have a positive practical use for visitors and residents and should also be designed and produced in order to add value to the cultural character of the area.

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MALDON DISTRICT NOTES (2 OF 3)

SOURCE	HEADLINE
MALDON DISTRICT ECONOMIC PROSPERITY STRATEGY 2013 - 2029	Supporting business and creating jobs in the private sector is key to the Maldon District Economic Prosperity Strategy. This Marketing Strategy sets out a plan for promoting the area, increasing visitor numbers, collaborating with local businesses and for adding value to the visitor experience overall. An increase in day trips and overnight stays would help to contribute to the demand from current tourism related businesses and could create opportunities for increased jobs in the area.
	Key industries for focus in the Economic Prosperity Strategy include Leisure, Food, Accommodation, Retail and Attractions. This Marketing Strategy aims to promote all these businesses and to generate increased visitor numbers and spend per visit. Smart and aspirational looking print and promotion work can transform how a visitor perceives their experience, and this is an area of great opportunity for Maldon District.
	Encouraging visitors to stay for longer is another goal of the Economic Prosperity Strategy. This Marketing Strategy outlines ways to communicate the breadth and range of activities and attractions available in the area, with a view to encouraging visitors to either return or stay for longer. This Marketing Strategy also includes some ideas for advertising further afield to promote longer stays in the area.
ECONOMIC IMPACT OF TOURISM 2015 RESULTS	Shopping, food and attractions seem to be a key element of visitor expenditure in these Results, and this Marketing Strategy proposes promotional work to help visitors understand more about the range of retail and hospitality spots in the region, whilst also promoting other attractions and activities.
MALDON DISTRICT TOURISM STRATEGY RESEARCH 2009	This research indicates a relatively high demographic of 'Style Hounds' and 'Cosmopolitans' visiting the region, and this should be capitalised on. This demographic are looking for unique experiences and activities coupled with good quality food and drink experiences, and these are all themes picked up in this Marketing Strategy and proposed promotional material.

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SOURCE	HEADLINE
VISIT ESSEX (DRAFT) MARKETING PLAN & STRATEGIC ROADMAP 2016 - 2018	Target audiences for Visit Essex marketing campaigns include local (Essex) residents, London residents, families, groups and event organisers. This Marketing Strategy aims to target these same demographic groups through design approach, key messaging and practical use and distribution of materials.
	The marketing objectives of Visit Essex include encouraging short breaks to Essex, challenging the perception of the region, raising the area's profile and appealing to a younger audience. The designs and promotional ideas included in this Marketing strategy are geared towards aligned objectives, helping to communicate the District's appeal more clearly and to encourage new visitors that stay in the District for longer.
	The Visit Essex marketing campaign themes aim to appeal to a broad demographic, and this Marketing Strategy takes a similarly themed approach, helping to communicate the wide and varied range of attractions and activities visitors can experience.
	Holland and the USA are key international targets for Visit Essex, and the marketing materials produced as part of this Marketing Strategy are design to promote fresh and vibrant, simple and strong messages that appeal to these markets and can help Visit Essex to generate increased interest internationally.
	The Visit Essex PR strategy outlines promotional events and the print and promotional work produced as part of this Marketing Strategy should be excellent resources to share with Visit Essex for this kind of promotional collaboration.

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HEADLINE	DETAIL
USING THIS STRATEGY	This strategy is a working, constantly evolving document that outlines potential marketing opportunities that may exist for Maldon District's tourism team. It is not a comprehensive list of marketing activities due to be undertaken over the next five years; but provides a strong starting point for the strategic medium term development of Maldon District's tourism marketing proposition. Each marketing opportunity outlined in this strategy should be considered by the tourism team, the in-house design team and other relevant parties with a view to assessing the feasibility, benefits and cost implications of each possible initiative. Across the five year timeframe - marketing trends, pricing, budgets, visitor preferences and feedback may have an implication on both the creative design and the practical considerations in relation to each initiative at a specific point in time. This strategy should guide and inspire Maldon District's detailed marketing plans, help to ensure the high quality and consistency of all marketing materials produced and form the basis of regular, organised and successful tourism marketing.

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MALDON DISTRICT

MARKETING STRATEGY
PREPARED FOR MALDON DISTRICT
2017

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REPORT of
CHIEF EXECUTIVE

to
PLANNING AND LICENSING COMMITTEE
16 NOVEMBER 2017

PLANNING POLICY UPDATE

1. PURPOSE OF THE REPORT

1.1 This report provides an update on local, sub-regional and national planning policy matters including duty to cooperate, neighbourhood plans, A12 and A120, five year housing land supply, Gypsy and travellers, London Plan and Recreational Avoidance and Mitigation Strategies. Separate reports have been prepared for this Committee on:

- The Brownfield Land Register;
- The consultation on the Government's policy paper; Planning for the Right Homes in the Right Places; and
- The Renewable Energy and Low Carbon Supplementary Planning Guidance.

1.2 This report is for Members' information and to seek Members' comments.

2. RECOMMENDATION

That the Committee notes the Planning Policy update outlined in this report and that at the appropriate time matters for decision will be brought to this Committee for consideration.

3. SUMMARY OF KEY ISSUES

3.1 Duty to Cooperate and other Essex Plans and Strategies

3.1.1 Councillor Sue Lissimore, the Portfolio Holder for Housing, Property and Planning at Essex County Council (ECC) has established a County wide **Planning in Essex Group** of portfolio holders and relevant Committee chairs to discuss strategic issues and seek common ground. This is aimed to ensure that there is improved communication and learning from Districts and ECC as well as discussion on strategic issues where a consensus approach may be required.

3.1.2 The first meeting of this group was held in September 2017, attended by the Chairman of the Planning and Licensing Committee and the Planning Policy Manager. Key issues discussed included sharing expertise between authorities; workforce challenges and the supply of planning experts; infrastructure and planning /

highway agreements, linked to viability; maintaining a supply of land; and the potential implications of the new London Plan.

3.1.3 It is intended that the meetings are held every 6 months, with follow up work undertaken in between through existing duty to cooperate arrangements and the Essex Planning Officers Association.

3.1.4 Officers and Members have had Duty to Cooperate meetings with **Braintree and Colchester** Councils following the consultations on their draft Local Plans. The focus of these meetings has been to discuss the Council's response to the Pre-submission versions of their local plans and clarify any matters.

3.1.5 The **Braintree, Colchester and Tendring Local Plans** were submitted on 9 October 2017. Inspector Roger Clews has been appointed to conduct the examination to determine whether the shared Section 1 of the three Local Plans is sound. The Planning Inspectorate (PINS) will appoint additional inspectors to conduct the examinations of Section 2 of the Local Plans at the appropriate time.

3.1.6 As the draft Plans have been submitted, the formal Duty to Cooperate (DtC) window has closed. However, Local Plan meetings will still be held, as and when required, for example, to agree Statements of Common Ground.

3.1.7 Responses received during the consultation period will be sent to the Inspector, who will take them into account in drafting his Report to the Secretary of State.

3.1.8 Officers and Members have attended DtC meetings with **Chelmsford City Council**, in relation to their draft Local Plan. The final draft is timetabled for consultation in early 2018. These member and officer meetings have been held as Essex Wide meetings and a one to one meeting to discuss the particular concerns raised by the Council in the response to the Preferred Option Plan regarding the expansion of South Woodham Ferrers and other development which may impact on the District.

3.1.9 The Essex Planning Officers Association has recently published guidelines on how **unmet housing need** should be considered through Duty to Cooperate across Essex Districts. This guidance sets out in need to calculated on a Strategic Housing Market Area basis (which recognises Maldon as its own Strategic Housing Market Assessment (SHMA)) and each authority within the SHMA area seeks to agree how the need will be distributed. If there are constraints which render that it is not possible to accommodate all need within the SHMA area, through duty to cooperate an approach is made to another SHMA area of Local Authority.

3.1.10 This is similar to the current approach, but the work by the Essex Planning Officers Association (EPOA) followed on from recognition at some duty to cooperate meetings that protocol had not been established and agreeing a protocol will provide clarity.

3.1.11 The EPOA are currently working on protocols for establishing methodology for measuring viability for development schemes; and meeting unmet traveller and gypsy need.

3.2 **North Essex Garden Communities**

3.2.1 Both the Braintree and Colchester Local Plans propose new Garden Communities, the nearest of which is at Marks Tey. These will have strategic impacts across north and mid-Essex and the impact and opportunity they present to Maldon District needs to be fully considered, The Issues and Options consultation for the Garden Communities Development Plan Documents, is expected to start in November 2017.

3.3 **Neighbourhood Plans Update**

3.3.1 Set out below are updates that the Council is aware of in neighbourhood plan preparations since the last Neighbourhood Plan Update Report to the Committee on April 2017 (See Minute No. 891).

Neighbourhood Plan	Neighbourhood Area designated	Evidence gathering & engagement	Drafting policies	Reg 14 consultation	Reg 16 consultation	Examination	Referendum	Made
Althorne	x	x						
Burnham-on-Crouch	x	x	x	x	x	x	x	x
Great Totham	x							
Heybridge	x							
Langford and Ulting	x	x	x					
Latchingdon	x							
Mayland	x	x						
Tollesbury	x	x	x					

3.3.2 Althorne

3.3.2.1 Work on the Neighbourhood Plan was deferred until the Local Development Plan (LDP) was approved. The Neighbourhood Plan was discussed at the Parish Council meeting in September, to see if there was sufficient community support for a Neighbourhood Plan, and it was agreed to proceed with the Plan. The Parish Council has appointed a neighbourhood plan secretary to help take the project forward.

3.3.3 Burnham-on-Crouch

3.3.3.1 Following the referendum, where voters overwhelmingly supported the Neighbourhood Development Plan, the Plan was 'made' by the Council on 7 September 2017. It now forms part of the Development Plan, alongside the Local Development Plan, for Burnham-on-Crouch.

3.3.4 Great Totham

3.3.4.1 Since April work on the neighbourhood plan has continued. The steering group has been set up; objectives have been developed for the steering group; the Parish Council has engaged further with the Rural Community Council of Essex (RCCE); consulted with the public at the Church Fete; is developing a project plan and budget, and is setting up a discrete neighbourhood plan website.

3.3.5 Heybridge

3.3.5.1 Due to a lack of support within the Council and the wider community, Heybridge Parish Council decided to stop work on the Neighbourhood Plan in June 2017. If circumstances change, the Parish Council has the option of re-starting the Plan process in the future.

3.3.6 Langford and Ulting

3.3.6.1 At the end of March the Parish Council agreed to progress the plan. The Plan has been taken back to an earlier stage of preparation to allow for a review of how best to meet the village's housing needs. The Neighbourhood Plan Committee is now looking at site allocations and the possibility of including a housing criteria policy and a rural exceptions policy. The aim is to provide housing of the right type and in the right location based on local housing needs. A Call for Sites was announced with a closing date of 28 July. Six sites were put forward and subsequently Northumbrian Water Plc may add another. An application for technical support has been submitted to AECOM (appointed by the Department for Communities and Local Government (DCLG) to provide technical support for Neighbourhood Plans nationally) and the Parish Council is expecting to hear shortly whether their application has been successful.

3.3.7 Mayland

3.3.7.1 Since April the Neighbourhood Plan (NP) Committee has, due to unforeseen circumstances, had to cancel a couple of meetings and this has had an impact on progress. Since June the Committee has resumed its work on finalising the Draft Plan vision statement and its supporting objectives. Some progress has been made on the vision statement and it is hoped that the objectives can be finalised after some more research. These objectives will be centred on evidence collected from the surveys carried out previously.

3.3.7.2 Further meetings with landowners have been held and the amount of time this activity is taking is of concern to the NP Committee and it is looking at ways to accelerate this process. One problem to be addressed is the number of active members on the Committee and an appeal has gone out for more volunteers to assist with the Plan.

3.3.8 Tollesbury

3.3.8.1 Policy development is progressing: policies on the Marine Interface, School and Doctors Surgery have been drafted. A Housing Needs and Employment Survey has been carried out and the Neighbourhood Plan Committee are in the process of

discussing the housing needs of the village. Two recent Committee meetings focused on housing were well attended by villagers, with around 35 residents at each meeting.

3.3.8.2 It is hoped to have all the draft policies complete by the end of this year when they will be discussed with and assessed by Maldon District Council. The final stages are expected to be completed during 2018, with a Plan in place by the beginning of 2019.

3.4 **A12 Widening Scheme**

3.4.1 During the A12 Widening Scheme public consultation this spring, Highways England received over 900 responses, and the public exhibitions were attended by over 1,800 people. The purpose of this consultation was to understand the concerns of the local community and road users, to understand which option gained the most support, and to listen to suggestions before any detailed design or preferred route is selected. Feedback covered:

- the route options presented;
- suggestions about the junctions;
- other key developments proposed for the area;
- environmental impacts;
- existing rat runs in the area;
- non-motorised user services such as cycle paths;
- improving safety.

3.4.2 It was the opinion of a number of those who contributed to the consultation (including Maldon District Council (MDC)) that emerging and proposed major developments should be carefully considered before decisions are made. Highways England agrees it is important to get this scheme right, not just in the short term but for the long term. With this in mind, the Project team are continuing with further investigations to ensure that the scheme and the way it is delivered will serve the needs of the region, whilst maximising value within the funding available. Therefore, in September, Highways England announced that the options selection assessment process is being extended, with the preferred route announcement being postponed to this coming winter. However, this is not expected to delay the works starting in 2020.

3.4.3 Project Timeline

Winter 2017 / 18.....Preferred route announcement

Spring 2018 .....Public consultation expected to take place on developed route option

Autumn 2018.....Submit application for a Development Consent Order

2020.....Start of works

3.5 **A120 Route Options**

3.5.1 ECC launched an eight-week consultation in January on five potential route options for an upgrade to the current single carriageway A120 between Braintree and the A12.

2,795 people responded to the consultation and ECC is still analysing in-depth feedback before it gives a recommendation to Government for a preferred route option this autumn.

3.5.2 Some of the key consultation results are:

- More than four out of five people believe an upgrade is needed to the A120, although there's no clear standout route everyone agrees on as a first choice.
- 82% of people agreed that the A120 between Braintree and the A12 needed to be completely upgraded to a dual carriageway.
- Option C and Option E are the most popular first choices for 29% and 27% of respondents respectively.
- These were followed by Option A (17%), Option D (14%) and Option B (13%).

3.6 **Vehicle Parking Standards (VPS) Supplementary Planning Document (SPD)**

3.6.1 As part of the review of the VPS, the Council is working with Anglia Ruskin University (ARU) post-graduate students. Focusing on The Causeway and the 'hinterland' around Maldon town centre, the students will be assessing the impact of parking on the urban environment and the role parking plays in the sense of place. The output of their research will help inform the review of the SPD.

3.7 **Five Year Land Supply 2016 / 17**

3.7.1 The 2016 / 17 Five Year Housing Land Supply (5YHLS) report demonstrates that the Council has 6.28 years' worth of housing land available. This report has been published on the Council's website.

3.7.2 The Council's latest housing requirements are set out in the Local Development Plan (approved by the Secretary of State in July 2017) and associated evidence base including an up-to-date assessment of the District's Objectively Assessed Need (OAN). The OAN identifies the District's housing requirement for the next 15 years as 280 new homes per annum, which has been uplifted to 310 in the LDP, or 4,650 over the plan period (2014 - 2029). The base-line housing requirement for housing over the five year period of the 5YHLS is the LDP target (310) x 5. To this is added the shortfall in completions since the beginning of the Local Development Plan period, plus an additional 5% for choice and competition.

3.7.3 The District's requirement:

Item	Equation	Total
Annual target x years	310 x 5	1,550
Shortfall from previous years		370
Choice and competition allowance	5% x (1,550+370)	96
TOTAL REQUIREMENT	1,550 + 370 + 96	**2,016**

3.7.4 The District's housing supply consists of sites with planning permission, Local Development Plan Strategic Allocations and a windfall allowance for years 3 - 5 of

the 5YHLS period. A 5% allowance for slippage and non-implementation is deducted from the total five year supply.

Item	Equation	Total
LDP Strategic Allocations and other sites with planning permission		1,707
LDP Strategic Allocations without planning permission or with a resolution to grant planning permission subject to completion of a Section 106 (S106) agreement		890
Windfall allowance with a two year lead in period	3 years x 23	69
Slippage and non-implementation	5% x (1,707 + 890 = 69)	-133
TOTAL SUPPLY	(1,707 + 890 + 69) - 133	**2,533**

3.7.5 5YHLS calculation:

Total supply ÷ Total Requirement x 5 years

(2,533 ÷ 2,016) x 5 = **6.28**

3.7.6 The Council can therefore demonstrate 6.28 years' worth of housing land supply against its identified housing target.

3.8 **Essex Gypsy and Traveller Accommodation Assessment (GTAA)**

3.8.1 EPOA commissioned Opinion Research Services (ORS) in December 2015 to update the Essex GTAA in light of the change in the DCLG planning definition for Travellers in August 2015. The Essex GTAA deals with the future accommodation needs for the Gypsy and Traveller community. The Maldon District GTAA was produced by ORS in December 2016, to support the LDP Examination. The work on the other Districts has been ongoing throughout 2017, and individual district reports have been produced as the survey work for each district has been completed.

3.8.2 The Essex GTAA will be in three sections: the methodology; Essex summary; individual District appendices. During the year, the style of the District reports has been refined. All the district reports/appendices will be reformatted to ensure consistency across the main report. As a result, the Maldon District appendix will look different to the report received last December, but the conclusions remain the same.

3.8.3 By the end of October, the Essex GTAA was substantially completed. However, the provision of Transit sites, which is a countywide, strategic issue, will need further consideration, beyond this current study.

3.9 **The London Plan**

3.9.1 The London Plan provides the 33 London boroughs with an overarching framework for their local plans by bringing together the Mayor's strategies for housing, transport, economic development, health and environment. All London local plans have to be in 'general conformity' with the London Plan.

3.9.2 Consultation for the draft housing strategy ends on the 7 December 2017, which will influence the future revision of the London Plan. This in turn will impact on planning in Essex and the relationship between Essex and London in housing terms. Key planning-related proposals include:

- a need for land for more than 50,000 new homes per year for 25 years (at least 1,250,000 new homes);
- using land more intensively: building schemes to higher densities, developing brownfield land, better use of publicly owned land, diversifying the size and location of sites and promoting the co-location of different uses. This will be essential so that Green Belt and open space can be protected;
- a presumption in favour of appropriate residential development on small sites. To incentivise this type of development, the Community Infrastructure Levy (CIL) instalment policy will be amended so small and medium sized builders pay less upfront;
- reducing car dependency through design-led neighbourhoods with shops and services close to homes: this should reduce the amount of car parking, intended to provide more space for housing. This is heavily reliant on improved public transport and sustainable travel initiatives being delivered;
- a long term aspiration for 50% of all housing built to be affordable. A new Fast Track Route through the planning system will be established for developers that provide at least 35% affordable homes without public subsidy. Financial and other support from the Mayor, Councils, and housing associations can then be used to increase the proportion of affordable homes towards 50% and above. Schemes that do not provide 35% will be subject to rigorous viability testing with review mechanisms;
- promoting new purpose-built private rented dwellings (Build to Rent) so that more people can afford to live in London in quality accommodation;
- a requirement for 10% of all new build housing to be wheelchair accessible or adaptable for such use, with 90% being accessible and adaptable. This will help reduce the cost to Councils of adapting properties in the long term.

3.9.3 The Examination in Public for the London Plan is expected in Summer 2018, with the final plan expected to be published in Autumn 2019. A more detailed assessment of the draft London Plan will be set out for the Committee, including any proposed formal response, following receipt of the consultation draft.

3.10 **Recreational Avoidance Mitigations Strategy (RAMS)**

3.10.1 There are ten European sites on the Essex coast protected by the Conservation of Habitats and Species Regulations 2010. All Local Plans must be accompanied by a Habitats Regulations Assessment to ensure that no harm happens to a Natura 2000

site from a plan's adoption. Natura 2000 sites are nature conservation sites of European importance and include Special Protection Areas, Special Areas of Conservation and RAMSAR sites.

3.10.2 Natural England have identified that the additional 80,000 homes identified in the Basildon Draft Local Plan, Chelmsford Draft Local Plan and the North Essex Plans would increase recreational activity in or nearby European sites, impacting on their integrity. This is contrary to the Habitats Regulations.

3.10.3 Natural England adds that whilst the provision of green spaces within or nearby development can alleviate some of this harm, it is not possible to re-create the coastal environment in most cases. Consequently, there will be a residual impact on the coast as a consequence of population growth, and more people choosing to visit the coast.

3.10.4 A Recreation Avoidance and Mitigation Strategy (RAMS) is required to accompany these local plans: it will provide an evidenced-based, co-ordinated and consistent approach to delivering strategic mitigation measures. Without a RAMS, Basildon, Chelmsford and North Essex will not be able to adopt their local plans: to do so would be illegal in the context of the Habitat Regulations.

3.10.5 Given the importance of this work and level of risk to a number of Local Plans, this project must be undertaken on an Essex-wide scale. As the District contains European sites and coastline the impacts of this growth are likely to be experienced in Maldon, so it is important that the Council is one of the partners in the RAMS process, to ensure that appropriate mitigation is identified to protect the integrity of our coastline and natural resources.

3.10.6 Officers are attending an EPOA workshop (with Natural England) on 9 November 2017 to discuss the issue and start the process to engage consultants to prepare a RAMS. As the zones of influence for each of the European sites overlap, it is proposed that the RAMS cover 11 of the 14 Greater Essex authorities (Maldon, Basildon, Braintree, Brentwood, Castle Point, Chelmsford, Colchester, Rochford, Southend, Tendring and Thurrock). The aim is to deliver the strategy by Autumn 2018.

3.10.7 The cost is estimated to be around £65 - £70,000 (for the technical evidence report and the Strategy). A New Burden Grants may be available to each authority to undertake this work, which if pooled would provide sufficient funding to meet the cost. This is being investigated further by Officers. However, if the authorities work together, the strategy can be delivered at a reduced cost.

4. CONCLUSION

4.1 This report provides an update to Members on a wide range of planning policy matters that will or may affect the policies of the Council, procedures and decision making.

5. IMPACT ON CORPORATE GOALS

5.1 The preparation and adoption of the LDP, including supporting evidence and other supplementary planning documents, support corporate goals which underpin the Council's vision for the District and in particular protecting and shaping the District and balancing the future needs of the community and meeting the housing needs of the District.

6. IMPLICATIONS

(i) **Impact on Customers** – This report provides customers with the most up-to date progress on a planning policy matters. Clear policy and strategy working with other authorities in Essex provides certainty to residents and businesses in the District.

(ii) **Impact on Equalities** –Planning policy documents, including new regulations and policy documents prepared by the government, are subject to equality analysis.

(iii) **Impact on Risk** – Up to date planning policy and a five year supply of housing land is required in accordance with the National Planning Policy Framework in order to enable the Council to strategically plan for future needs, growth and sustainable development. The implementation of new legislation will need to be taken after consideration of the risks for the Council and stakeholders.

(iv) **Impact on Resources (financial and human)** –Any significant change in policy direction would be likely to require additional work or alterations to the evidence base which may have significant financial and human resource implications for the Council. The government have indicated that additional funding may be available to local authorities to implement some of the regulatory and legislative changes.

(v) **Impact on the Environment** – Up to date planning policy and a five year supply of housing land will enable the Council to promote sustainable development and safeguard the local environment in accordance with the local priorities for the District.

Background Papers: None.

Enquiries to: Ian Butt, Planning Policy Manager, (Tel: 01621 876203).

REPORT of
CHIEF EXECUTIVE

to
PLANNING AND LICENSING COMMITTEE
16 NOVEMBER 2017

BROWNFIELD LAND REGISTER

1. PURPOSE OF THE REPORT

1.1 This report provides an update on preparing and publishing a Brownfield Land Register (as previously reported to Planning and Licensing Committee on 14 September 2017).

2. RECOMMENDATIONS

(i) that the preparation of the final Register (Part 1) be approved;

To the Council:

(ii) that publication of the Brownfield Land Register on the Council's website, be approved.

3. SUMMARY OF KEY ISSUES

3.1 The **Town and Country Planning (Brownfield Land) Regulations 2017** require each Local Planning Authority to prepare, maintain and publish a Brownfield Land Register: the first must be published by the 31 December 2017, and then reviewed annually.

3.2 The Register will list brownfield sites in the District that have the potential to accommodate residential development. The Register must be kept in two parts:

1. **Part 1**: comprises all sites categorised as Previously Developed Land, which have been assessed as being suitable, available and achievable for residential development according to the criteria set out in the Regulations;
2. **Part 2**: a subset of Part 1, and comprises those sites that the Council deem suitable for 'Permission in Principle (PiP). PiP is similar to outline planning permission in that it establishes the fundamental principles of development (in terms of the use, location and number of homes), but a further Technical Details Consent is required prior to any development commencing.

3.3 **Brownfield Land Register: Part 1**

3.3.1 In order to be entered on Part 1, sites must be:

a) Previously Developed Land (as defined in Annex 2 of the National Planning Policy Framework (NPPF));

b) A minimum of 0.25ha or be capable of accommodating at least five dwellings;

c) Suitable – sites must be appropriate for residential use or for a residential-led mixed-use scheme, and must comply with national and local planning policies such as, by having regard to any adverse impact on the natural environment, the local built environment and local amenity;

d) Available – there must be evidence that the landowner / developer intend to sell/develop the site for housing; and

e) Achievable – sites must be developable within the next 15 years.

3.3.2 Although there are many brownfield sites in the District, not all necessarily fall within the NPPF definition and, therefore, it is considered that the most effective and robust approach in the timescale available is to consider **296 sites** from the following existing published data sources:

- The **124 sites** with an extant planning permission for residential development (taken from the Council's five Year Housing Land Supply report, 2016/17);
- The **2 allocations** for housing development in the Approved Maldon Local Development Plan, 2017, which include brownfield land; and
- The **170 sites** taken from the Strategic Housing Land Availability Assessment (SHLAA), 2014

3.3.3 As these published sources are up-to-date and comprehensive and have recently been subject to independent scrutiny in terms of policy compliance, it is considered that there is no need to undertake a call for sites at this time.

3.4 **Sites with extant planning permission**

3.4.1 Of the 124 previously developed sites with planning permission, 119 are below the site threshold and/or do not meet the definition in the NPPF (that is they include land that is not previously developed). These sites, therefore, should not be included in Part 1; however the planning permission remains so development can still take place.

3.4.2 The remaining five sites are consistent with criteria a) and b) in paragraph 3.3.1 above: all have been subject to a detailed assessment through the planning application process so are considered to be suitable for housing development. Their extant planning permission means that there is an intention to develop the land and that the site is likely to come forward for development within the next 15 years (as required by the Regulations). This means that these sites do not need to go through the same assessment process as has been undertaken for the SHLAA sites. These five sites should be considered for Part 1 of the Register.

3.4.3 Planning permission for several brownfield sites has expired since survey work began on the Council's five Year Supply Report. This means that the sites are no longer considered to be suitable, available or deliverable and should not be identified on the

Register. The remaining five sites should be included either: because work has started on site, or planning conditions have been discharged demonstrating consistency with the criteria in the Regulations.

3.5 **Allocations**

3.5.1 There are two Local Development Plan (LDP) allocations that contain brownfield land:

1. S2(c) Wycke Hill South: 0.21ha of the overall site area is brownfield land, bringing the site in under the site threshold. It should not be included on the Register. This will not affect its allocation in the LDP or any planning permission associated with the site;
2. S2h Heybridge Swifts: 0.30ha of the site is brownfield land and is capable of accommodating five dwellings or more. It is proposed that this part of S2h be considered for Part 1 of the Register. This would be without prejudice to any future negotiations that are expected to take place relating to the allocation.

3.6 **SHLAA sites**

3.6.1 170 sites were identified in a range of locations across the District. The table below provides a breakdown of the SHLAA sites, by settlement.

Settlement	No of sites
Althorne	4
Asheldham	1
Bradwell on Sea	5
Burnham-on-Crouch	30
Cold Norton	1
Dengie	1
Great Totham	12
Goldhanger	1
Hazeleigh	1
Langford	2
Latchingdon	5
Little Braxted	1
Little Totham	2
Maldon	35
Mayland	13
Mundon	2

Settlement	No of sites
North Fambridge	2
Purleigh	6
St Lawrence	2
Southminster	15
Steeple	2
Stow Maries	3
Tollesbury	4
Tolleshunt D'Arcy	2
Tolleshunt Major	3
Tolleshunt Knights	2
Tillingham	2
Wickham Bishops	5
Woodham Mortimer	4
Woodham Walter	2
TOTAL	**170**

3.6.2 For consistency, the 170 sites identified as previously developed land in the SHLAA were also tested against the NPPF definition. Many include greenfield land or non-previously developed land, such as agricultural buildings. As a result, **72 sites were discounted**. A further **77 sites were discounted** because they fall below the size threshold.

3.6.3 The remaining 21 sites were then assessed for compliance with the Approved Local Development Plan. Consistency with local plan policy and/or nationally important

constraints is a valid test of their suitability for development. All were considered to be inconsistent with the LDP:

a) 19 sites were outside the settlement boundaries identified by the LDP; and/or

b) were part of other LDP allocations, e.g. an employment allocation covered by Policy E1 (19 sites); and/or

c) were within Flood Zone 3, a high flood risk zone (12 sites).

3.6.4 This means that all of the **21 sites were discounted**.

3.7 **Brownfield Land Register 2017 Part 1: Content**

3.7.1 The results of the site assessments means that Part 1 of the Brownfield Register (see **APPENDIX 1**) should include:

a) five sites with planning permission on brownfield land; and

b) S2h Heybridge Swifts: 0.30ha of brownfield land

3.7.2 The five sites with planning permission for housing development are not eligible for Part 2 of the Register. Therefore, only the brownfield element of the Heybridge Swifts site could be considered for Part 2. However, the site is allocated in Policy S2 for a comprehensive scheme and there is a requirement that the existing sports club is relocated. These policy requirements will need to be taken into consideration in whether part of the site would be suitable for PiP.

3.7.3 The content of the Brownfield Land Register will be reviewed annually to ensure that all appropriate brownfield sites are published on Part 1 of the Register and all relevant sites are taken forward to Part 2. This will include adding brownfield sites that have been granted planning permission in the previous year, and/or following a call for sites adding any other suitable, available and achievable sites. A site can only be removed from the register if it no longer meets the criteria identified in paragraph 3.3.1 above, or if the Permission in Principle has expired (after five years). This information will be reported to Committee annually.

3.8 **Publishing the Register**

3.8.1 All brownfield land registers must use an open data standard set out by Government to enable the comparison of data nationally. The register should be made available to view on the Council's website by the 31 December 2017.

3.8.2 The Council has received a New Burdens grant payment from the Government to fulfil the legislative requirements: this is £14,645 for 2016 / 17. Further grant payments will be received for the next three financial years, the next payment is expected in the second half of this financial year. Future payments will be based on a review of how the current funding has been spent.

4. CONCLUSION

4.1 This report provides Members with an update on progress with the Brownfield Land Register, and the likely content of Part 1.

5. IMPACT ON CORPORATE GOALS

5.1 The preparation and publication of a Brownfield Land Register support corporate goals which underpin the Council's vision for the District, in particular meeting the housing needs of the District and delivering sustainable development in line with the Local Development Plan.

6. IMPLICATIONS

(i) **Impact on Customers** – Housing is a key requirement of customers within the District. As a local housing authority the Council has a duty to provide housing for residents. The Brownfield Land Register should help to increase the number of planning permissions for new homes consented within the constraints of the Local Development Plan.

(ii) **Impact on Equalities** – The Brownfield Land Register will help to provide sustainable communities which help to provide for the future housing needs of the local community. New regulations and policy documents prepared by the government are subject to equality analysis.

(iii) **Impact on Risk** – A Brownfield Land Register is required in accordance with the Town and Country Planning (Brownfield Land) Regulations 2017 in order to help increase the number of planning permissions for new homes, make good use of previously developed land and ensure the Council has a five year supply of deliverable land for housing. The Brownfield Land Register can reduce risk in the development management process by granting Permission in Principle for housing on suitable brownfield sites.

(iv) **Impact on Resources (financial)** – The preparation of the Brownfield Land Register will have financial resource implications for the Council. However, the Government has issued an initial New Burdens grant payment of £14,645 (for 2016 / 17) to fulfil the legislative requirements, with further payments (unknown at this stage) to be issued for the next three financial years. This will be needed to support actions required to ensure that the timescales prescribed by the Regulations are met without impacting on existing Council resources.

(v) **Impact on Resources (human)** – The preparation and delivery of a Brownfield Land Register will have additional human resource implications to ensure that the timescales and requirements prescribed by the Regulations identified in this report are met.

(vi) **Impact on the Environment** – Publication of the Brownfield Land Register will enable the Council to promote sustainable development and regeneration of brownfield sites in accordance with local priorities for the District.

Background Papers:
National Planning Practice Guidance, Brownfield Land Registers, July 2017
National Planning Practice Guidance, Permission in principle, July 2017
House of Commons, Town and Country Planning (Brownfield Land) Regulations 2017

Enquiries to: Karen Johnson, Principal Planning Policy Officer (Tel: 01621 876283).

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DRAFT Maldon District Brownfield Land Register: Part 1

Planning Application Reference Number	Site Address	Brownfield land (Ha)	Description	Comments
FUL/MAL/16/00431	171 - 173 Station Road Burnham-On-Crouch	0.06	Development comprising a total of **7 residential units** (3 no. one bed units, 4 no. two bed units) 1 retail unit, and associated vehicle access/parking and shared amenity space	Decision notice issued: 17 June 2016
FUL/MAL/12/01071	123 High Street Maldon	0.02	Mixed use scheme comprising of 1 single storey retail and **5 residential units.**	Granted on appeal. Planning permission implemented on 25 August 2017, following clearance of pre-commencement conditions
OUT/MAL/15/01261	The Old Engine Shed Station Road, Maldon	0.27	10 B1 office units and **20 No 2 bedroom apartments**	Decision notice issued: 16 February 2017.
FUL/MAL/16/00279	All Saints Church of England Primary School, London Road Maldon	0.24	Conversion of former All Saints CE Primary School to **8 residential units**	Granted on appeal 18 January 2017. Discharge of conditions underway.
FUL/MAL/11/01097	Sadds Wharf, Station Rd, Maldon	2.07	Mixed use development : **93 dwellings**, offices Classes A3/A4/A5 & D1	Planning permission started through delivery of the access road.

Local Development Plan (LDP) Allocation Reference	Site Address	Brownfield land (Ha)	Description	Comments
S2h Heybridge Swifts	Scraley Road, Maldon	0.30ha	Part of LDP housing allocation S2h Heybridge Swifts.	-

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REPORT of
CHIEF EXECUTIVE

to
PLANNING AND LICENSING COMMITTEE
16 NOVEMBER 2017

PLANNING FOR THE RIGHT HOMES IN THE RIGHT PLACES

1. PURPOSE OF THE REPORT

1.1 This report sets out proposals from the Government for proposed reforms to the planning system and in particular the way new homes are planned and distributed. This forms part of the follow up to the Housing White Paper 2017. The closing date for comments was 9 November 2017, and these were submitted before the deadline with the caveat that the comments would be reported to committee and further representations may be made.

2. RECOMMENDATIONS

(i) that the Committee's views are sought on the Planning for the Right Homes in the Right Places; and

(ii) that the draft response is revised to take into account views of the Committee, approved by Officers in Consultation with the Chairman of the Planning and Licensing Committee and submitted as the Council's formal response to the Consultations.

3. SUMMARY OF KEY ISSUES

3.1 **Background – The Housing White Paper**

3.1.1 In February 2017, the Government published the housing White Paper: Fixing our Broken Housing Market. A report on the White Paper was made to this Committee on 25 April 2017 (Minute No. 1229 refers).

3.1.2 The aim of the White Paper is to set out how the planning system delivered through national policy, local plans and applications can be strengthened to speed up delivery of homes, and the role of developers and how they can be held to account. It proposes a number of changes to the National Planning Policy Framework (NPPF), and the consultation focuses on those changes.

3.1.3 A range of issues was identified which the Government contends if addressed will help speed up the delivery of homes and challenge developers and local authorities to meet demands and ensure adequate supply.

3.1.4 In particular the Housing White Paper set out four main areas where action is needed, as set out in Paragraph 2 of the Introduction to the new proposals:

'a) planning for the right homes in the right places - to make sure that enough land is released, that the best possible use is made of that land, and that local communities have more control over where development goes and what it looks like;

b) building homes faster – where communities have planned for new homes, ensuring those plans are delivered to the timescales expected;

c) diversifying the market – to address the lack of innovation and competition in the home-building market; and

d) helping people now – tackling the impacts of the housing shortage on ordinary households and communities.'

3.1.5 The White Paper detailed certain proposals which would be subject to further consultation including:

'a) our proposed approach to a standard method for calculating local housing need, including transitional arrangements;

b) improving how authorities work together in planning to meet housing and other requirements across boundaries, through the preparation of a statement of common ground;

c) how the new approach to calculating housing need can help authorities plan for the needs of particular groups and support neighbourhood planning;

d) proposals for improving the use of section 106 agreements, by making the use of viability assessments simpler, quicker and more transparent; and

e) seeking further views on how we can build out homes more quickly.'

3.2 **The Consultation Proposals**

3.2.1 The Consultation on Planning for the Right Homes in the Right Places focusses on the issues outlined in paragraph 3.1.5 above. It examines:

- a proposed approach to calculating the local housing need;
- the use of Statement of Common Ground between Local Planning Authorities (LPA);
- planning for the right mix of housing;
- neighbourhood planning and its role in meeting need;
- a proposed approach to viability assessments; and
- planning fees, with a proposal to add another 20% onto fees for well performing LPAs.

3.2.2 Set out below are the key elements of the Consultation Paper with reference to the relevant question/s as set out in consultation document and a summary of Officers comments.

3.2.3 Proposed approach to calculating the local housing need (Questions 1 to 6)

3.2.3.1 In the Housing White Paper the Government contended that the lack of a standard approach to calculating local housing need and this leads to delay, additional costs (estimated at £50,000 per LPA) and disputes. Planning to meet local need is at the very heart of the local planning system, and if not robust can lead to local plans being found unsound and speculative development. The Government propose a standardised national approach which would be 'simple,' 'based on publicly available data,' and 'realistic.'

3.2.3.2 The proposed approach has three Steps:

Step 1 - Setting the baseline.
This should be undertaken using Office of National Statistics (ONS) projections for each LPA area, and based on 10-years average growth.

Step 2 – An adjustment to take account of market signals.
This is an adjustment by using a median affordability ratio to the baseline which takes account of migration and affordability. The Government have concluded that a 1% increase in the ratio of house prices to earnings above four is equal to a 1% increase in need above projected growth. Therefore, if the baseline was 100 dwellings per annum, but the average house prices were 12 times the local average earnings, the LPA would have to plan for 150 homes.

This approach is based on two key principles: that the maximum that can be typically borrowed is four times earnings and therefore, if there is a need to borrow more, building more homes will increase supply and affordability; and, where the affordability rate is high more homes need to be built.

Step 3 – Capping the level of increase
The Government propose to cap the level of increases in new homes. For LPAs with a Local Plan in place in the last five years (including Maldon) the cap should be 40% above the existing planning level. For Maldon this would be 280 pa + 40% or a total of 392 per annum (pa). For those without an up to date local plan the figure would be either 40% above the ONS assessment or the annual housing requirement assessment undertaken by the LPA whichever is the higher. Neither means that the Government will impose a maximum increase of 40%.

3.2.3.3 This methodology, the Government conclude, would increase current need by 266,000 homes nationally.

3.2.3.4 To illustrate the impact on each LPA, the Government published their own assessment of need based on this methodology alongside the consultation document. For Essex authorities this concludes that the following changes in local housing need could apply:

LPA	ONS Based	LPA own assessment	Change	% change
Basildon	1,024	972 to 986	+52 to +38	+5.6 to +3.85
Braintree	835	716	+119	+16.6
Brentwood	454	362	+92	+25.4

LPA	ONS Based	LPA own assessment	Change	% change
Castle Point	342	326 to 410	+16 to -68	+4.9 to -16.6
Chelmsford	980	805	+175	+21.7
Colchester	1,095	920	+175	+19.0
Epping Forest	923	514	+409	+79.6
Harlow	466	268	+198	+73.9
MALDON	**302**	**280**	**+22**	**+7.9**
Rochford	362	331	+31	+9.4
Southend	1,114	1,072	+42	+3.9
Tendring	749	550	+199	+36.2
Thurrock	1,158	1,381	-221	-16.1
Uttlesford	740	606	+134	+22.1
Source: Housing Need Consultation Data Table, Department for Communities and Local Government (DCLG) 2017				

3.2.3.5 The table above shows that Maldon's Objectively Assessed Need (OAN) would increase by 22 dwellings per annum or 7.9% over and above the OAN in the Maldon district Local Development Plan (LDP). However, Policy S2 of the LDP proposes a rate of 310 dwellings per annum, which is more than the DCLG's assessment. In addition, with outstanding planning consents, the Plan records a total supply of 5,108 dwellings during the plan period which is a rate of 340 dwellings per annum, comfortably above the DCLG assessment.

3.2.3.6 The table does illustrate the wide variations between authorities in Essex with all but Thurrock and potentially Castle Point showing an increase. However, these numbers are illustrative and as set out in paragraph 28 of the consultation document *'where there is a policy to substantially increase economic growth, local planning authorities may wish to plan for a higher level of growth than our formula proposes.'*

3.2.3.7 Where joint working between authorities is proposed, for example a share Strategic Housing Market Area (SHMA), the Government propose that the total need to an aggregate of each of the individual areas assessment, but it would be for the relevant authorities to decide how the growth is distribute within the joint area. This currently does not apply to Maldon, which is its own HSMA area.

3.2.3.8 The Government also propose that the assessment of local need is valid for two years from the date of any submitted local plan. This is to ensure that there is validity to the figures during examination should there be a change in the base data. It not clear that the Government are imposing a requirement on local plan Inspectors to not allow discussion on the figures if the base data changes. This should be clarified.

3.2.3.9 The Government also propose (in paragraph 46) that where a 'plan is based on an assessment of local housing need in excess of that which the standard method would provide, Planning Inspectors are advised to work on the assumption that the approach is sound unless there are compelling reasons that indicate otherwise'. To support this, the Government will use the Housing Infrastructure Fund (HIF).

3.2.3.10 The proposal is that the new approach should act as a baseline for calculating five year housing land supply (5YHLS). In the case of Maldon, the Council already basis its 5YHLS on the 310 dwellings per annum target in Policy S2 of the LDP.

3.2.3.11 The transitional arrangements proposed in the paper, indicate that in the case of Maldon, because the Council has an up to date plan in place the new arrangements will come into effect when the plan is reviewed.

3.2.3.12 Officers comments:

Whilst the proposal for a standardised approach to assessing local need is clear and welcomed, the use of standardised data effectively results in a baseline assessment which the LPA has no control over. The proposed approach, therefore, relies on how local conditions are taken into account, whether they are planning constraints or market conditions. In paragraph 44 the Government do state that 'there may be compelling circumstances not to adopt the proposed approach. These will need to be properly justified, and will be subject to examination'. Where a methodology results in a lower need than the proposed approach, this 'will be rigorously tested by the Planning Inspector through examination' (paragraph 47).

Where an LPA is part of a joint SHMA area, agreement can be reached to distribute housing within that area to take account of constraints and/or market conditions. The Maldon's case, which has its own SHMA, the duty to cooperate process will need to be used to distribute growth that cannot be accommodated locally.

The Government's proposal to use work based earnings as the basis for any assessment is applied to affordable housing policy would have a negative impact for Maldon. In the District work based earnings are higher in Maldon than resident earnings, and therefore, a shift to work based earnings would reduce requirements for affordable homes, when in fact, the level of need based on resident earnings would be higher.

3.2.4 Statement of Common Ground (Questions 7 to 9)

3.2.4.1 The Government contend that the current duty to cooperate arrangements is not working effectively. Duty to cooperate (DTC) was introduced in the Localism Act 2011 and requires bodies to '*engage constructively, actively and on an ongoing basis to maximise the effectiveness of planning preparation in the context of strategic cross-boundary matters*'. Compliance with the DTC requirements I tested through examination.

3.2.4.2 The Government believes that the current approach has three problems:

- Lack of transparency or certainty at earliest stages in plan preparation;
- Cooperation is only tested at a late stage in the plan preparation process; and
- The duty is to cooperate, but not necessarily agree.

3.2.4.3 The Government propose that all LPAs should produce a Statement of Common Ground, which would have the objectives of:

- Increase certainty and transparency
- Encourage cooperation
- Create certainty in how cooperation should be approached and documented.

3.2.4.4 The Government propose that every LPA prepare a Statement of Common Ground. It should be for each LPA to determine what issues it covers. The statement should record where agreement has or has not been reached. There may be more than one statement of common ground and not all relevant authorities will need to sign each statement.

3.2.4.5 The Government proposes that Statements should be in place within 12 months of the publication of the revised NPPF. This will apply to all LPAs regardless of whether they have a local plan in pace or not.

3.2.4.6 The Government does offer guidance on the contents of the Statements including;

- Within six months after the revised NPPF, the geographical area covered; key strategic issues being addressed; list of authorities; and governance arrangements; and
- Within 12 months process for agreeing the distribution of housing need and agreed distributions; record of whether agreements have been reached; and any other strategic cross-boundary issues.

3.2.4.7 To ensure that the new approach is happening, the test of soundness will be amended to include the requirement that plans should be prepared based on strategy informed by the wider area, and based on effective joint working on cross-boundary priorities.

3.2.4.8 Officers, comments:

These new changes mean that Maldon Council will need to maintain ongoing dialogue and involvements with other LPAs and public bodies and identify priority issues that these discussions should focus on. It will be required to publish a statement of common ground within the next 18 months or so.

3.2.5 Planning for a mix of housing needs (Question 10)

3.2.5.1 The Government is keen to ensure that the right mix of housing is delivered including for older and disabled people; families with children; affordable housing; custom and self-build; student accommodation; traveller who cease to travel; and private sector rented and build to rent. The Government is proposing that LPAs should *'disaggregate this total need into the overall need of each type of housing as part of the plan making process, before taking into account constraints or other issues which may prevent them from meeting their overall housing need.'* (paragraph 90).

3.2.5.2 The Government is also seeking views on whether the definition of older people set out in the NPPF is fit for purpose given the changing nature and range of housing available and choice. The Government feel that the definition below is still fir-for-purpose. The current definition is:

'People over retirement age, including the active, newly-retired through to the very frail elderly, whose housing needs can encompass accessible, adaptable general needs housing for those looking to downsize from family housing and the full range of retirement and specialised housing for those with support and care. (page 54 NPPF)'

3.2.5.3 Officer's comments:

The proposal suggest that before any consideration should be given to constraints within an area and how those constraints would impact the overall number of homes, consideration should be first given to how different types of mix could be achieved. The Council will need to ensure in future plans that mix of housing is addressed as well as achieving the overall assessed needs.

The current definition of older people encapsulates the intended function of the policy to differentiate between the needs of the elderly and the wider population.

3.2.6 Neighbourhood Planning (Question 11)

3.2.6.1 Although introduced in the Localism Act in 2011 and subject to a number of legislative changes since, the Government contends that there are a number of problems for groups wanting to prepare neighbourhood plans Paragraph 95):

- *'where there is an up-to-date local plan, some neighbourhood planning groups may not have been provided with a housing figure in the local plan as a starting point for developing their neighbourhood plan;*
- *where there is no up-to-date local plan, neighbourhood planning groups may need to employ external consultants to estimate housing need for designated neighbourhood plan areas. This can be costly for voluntary neighbourhood forums, and can discourage some communities from neighbourhood planning; and*
- *the housing need figure for the neighbourhood planning area can change during their plan's preparation, for example as the local planning authority prepares and adopts its own plan. This is out of the control of neighbourhood planning groups, and frustrates local communities.'*

3.2.6.2 The Government propose to amend national policy so that LPAs are expected to provide neighbourhood planning groups with a housing need figure where needed to progress with plan making. To do this, the Government propose '*to make clear planning guidance that authorities may do this by making a reasoned judgement based on the settlement strategy and housing allocations in their plan, so long as the local plan provides a sufficiently up-to-date basis to do so*'. Where this happens the Government do not expect the resulting housing figure to be tested in the neighbourhood plan examination.

3.2.6.3 Where a local plan is out of date, the Government also propose a 'simple formula-based approach which apportions the overall housing figure for the relevant local authority area/s, based on the latest figures calculated under the new standard approach [outlined above], to the neighbourhood planning area'. This approach takes the population of the neighbourhood plan area as a percentage of the overall district population and the housing need for the area would be that percentage of the district overall need.

3.2.6.4 Officer's comments:

The implication of this approach is that a principal of neighbourhood plans – namely that there is local determinism of housing need – could be undermined, with a top

down approach using a national methodology and national data. However, the Government do stress in paragraph 100 of the consultation document that this approach provides a '*starting point*' and it will be for the neighbourhood planning groups to determine whether or not constraints prevent them from meeting that need.

3.2.7 Proposed approach to viability assessment (Questions 12 to 17)

3.2.7.1 The Government contends that viability assessments are complex and cause uncertainty and is seeking to introduce a simpler system.

3.2.7.2 The Government now propose that LPAs should set out in their plans the types and thresholds for affordable housing contributions; the infrastructure needed and expectations on how these will be funded and the contributions developers are expected to make. As far as Maldon is concerned, the LDP does clearly set out the affordable housing requirements and the infrastructure delivery plan sets out other requirements including the arrangements for funding. The forthcoming affordable housing Supplementary Planning Document (SPD) will add detail onto this.

3.2.7.3 However, the Government now propose that where the issue of viability has been tested through the local plan, it should not *'usually need to be tested again at the planning application stage.'* (paragraph 113).

3.2.7.4 Officer's comments:

The inclusion of the word usually in the Government's proposal opens the question up for consideration at the planning application stage. The Government should be clear what circumstances would require a re-examination of viability – for instance significant changes in market conditions which may render a scheme unviable.

The Government propose to introduce means by which viability assessments are made more transparent, simpler and easily understood is to be welcomed.

Likewise the Government propose that each LPA maintain a record and monitor all section 106 agreements, including how money collected is spent. This Council already has in place a monitoring system and six monthly reports are provided to this Committee and the Overview and Scrutiny Committee.

3.2.8 Planning fees (Question 18)

3.2.8.1 Earlier in 2017 the Government increased planning fees by 20% for those LPAs which committed to reinvest the increase in their planning services. The Government are now proposing a further 25% increase for those LPAs which are delivering homes their communities need. This is in recognition of the resource required by a LPA to support specialist skills or incurring additional costs.

3.2.8.2 Officer's comments:

This is to be welcomed. However, the Government should recognise that in order to achieve targets which meet need, there is a lead in time, during which the resources are considerable, often expanded, and during a period where there is no guarantee that

the targets can be met. Preference would be for an additional 20% increase where an up to date local plan is in place which demonstrates how the need can be met.

3.2.9 Other issues (Question 19)

3.2.9.1 The consultation also seeks views on other matters: including whether the range of measures set out in the Housing White Paper (including HIF, talking delays by the inappropriate use of conditions; addressing skill shortages; and holding LPAs to account through the housing delivery test (amongst others) could increase build out rates.

3.2.9.2 Officer's comments:

Whilst the interventions are generally welcomed it remains the case that a large portion of the focus of the Housing white Paper is the role and accountability of the local planning authority. The delivery of homes, including speeding up the process, remains the function of the LPA in partnership with developers and the accountability of developers should also be part of the Government's focus. Even where a LPA has an up to date local plan and can demonstrate a five year supply of housing land, delivery is primarily down to developers and there are major different forces at play which are outside the control of the LPA which affect delivery.

3.2.9.3 The Government intends to set out new policy on prematurity in the revised NPPF. This will provide that where plans are at an advanced stage '*being undermined by proposals that are allowed before the plan can be finalised. This would help provide stability and certainty in situations where confidence in the plan-making process might otherwise be weakened.*'

3.2.9.4 Officer's comments:

Whilst a policy on prematurity is welcomed where it strengthens a Council's ability to refuse permission, where properly applied this must be supported by the Planning Inspectorate in the consideration of appeals.

3.2.10 Next Steps

3.2.10.1 In addition the Consultation Document and the assessment of local need, the Government has also stated the intention as set out in the Housing White Paper that the Land Registry intends to publish a register of the ownership of all publicly held land by 2025. In those areas which the Government believe are of the greatest need, the Government is seeking to complete this task by 2020 and has published a schedule alongside the consultation document. Maldon is included on that schedule (as set out in Comprehensive Registration Programme: Priority Areas for Land Registration).

3.2.10.2 The Government propose that this new approach is set out in revision to the NPPF, due to be published in early 2018.

4. CONCLUSION

4.1 The Government's proposals are designed to provide greater certainty to the planning system and support LPAs in the preparation of plans. However, in some respects, particularly LPAs allocated housing targets to specific neighbourhood plan areas is contrary to the bottom up approach previously advocated.

4.2 The proposals will be considered as part of a review of the NPPF. When this is published in draft, the Council will need to consider its response, but also how the changes will affect the LDP and decision making. However, some of the proposals are issues which the Council has already dealt with in the LDP.

5. IMPACT ON CORPORATE GOALS

5.1 The preparation and adoption of the LDP, including supporting evidence and other supplementary planning documents, support corporate goals which underpin the Council's vision for the District and in particular protecting and shaping the District and balancing the future needs of the community and meeting the housing needs of the District.

6. IMPLICATIONS

(i) **Impact on Customers** – Planning policy provides a framework which adds certainty to the type and appropriateness of development across the district. Local policy that accords with national policy strengthens the Council's ability to win appeals against speculative and in appropriate development.

(ii) **Impact on Equalities** –Planning policy documents, including new regulations and policy documents prepared by the Government, are subject to equality analysis.

(iii) **Impact on Risk** – Up to date planning policy and a five year supply of housing land is required in accordance with the National Planning Policy Framework in order to enable the Council to strategically plan for future needs, growth and sustainable development. The implementation of new legislation will need to be taken after consideration of the risks for the Council and stakeholders.

(iv) **Impact on Resources (financial and human)** –Any significant change in policy direction would be likely to require additional work or alterations to the evidence base which may have significant financial and human resource implications for the Council.

(v) **Impact on the Environment** – Up to date planning policy and a five year supply of housing land will enable the Council to promote sustainable development and safeguard the local environment in accordance with the local priorities for the District.

Background Papers:
Planning for the Right Homes in the Right Places – DCLG 2017
https://www.gov.uk/government/consultations/planning-for-the-right-homes-in-the-right-places-consultation-proposals

Includes access to the Housing Need Consultation Data Table and Comprehensive registration programme: priority areas for land registration

Housing White Paper https://www.gov.uk/government/collections/housing-white-paper

National Planning Policy Framework https://www.gov.uk/government/publications/national-planning-policy-framework--3

Enquiries to: Ian Butt, Planning Policy Manager, (Tel: 01621 876203).

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REPORT of
CHIEF EXECUTIVE

to
PLANNING AND LICENSING COMMITTEE
16 NOVEMBER 2017

DRAFT MALDON DISTRICT RENEWABLE AND LOW CARBON TECHNOLOGIES SUPPLEMENTARY PLANNING DOCUMENT AND PROPOSED PUBLIC CONSULTATION

1. PURPOSE OF THE REPORT

1.1 To seek the Committee's approval for the Draft Maldon District Renewable and Low Carbon Technologies Supplementary Planning Document (SPD) (**APPENDIX A)** to go out to public consultation.

2. RECOMMENDATION

That the draft Maldon District Renewable and Low Carbon Technologies Supplementary Planning Document (SPD) be approved for public consultation.

3. SUMMARY OF KEY ISSUES

3.1 The Approved Local Development Plan 2014-2029 (LDP) will guide the development and use of land in the District. The draft SPD has been prepared to provide additional detailed guidance on several LDP policies:

- D2: Climate Change and Environmental Impact of New Development: seeks to ensure new development is sustainable, maximises the use of sustainable construction techniques and materials and seeks to prevent and mitigate against adverse environmental impacts and climate change, irrespective of the size of development;
- D4: Renewable and Low Carbon Energy Generation: seeks to encourage the use of low carbon technologies and renewable energy projects, protect the natural and built environment, and amenity of residents, individually and cumulatively in an acceptable manner; and
- Policy S1: identifies the principles of sustainable development, which provides the overarching theme to this draft SPD.

3.2 Once adopted by the Council, the Renewable and Low Carbon Technologies Supplementary Planning Document will become a material consideration in making decisions on planning applications.

3.3 The SPD will also elaborate on relevant national policy as well as other relevant local guidance including the 'made' Burnham-on-Crouch Neighbourhood Plan and the Maldon District Design Guide.

3.4 The draft SPD provides a range of technical guidance for residents, community groups, developers are others with an interest in development in the District. Three key elements are:

3.4.1 Sustainable Building Standards

3.4.1.1 Policy D2 requires that all non-residential development should achieve a minimum of Building Research Establishment Environmental Assessment Method (BREEAM) 'Very Good' rating or be supported by a bespoke assessment that demonstrates appropriate environmental performance results above current Building Regulation requirements. The SPD provides further guidance relating to the BREEAM process, the assessments that will be required and the types of design issues that developers should consider in order to achieve the 'Very Good' rating.

3.4.1.2 Building Regulations are used to address the environmental performance of residential development. However, the SPD provides useful information for those developers intending to go above Building Regulations requirements: The SPD focuses on BREEAM, Passivhaus and WELL Building Standards which are able to deliver homes that achieve a higher standard of space heating and cooling.

3.4.2 Implementing Renewable Energy and Low Carbon Technologies

3.4.2.1 The LDP does not identify any suitable locations for wind turbines because there is little opportunity available for further large-scale wind farm schemes within the District. This means that the focus of the SPD is to encourage the uptake of domestic and small-scale technology schemes through individual and community-led development. However, should a larger scale proposal come forward for example, for a solar farm, this SPD would provide the guidance which developers would be expected to consider as part of the application process.

3.4.2.2 The SPD provides technical guidance for a wide range of technologies: small-scale wind power; solar photovoltaics; solar thermal; biomass and energy crops; small hydro; combined heat and power, and ground and air source heating and cooling. These technologies are those most likely to be suitable within the District.

3.4.2.3 Policy D4 sets out the key issues that must be considered, individually or cumulatively when proposing a renewable energy or low carbon technology scheme. The SPD uses these as the basis for a range of technical guidance, and include for each of these technologies: the availability of each resource, potential visual and landscape issues, environmental and green infrastructure considerations, potential cultural and heritage impacts, aviation and operational issues and decommissioning and site restoration requirements. The availability of this guidance will help safeguard the character and appearance of the District and will help ensure applicants make an informed choice about the technologies available, their efficiencies and cost effectiveness and their suitability to address different needs. For example, a business in a built-up area may benefit from using a particular type of technology, whereas a resident in the countryside may have different requirements and needs. In both cases

different limitations may exist which the SPD helps highlight. The technical guidance is also to be used as a tool for decision makers when assessing the suitability of proposals.

3.4.3 Community Ownership Schemes

3.4.3.1 The NPPF (2012) states that Local Planning Authorities should recognise the responsibility on all communities to contribute to energy generation from renewable and low carbon sources, and support community-led initiatives for renewable and low carbon energy sources. Policy D4 identifies the importance of community-led planning in renewable and low carbon technology developments, as it provides local communities with the opportunity to benefit from development schemes in a way that suits their specific needs. Community-led planning can tackle challenging barriers around energy developments including adverse social, economic and environmental impacts. Local knowledge and common goals can often bring communities together with aspirations to deliver a more sustainable community whilst tackling issues such as fuel poverty amongst vulnerable people. The SPD provides useful information in regard to Community ownership: community projects and initiatives for, reducing energy consumption, managing energy more efficiently, generating energy and securing energy through purchasing. The SPD also identifies the routes to implementing such schemes into the community.

3.4.3.2 The main users of the Renewable and Low Carbon Technologies Supplementary Planning Document will be:

- Applicants and developers when preparing their development schemes;
- Planning officers to assess the suitability of development proposals when determining applications and offering pre-application advice; and
- Members when assessing development proposals.

3.4.3.3 The draft SPD has been distributed to the relevant Council departments and has incorporated the views and expertise of Maldon District Council (MDC) Officers to ensure a coordinated and collaborative approach to its production. All comments and opinions have been incorporated into the document, making it a more rounded and concise planning tool, specific to the issues and priorities of the Maldon District.

3.4.3.4 A Strategic Environmental Assessment (SEA) Screening report has been produced and submitted for consultation to the statutory bodies; Historic England; Natural England; and the Environmental Agency. Their conclusion is that a full SEA is not required for the SPD. All comments and recommendations contained within their screening statements have been noted and the document amended accordingly.

3.4.4 Stakeholder and public consultation

3.4.4.1 This document will be available for consultation for six weeks starting in January 2018 from the week commencing the 8 January 2018, following approval by this Committee. The consultations will involve all relevant stakeholders and statutory consultees by web-based consultation. The SPD and associated documents will be available at the Council offices and libraries within the District during the consultation period. Responses can be submitted via the Council's website, by email or by post.

3.4.4.2 Following the consultation all comments received will be considered and any changes made to the SPD where appropriate. The intention is to report the outcome of the consultation to this Committee in early Spring 2018, so that the Council will be able to adopt the SPD by Spring 2018.

4. CONCLUSION

4.1 The draft Maldon District Renewable and Low Carbon Technologies Supplementary Planning Document provides further detailed technical guidance to support LDP Policies S1, D2 and D4. It sets out the issues applicants will need to consider when considering proposals for renewable and low carbon technology development schemes in the District and for the use of sustainable building standards in residential and non-residential development. The document aims to protect and enhance the character and appearance of the District and promote sustainable, cost effective and efficient development that benefits the environment and the community as well. Stakeholder and public consultation, lasting six weeks, will ensure the Council's proposals are robust and credible, giving weight to the final SPD.

5. IMPACT ON CORPORATE GOALS

5.1 The draft Renewable and Low Carbon Technologies SPD will have a positive impact on the corporate goals of protecting and shaping the District.

6. IMPLICATIONS

(i) **Impact on Customers** – Planning applications for all renewable and low carbon technology development proposals will be determined in accordance with the Approved LDP. As a Supplementary Planning Document, the guidance should help to increase the number of consented renewable and low carbon technology schemes approved as suitable development.

(ii) **Impact on Equalities** – The SPD will inform suitable renewable and low carbon technology developments within the District and will help create sustainable communities. The impacts on equality, as reflected in the Equalities Impact Assessment, are largely positive or worst case, neutral.

(iii) **Impact on Risk** – The draft SPD has been prepared in accordance with the Approved Local Development Plan, lessening the risk of unsuitable and unsustainable developments within the District. It will provide greater certainty to the Council, developers and local residence of what is suitable development within the District.

(iv) **Impact on Resources (financial)** – The costs related to the public consultation will be met through the community engagement resource for the LDP.

(v) **Impact on the Environment** – The SPD encourages the uptake of renewable and low carbon technologies within the District in a sustainable manner. The document outlines the conditions that must be met for suitable development

schemes to be deployed within the District, to ensure that proposals minimise their impact on the environment and help reduce the impacts of climate change. A SEA Screening Report has been undertaken: this shows that the SPD is expected to generate no significant effects on the environment.

Background Papers:
Approved Maldon District Local Development Plan (2014-2029)
'Made' Burnham-on-Crouch Neighbourhood Plan
Maldon District Design Guide

Enquiries to: Sam Connolley, Planning Policy Officer, (Tel: 01621 876202).

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Supplementary Planning Document

Renewable and Low Carbon Technologies SPD

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MALDON DISTRICT COUNCIL

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October 2017

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1. Introduction

1.1.1 The Council has prepared this draft Supplementary Planning Document (SPD) to provide additional guidance to planning policies for renewable and low carbon technologies in the Approved Maldon District Local Development Plan (2014-2029) (LDP). The Council will seek to manage renewable and low carbon technology developments and seek to reduce carbon emissions in new developments in accordance with Policies D2 and D4. This document is not providing new policies, but offering additional guidance to the current policies of the LDP.

1.1.2 This SPD is intended to provide information to a number of users within the District including developers, voluntary organisations, businesses, residents, community groups and public sector bodies.

1.1.3 This SPD offers technical guidance to help applicants by providing advice on matters needing to be addressed in order for renewable and low carbon technology applications to be submitted successfully. The technical guidance is to be used also as a tool for decision makers when assessing the suitability of proposals.

1.2 Purpose of Supplementary Planning Documents (SPD)

1.2.1 The primary function of a SPD is to add further detail to specific policies contained within statutory planning policy documents, such as the Local Development Plan and national planning guidance. A SPD may cover a particular topic or theme, or it can be specific to certain places or developments.

1.2.2 A SPD should only be necessary where their production can help to bring forward sustainable development at an accelerated rate. They must not be used to add financial burdens on development. This SPD provides further guidance on how to deliver renewable energy and low carbon projects efficiently in a cost effective way.

1.2.3 Once the SPD has been adopted by the Council, its contents become a material consideration when making decisions on planning applications.

1.2.4 The role given to the Renewable and Low Carbon Technologies SPD will be that of technical guidance for planning applications to provide direction and clarity on delivering projects in accordance with Policies D2 and D4.

Consultation

1.2.5 The Town and Country Planning (Local Planning) (England) Regulations 2012 state that the Council must consult stakeholders and the community before they can adopt a SPD.

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1.2.6 This document will be subject to a 4 week consultation, however is not subject to an independent examination. Therefore although SPDs carry material weight in making planning decisions, they carry less weight than Development Planning Document's (DPD), which are subject to independent examination.

The consultation for this SPD will run from:

1.2.7 There are a variety of ways to respond to the consultation:

- Online by visiting:
- By filling out and returning a response form available from:
- By emailing a response form to: policy@maldon.gov.uk
- By posting a response form to: Renewables SPD Consultation, Planning Policy, Maldon District Council, Princes Road, Maldon, Essex, CM9 5DL.

1.2.8 The final version of this document will be amended prior to adoption to reflect some or all of the following:

- comments received during the consultation period for this SPD;
- any changes to government policy via the NPPF and PPG.

1.2.9 This document will then be taken before Full Council in Spring 2018 to seek approval for adoption.

1.2.10 A Sustainability Appraisal and Habitats Regulation Assessment have been completed and consulted on for the Approved Maldon District LDP. These documents are available to view at www.maldon.gov.uk/LDP. As the SPD supports the policies of the Approved LDP, there is no further need to undertake a separate Sustainability Appraisal or Habitats Regulations Assessment for the SPD. The Strategic Environmental Assessment Screening report and the response from Natural England, Historic England and the Environment Agency confirms this.

1.2.11 An Equalities Impact Assessment has been carried out for the SPD and is available at https://www.maldon.gov.uk/site/.

Monitoring and Review

1.2.12 Once adopted the SPD will be an important planning document having weight when planning applications are assessed. Therefore it is important that adequate processes and review mechanisms are in place to monitor the success of this SPD and determine whether updates are necessary.

1.2.13 The monitoring process is a continuing function that aims primarily to provide stakeholders with up-to-date information on an annual basis: this will be set out in the Council's Authority Monitoring Report and as required for the completion of other statistical returns. Indicators identified in the LDP for

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Policies D2 and D4 will be the primary benchmarks used for monitoring the success of this SPD. Other indicators and information may be introduced to help the Council monitor the progress of renewable energy projects in the District and the number of developments that meet the identified standards set out in the SPD.

1.2.14 The Planning Policy team will implement this procedure. A review process of the SPD will be considered if:

- There is a significant change in national planning policy;
- There are significant changes to the LDP's evidence base that indicate the LDP is unable to deliver its objectives in relation to renewable energy;
- The SPD is not effective in delivering suitable renewable energy developments.

1.3 Scope and Objectives of SPD

Scope

1.3.1 The guidance provided in this Maldon District Renewable and Low Carbon Technology SPD focuses on those technologies that create opportunity and prosperity within the District without creating any adverse impacts to the natural environment, society or the economy.

1.3.2 This document will outline the conditions that must exist for those technologies to be appropriately situated within the District. Policy S1 of the Approved LDP identifies the principles of sustainable development, which are central to the LDP and provides the overarching theme for this SPD. Policies D2 and D4 of the LDP identify the relevant requirements for any renewable energy and low carbon technology projects as well as establishing the conditions for achieving sustainable design within new development. Therefore in order for renewable energy development to be granted planning permission, ensuring that each project is suitable for that location is essential. Further details are provided in Sections 3 and 5.

1.3.3 Further detail on the appropriate Policies of the Approved LDP are outlined in section 2: Policy Framework, where the synergies that exist between local policy and the National Planning Policy Framework (NPPF) are also identified to ensure that this SPD is in conformity with the NPPF, thereby promoting consistency across planning policy documents.

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Objectives

1.3.4 The objectives of the SPD are:

- To offer clear and concise guidance on ways to interpret Policies D2 and D4 of the Approved LDP, paving the way for efficient and sustainable implementation of all developments within the District.
- To assist the understanding of building regulations and techniques available to improve sustainability performance of buildings through their design, construction and subsequent use.
- To provide information and guidance on Permitted Development rights and the process that would be applied to a development where a planning application is required.
- To identify the opportunities and challenges, including the cumulative impacts, that renewable energy and low carbon technologies pose, both as a single entity and through community project initiatives.

Content

1.3.5 **Chapter 2:** summarises the national and local planning policy context, including an overview of the relevant LDP policies. This chapter will also provide an overview of renewable and low carbon technologies currently deployed with the Maldon District.

1.3.6 **Chapter 3**: directly concerns the planning considerations relating to sustainable building regulations, how non-residential development can achieve the required Building Research Establishment Environmental Assessment Method (BREEAM) standards, the benefits to achieving the voluntary WELL Building Standards and Passivhaus Standards for residential development, as well as to additional guidance contained within the Maldon District Design Guide. Sustainable building standards, will be analysed for resource efficiency as a way of identifying the most efficient and effective techniques for building sustainable homes within the Maldon District.

1.3.7 **Chapter 4:** will focus on the implementation of renewable and low carbon technologies into new developments, as well as the procedures and regulations surrounding retro-fitting technologies into existing buildings.

1.3.8 **Chapter 5**: provides planning and technical guidance relating to renewable and low carbon technologies that are considered appropriate within the Maldon District. The technical guidance reflects the unique opportunities and challenges for the deployment of renewable and low carbon technologies that exist in the District and it will consider the District's features and characteristics and will also include the potential impacts that may arise at different stages, for example at deployment or in-design stage. Information regarding community ownership initiatives and national incentive schemes will also be available to view within this section.

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1.4 Context and Content of the SPD

Context

1.4.1 Renewable and Low Carbon Technologies have the ability to reduce the levels of greenhouse gases that are present in the atmosphere. These technologies also have the potential to overcome the dangers that climate change poses on our planet. The Intergovernmental Panel on Climate Change (IPCC)[1] recognises that 'these technologies not only have the potential to mitigate climate change but can help improve energy security, reduce negative impacts on the environment and health and contribute to social and economic development'.

1.4.2 The Government has pledged that the United Kingdom will reduce its level of emissions to contribute towards limiting global warming to below 2 Degrees Celsius, in light of the most recent Climate Change Summit, COP21. It will be the responsibility of Local Planning Authorities to help achieve these objectives through planning policies and guidance.

1.4.3 Policy D4 of the LDP identifies that renewable and low carbon energy projects have the potential to reduce greenhouse gases. But, the LDP also recognises that it is essential that the benefit of optimising renewable and low carbon technologies should be balanced with the need to protect the local and natural environments that surround our communities, and the amenity of local residents.

1.4.5 The natural biodiversity and geodiversity sites that are featured within the Maldon District include internationally, national and locally protected Ramsar sites, Special Areas of Conservation and Special Protection Areas as well as SSSI's, National Nature Reserves and Marine Conservation Zones. Interspersed within this landscape are numerous national and locally protected heritage assets including Scheduled Monuments, Listed Buildings, Registered Parks and Gardens and Conservation Areas. These pose one of many challenges for the deployment of renewable and low carbon technologies within the District.

1.4.6 The District's sensitive landscape is encapsulated by the two estuaries and the associated extensive flat and gently undulating alluvial plain, to which their presence and distribution are strongly characterised by geology and landform. In a local context, there is an increasing awareness of the importance of the natural landscape and biodiversity which is under threat from development pressures and the impacts of climate change. It is imperative that these sites of local ecological significance are protected against development that would have detrimental impacts.

1.4.7 This SPD includes information on a range of technologies; however it will not contain guidance on offshore wind energy. Although part of the District

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boundary does cover the coastline, there is insufficient space for offshore wind energy developments to be allocated within the boundary. The principles set out in the SPD will however be used as guidance if Maldon District Council is consulted on offshore proposals.

1.4.8 Regarding large-scale onshore wind energy developments, the Secretary of State has advised that Local Planning Authorities must clearly allocate suitable areas for wind energy development in a Local or Neighbourhood Plan. The Approved LDP does not identify any suitable sites for wind turbines: therefore this SPD applies to domestic and small-scale projects and any proposals identified through Neighbourhood Plans.

1.4.9 What is defined as a domestic or small-scale wind energy development is outlined in Section 5: Implementing Renewable Energy into Current and New Developments.

1.5 Defining Renewable and Low Carbon Technologies

1.5.1 Low carbon technology, an umbrella term, covers a range of technologies and systems that aim to reduce and limit greenhouse gas emissions through a range of processes. The Committee on Climate Change[2] identify the following as low carbon technologies and systems:

- Renewable Energy Technologies
- Nuclear Power
- Electrification
- Sustainable Building Materials and Techniques

1.5.2 Low carbon technologies consist of different methods of low emissions energy generation, and can also help improve the efficiencies of development throughout its lifecycle, including the design and construction phases of housing development. Guided by national, compulsory and voluntary sustainable building regulations, low carbon technologies can be incorporated into schemes to make developments compliant or even exceed the required standards.

1.5.3 Renewable energy, simply, is energy from a source that is not depleted when used. According to the Carbon Trust, renewable energy refers to energy that occurs naturally and repeatedly in the environment. They produce sustainable and clean energy from sources such as the sun, waves, wind and geothermal heat from the ground. Renewable energy can also be produced from plant sources, such as wood or crops. Renewable energy, unlike fossil fuels, will never diminish. They emit zero greenhouse gas emissions during their harnessing phase, unlike other low carbon technologies such as Combined Heat and Power systems, which can only limit greenhouse gas emissions through various efficiency measures.

1.5.4 In combination, renewable and low carbon technologies can positively reduce dependence on non-renewable energy resources and additionally, support a national energy framework seeking to enhance its energy security by reducing dependence on energy imports.

2. Policy Framework

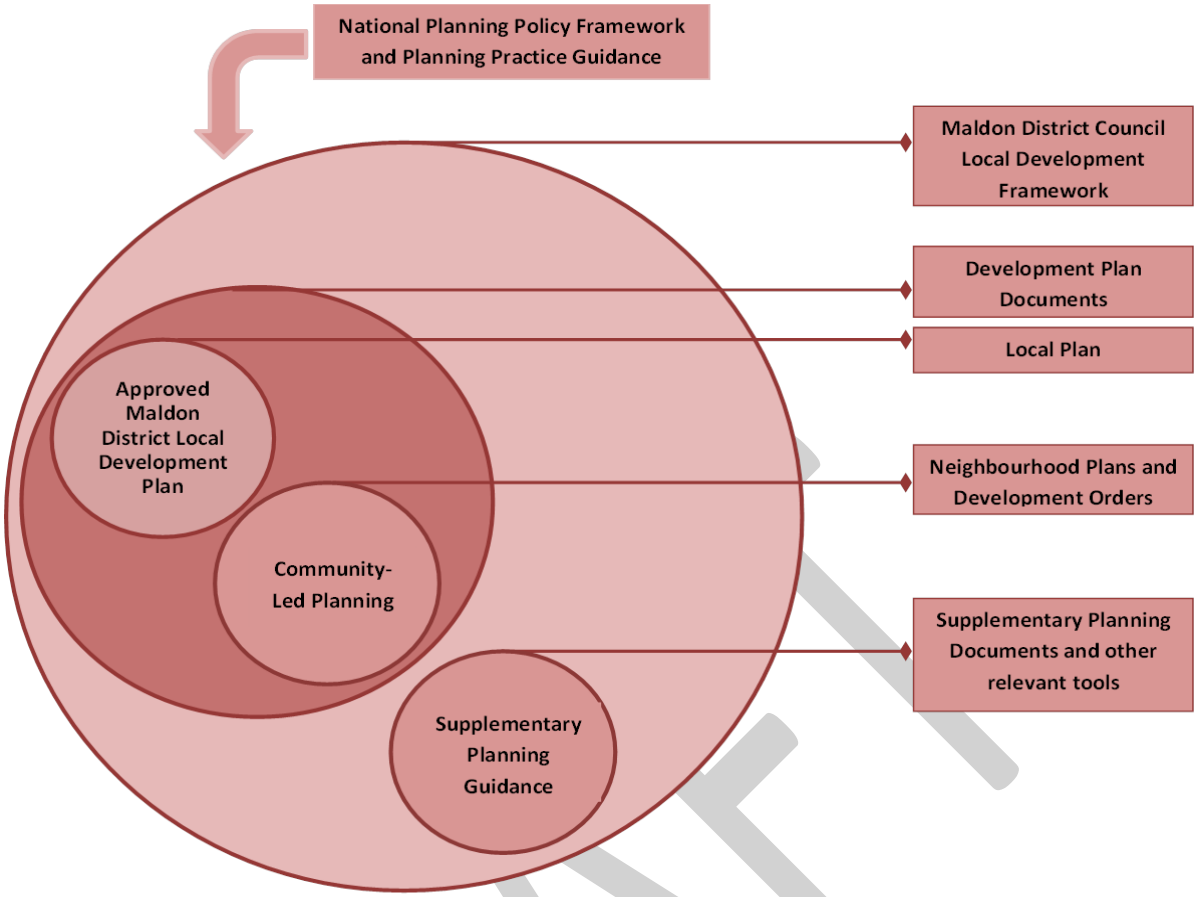
2.1 The Planning System and Policy Framework

2.1.1 The national planning system, directly concerning the District of Maldon and its Local Planning Authority, is orchestrated by the Department for Communities and Local Government. The National Planning Policy Framework (NPPF) is a fundamental tool in reducing the complexities associated with the planning system and in addition, allows the system as a whole to be more accessible. It provides a framework within which local communities and local authorities can plan and produce unique and distinctive local and neighbourhood plans, which reflect both the needs and priorities of their communities.

2.1.2 Written Ministerial Statements, which feed into the NPPF, enable Ministers to bring important matters to the attention of the House of Commons. Ministerial Statements can be issued to support or supplement existing policy guidance or to provide amendments and updates to current national policies set out by Government. The guidance provided in Ministerial Statements is channelled through sources shared with the NPPF and PPG.

2.1.3 Figure 2.1 illustrates the framework that encompasses Development Plan Documents and the Supplementary Planning Documents of Maldon District Council and the influence of the NPPF and PPG.

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2.1.4 The NPPF sets out the Government's planning policies for England and how these are then applied to the policies of Local Planning Authorities in Local Development Plans. Within the NPPF there are a number of guidelines concerning both sustainable building standards and renewable technology deployment.

2.1.5 In meeting the challenges of climate change, paragraph 95 of the NPPF (2012) sets out a number of proactive guidelines. To support the move to a low carbon future, local planning authorities should:

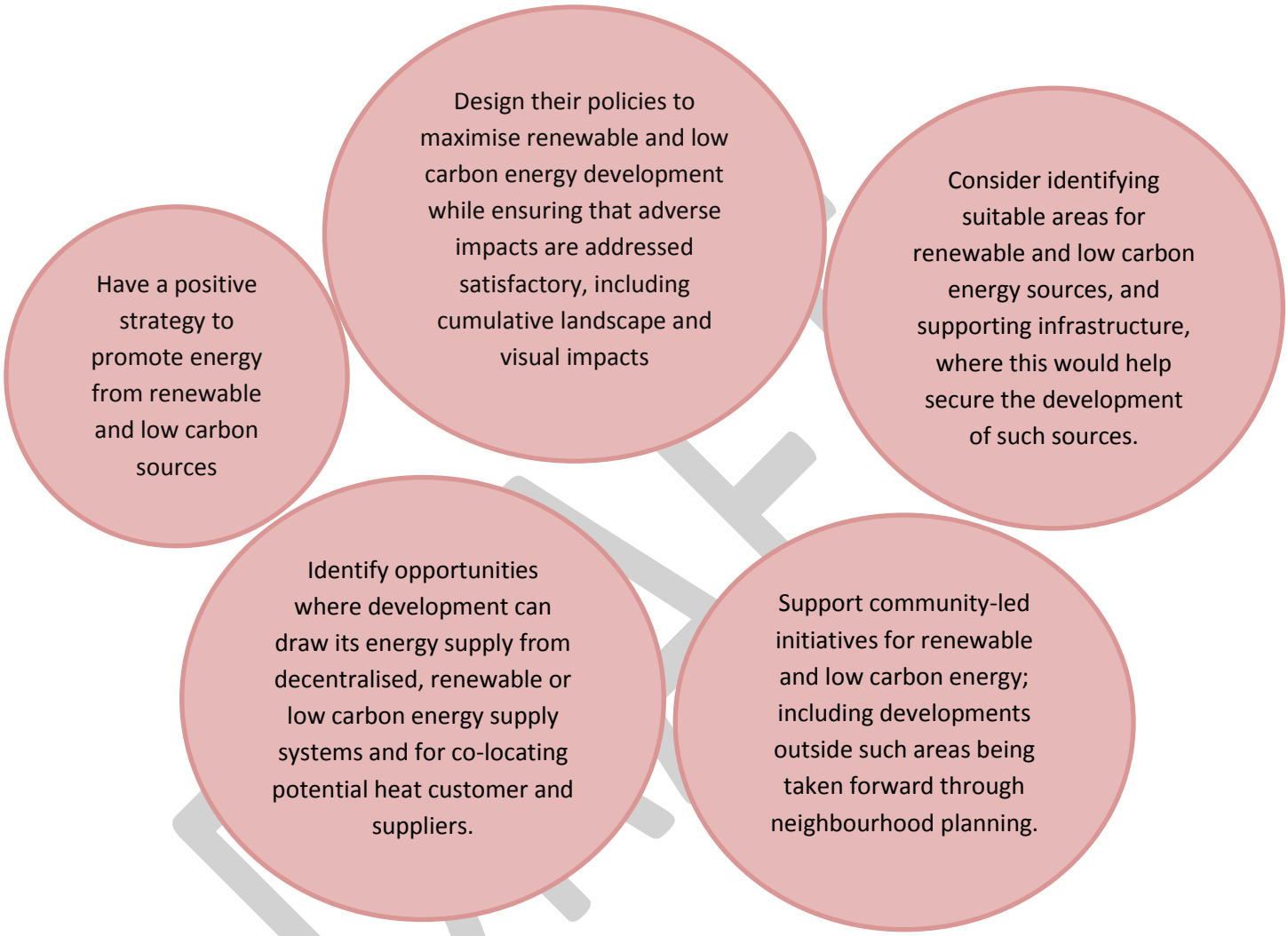
Plan for new developments in locations and ways which reduce greenhouse gas emissions.

Actively support energy efficiency improvements to existing buildings.

When setting any local requirement for a building's sustainability, do so in a way consistent with the Government's zero carbon buildings policy and adopting nationally described standards.

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2.1.6 To encourage the use and supply of renewable and low carbon technologies, paragraph 97 of the NPPF (2012) states that Local Planning Authorities should identify the responsibility of communities in contributing, through the use of renewable and low carbon energy systems, towards clean energy. In doing this, Local Planning Authorities should:



2.1.7 The NPPF (2012), paragraph 97, references the role and responsibility of communities by helping to increase the use and supply of clean energy as previously mentioned, however it must be emphasised that this does not mean the need for renewable and low carbon technologies overrides issues surrounding environmental protection nor other material planning considerations.

2.1.8 It is important that local communities and interested stakeholders are consulted and all planning concerns are addressed in a sufficient manner before the development is granted planning permission.

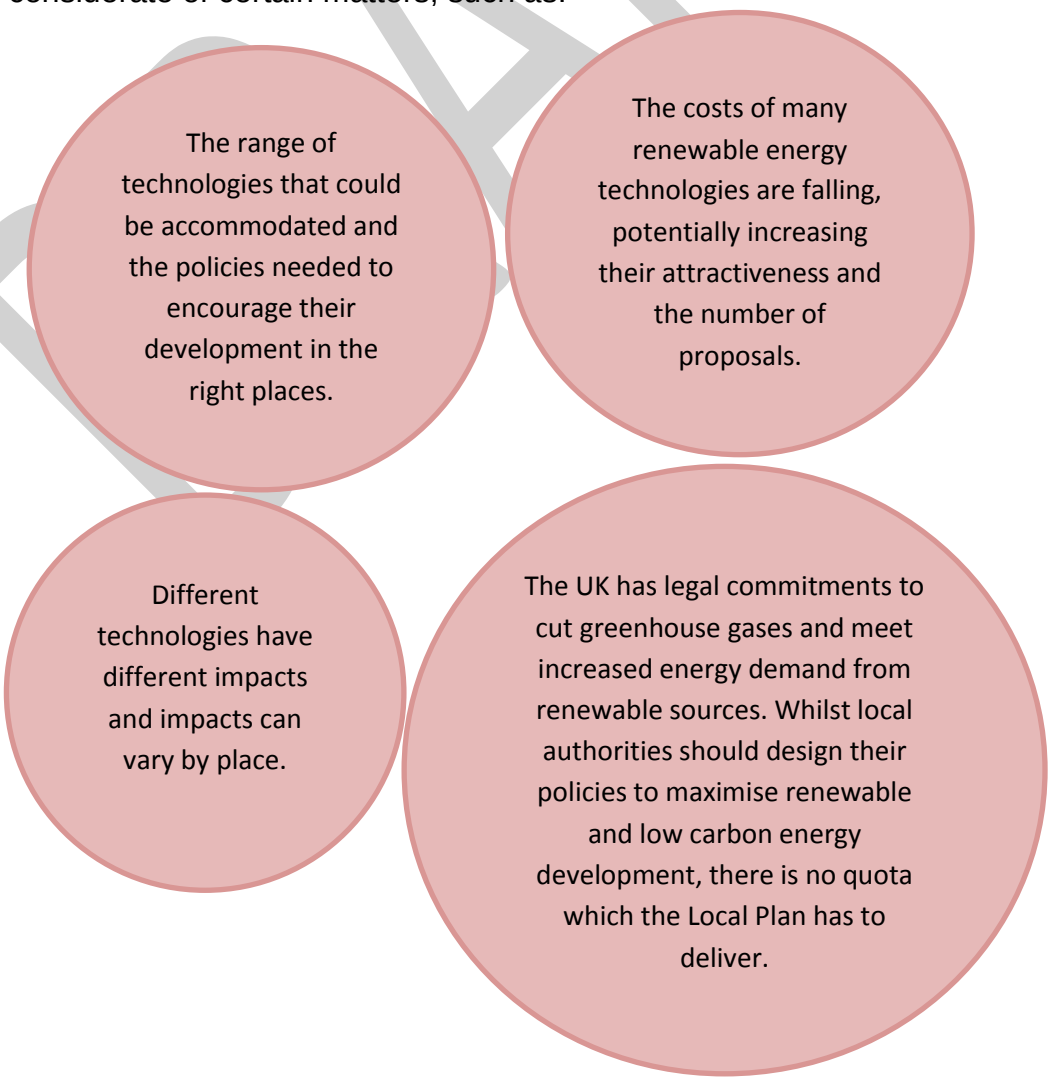
2.1.9 Local and Neighbourhood Plans provide a legitimate platform for the delivery of renewable and low carbon technologies with the engagement and support

of local communities. Through specific channels of communication such as public consultations, Local Planning Authorities are able to engage effectively and efficiently with stakeholders.

2.1.10 Neighbourhood planning enables communities to take direct control in regards to creating a shared vision for their neighbourhood, steering development and growth in a way that is endorsed by the entire community. Neighbourhood planning also provides the right set of tools for local people to ensure that they get the right types of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.

2.1.11 In regards to renewable and low carbon technology developments, Neighbourhood Plans can allocate suitable sites for the allocation of these technologies, including for wind energy development. If no suitable sites are designated then large-scale wind energy development cannot be supported through any policy within the plan.

2.1.12 For both Neighbourhood and Local Development Plans, as outlined within Planning Practice Guidance: Renewable and low carbon energy[3] (18th June 2015), the policies concerning renewable and low carbon technologies must be considerate of certain matters, such as:



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2.1.13 Each Local Development Plan is tailored to the unique environment it encapsulates; therefore policies are designed to best serve not only the natural and built environments, but the social settings and economic opportunities that co-exist in those environments.

2.2 Maldon District Local Development Plan Policy and Documents

2.2.1 The Maldon District LDP contains two policies that directly relate to the Renewable and Low Carbon Technologies SPD:

1. Policy S1: Sustainable Development *(Table 2.1)*
2. Policy D2: Climate Change and Environmental Impact of New Development *(Table 2.2)*
3. Policy D4: Renewable and Low Carbon Generation *(Table 2.3)*

2.2.2 The policies relating to sustainable building standards and renewable and low carbon technologies have been produced in conformity with the guidelines set out in the NPPF. The policies are tailored to the District of Maldon and have clear and coherent objectives relating to the delivery of sustainable development.

Policy S1 **Sustainable Development**
When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF and will apply the following key principles in policy and decision making:
1) Ensure a healthy and competitive local economy by providing sufficient space, flexibility and training opportunities for both existing and potential businesses in line with the needs and aspirations of the District;
2) Deliver a sustainable level of housing growth that will meet local needs and deliver a wide choice of high quality homes in the most sustainable locations;
3) Promote the effective use of land and prioritise development on previously developed land and planned growth at the Garden Suburbs and Strategic Allocations;
4) Support growth within the environmental limits of the District;
5) Emphasise the importance of high quality design in all developments;
6) Create sustainable communities by retaining and delivering local services and facilities;
7) Enable and adapt to the effects of climate change by limiting greenhouse gas emissions through the efficient use of energy and use of renewable alternatives, coastal management, and mitigating against flooding;
8) Ensure new development is either located away from high flood risk areas (Environment Agency defined Flood Zones 2 and 3) or is safe and flood resilient when it is not possible to avoid such areas;
9) Conserve and enhance the natural environment, by providing protection and increasing local biodiversity and geodiversity, and effective management of the District's green infrastructure network;
10) Conserve and enhance the historic environment by identifying the importance of

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local heritage, and providing protection to heritage assets in accordance with their significance;
11) Identify the capacity and constraints of local infrastructure and services, and seek to mitigate identified issues through developer contributions including Section 106 agreement and / or Community Infrastructure Levy and other funding sources;
12) Maintain the rural character of the District without compromising the identity of its individual settlements;
13) Minimise the need to travel and where travel is necessary, prioritise sustainable modes of transport and improve access for all in the community; and
14) Support the expansion of electronic communications networks, including telecommunications and high speed broadband.
The Council will always work proactively with applicants jointly to find a solution which means that development proposals can be approved wherever possible, and to secure sustainable development that improves the economic, social and environmental conditions in the area.
Planning applications that accord with the policies in this LDP and, where relevant, with polices in the District's neighbourhood plans, will be approved, unless material considerations indicate otherwise.
Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision, the Council will grant permission unless material considerations indicate otherwise. Account will be taken if any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate that development should be restricted.

Table 2.1 Policy S1: Sustainable Development

2.2.3 Policy S1 sets out several key overarching sustainable objectives from which the policies in the Approved LDP are derived. Therefore when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in national planning policy. The Council will therefore seek to secure development that improves the economic, social and environmental conditions in the area.

Policy D2 **Climate Change & Environmental Impact of New Development**
All development must minimise its impact on the environment by incorporating the following principles:
1) All non-residential development should achieve a minimum of BREEAM 'Very Good' rating or be supported by a bespoke assessment that demonstrates appropriate environmental performance results above current Building Regulation requirements;
2) Development should seek to maximise the use of building materials from sustainable sources and apply sustainable construction methods where appropriate;
3) Incorporating recycling facilities having regard to the Council's adopted waste strategy and current or planned waste collection methods;
4) Development will contribute towards making the most efficient use or re-use of existing resources and reducing the lifecycle impacts of materials used in

construction. The Council may require large scale development proposals to be supported by a Site Waste Management Plan;
5) Green infrastructure should be incorporated as a way of adopting and mitigating for climate change through the management and enhancement of existing habitats and the creation of new ones to assist with species mitigation, to provide shade during high temperatures and for flood mitigation. Negative impacts on ecology, landscape and green infrastructure should be minimised;
6) Minimising all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures;
7) Where appropriate, development will include measures to remediate land affected by contamination and locate development safely away from any hazardous source;
8) Where appropriate, development will include measures to address land instability issues where identified;
9) Maintain and enhance local air quality in accordance with national objectives;
10) Seek to reduce the need to travel, particularly by private vehicle, by encouraging sustainable transport methods, and providing flexibility in the development to enable home working or similar facilities; and
11) Development must take into account and other benefits of preserving the best and most versatile land. Where possible poor quality land should be prioritised over higher quality land.

Table 2.2 Policy D2: Climate Change and Environmental Impact of New Development

2.2.4 In accordance with national planning policy, this SPD will clarify how the Council will expect national sustainable building standards and the requirements of Policy D2 to be delivered.

2.2.5 Policy D2 is directed towards both residential and non-residential developments within the District, using a criteria-based approach to identify what is expected of new development. The criteria-based policy incorporates minimum nationally recognised standards throughout.

2.2.6 The Council requires, where viable, non-residential development to achieve a minimum BREEAM rating of 'Very Good' or be supported by a bespoke assessment that demonstrates appropriate environmental performance results above current Building Regulation requirements. For guidance see Section 3.3.

2.2.7 Policy D2 focuses on methods of mitigation and adaptation for new developments and the processes involved. This would help deliver the Council's objective to reduce wastefulness and improve development design and good practice as requested within the Ministerial Statement[4] dated 25/03/2015.

Policy D4 **Renewable and Low Carbon Energy Generation**
In principle, support will be given for the delivery of large-scale renewable and low carbon energy projects, excluding wind energy, provided adverse social, economic and environmental impacts have been minimised to an acceptable level.
Suitable areas for wind energy development may be identified through the preparation of Neighbourhood Plans and proposals for wind energy developments will be determined in accordance with national planning policy and practice guidance.
Development proposals will be approved where it can be demonstrated, to the Council's satisfaction, that the development will not have an adverse impact, either individually or cumulatively, on the following: 1) The purpose or function of internationally, nationally or locally designated sites of protected wildlife or landscape areas; 2) Heritage assets and the setting of heritage assets within the landscape; 3) Landscape and the character of the undeveloped coast and areas, which by nature of their topography, are sensitive to development; 4) Neighbouring amenity, in respect to visual impact, flicker, vibration, glare, overshadowing, active or background noise levels and any other emissions; 5) The safety of public footpaths, bridleways, highways, avian wildlife and aviation; 6) Telecommunications including those used by the police and emergency services and navigational equipment; and 7) The best and most versatile agricultural land.
Proposals must have full consideration of individual impact or cumulative impact where there are more than one existing or proposed renewable energy projects.
The Council will strongly support the principle of the development of a new nuclear power station at Bradwell-on-Sea.

Table 2.3 Policy D4: Renewable and Low Carbon Energy Generation

2.2.8 Policy D4 provides a criteria-based narrative for development proposals wishing to be deployed within the District. As mentioned in the policy, support will be provided for both large and small-scale developments, providing they do not produce adverse social, economic and/or environmental impacts of an unacceptable level within the District.

2.2.9 Large-scale onshore wind energy will not be promoted or outlined within this SPD. See paragraph 5.1.3 for more details.

2.2.10 The principles of Policy D4 are aligned with the preservation of environmental and social qualities that exist in the Maldon District. The sensitivity of Maldon's landscape and character pose many challenges to managing renewable energy and ensuring that these projects maintain a sustainable, positive relationship with its physical surroundings as well as the amenity of the District's communities.

2.2.11 For further clarification regarding the two specified Policies relating to this SPD, seek guidance within the Approved LDP found at https://www.maldon.gov.uk/ldp.

Burnham-on-Crouch Neighbourhood Development Plan

2.2.12 The 'made' Burnham-on-Crouch Neighbourhood Development Plan is a Development Plan Document and forms part of the Development Plan for the District. It therefore has the same legal status as the Approved LDP. Any planning applications in Burnham-on Crouch should therefore be determined in accordance with the development plan, unless material considerations indicate otherwise.

2.2.13 The Burnham-on-Crouch NDP identifies the benefits of renewable energy in addressing climate change, however it also addresses a need to preserve or enhance the character and appearance of the overall town and conservation area in particular, to avoid harm to listed buildings through inappropriate development within their setting. Policy EN.4 outlines the requirements for renewable energy development proposals within Burnham-on-Crouch:

Policy EN.4 – Renewable Energy
Proposals for the development of renewable energy proposals will be supported in the Plan area subject to the following criteria:
• They preserve or enhance the character and appearance of the conservation area;
• They take account of the setting of the Town within the Dengie Peninsular;
• They do not have an unacceptable detrimental effect on the integrity of a listed building or its setting; and
• They do not have an acceptable detrimental effect on the amenities or residential or other properties in the site's locality.

Table 2.3 Policy EN.4: Renewable Energy Policy of the Burnham-on-Crouch Neighbourhood Development Plan

2.2.14 In addition, Policy EN.5 of the Neighbourhood Development Plan encourages any future construction and maintenance of wind turbines to be accessed from the river to reduce the impact on the road network where possible.

2.2.15 For further clarification regarding the specified Policies of the Neighbourhood Development Plan, see Burnham Neighbourhood Plan.

Maldon District Design Guide

2.2.16 Developers should have regard to the Maldon District Design Guide in all new developments within the District. The Maldon District Design Guide sets out clear design principles to guide future development in the District. One key design objective relates directly to renewable energy and sustainable building design. The key objective, sustainability, aims to minimise the impact on our environment by using land efficiently whilst respecting the existing landscape character and green infrastructure. New development should therefore be

sustainable and resilient to climate change by taking into account landform, layout, building orientation, massing, landscape and visual impact to minimise energy consumption and mitigate water run-off and flood risks. To enhance biodiversity as a minimum, schemes should lead to no net loss of habitat.

2.2.17 Part C: C21 Future Proofing outlines the importance of mitigation against the effects of climate change in increasingly warmer and cooler weather patterns and the importance of reducing energy consumption and waste production. The Design Guide provides a number of review stages requiring completion throughout the design and development process, these are as follows:

- Building design takes advantage of orientation.
- Building depths are limited wherever possible to maximise natural lighting levels and natural ventilation.
- Layouts avoid single-aspect dwellings which may cause homes to overheat if south-facing or create additional heating demands if north-facing.
- South-facing windows to maximise natural daylight.
- North-facing facades seek to minimise large areas of glazing to prevent unnecessary heat loss in winter.
- Shading is considered to south-facing windows to prevent overheating in the summer months, such as a deciduous tree adjacent to the property.
- Tree planting or land management is considered for shading or cooling.
- The use of green roof systems or green walls are considered and are appropriate within the context of the site.
- The use of low-embedded energy or materials that can be recycled is used, where appropriate.
- The use of materials with high thermal mass are used where appropriate.
- Existing and proposed green infrastructure, landscape features and SuDs are incorporated to mitigate climate change.
- Bat or bird roosting or nesting facilities in buildings and grounds are considered.

2.2.18 The Design Guide emphasises that sustainable design can work in harmony with developments contained within Conservation Areas and on/or close proximity to Listed Buildings. This includes renewable and low carbon energy projects which if designed appropriately can positively enhance heritage assets. A number of design review stages require completion, which ensures sustainable design and construction methods.

- You have checked if the building or site is listed or in a Conservation Area.

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- Energy efficient solutions are integrated as part of the development.
- Any solar panels that are positioned on building surfaces are facing within 90 degrees south and not overshadowed. Ensure that the roofs are strong enough to hold the panels.
- The design allows for system maintenance.
- All water fittings i.e. taps and showers are specified and installed are recognised low flow technology.
- Low or dual flush WCs are used.
- The opportunities for rainwater harvesting or grey water recycling is maximised, where possible.

2.3 National Energy Strategy and Targets

2.3.1 The Government's latest energy strategy report, The Energy Revolution and Future Challenges for UK Energy and Climate Change Policy (HC 705, 2016)[5], states that 'harnessing renewable energy in a way that makes a significant contribution to the nation's electricity supply is twofold, by producing clean forms of energy and increasing energy security'.

2.3.2 This is important because Local Planning Authorities are responsible for renewable and low carbon energy developments of 50 megawatts or less installed capacity (under the Town and Country Planning Act 1990) which would help deliver the Government's aspirations. As of August 2017, there were 57,673[6] renewable heat installations accredited to the Domestic Renewable Heat Incentive in the UK (see Section 5.10), emphasising the role of local communities and domestic households in contributing towards a green energy mix and helping to secure better energy security for more people. The national targets and statistics outlined below demonstrate why it is the duty of all, including communities and residents of the District, to deliver renewable and local carbon energy generation and incorporate sustainable design in new development.

2.3.3 The UK has committed itself to a reduction in greenhouse gas emissions through the Climate Change Act 2008, which includes a commitment to an 80% reduction in emissions by 2050 of those emission levels of 1990. The Act also has an interim target to reduce carbon dioxide emissions by 26% by 2020.

2.3.4 To meet these targets, the government has set five-yearly carbon budgets which run until 2032. They restrict the amount of greenhouse gas the UK can legally emit in a five year period. The UK is currently in the second carbon budget period (2013 to 2017).

2.3.5 As outlined in Figure 2.1, there has been a 42% decrease in greenhouse gas emissions emitted in 2016 compared to that emitted in 1990. UK emissions

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were 38% below 1990 levels in 2015. The first carbon budget (2008 to 2012) was met and the UK is currently on track to outperform on the second (2013 to 2017) and third (2018 to 2022). The UK is, however, not on track to meet the fourth budget (2023 to 2027).

2.3.6 To meet future budgets and the 80% target for 2050, the UK will need to reduce emissions annually by at least 3% from now on. This will require the Government to impose stricter measures to reduce emissions. Therefore it is essential that the Council establishes a framework within which the District can contribute to future carbon budgets: promoting appropriate renewable energy and low carbon technology projects and sustainable building standards that will deliver these objectives.

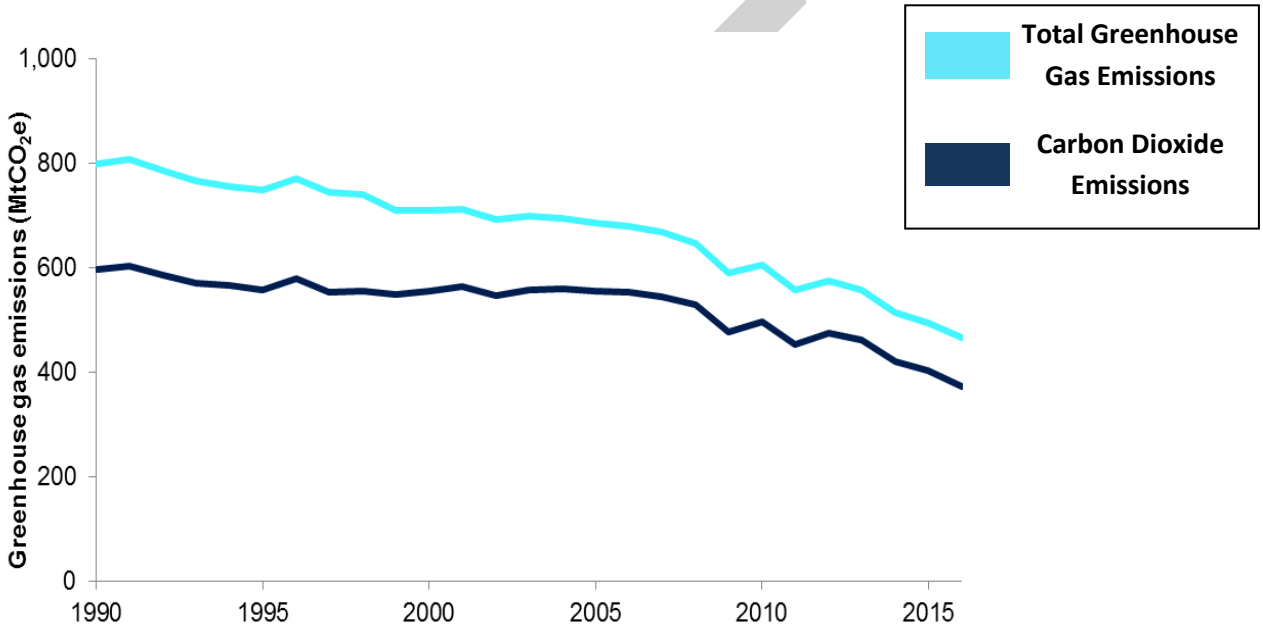
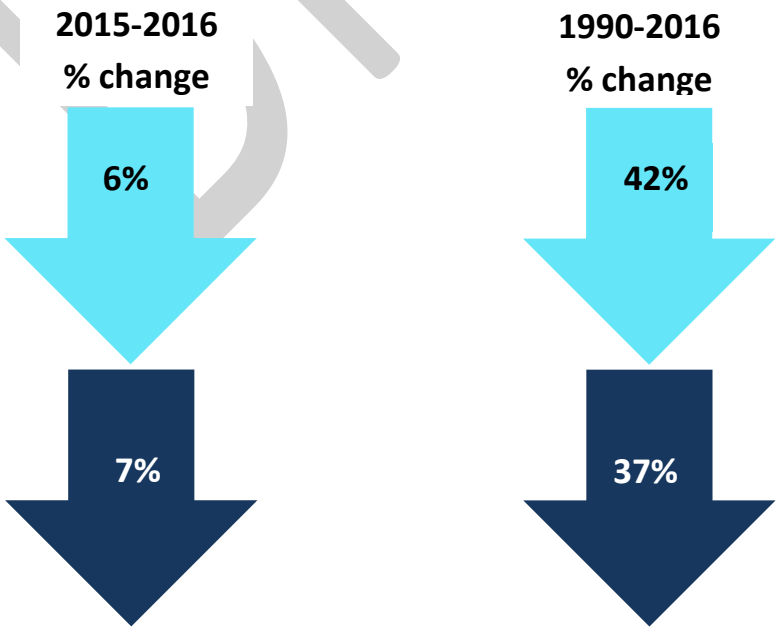


Figure 2.1: UK greenhouse gas emissions 1990-2016



Source: Department for Business, Energy and Industrial Strategy (2017)[7]

2.3.7 The LDP also recognises the UK's commitment to the Renewable Energy Directive (EU, 2009)[8]. The directive establishes a mandatory national target for the UK to achieve a 15% share of all energy generation from renewable sources. Broken down, this equates to a 30% share of electricity, a 12% share of heat generation and a 10% share in transport from renewable sources by 2020.

2.3.8 Illustrated in Figure 2.2 is a breakdown of targets set out in the Renewable Energy Directive. In 2015, 22.31% of electricity, 5.64% of heat and 4.23% of transport fuel consumption was met by renewable sources. In total, this equates to 8.31% of 15% of all energy generation having been achieved through renewable sources, indicating that there is progress to be made. The objectives of this SPD can therefore help to ensure Maldon's contribution remains constant.

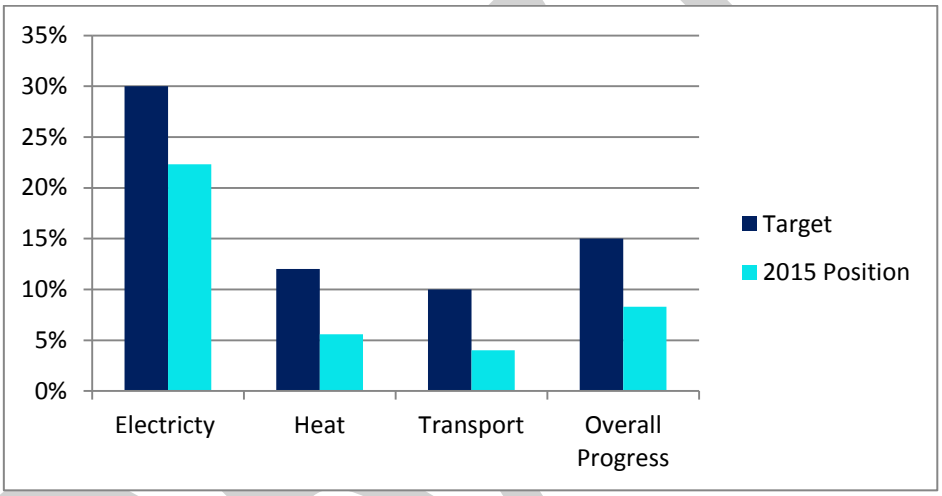


Figure 2.2: Renewable Energy Directive Targets and Progress in 2015

2.3.9 Renewable energy and low carbon technologies and sustainable building standards can help residents achieve greater energy security and dependency. The Energy and Climate Change Committee report (HC 705, 2016) acknowledges that the UK is heavily dependent on Europe for its energy supply. All electricity imports and 69% of gas imports arrive via interconnectors with Europe (HC 705, 2016). However as a consequence, the UK's independence in terms of energy security and flexible energy management will strengthen as the requirement for local energy generation becomes more pragmatic.

2.3.10 With the departure from the European Union, the UK energy mix must move towards a system that is predominantly dependant on internal energy supplies. Otherwise shifts in electricity and heat generation will create new pressures on the network, particularly the networks that store and distribute these forms of energy throughout the UK. The UK will also be liable to future

tariffs on energy products, as well as the goods and services that supply the energy sector and low carbon manufacturing facilities.

2.1.11 However, the emergence and rapid uptake of renewable and low carbon technologies have, in essence, enabled the UK network to be flexible. The approaches and technologies promoted by this SPD, (in addition to those existing) can enable the beginnings of a more decentralised system, where generation and demand can be met at a distribution- and individual- level.

2.1.12 To maintain influence over this sector, proactive and efficient planning is essential. This SPD will reinforce the approach taken to delivering renewable and low carbon technologies at a national level whilst providing the context for the delivery of renewable and low carbon energy developments at a local level.

2.4 Regional Overview of Renewable and Low Carbon Technologies

East of England Renewable and Low Carbon Energy Capacity Study

2.4.1 The Renewable and Low Carbon Energy Capacity Study[9] (AECOM, 2011) examines the resource potential for a range of renewable and low carbon energy resources in the East of England. The Department for Energy and Climate Change helped develop a reliable and robust methodology, setting out a number of steps for a resource assessment and was able to provide a number of detailed assumptions regarding the East of England and its ability to provide functionality for renewable and low carbon technology operations.

2.4.2 The study identified the current capacity of renewable technologies and region's natural resources. From observations made, the following determinations have been outlined below:

Resource	Observations
Wind	The wind speeds across the East of England are relatively low, primarily due to low elevation and positioning on the east coast. However the extensively rural locations that also comprise flat topography provides reliable wind resources in large areas. The region therefore is suitable for wind generation and has a relatively large installed capacity.
Solar	The levels of insolation in the UK are consistent throughout. However what does vary is the capacity of the region to accommodate the different technologies of solar (domestic and commercial solar photovoltaic and solar thermal), thus influencing its deployment and availability.
Biomass and energy crop	The East of England has low levels of managed forestry when compared to other areas of the UK, this is due to alternative land uses within the region such as intensive food production. Therefore regional biomass resources

	are likely to be limited. However this does not limit the potential for generation from biomass with imported fuels.
Hydro	The low lying nature of the region means that there is very little head height across the river system. Whilst there are many sites which may be suitable for hydro generation (historic sites having used hydro power for milling), the capacity of these sites is low and the overall resource potential is likely to be very small.
Heat pumps	Heat pumps are limited by available heat demand and so the region is unlikely to differ significantly from others from a resource perspective. As an available resource however, heat pumps provide a direct and reliable source of heat throughout the year.

Table 2.4 Resource Observation within the East of England Region

2.4.3 Most recent data from 2011 summarises the capacity for Essex: the County had a total capacity of 180 Megawatts installed in 2011 (see Table 2.5). This also indicates which technologies seem more favourable. However as technologies improve and viability becomes less problematic, these figures may change.

Capacity by County (MW)	Total capacity	Dedicated biomass	Landfill Gas	Sewage gas	Wind	Hydro	Municipal and Industrial Waste	Photovoltaics
Essex	180.0	61.8	66.3	3.4	20.7	0.00	27.8	N/A

Table 2.5 Technology Capacity within Essex County 2011

2.4.4 The natural resource capabilities within Maldon therefore make it a suitable location for the deployment of certain renewable and low carbon technologies, if the conditions are correct. Section 5 highlights the opportunities that exist within Maldon for a range of technologies that are compatible with its natural resource capabilities.

Renewable and Low Carbon Technologies within the Maldon District

2.4.5 A number of renewable and low carbon technology schemes exist within the District. Figure 2.3 shows those schemes that generate 5 Megawatts or more at 2017.

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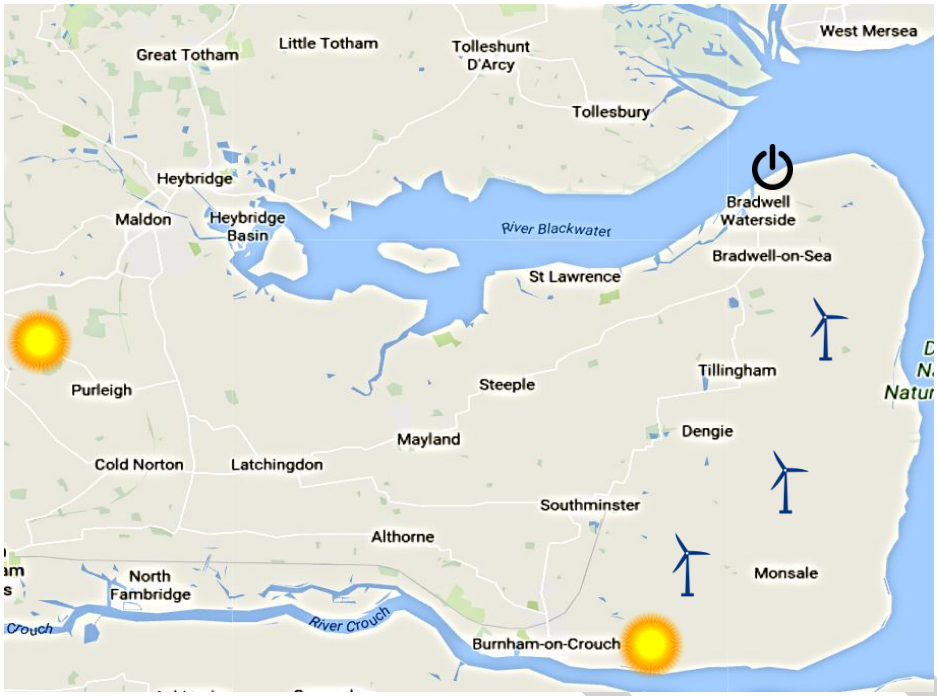


Figure 2.3: Illustration of Large-Scale Renewable and Low Carbon Energy Schemes within the Maldon District (Google Maps)

2.4.6 Two large-scale solar farms are situated in the District, one to the east of Burnham-on-Crouch and one to the south-west of Purleigh. Each scheme generates a peak electricity generation of 5MW or the potential to provide electricity to power over 3000 homes.

2.4.7 Three large-scale wind farms are distributed across the Dengie peninsula, ranging from 17.5MW of peak electricity generation to 20.7MW. Collectively these three wind schemes have the ability to generate electricity to power over 40,000 homes per annum.

2.4.8 Figure 2.3 includes the decommissioned nuclear power station at Bradwell-on-Sea. The power station produced a peak electricity generation of 242MW before being decommissioned in 2002. The Council will strongly support the principle of the development of a new nuclear power station at Bradwell-on-Sea as it has the ability to help deliver a low carbon future for the District.

3. Planning Considerations relating to Sustainable Buildings

3.1 Structure of Guidance

3.1.1 This section sets out the national building regulations in relation to Policy D2: Climate Change & Environmental Impact of New Development. It also provides detailed information relating to sustainable building standards and the potential planning issues developers should be mindful of when considering new development.

3.2 Sustainable Construction Practices

3.2.1 Since the first set of national standards was introduced in The Building Regulations 1965 there have been many fundamental changes to the building regulations regime. The Building Regulations 2010 cover the construction and extension of buildings, including functional performance standards, within a series of Approved Documents.

3.3 Statutory Building Regulations

3.3.1 The Government continually issues Approved Documents and updates into the public domain; each document provides guidance about compliance with specific aspects of the Building Regulations in common building situations. The following points relate to the relevant buildings regulations within the Approved Documents do not stipulate the exact policy and regulation. These should be viewed at: https://www.gov.uk/government/collections/approved-documents

3.3.2 Building regulations may need to be adhered to even when planning permission is not necessary.

3.3.3 For existing buildings, the circumstances which trigger the need to take action to upgrade the thermal performance are only required for elements that are to be substantially replaced or renovated, or when there is a change of use. To prevent conflicts between energy efficiency requirements in Part L of the Building Regulations and the conservation of historic and traditionally constructed buildings, please have regard to Energy Efficiency and Historic Buildings: Application of Part L of the Building Regulations to historic and traditionally constructed buildings[10] (English Heritage, 2012).

3.3.4 Listed Buildings, buildings in conservation areas and scheduled monuments are exempted from the need to comply with energy efficiency requirements of the Building Regulations where compliance would unacceptably alter their character and appearance. Special considerations under Part L are also given to locally listed buildings, buildings of architectural and historic interest within registered parks and gardens and the curtilages of scheduled monuments, and buildings of traditional construction with permeable fabric that absorbs and readily allows the evaporation of moisture.

Approved Document L1A – Conservation of fuel and power

Section 1 – The Requirements

3.3.5 Reasonable provisions shall be made for the conservation of fuel and power in buildings. This includes limiting heat gains and losses via thermal elements and other parts of the building fabric or from pipes, ducts and vessels used for space heating, space cooling and hot water services. Alternatively, this can be

achieved by providing fixed building services which are energy efficient, have effective controls and/or are commissioned by testing and adjusted as necessary to ensure they use no more fuel and power than is reasonable in the circumstances.

Section 2 – Design Standards

3.3.6 Approved Document L1A defines 'energy performance of a building' as the calculated or measured amount of energy needed to meet the energy demand associated with a typical use of the building, which includes, inter alia, energy used for heating, cooling, ventilation, hot water and lighting'.

3.3.7 Minimum energy performance requirements are applied for new buildings, as outlined in section 2 of Approved Document L1A. The requirements specifically relate to emission targets and fabric efficiency targets. In effect, the regulation seeks a balanced contribution from sources of fuel and the materials used for the construction of a development.

3.3.8 The methodology outlining the calculation for energy performances of new buildings seeks to identify the Target CO2 Emission Rate (TER) and Target Fabric Energy Efficiency (TFEE) via Regulations 26 and 26A of Approved Document L1A.

3.3.9 The following technical standards consist of both statutory and voluntary requirements for those seeking to develop both residential and non-residential premises. The Council will require developers to adopt the mandatory standards, and exceed the minimum standards where possible to positively enhance the development, the District and the wider environment.

Mandatory Sustainable Building Standards:
BREEAM (Building Research Establishment Environmental Assessment Method) UK Non-Domestic New Construction

3.3.10 Policy D2 requires all non-residential developments to achieve a BREEAM standard of 'Very Good' or be supported by a bespoke assessment that demonstrates appropriate environmental performance results above current Building Regulation requirements. For clarity, non-residential development is defined as having a floor space greater than 1000sqm, including change of use.

3.3.11 Additionally, as a speculative development, it is not possible to determine an accurate baseline energy footprint for non-domestic proposals. Therefore the Council would require an Energy Statement be submitted that would account for typical building energy demands for the type of Use Classes being applied for.

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3.3.12 In the UK, BREEAM is currently the leading and most robust environmental assessment tool for buildings. The assessment had become a standardised measure for the environment performance of buildings in the UK. A minimum BREEAM rating is also an obligation for publically funded/procured non domestic building developments.

3.3.13 The technical standard 'BREEAM New Construction' is a performance based assessment method and certificate scheme for new non-residential buildings. The primary aim of BREEAM New Construction is to mitigate the life cycle impacts associated with new buildings on the environment in an efficient and cost effective way.

3.3.14 Research[11] has shown a reduction in operational costs for office developments upholding higher BREEAM ratings. A 2% increase in developer investment has been recovered over a two to five year period in energy savings and reduced water consumption. Not only do BREEAM ratings offer energy efficiency savings, they help limit any risk that may affect both developer and investor. As BRE (Building Research Establishment) argue, many buildings not equipped for the future may devalue significantly or become isolated assets if regulations and legislation alter in a way that requires building efficiencies to become industry norms.

3.3.15 Technical content concerning the BREEAM UK Non-Domestic New Construction can be found at: http://www.breeam.com/new-construction.

When and how to engage with the BREEAM UK New Construction scheme

3.3.16 Timing the engagement with and use of the BREEAM UK New Construction scheme is important to ensure the efficient use of the methodology in the new build procurement process.

3.3.17 As BRE states, the assessment and accreditation process is best achieved through integration and use of the scheme by clients and their project teams at key stages in the design and construction process. The Council supports this approach and encourages developers to engage at an early stage in the planning process (see section 4.1)

3.3.18 This Renewable and Low Carbon Technology SPD discusses the relevant lifecycle stages: New Construction, In-Use and Refurbishment and Fit-Out lifecycles, as these will be relevant and practical to those aiming to uptake BREEAM standards within the Maldon District on a localised level. More information can be found in Appendix 1.

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3.3.19 The scheme itself can be used to assess and rate the environmental impacts arising from a newly constructed building development at two life cycle stages. These are:

1. New Build Design Stage
2. New Build Post Construction Stage

New Build Design Stage

3.3.20 The Design Stage assessment and interim BREEAM rating confirms the proposed buildings performance during the construction period of the life cycle. This stage of assessment and certification should take place at the beginning of construction.

3.3.21 This means that the design must be presented to a BREEAM assessor for verification and evaluation: the building's performance will be assessed against criteria set out in the BREEAM UK New Construction Technical Manual.

Post-Construction Stage (PCS)

3.3.22 The PCS assessment and BREEAM rating confirms the final 'as-built' performance of the building at the new construction stage of the life cycle. A final PCS assessment is completed and certified after completion of the building works.

3.3.23 BREEAM states there are two alternative approaches to assessment at the post-construction stage:

1. A post-construction review (PCR) of an interim design-stage assessment
2. A post-construction assessment (PCA)

A Post Construction Review assesses a buildings performance once its development and construction stages have been complete. If an interim design-stage assessment has not been conducted i.e. certified, a full post construction stage assessment is required.

BREEAM Assessment and Rating Benchmarks

3.3.24 There are a number of elements that will determine the overall performance of a new construction project assessed using BREEAM, these are:

1. The BREEAM rating level benchmarks
2. The minimum BREEAM standards
3. The environmental section weightings
4. The BREEAM assessment issues and credits

3.3.25 The BREEAM rating benchmarks projects using the 2014 BREEAM UK New Construction:

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BREEAM Rating	% Score
Outstanding	≥ 85
Excellent	≥ 70
Very Good	≥ 55
Good	≥ 45
Pass	≥ 30
Unclassified	< 30

3.3.26 For more information on how to achieve a particular BREEAM rating using the percentage scoring system, please see Appendix 1.

3.4 Voluntary Sustainable Building Standards

3.4.1 The Council will seek to ensure that all developments are sustainable and minimise adverse environmental impacts and climate change, irrespective of the size of development. The following standards have been designed to minimise energy usage during the lifecycle of both domestic and non-domestic units. The Council will be supportive of development that can demonstrate sustainability through design, construction and the use of low carbon technologies, particularly those that exceed the minimum standards.

3.4.2 Policy D2 requires all non-residential developments to achieve a BREEAM rating of 'Very Good' or a bespoke assessment that beholds similar sustainability objectives. The following standards present alternative assessment methods that can be applied for non-residential development and would provide a sound basis to deliver sustainable residential development.

BREEAM

3.4.3 The key aims of BREEAM are:

- To mitigate the life cycle impacts of buildings on the environment
- To enable buildings to be recognised according to their environmental benefits
- To provide a credible, environmental label for buildings
- To stimulate demand for sustainable buildings

3.4.4 BREEAM has enabled the idea that sustainable construction methods can be achieved at relatively little additional cost to the developer and then to the house-buyer in terms of lower energy costs which may help those living in fuel poverty.

3.4.5 To ensure that fundamental environmental issues are mitigated effectively and efficiently, BREEAM has set minimum standards of performance in key areas such as; energy, water and ventilation. These performance areas are all set out through range of development lifecycle stages. These are:

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- Communities: Master planning
- Infrastructure: Civil Engineering & Public Realm
- New Construction: Buildings
- In-Use: Buildings
- Refurbishment and Fit-out: Buildings

3.4.6 Residential development that seeks to achieve these minimum standards of performance will be fulfilling criteria contained in Policy D2 and will supported in principle, subject to condition the development is not contrary to the policies within the Approved LDP.

3.4.7 For more information on how to achieve specific performance standards related to BREEAM, please see Appendix 2.

Passivhaus

3.4.8 The core approach taken by the Passivhaus '*is building, for which thermal comfort can be achieved solely by post-heating or post-cooling of the fresh air mass, which is required to achieve sufficient indoor air quality conditions* – without the need for additional recirculation of air."

3.4.9 The Passivhaus standard aims to dramatically reduce the requirements for space heating and cooling, whilst also creating excellent indoor air quality and comfort levels. As a holistic approach to building design and performance Passivhaus is best incorporated into the design stage of new development, when the best thermal and cooling results can be achieved.

3.4.10 Passivhaus design incorporates the following measures in order to achieve thermal comfort in the greatest practical sense:

- Good levels of insulation with minimal thermal bridges
- Passive solar gains and internal heat sources
- Excellent level of airtightness
- Good indoor air quality, provided by a whole house mechanical ventilation system with highly efficient heat recovery

3.4.12 The flexibility of the Passivhaus standards mean they can be applied to not only residential dwellings, but also to commercial, industrial and public buildings and could provide a good solution to delivering sustainable development in the District.

WELL Building Standards

3.4.13 The WELL Building Standard (WELL) marries best practice in design and construction with evidence-based medical and scientific research – harnessing the built environment as a vehicle to support human health and well-being.

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3.4.14 The WELL Building Standard sets seven performance requirements relevant to occupant health in the built environment – air, water, nourishment, light, fitness, comfort and mind. WELL Certification is based on performance and requires a passing score in each of the seven categories of the WELL Building Standard. WELL Certification is awarded at one of three levels: Silver, Gold and Platinum. WELL can be applied to all new development but is more successful when applied to commercial and institutional development.

Maldon Conservation and Design Awards: Sustainability Case Study

This prestigious award scheme aims to encourage a sympathetic approach to building conservation, to promote good design and the enhancement of our natural and built environment. Sustainable development is one category of design that is considered for the award, addressing such issues as climate change, energy efficiency and sustainable sources of materials and their transportation.

One example, winning the award for sustainability in 2014, beholds a unique design using 'Hemcrete', – a bio-composite material combining lime and locally grown hemp – for its wall and roof construction. This method of design has excellent thermal insulating properties and a high energy efficiency rating.

The development incorporates twenty eight combined photovoltaic and solar thermal panels and a ground source heat pump. For information on ground source heat pumps, see Section 5.8.





The use of steel and concrete has been minimised throughout the construction process, limiting the development's carbon footprint. Triple-glazing has been used in windows that are orientated to maximise solar gain, both in light and heat terms.

4. Implementing Renewable Energy into Current and New Developments

4.1 Permitted Development Rights for Renewable and Low Carbon Technology Developments

4.1.1 Certain types of development can be performed without needing to apply for planning permission. These are called permitted development rights. They derive from a general planning permission granted by Parliament, rather than a local authority.

4.1.2 Permitted development rights should be interpreted with caution as rights which may apply to many common projects may not apply to others. In England there are a range of exclusions that apply to permitted development rights such as to development in conservation areas.

4.1.3 Householder permitted development rights are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the Order"). Part 14 of Schedule 2 outlines all nationally recognised renewable energy resources and their permitted developments on both domestic and non-domestic premises. For the requirements set out under Part 14 of the rules on permitted development, please see http://www.legislation.gov.uk/uksi/2015/596/pdfs/uksi_20150596_en.pdf .

4.2 Technical advice applicable to all renewable and low carbon technology proposals

The Planning Application Process

4.2.1 The planning system is pivotal in not only minimising energy demand of current and new developments but also for the implementation of renewable and low carbon technologies in both the domestic and non-domestic sector. Due to the type and design of many renewable and low carbon technologies, careful consideration needs to be taken when exploring the possibilities in deploying these technologies.

4.2.2 Applications for onshore renewable and low carbon technologies of 50 megawatts and less installed capacity are processed and dealt with by the Council under The Town and Country Planning Act 1990.

4.2.3 Renewable and low carbon technology installations over 50 megawatts are considered and decided upon by the Secretary of State for Energy, under the Planning Act 2008. In these cases the Council is a statutory consultee.

4.2.4 Most micro-renewable and low carbon schemes, domestic and non-domestic, will not require planning permission as they will be classified as 'permitted development' under the Town and Country Planning Act 1990.

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4.2.5 Section 61W of the Town and Country Planning Act 1990 requires applications, for planning permission, for development that involves the installation of more than 2 turbines or where the hub height of the turbine exceeds 15 metres are subject to consultation before the application is submitted.

4.2.6 As identified in Article 3 of the Town and Country Planning Act (Development Management Procedure) 2015, a pre-application consultation with the local community must be undertaken for wind energy schemes that do not fall within Permitted Development rights.

Cross-Boundary Communication – Duty-to-Cooperate

4.2.7 Maldon District Council will continue to discuss all cross-boundary issues with neighbouring authorities and other relevant stakeholders, including for renewable and low carbon technology planning applications. This will ensure that sub-regional and cross-boundary planning issues have been fully considered and taken into account. It will be determined at pre-application stage whether neighbouring authorities will need to be consulted.

Pre-Application consultation process

4.2.8 The Council is committed to providing an effective planning service which delivers good quality development proposals. Early discussions between applicants and the Council are a valuable part of the planning application process and are strongly encouraged.

4.2.9 Pre-application discussions should be undertaken to an appropriate standard to ensure that the applicant understands how the Approved LDP policies will be applied to the proposal, identifying the need for specialist input at an early and helping to identify concerns with proposals.

4.2.10 This will enable the applicant/developer and the Council to provide a clear and comprehensive evaluation of the proposed development in relation to the policies located within the LDP as well as for a range of other planning and technical matters, such as for highways, heritage or the natural environment. This enables the scheme to be amended to address concerns or for the applicant to have an opportunity to justify the scheme further. The Council can also provide advice, helping to reduce time at the planning application stage. See Appendix 3 for information on the pre-application process.

Decommissioning and Reclamation

4.2.11 Planning for decommissioning of large and small-scale renewable and low carbon technology schemes should be outlined during the pre-application stage. Key decommissioning provisions will be secured under a Section 106 agreement (The Town and Country Planning Act 1990). Once any scheme

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ceases its operation, the land must be restored to its former use as soon as practicably possible, or within the timescale set out in the S106 agreement.

4.2.12 A decommissioning plan is encouraged. It is an important document that contains provisions for issues that will arise once the technology ceases to produce electricity, such as restorative measures, the removal of structures and equipment and landscaping. The plan should also include mitigation measures for possible site reclamation. Reclamation of land can focus on restoring land to its previous natural state. The potential impacts must be mitigated to their full extent in order to benefit the environment.

4.2.13 Typical activities during a renewable facility decommissioning and site reclamation phase include;

- Facility removal
- Fixed structure and foundation material break up
- Removal of access roads (providing they are redundant for any other use)
- Re-contouring surfaces
- Re-vegetation

4.2.14 Potential impacts from these activities are;

- Acoustic (noise)
- Air quality
- Landscape and visual impacts
- Ecological
- Environmental justice
- Hazardous material and waste management
- Human health and safety
- Land use
- Soil and geological resources

5. Planning Guidance and Considerations for each Renewable and Low Carbon Technology

5.1 Detailed Guidance on Topics of Importance for each Technology and the Issues they can Cause

5.1.1 The SPD includes technical guidance for the following renewable and low carbon technologies:

- Small-scale wind power;
- Solar photovoltaics;
- Solar thermal;
- Biomass and energy crop;

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- Small hydro;
- Combined heat and power;
- Ground and air source heating and cooling.

5.1.2 Policy D4 of the Approved LDP (see Section 2.2) sets out the requirements for renewable and low carbon energy generation within the District. The technologies stated above are identified within Policy D4. This section provides further guidance for those promoting such schemes, including how planning applications for such schemes will be assessed and what information will be required as part of the planning application for each technology. The use of these renewable and low carbon technologies can also help achieve the sustainable building standards discussed in section 3.3.

5.1.3 The Written Ministerial Statement (March, 2015) and Planning Practice Guidance state that Local Development Plans must identify all sites suitable for wind energy developments. The Approved LDP has not identified any suitable sites for large-scale wind energy development because the evidence base indicates there is zero capacity within the District. However, Neighbourhood Plans have the ability to identify suitable sites for technologies if a local demand exists. As paragraph 2.1.11 states this means that large-scale wind energy developments cannot be developed in the District unless promoted through a Neighbourhood Plan.

5.1.4 Policy D4: Renewable and Low Carbon Energy Generation therefore states that proposals for wind energy will be determined in accordance with national policy. The focus of this SPD therefore is onshore wind developments that meet the criteria for Permitted Development. The technical guidance can be used to inform the preparation of Neighbourhood Plans and proposals where suitable locations can be found within the District.

5.1.5 All offshore wind energy applications are processed and approved directly by the Secretary of State: these schemes are not included within this SPD. The Council will be a statutory consultee for any schemes.

5.2 Technical Guidance and Information

5.2.1 Policy D4 identifies the following key issues that may need to be considered for renewable and low carbon technology developments. For ease of use, detailed guidance is set out by technology, with technology specific guidance set out for each issue (where relevant). The guidance only applies to the technologies that require planning permission.

- Overview of technology
- Availability of resource
- Landscape and Visual Impact

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- Ecological considerations
- Culture and heritage impacts
- Green infrastructure
- Air traffic
- Operational considerations
- Decommissioning and site restoration

5.3 Onshore Wind Energy

Overview of technology

5.3.1 Wind turbines consist of pylon structures with the attachment of two or three blades to a rotor. Wind energy rotates the blades, which spins a shaft, which connects to a generator and produces electricity. The availability and affordability of wind energy generation in the UK has become increasingly more reasonable in recent years. The Feed-in Tariff financial incentive (see Section 5.10) available through government subsidies has contributed to the increasing attractiveness of wind energy use.

5.3.2 Onshore wind energy developments have been deployed in various locations around the Maldon District. Ranging from small schemes that are classified as 'permitted development' to large-scale turbines, each capable of producing up to 2MW. Schemes containing these scale of turbines are capable of generating electricity to power up to 14,000 domestic households per annum.

5.3.3 Wind turbines vary in size. Small-scale (microgeneration) wind turbines have a power output less than 50kW and are intended to provide electricity supply to domestic households or small-scale businesses. Their design allows them to be either mounted on a roof or stand-alone. Turbines mounted on roofs will have a blade diameter of less than 2 metres. Stand-alone turbines will typically have a blade diameter of less than 15 metres and be less than 30 metres in height.

Availability of resource

5.3.4 Wind speed is an important issue when identifying a suitable site for a wind turbine. A minimum wind speed of 3.5 metres per second is required for a small wind turbine to start generating power. A wind speed of 10 – 15 metres per second will produce the maximum amount of energy generation of a wind turbine. For wind energy generation to be effective and efficient, wind speeds must have consistency without hindrance from any turbulent air, and other obstructions such as trees and buildings. When wind speed is too high, for safety reasons the blades will cease rotation.

5.3.5 Evidence[12] has indicated that there are very few areas within the District suitable for wind farm development, when wind speeds are taken into

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account. It is argued by the Council that current large-scale wind energy schemes are utilising the most suitable areas for wind energy.

Landscape and visual impact

5.3.6 Visual changes upon landscapes can have a negative impact on societal understanding and acceptance of wind power developments. This is important in the District, which benefits from a range of international, national and locally designated sites. The potential impacts of wind energy can be a direct concern in areas of highly sensitive landscapes. Effects will vary depending on the size and number of turbines in a development, its placement within the landscape, or the number of visual receptors.

5.3.7 Landscape impacts include the effect of a wind turbine on the fabric, character and quality of the landscape and the degree to which it will become a defining characteristic. Visual impacts concern the extent to which the wind turbine will become a feature in particular views and the impact upon people experiencing those views. Both must be considered individually and cumulatively with other existing and proposed turbines (those with planning permission but not constructed) as part of the application process.

5.3.8 All developments will require a Landscape and Visual Impact Assessment as part of the planning application to assess the likely landscape and visual impacts of the proposal. This should be proportionate to the scheme proposed.

Ecological considerations

5.3.9 In the District there are a range of international, national and local environmental designations such of Ramsar sites, National Nature Reserves (NNR) and Specific Sites of Scientific Interest (SSSI). Wind turbines and associated infrastructure can have a significant impact on the setting of these designations and the quality of the designation itself. Therefore, the following environmental issues must be taken into consideration when devising a wind energy development strategy:

5.3.10 If a proposal for a wind turbine lies within or is considered to have an adverse impact upon a Ramsar, NNR or SSSI an Environmental Impact Assessment (EIA) may be required upon request. The Council will provide a Screening Opinion advising whether an EIA is required. EIA is a form of assessment that assesses the impacts of a proposal on the surrounding environment, including the perspectives of environmental, social and economic.

5.3.11 Approved LDP: Policy N2, states that a Phase 1 Ecological Survey may be required to identify the likelihood of protected and/or priority habitats and species or where other areas of known ecological importance may be

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affected. This includes the impact upon bird and bat flights paths. Developers may be required to consult with the Council in these cases.

5.3.12 Additionally, developments should seek to deliver net biodiversity and geodiversity gains where possible. This will be secured on a site by site basis to reflect the characteristics of the application site and natural features in the locality. Any measures will be secured through a S106 agreement.

5.3.13 Proposals must consider how a scheme might minimise the risk of flood risk. Proposals must conform to Policy D5: Flood Risk and Coastal Management of the Approved LDP.

Culture and heritage impacts

5.3.14 Maldon District contains various designated heritage and cultural assets, both nationally and internationally recognised. Turbines can be a prominent feature in the landscape, if a turbine is proposed within the setting of, or near to the setting of cultural and heritage assets an assessment of its impact on the asset must be undertaken and submitted with the planning application along with details of how any negative impacts will be mitigated.

Green infrastructure

5.3.15 All wind power developments must conform to Policy N1 of the Approved LDP. There is a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure. This means that the siting of wind turbines must not have any adverse impact upon, for example, the use of current or new infrastructure such as cycle paths or Public Rights of Way.

Air traffic issues

5.3.16 Wind turbines may generate a risk for low flying aircraft and may have an effect on the proper operation of radar systems. For any wind power development that may produce such concerns, the correct assessments and consultees must be all involved in the planning process.

5.3.17 The National Air Traffic Service (NATS) provide air traffic control in the UK and safeguards all radars, navigation aids and communicational tools from interference and disturbance. NATS is a statutory consultee for all wind energy planning applications in the UK. The Council will encourage applicants to consult with NATS at an early stage in the application process to identify whether their application is likely to be objected to.

5.3.18 Wind turbines can also affect activities of the Ministry of Defence (MOD), including aerodromes, radar and communication facilities. The Council will encourage applicants to consult the MOD to ensure there are no adverse operating impacts that come as a result of the proposed development.

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5.3.19 In all cases, the Council will consult NATS on all planning applications involving wind farm applications and will consult the MOD when the size and scale of the turbine indicates that the turbine could interfere with its operations. Applicants should provide evidence of consultation with NATS and the MOD when submitting the planning application, along with details of how any concerns have been addressed.

Operational considerations

5.3.20 Dependant on the size and scale of development, site access will be required for the construction and maintenance of the development, which may result in the need for an access road leading up to the wind turbines themselves. The appropriate assessments regarding construction of the turbine and to provide the correct cabling from the development site to the sub-station where generated electricity is sent will also need to be undertaken. If any works are required to the highway or any other land this should be identified in the planning application.

5.3.21 Noise generation is perceived to be an adverse impact of wind turbine operations; although noise levels of modern wind energy are generally very low. Improvements in technologies have reduced mechanical noise impacts significantly. However, It is important that turbines are located an appropriate distance from noise sensitive developments to minimise any adverse impacts upon local amenity.

5.3.22 Where it is considered by the Council that a wind energy scheme would be placed in a noise sensitive location, such as near to dwellings, the applicants should undertake a noise assessment produced in accordance with assessment ETSU-R-97 '*The Assessment and Rating of Noise from Wind Farms'.*

5.3.23 A noise assessments must be submitted to the Council with planning applications where it is considered there are noise sensitive developments in the vicinity. Wind turbines must be located a safe separation distance from buildings, public footpaths and bridleways. For turbines with a power output of 50kW this would include a specific distance from a highway.

5.3.24 It is important that there is an appropriate distance between all wind turbines and power lines, National Grid should be consulted on applications and evidence of any pre-application discussions should be submitted as part of the planning application.

5.3.25 Wind turbines may interfere with electromagnetic transmissions such as television, radio and phone signals. The Office for Communications (OFCOM) should be consulted prior to submitting an application. Evidence of

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consultation and documents regarding all mitigation strategies targeting adverse effects should be submitted with the planning application.

5.3.26 Under certain circumstances, the sun may pass behind the blades of a turbine and create a shadow effect over neighbouring properties. When the blades rotate, the shadow will flicker. Issues with shadow flicker are rare and will only effect properties with 130 degrees either side of North relative to the turbine. The likelihood will depend on the direction, distance, turbine height, time of year, prevailing wind direction and with 10 rotor diameters of a turbine.

5.3.27 Where a wind turbine proposal is within 10 rotor diameters of a building, an analysis of shadow flicker must be undertaken and submitted with the planning application. If shadow flicker is proven to have an impact, it must be quantified and mitigation strategies identified. Wind turbines can be controlled to avoid shadow flicker; this can be secured through a planning condition that will require the provision and operation of a system that will stop the turbine rotating when shadow flickering occurs.

Decommissioning and site restoration

5.3.28 The applicant should outline, at the pre-application stage, the post-operational and decommissioning activities for the scheme. A decommissioning plan should accompany the application: this enables the developer to proactively outline the steps necessary for either site restoration or alternative land use scenarios. The decommissioning plan should build in flexibility to reflect the length of time between the application stage and implementation at the end of the development life cycle.

5.3.29 It is proposed, the main planning considerations, when determining an application for onshore wind energy developments are:

- Cumulative landscape and visual impacts;
- Ecology;
- Heritage asset impacts;
- Shadow flicker;
- Noise impacts;
- Air traffic and safety;
- Interference with electromagnetic transmissions;
- Transport and access;
- Infrastructure design; and
- Decommissioning and site restoration.

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5.4 Solar Energy

5.4.1 Light and heat from the sun can be utilised to generate energy in the form of electricity using photovoltaic (PV) systems or to heat water using solar water heating systems.

Solar Photovoltaic Energy

Overview of technology

5.4.2 Solar cells, also known as Photovoltaic (PV) cells, absorb and convert solar radiation into electricity via a solar inverter that changes the electric current from a Direct Current (DC) to an Alternating Current (AC).

5.4.3 Solar cells can be arranged to form solar panels, which can then be used for either micro-generation or large-scale deployment in the form of solar farms. Micro-generation schemes are most commonly used domestically or by small businesses, whereas large-scale solar farms typically require large areas of land and are more common in rural locations. Micro-generation schemes are most commonly used to meet individual needs on a localised scale.

5.4.4 Solar Photovoltaic energy uptake is currently subsidised by the UK Government under the Feed-in-Tariffs Scheme, outlined in Chapter 5.10 National Incentive Schemes (Domestic and Non-Domestic).

5.4.5 Active solar technology is permitted development provided the installation is not of an unusual design, does not involve listed buildings and is not situated within a designated area. This section applies to those developments that will require planning permission.

Availability of resource

5.4.5 Using photovoltaic cells, the availability of this resource is entirely dependent on the strength of solar radiation. Therefore the stronger the sunlight, the more electricity produced. The positioning of Solar PV systems is important for maximising solar exposure throughout the year.

5.4.6 Solar power works best on south facing roofs at a pitch of about 30 degrees. However any solar power can also work on any pitched roof on a roof facing south of due east and due west. North facing roods are not well-suited to solar power and should be avoided. Free standing systems should be orientated at the same angle and orientated for best performance.

5.4.7 Shading should also be avoided: maximum efficiency is achieved from systems clear from shading, some shading is acceptable without much reduction in output but shade should be avoided between 10am and 4pm. This applies to solar systems as well as free-standing units. Shade from

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buildings, trees, chimneys, TV aerials and vents should be considered before installation.

Solar Thermal Energy

Overview of technology

5.4.8 Solar thermal (also known as solar water heating) systems absorb the heat emitted by the sun and use it to heat water for domestic use. This simple process involves solar thermal evacuated tubes, placed on a roof which absorbs heat from the sun. The water in the panels is then heated up and pumped through a coil in a cylinder, heating up the water in the cylinder.

5.4.9 Similar in design to solar photovoltaic panels, solar thermal systems should be mounted on south-facing roofs with direct sunlight to be most efficient and productive. It is compatible with most existing water systems however will not function with appliances that heat water directly from their own source.

5.4.10 Solar thermal systems are currently subsidised by the UK Government under the domestic Renewable Heat Incentive (DRHI). Information regarding this scheme can be for in Chapter 5.10 National Incentive Schemes (Domestic and Non-Domestic).

Availability of resource

5.4.11 Similar to Solar PV, solar thermal systems capture heat generated via solar radiation, therefore the availability of this resource is dependent on the strength of the solar radiation. Therefore the stronger the radiation produced by the sun, the more heat that is absorbed by the collectors. The positioning of Solar PV systems is important for maximising solar exposure throughout the year. See the Appendix for more information about positioning.

5.4.12 A common misconception is that solar thermal systems are unsuitable in colder climates such as the United Kingdom. Solar collectors do not require bright sunlight in order to operate; they require light and whilst clear weather does improve its efficiency, solar thermal systems can operate in overcast scenarios.

Landscape and visual impacts

5.4.13 The siting and design of solar systems will be determined by the scale and nature of the development. The development of solar PV has the potential to result in significant impacts upon the character and quality of landscape. All proposals should aim to complement the character of the local landscape.

5.4.14 Visual impacts can be generated. To avoid the scheme from becoming a dominant feature within the landscape; they should be sited on relatively level ground. Where possible, schemes should be screened from view by using the

existing landscape or vegetation. It may also be a requirement of a scheme that additional planting is incorporated to better screen a site and enhance its visual appearance.

5.4.15 Additionally, glint and glare reflecting off solar panels could have cumulative impacts in the surrounding vicinity if not carefully assessed. A Landscape and Visual Impact Assessment (LVIA) must be submitted with all planning applications for solar power farms to assess the likely landscape and visual impacts of the proposal.

Ecological considerations

5.4.16 The construction of solar facilities can be placed, either on buildings or on large areas of land such as fields. In the case of solar farms careful consideration needs to be given to site selection to minimise adverse impacts upon the environment. If agricultural land is selected, the proposal should allow for the continued agricultural use of the land.

5.4.17 Solar energy schemes can have numerous environmental impacts; such as by fragmenting biodiversity and natural habitats.

5.4.18 To minimise environmental impact, vegetation and hedgerows should be maintained and enhanced where possible. Security fencing surrounding the development should enable access for species, such as badgers to continue to access the area. Lighting will only be permitted where absolutely necessary, and must be kept to a minimum where allowed and should not adversely impact upon protected species such as bats.

5.4.19 A Phase 1 Ecological Survey will be required as part of any planning application to identify any potential impacts and recommend mitigation. Developers should consult with the Council in relation to impacts upon protected species in and around the application site.

5.4.20 The use of large areas of land for solar farms and any subsequent soil compaction may alter the way surface water flows. Development in areas at risk of flooding may also increase the risk.

5.4.21 A Flood Risk Assessment (FRA) must be submitted with all planning applications for solar power that cover an area greater than 1ha or are outside Flood Zone 1. The FRA should identify and assess the risk on all forms of flooding and demonstrate how these risks will be managed or mitigated in conformity with Policy D5: Flood Risk and Coastal Management of the Approved LDP.

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Culture and heritage impacts

5.4.22 The District has a number of designated heritage and cultural assets, locally, nationally and internationally recognised, including Scheduled Monuments, Conservation Areas and listed buildings. The physical attributes of all solar energy systems can cause adverse impacts upon the District's heritage and built environment, - permitted development rights will not apply to such proposals.

5.4.23 For solar schemes within the setting of, or near the setting of a heritage asset an assessment of its impact must be undertaken and submitted with a planning application along with details of how any identified negative impacts have been mitigated.

Green infrastructure

5.4.24 Solar farms are usually a larger scale covering a large land area, so are usually found in rural areas, and use agricultural land. Policy D4 requires that impacts upon the best and most versatile agricultural land are considered through the planning application process. Therefore applications for solar farms on Grade 1, 2 and 3a agricultural land must be accompanied by an appropriate assessment which sets out why the development needs to be located on this land and not on lower grade agricultural land and the benefits the development would have that would outweigh the loss of the agricultural land

5.4.25 All solar developments must conform to Policy N1 and N3 of the Approved LDP, whereby there is a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure. Therefore cycle paths and/or Public Rights of Way such be maintained: if this is not practicable an application should be made to divert the route.

Aviation issues

5.4.26 Glint and glare can be produced via solar reflections. There is the possibility that those reflections could be a nuisance to residents, pilots and drivers. These issues should be considered by a glint and glare assessment at an early stage in the application process and should consider the likely reflective capacity of the materials and any impacts. If identified early on in the application process, the potential issues can be rectified.

Operational considerations

5.4.27 Site access will be required for the construction and maintenance of the development. In addition, security fencing and lighting may be required. If any works are required to the highway or any other land this should be identified in the planning application.

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5.4.28 Noise can arise from larger operational solar PV systems. Consideration must be given to this when identifying a site for development, particularly upon noise sensitive developments, such as residential properties that are nearby. A noise assessment may be required to address any impacts identified. This will be determined on a site-by-site basis.

Decommissioning and site restoration

5.4.29 When solar panels are no longer needed for generation they should be removed as soon as reasonably possible. This will be secure via planning condition attached to a planning permission. A decommissioning plan should be created for the overall scheme; it should have regard to the decommissioning and reclamation section of this SPD.

5.4.30 It is proposed that the main planning considerations when determining an application regarding solar energy developments are:

- Cumulative landscape and visual impacts;
- Ecology;
- Heritage asset impacts;
- Noise impacts;
- Air traffic and safety;
- Transport and access;
- Infrastructure design; and
- Decommissioning and site restoration.

5.5 Biomass and Energy Crops

Overview of technology

5.5.1 Biomass can be either used directly or indirectly to create energy. A direct source of energy would be burning biomass products, such as wood, energy crops or animal waste to produce heat. Indirect forms of energy production via biomass are created through the conversion of various forms of biomass into electricity at a combustion plant.

5.5.2 The domestic use of biomass systems (wood-fuelled heating systems) provide a direct source of energy to households by burning wood pellets, chips or logs. Adaptive to suit the needs of each individual household, biomass systems can heat a single room via a log-burning stove or heat multiple spaces and appliances via a biomass boiler. The cost of wood burning stoves and boilers are relatively low, therefore biomass has one of the lowest costs of all the low carbon technologies.

5.5.3 Larger biomass systems used to heat commercial premises or large buildings will require planning permission if the boiler is to be sited outside the building, or in a new building or extension.

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5.5.4 Wood fuel boiler systems are subsidised by the UK Government under the Renewable Heat Incentive (RHI). Information regarding this scheme can be found in Chapter 5.10 National Incentive Schemes (Domestic and Non-Domestic).

5.5.5 Non-domestic biomass systems and energy crop operations are predominantly used to indirectly produce electricity and biofuels for domestic purposes. Specifically, biomass products are formed by solid, gas and liquid state.

5.5.6 Industrial biomass sources for mass energy production include plant matter and a variety of tree species. These energy production units are either self-serving to a business's needs or produce energy on a large-scale for input into the national grid.

5.5.7 Biomass heating from burning wood is considered to be a low carbon energy source, as only the carbon that has been absorbed by the wood is released. If the trees are replanted, the use of wood as a fuel is almost carbon neutral as the new trees will absorb the equivalent amount of carbon released.

5.5.8 There is high potential for biomass and energy crop production within the District. The large amount of agricultural land available offers the potential for an array of uses; from the production of crops needed to be used for biomass consumption to the siting of biomass plants themselves.

5.5.9 Biomass from forestry harvesting, agricultural sources and energy crops require local input due to the short lifespan of biomass materials. Therefore logistics must be thoroughly planned, with the aim of locating the production plant and generation plant in close proximity of each other.

Availability of resource

5.5.10 Biomass production comes from crop and livestock sources, it is also indigenous meaning it can be produced at a local scale.

5.5.11 Biomass for fuel can be gathered or grown. Common biomass fuels sources include:

- Biodegradable waste: municipal and agricultural;
- Forestry residues and timber processing waste;
- Crop residues, such as straw, leaves and seed pods; and
- Energy crops: specifically grown on demand to be used as a biomass energy source.

5.5.12 The District is predominantly rural and has the potential to provide for all of these sources, therefore assessing the availability of this resource should be based around an evaluation of viability to the energy market rather than its physical availability.

Landscape and visual impacts

5.5.13 Domestic biomass systems are unlikely to have visual or landscape issues unless external flues are required. If required they should be designed and sited to have the minimum effect on the appearance of the building. In this regard, it will be beneficial to the applicant if discussions take place with the Council's Environmental Health department. If new-builds are required to house a boiler or store fuel, they should be located close to the existing building and be designed with consideration to the surrounding area.

5.5.14 Large-scale, non-domestic biomass systems would however have a larger impact on their surrounding area due to their industrial-like aesthetics and should be appropriately placed within an industrial setting. A landscape and visual impact assessment may be required by the Council, in order to understand all cumulative impacts created by the development.

Ecological considerations

5.5.15 Siting proposals for larger schemes must outline designated areas and habitats within the vicinity of the proposed development, and would have to comply with national and local policies regarding natural environments, geodiversity and biodiversity. Specifically within the Approved LDP: Policy N2, whereby developments should seek to deliver net biodiversity and geodiversity gains where possible.

5.5.16 Considerations must be given to the possibility that development may negatively impose flood risk to potential sites. Legitimate assessment methods must be outlined if there is evidence to suggest there is a flood risk and must conform to Policy D5: Flood Risk and Coastal Management of the Approved LDP.

Culture and heritage impacts

5.5.17 The District has a number of designated heritage and cultural assets, both nationally and internationally recognised, such of those include Ramsar Convention Designation for Wetlands, National Nature Reserves and Specific Sites of Scientific Interest (SSSI). Siting considerations must include the observation of these important sites and methods of mitigation must be adhered to.

5.5.18 If an applicant wants to deploy a biomass system with a flue in a Listed Building or within a Conservation Area then planning permission and/or listed building consent might be required. The flue should be designed to have minimal effect on the appearance of the listed Building and Conservation Area otherwise planning permission will not be granted.

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Green infrastructure

5.5.19 All developments must conform to Policy N1 and N3 of the Approved LDP, whereby there is a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure. Thus meaning no development shall inhibit current or new infrastructure facilities such as cycle paths or Public Rights of Way. Non-domestic schemes will need to take these factors into consideration at the planning stage in order to avoid complications that may arise at a later stage if due diligence is not conformed to.

Operational considerations

5.5.20 Dependant on the size and scale of development, site access will be required for the construction and maintenance of the development, which may result in the need for an access road leading up to the hydropower scheme. The appropriate assessments regarding construction of the scheme and to provide the correct cabling from the development site to the sub-station where generated electricity is sent will also need to be undertaken. If any works are required to the highway or any other land this should be identified in the planning application.

5.5.21 Larger biomass systems should be located in close proximity to a fuel source if possible and should plan for sufficient storage facilities on site so that fewer deliveries are required. This will minimise transport movements and the impact upon the environment.

5.5.22 The potential noise impacts throughout construction, operation (including fuel deliveries) and decommissioning stages of the development life cycle, particularly for larger systems will need assessing as part of the planning application. Applications should include a noise assessment demonstrating that the noise will not cause an unacceptable degree of disturbance to local amenity. Therefore the assessment must identify mitigation to address any impacts identified.

5.5.23 Biomass systems can create odour, particularly in larger systems. The impacts of odour and mitigation controls must be detailed in the planning application to ensure there is no undue harm to residential amenity.

5.5.24 Domestic scale biomass boilers may require a flue which can be fitted to existing chimneys. Careful consideration should be given to the type and scale of system to suit the applicant's needs. Wood burning stoves should be correctly sized for the room it will serve.

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Decommissioning and site restoration

5.5.25 The applicant should outline, at the pre-application stage, the post-operational and decommissioning activities for the scheme. A decommissioning plan should accompany the application: this enables the developer to proactively outline the steps necessary for either site restoration or alternative land use scenarios. The decommissioning plan should build in flexibility to reflect the length of time between the application stage and implementation at the end of the development life cycle.

5.5.26 It is proposed that the main planning considerations when determining an application relating to biomass and energy crops include:

- Cumulative landscape and visual impacts;
- Ecology;
- Heritage asset impacts;
- Noise impacts;
- Environmental impacts;
- Emissions;
- Transport and access;
- Infrastructure design; and
- Decommissioning and site restoration.

5.6 Small Hydro

Overview of technology

5.6.1 Hydro-power uses flowing water from a higher to a lower level to drive a turbine, thus producing mechanical energy. This mechanical energy is then converted via a generator to form electricity. A domestic hydro power unit is illustrated below.



Domestic small hydro power unit installation (Source: Google)

5.6.2 The energy generated from a hydro-power generator is proportionate to the volume of water and the vertical distance it falls. Therefore the potential for

hydro power in the Maldon District will be mostly limited to small-scale river schemes with low energy production, typically ranging between 10kW and 50kW. For domestically viable sites, the minimum requirements are outlined in Table 5.1.

	Maximum Power Output (kW)				
	5	10	25	50	100
Head (m)	Flow required (m3/sec)				
2	0.340	0.680	1.699	3.398	6.796
5	0.136	0.680	0.680	1.359	2.718
10	0.068	0.272	0.340	0.680	1.359
50	0.014	0.136	0.070	0.136	0.272
100	0.006	0.014	0.340	0.068	0.136

Table 5.1: Minimum flow rates required for a range of (gross) heads

5.6.3 In the UK there are two main methods for generating hydroelectricity:

- Storage schemes – where a dam collects water in a reservoir, then releases it to drive turbines, producing electricity.
- Run-of-river schemes – where the natural flow of the river or stream is used to drive a turbine.

5.6.4 Hydro-electric power generation schemes must be held against all other uses of the river to ensure exploitation is not a primary outcome from the development. The scheme must work in harmony with all other functions that might come as a result of the river.

5.6.5 Hydropower is reliable and predictable and if installed correctly can produce electricity all year round. Over time, it is one of the most efficient forms of renewable energy. However, the upfront costs for hydropower can be high, but the payback of a scheme would be long-term as installations have a lengthy life-cycle. Maintenance requirements and costs are usually low. Available government subsidies can be applied to the uptake of small-hydro schemes under the Feed-in Tariff. Information regarding this scheme can be for in Chapter 5.10 National Incentive Schemes (Domestic and Non-Domestic).

5.6.6 In addition to planning permission, small hydropower schemes require specific licenses, consents and approvals in order to operate. The Environment Agency will determine which authorisations will be required. For more guidance regarding these approvals, please visit: https://www.gov.uk/guidance/new-hydropower-scheme-apply-to-build-one#apply-for-licences-consents-and-approvals

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Availability of resource

5.6.7 Hydroelectric power is the energy derived from flowing water; therefore it is usually only possible to exploit this resource where it occurs. This can be from rivers or man-made installations, where water flows from a high-level reservoir down through a tunnel and away from a dam. The availability of the water resource does not only depend on whether it is physically available, but also whether the use of the river for electricity conflicts with other functions related to the river.

5.6.8 Access to the National Grid is required. Discussions with the relevant electricity company should take place to identify if there are any connectivity issues to the grid and assess whether it will be cost effective. Evidence of this should be included in the planning application.

Landscape and visual impacts

5.6.9 Considerations must be given to integrating the scheme into the landscape as far as possible. Sites on hillsides and in open landscape are likely to have more visual impact: such schemes should be sensitively sited and designed so that they integrate into the landscape through the careful use of landform, materials, vegetation and tree cover. Where possible, existing buildings should be used to house machinery. Placement and design of pipes and power lines should also be considered carefully at the planning stages of the scheme for minimal visual impact.

5.6.10 The Council will require all hydropower applications to assess the landscape and visual impacts of a proposal through a Landscape and Visual Impact Assessment

Ecological considerations

5.6.11 Changes in river flow fluctuations and water quality will need to be assessed in order to fully understand the risks associated to the environment and on wildlife, particularly fish. It is possible to mitigate such issues if they arise by implementing flexible programming, both in the short and long term. The Environment Agency will advise whether the scheme should include structures such as fish passes to protect fish and other freshwater animals from the turbines. In setting targets, development should take into consideration; the protection of vegetation and forestry, soil erosion and the protection of habitats and species.

5.6.12 In accordance with Policy N2, proposals must ensure designated areas and habitats within the vicinity of the proposed development are not adversely affected. Developers should consult with the Council regarding the presence of important habitats or protected species in and around the proposed scheme. An ecological survey must be submitted with all planning

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applications assessing any potential impacts and identifying appropriate mitigation. Developments should also seek to deliver net biodiversity and geodiversity gains where possible.

5.6.13 If the proposal lies within or close to a sensitive area such as SSSI, an EIA may be required. If this applies the Council will provide a Screening Opinion which will advise the applicant as to whether an EIA is required. EIA assesses the possible impacts that a proposed project may have on the environment, including environmental, social and economic impacts. Where EIA is required, an Environmental Statement will be also needed to accompany the planning application, which assesses the impact a project will likely have on the local environment.

5.6.14 Where an EIA is not required the Council may still request certain issues are addressed, such as the cumulative impacts of the proposal or the impact of the proposal on nearby designations if the application site is adjacent but not within a designation. An Environmental Statement will be required if this is the case.

5.6.15 Some hydropower schemes can lead to reduced flows in rivers which can increase flood risk or affect land drainage. A flood risk assessment must be submitted to the Council with every planning application. It must identify and assess the risks on all forms of flooding to and from the development and demonstrate how the flood risks will be managed or mitigated so that the development remains safe throughout its lifetime.

Culture and heritage impacts

5.6.16 The District has a number of designated heritage and cultural assets, both nationally and internationally recognised, such as Scheduled Monuments, Registered Battlefields, Registered Parks and Gardens, Listed Buildings and Conservation Areas. Consideration must be given to the impact of hydropower on these important sites. If proposals are proposed within the setting of, or near to the setting of one of the above types of heritage asset, an assessment of its impact on the heritage asset are required along with details of how any negative impacts will be mitigated. Further details are found in Policy D3: Conservation and Heritage Assets.

Green infrastructure

5.6.17 All proposals must not inhibit existing functions of a river. In accordance with Policies N1 and N3 of the Approved LDP, development should not lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure. Thus meaning no development shall inhibit current or new infrastructure facilities such as cycle paths or Public Rights of Way.

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5.6.18 Hydro power systems can create conflicts relating to ownership and access rights for both water and land including for agriculture and social activities such as fishing and walking. It is vitally important that all issues are thoroughly examined as early as possible to ensure that all potential conflicts can be resolved.

Operational considerations

5.6.19 All small hydropower systems require routine maintenance to ensure reliable operational function. The frequency of servicing depends on the scale, complexity and type of scheme in operation. Whilst it is considered that development and construction costs are high, operating costs are much lower. With the added knowledge that the life-cycle of hydropower systems exceed 50 years, investment costs are recovered once the system is in operation.

5.6.20 The operational activities of a hydropower system can produce noise via number of processes. This type of impact can have a detrimental effect if residential areas are located in the vicinity of the development. In these cases, the Council may require a noise assessment to be submitted with the planning application, demonstrating that the scheme will not have a negative impact on local amenity. In addition, design and mitigation strategies will further reduce noise pollution to levels required by national legislation. Noise limits can be imposed if necessary as a condition on the planning permission.

Decommissioning and site restoration

5.6.21 The applicant should outline, at the pre-application stage, the post-operational and decommissioning activities for the scheme. A decommissioning plan should accompany the application: this enables the developer to proactively outline the steps necessary for either site restoration or alternative land use scenarios. The decommissioning plan should build in flexibility to reflect the length of time between the application stage and implementation at the end of the development life cycle.

5.6.22 It is considered that the main planning considerations when determining a planning application for hydro-electric power generation are:

- Cumulative landscape and visual impacts;
- Water supply and discharge/flow rates:
- Ecology;
- Heritage asset impacts;
- Nosie impacts;
- Environmental impacts;
- Fisheries interests;
- Construction disturbances;
- Operational disturbances;

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- Transport and access;
- Infrastructure design; and
- Decommissioning and site restoration.

5.7 Micro Combined Heat and Power (CHP)

Overview of technology

5.7.1 Micro-Combined heat and power (CHP) enables one single fuel to be converted into both electrical and heat energy in a single process at the point of use. Micro-CHP is highly efficient due to its use of thermal energy as a source of productive energy use as well as generating electricity. By generating heat and electricity simultaneously, micro-CHP can reduce carbon emissions by up to 30% in comparison to alternative means such as the use of a conventional boiler and power station.

5.7.2 Micro-CHP or micro cogeneration is most commonly used by domestic households, shared living spaces such as residential flats or by small businesses to support individual energy requirements. Instead of burning fuel to boil water or heat space, surplus energy is converted into electricity in addition to heat.

5.7.3 The financial incentives available for this particular technology ensure a sufficient rate of return for consumers and businesses as micro-CHP is eligible for the Feed-in Tariff incentive, setup and subsidised by the UK Government. Users will receive a tariff for each kWh of electricity generated and an additional tariff for each kWh generated and exported to the national grid. Information regarding this scheme can be for in Chapter 5.10 National Incentive Schemes (Domestic and Non-Domestic).

Availability of resource

5.7.4 Micro-CHP technologies can use conventional fuels such as gas or biomass in order to cogenerate both heat and electricity. Instead of using fuel to heat water or space separately, micro-CHP efficiently converts energy that would have been lost into electricity, in addition to heat. There are opportunities to implement a hybrid system whereby small-scale CHP systems can operate in combination with renewable technologies such as solar PV or solar thermal systems.

5.7.5 CHP is adaptable and can be considered at any site where there is sufficient energy demand in the form of heating and cooling, particularly if the demand is for long periods. The scale of the scheme will depend on the energy demand and availability of space.

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Landscape and visual impacts

5.7.6 As Micro-CHP systems are located within a building systems will not pose any landscape and visual impacts unless an external flue is required. If required they should be designed and sited to have the minimum effect on the appearance of the building. If new buildings are required to house the CHP unit and related equipment they should be located close to the existing building and be designed sensitively to complement the adjacent buildings and surrounding area.

5.7.7 The installation of a CHP unit in a Listed Building or in a Conservation Area will require planning permission and Listed Building Consent if a flue is required outside. The flue should be designed to have minimal effect on the appearance of the heritage assets otherwise planning permission will not be granted.

5.7.8 Micro-CHP systems may require a flue which can be fitted to existing chimneys. Careful consideration should be given to the type and scale of system to suit the applicant's needs. Wood burning stoves should be correctly sized for the room it will serve. Considerations should also be given to the impacts of any plumes that are emitted from chimney stacks.

Ecological considerations

5.7.9 CHP systems are highly efficient in comparison to alternative and separate methods of heat and electricity production, there are however environmental impacts that relate to flue-gas emissions and by-products, such as ash. Micro-CHP systems can reduce the output of Greenhouse gas emissions as it can sustain its own generation of electricity which would otherwise be generated via conventional power plants.

Culture and heritage impacts

5.7.10 The District has a number of designated heritage and cultural assets, both nationally and internationally recognised, such as Scheduled Monuments, Registered Battlefields, Registered Parks and Gardens, Listed Buildings and Conservation Areas. Consideration must be given to the impact of hydropower on these important sites. If proposals are proposed within the setting of, or near to the setting of one of the above types of heritage asset, an assessment of its impact on the heritage asset are required along with details of how any negative impacts will be mitigated. Further details are found in Policy D3: Conservation and Heritage Assets.

Operational considerations

5.7.11 Micro-CHP systems require a similar level of maintenance as a conventional boiler, with an annual inspection including a change of the engine oil in the case of internal combustion engines.

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Decommissioning and site restoration

5.7.12 The applicant should outline, at the pre-application stage, the post-operational and decommissioning activities for the scheme. A decommissioning plan should accompany the application: this enables the developer to proactively outline the steps necessary for either site restoration or alternative land use scenarios. The decommissioning plan should build in flexibility to reflect the length of time between the application stage and implementation at the end of the development life cycle.

5.7.13 It is considered that the main planning considerations when determining a planning application for micro CHP are:

- Visual impacts;
- Heritage asset impacts;
- Emissions:
- Infrastructure design; and
- Relevant building standards and regulations.

5.8 Ground and Air Source Heat Pumps

Overview of technology

5.8.1 Ground source heat pumps consist of pipes being laid underground to extract heat from the ground. This heat can be used to heat radiators, underfloor heating systems and hot water. Circulating a mixture of water and antifreeze around a loop of pipe called a ground loop, this loop is buried underground and absorbs heat from the ground into the fluid and passed through a heat exchanger into the heat pump. They can also be used in reverse to cool a building in summer.

5.8.2 Air source heat pumps absorb heat from the outside air. Similar to ground source heat pumps, this heat can then be used to heat domestic heating systems such as radiators, underfloor heating systems or hot water. Air source heat pumps can extract heat from temperatures as low as -15 degrees Celsius. They can also be used for cooling, and work in a similar way to air conditioning. They are cheaper to install than ground source heat pumps but are not usually as efficient. This is because they use the heat from the air, which in the UK is colder in the winter when heating is needed.

5.8.3 Ground and air source heat pumps do have impacts on the environment as they need electricity to operate the pumps. However, the heat extracted via the air or ground is abundant.

5.8.4 Ground and air source heat pumps operate at maximum efficiency when supplemented by additional renewable and low carbon technologies such as solar photovoltaics and wind energy. Additionally, supplementary technologies will reduce reliance on the national grid to supply heat pumps with electricity.

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5.8.5 Heat pumps are currently subsidised by the UK Government under the Renewable Heat Incentive (RHI) scheme. Information regarding this scheme can be for in section 5.10 National Incentive Schemes (Domestic and Non-Domestic).

5.8.6 Planning permission may be required when fitting a heat pump, most commonly when development takes place in a conservation area or on listed buildings.

Availability of resource

5.8.7 Heat pumps require a small amount of electricity to operate; this can be sourced from either the national grid or renewable sources. Heat pumps are considered highly efficient as they do not source heat from combustion methods and can operate throughout the year, even at temperatures of -20 degrees Celsius.

Landscape and visual impacts

5.8.8 Heat pumps are usually placed on the outside of buildings and therefore will have a physical presence and can affect the appearance of a building. Similar in design as an air conditioning unit, the placement of heat pumps should be so that they limit their visual impact and appearance.

5.8.9 Dependant on the scale of development, heat pumps may need planning permission if their prominence does not meet the conditions set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 Part 14. This would include the installation of a heat pump system on a Listed Building or in a Conservation Area.

5.8.10 Ground source heat pumps require the installation of pipes beneath the ground. During the construction phase there may be landscape and visual impacts. The ground must be restored following installation to ensure there are no permanent landscape and visual impacts.

Ecological considerations

5.8.11 For the deployment of ground source heat pumps, drilling and excavation will need to be undertaken which can cause risks of pollution to groundwater, if the land or soil is contaminated. Before submitting a planning application, the site must be assessed in order to determine if there is land contamination via a Groundwater Risk Assessment.

5.8.12 Ground disturbances has the potential to impact habitats and wildlife. Considerations should be given to the extent of those impacts and whether the site has ecological value. The Council will request, where necessary, the appropriate assessments to determine the impacts of a development on habitats.

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Culture and heritage impacts

5.8.13 All proposals should be consistent with Policy D3: A planning application for an air source heat pump on a Listed Building will be assessed against the extent to which it would interfere with the appearance, structure, design or character of the Listed Building, Should a proposal have a negative effect on a Listed Building or a Conservation Area, Listed Building Consent and planning permission will not be granted.

5.8.14 Furthermore, heat pump systems will not be considered permitted development (Town and Country Planning (General Permitted Development) (England) Order 2015 Part 14) if it is proposed on land within a conservation area.

5.8.15 When excavating trenches for pumps outside the curtilage of a dwelling, considerations must be given to archaeological interests on the land. Before any work takes place, the applicant must identify whether there are any archaeological interests on site and mitigation required if so.

Operational considerations

5.8.16 Ground source heat pumps can be installed in most locations but may not be suitable for every building. Pumps can vary in size but are often a similar size to a domestic fridge freezer, therefore sufficient space must be available.

5.8.17 Heat pumps do not work well with conventional central heating systems that use radiators as they will not heat the water high enough for the radiators or provide enough heat, so a new system may be required. They work best with underfloor heating systems.

5.8.18 Heat pumps need an electrical supply in order to operate, this can be provided via conventional fuels sourced from the national grid, or alternatively via supplementary renewable resources, thus developing a hybrid system whereby both heat and electricity are created sustainably.

5.8.19 Air source heat pumps are fitted to a wall or on the ground outside a building and need sufficient surround space to allow good air flow.

5.8.20 Air source heat pumps can generate noise via the external fan. Applicants will need to demonstrate that noise will not be an issue for the surrounding vicinity.

5.8.21 Maintenance is ongoing once the scheme is set up, services are most commonly on an annual basis but would be determined by the installer. This is an important process as, although the system is efficient and environmentally sound in comparison to alternative non-renewable sources of

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heat, some of the fluids used for the transfer of heat pose significant dangers to the environment. Therefore to remove any risk that might present itself to the environment, correct maintenance procedures should be applied when using a heat pump.

Decommissioning and site restoration

5.8.22 The applicant should outline, at the pre-application stage, the post-operational and decommissioning activities for the scheme. A decommissioning plan should accompany the application: this enables the developer to proactively outline the steps necessary for either site restoration or alternative land use scenarios. The decommissioning plan should build in flexibility to reflect the length of time between the application stage and implementation at the end of the development life cycle.

5.8.23 It is considered that the main planning considerations when determining a planning application for heat pumps are:

- Cumulative landscape and visual impacts;
- Ecology;
- Heritage asset impacts;
- Noise impacts;
- Construction disturbances;
- Operational disturbances;
- Geotechnical
- Transport and access; and
- Decommissioning and site restoration.

5.9 Community Ownership Schemes (Community Energy)

5.9.1 Community ownership or ‘community energy’, defined by the government, focuses on community projects or initiatives for; reducing energy consumption, managing energy more efficiently, generating energy and securing energy through purchase. The SPD will look at these four pathways of community involvement in more detail.

5.9.2 Community ownership covers aspects of collective action to reduce, purchase, manage and generate energy. Community energy projects have an emphasis on local engagement, local leadership and control and the local community benefiting collectively from the outcomes.

5.9.3 Community-led action can often tackle challenging issues around energy; local knowledge and common goals can often bring communities together with aspirations to deliver a more sustainable community.

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5.9.4 The Community Energy Strategy: Full Report[13] (2014), aims to help both existing groups form decentralised energy strategies and inspire more communities to set up and expand. The potential for communities to take control of their own energy resources would provide profound benefits, whether it be securing energy for those who are vulnerable or reducing a community's carbon footprint and offering a more sustainable path to decarbonisation.

5.9.5 The report also found that communities are more effective in reaching the vulnerable in society and may be more trusted by sceptical consumers. Also, best placed to maximise the benefits of certain renewable technologies, such as district heating, communities can opt for those technologies that are favoured by all. Wider benefits can be felt by the strengthening of local economies and a greater sense of community.

Partnerships

5.9.6 The ability for the private, public and third sector to work in partnership together, aiming towards a common goal can be an effective way for communities to achieve their objectives. Not only would community aspirations align with organisation investment opportunity, but local interest and reach would enable the correct development to be situated in the preferred locations, with the support of the community.

5.9.7 The uptake in community-led ownership schemes is low; transforming local ambition into purposeful development is a difficult task when organisation and resourcefulness need be voluntary. But collaborating organisations would benefit most groups aiming to achieve their goals.

5.9.8 The challenge therefore is being able to identify the correct methods of communication and connection between community and organisation. Organisations include renewable energy developers, other energy and non-energy businesses, local enterprise partnerships (LEPs), housing associations, third sector organisations, farmers and other landowners.

5.9.9 However, the NPPF (2012) states that Local Planning Authorities should recognise the responsibility on all communities to contribute to energy generation from renewable and low carbon sources, and support community-led initiatives for renewable and low carbon energy sources.

5.9.10 Neighbourhood plans are a real opportunity for communities to engage with their Local Planning Authority and actively plan for community-led developments. Specifically within Neighbourhood Plans, Neighbourhood Development Orders and Community Right to Build Orders can be used to grant planning permission for renewable and low carbon energy development. In addition, as part of a Neighbourhood Plan, communities can initiate the

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development of a community energy plan to underpin the Neighbourhood Plan.

5.9.11 For more information about Neighbourhood Plans and/or community-led planning initiatives, please go to the Maldon District Council website: https://www.maldon.gov.uk/info/20048/planning_policy/8112/community_led_planning_and_neighbourhood_plans/2

Collating an evidence base for community energy

5.9.12 A sound and robust evidence base is important for any community energy strategy.

5.9.13 At a local level, the ability to evaluate and compare different community-led energy initiatives can help maximise the chances of a successful programme and produce maximum efficiency. Although there are no such initiatives in Maldon at the moment examples exist elsewhere in Essex, and interested local organisation would benefit from gaining knowledge relating to both successful as well as unsuccessful projects.

5.9.14 For more information and guidance regarding Community Energy, please visit: https://www.gov.uk/guidance/community-energy

5.9.15 As with all renewable energy projects, monitoring and evaluation of community projects is important, and can also help inform other interested groups about the benefits of schemes. Simple measures can include: power output of chosen technology, income generated, expenditure on the project and number of community members that participated in the engagement process. Social impacts are more difficult to calculate but are most commonly sought through surveys with local residents. Feedback can prove invaluable when aiming to identify the positive and negative social impacts of each scheme.

5.9.16 Similarly, it is difficult to measure the environmental impacts of community energy projects. A brief description of how a community-led scheme may impact its surrounding environment can be viewed with value.

5.9.17 Whilst monitoring and evaluation can be sought immediately after a scheme is fully operational, it is also as important that a review of the scheme is undertaken over a longer period of time. This is so the benefits and output data can be collected and validated over a longer timescale.

Accessing channels of investment

5.9.18 Access to investment is a fundamental factor in the success of community energy projects. The feasibility and planning stage, the initial starting point for any project, is the most difficult stage of the entire project as it is at this point communities must attract financial investment that is usually entirely ‘at risk’.

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This means if the project does not move past the planning stage, all investment is lost.

5.9.19 It may be difficult for communities to source finance due to the limited number of project financiers for the community energy sector, however there are government schemes[14] in place to help smaller projects that might not be able to source funding via alternative means.

5.9.20 Community share offers are the most recognised approach to securing finance for community-led ownership schemes. Investment through a community share offer can vary from project to project, but can have a profound effect on enabling community members to feel more involved in the process as they actively seek to gain from their investment. Although entry levels of investment can be difficult for less affluent members of the community, many projects develop creative approaches to addressing these issues so social exclusion does not occur.

5.9.21 Alternatively, there are also opportunities for groups to work with other partners and funders to offer instalment schemes, and equity-matching products to help boost social inclusion within communities.

Generating energy

5.9.22 The opportunity to generate electricity and heat on a local level, with the added ability to supply the national grid with surplus energy poses many advantages for community-led initiatives whereby sustainability is achieved on many levels. There are however fundamental differences in how the generation of electricity and heat can be optimised at a local level.

5.9.23 The ability for community energy schemes to optimise electricity generation within a community and the ability to transfer additional supply to the national grid for a specified tariff fee allows communities to collectively make returns on their investments. Section 5.10 will focus specifically on electricity generation tariff schemes that are available for both individual and community-led renewable energy projects.

5.9.24 Unlike generating electricity, generating heat is most commonly distributed at a local level only as it is difficult to distribute over larger distances. Therefore, in regards to community energy schemes, there is great potential for a cost effective and quick implementation of renewable heat.

5.9.25 However, as with all renewable and low carbon technologies, there are certain barriers that must be overcome in order for their expansion amongst communities and domestic households. Renewable heat technologies are very much in the early phase of their roll-out in domestic markets. Low awareness levels can make it hard for communities to engage in discussion, especially without some form of leadership of incentive.

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5.9.26 The benefits of renewable heat strategies are plenty:

- Developing community heat networks can enable efficient methods of heat sharing amongst a collective;
- Reduces energy costs for individual households with the generation of heat energy from one source;
- Helps identify and support vulnerable people within communities that might not be able to access adequate heating or be recognised as living in fuel poverty.

5.9.27 Communities can generate renewable heat through a variety of means, the most common include:

- The development and installation of renewable heating systems on communal premises, such as community centres or library's;
- The installation of individual renewable heating systems, such as biomass boilers, heat pumps or solar thermal systems;
- The development of community heating systems, providing shared heat to individual households within a community from a fixed source.

5.9.28 There are certain barriers inhibiting investment in community ownership programmes. Enabling the development of renewable energy schemes on a community level requires collective engagement and realistic ambition. Creating an awareness of the opportunities available on a local level is the most realistic route towards an increased uptake in community ownership schemes such as district heating.

5.10 National Incentive Schemes (Domestic and Non-Domestic)

5.10.1 Alone, energy markets cannot deliver the desired level of renewable energy uptake. As a result of market and regulatory inefficiencies such as low levels of competition internally and unfair competition with other fuels externally, national incentive schemes are required in order to encourage market growth.

5.10.2 There are currently a variety of initiatives available within England, these vary on a regional and local level. The three most prominent schemes available are:

- Domestic Renewable Heat Incentive (DRHI)
- Non-Domestic Renewable Heat Incentive (NDRHI)
- Feed-in Tariff (FIT)

Domestic Renewable Heat Incentive (DRHI)

5.10.3 The DRHI is a government financial incentive that promotes the production and use of renewable heat via specific renewable and low carbon technologies. The use of such technologies can help contribute towards

reducing the UK's dependence on non-sustainable heating fuels and as a result reduce its carbon emissions whilst meeting renewable energy targets.

5.10.4 Launched in April 2014, DRHI provides financial support to owners of renewable heating systems for seven years. The amount received by participants varies, dependant on the technology installed and the latest tariffs available for each technology. The Department for Business, Energy and Industrial Strategy is responsible for the overall budget and the tariffs.

5.10.5 The renewable and low carbon technologies available under the DRHI scheme are:

- Biomass (wood fuelled) boilers
- Ground to water heat pumps
- Air to water heat pumps
- Solar thermal panels (for solar thermal panels to be eligible for the scheme, they can only provide hot water for the domestic household, not space heating).

5.10.6 Those eligible for DRHI include:

- Those applying within one year of commissioning their renewable heating system;
- Single domestic dwellings; and
- Owner-occupiers, self-builders, private landlords and registered providers of Social Housing.

5.10.7 Section 5 of the Renewable and Low Carbon Technology SPD provides further guidance on each of the technologies identified above, enabling users to choose the right method of renewable energy.

5.10.8 For more information regarding the Domestic Renewable Heat Incentive, please visit: https://www.ofgem.gov.uk/environmental-programmes/domestic-rhi

Non-Domestic Renewable Heat Incentive (NDRHI)

5.10.9 The NDRHI is similar to the DRHI, a governmental initiated financial incentive inclined to increase uptake of renewable heat. The NDRHI however is for businesses, public sector and non-profit organisations, rather than domestic schemes which are solely supplied by the DRHI. These two schemes, although under one title: Renewable Heat Incentive, have separate tariffs, joining conditions, rules and application processes.

5.10.10 This scheme offers financial support to those eligible over a 20 year period based on the amount of heat generated. The amount received by participants of the scheme varies, dependant on the technology installed and

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the latest tariffs available for each technology. The Department for Business, Energy and Industrial Strategy is responsible for the overall budget and tariffs.

5.10.11 The renewable and low carbon technologies available under the NDRHI scheme are:

- Biomass (solid fuel) boilers
- Heat pumps (ground source, water source and air source)
- Deep geothermal
- Solar thermal panels
- Biomethane and biogas
- Combined heat and power (CHP) systems

5.10.12 The NDRHI is available to industrial, commercial, the public sector and non-profit organisations. Specifically, such organisations include schools, hospitals and small businesses, as well as district heating schemes where one development or installation can supply multiple homes.

5.10.13 Section 5 of the Renewable and Low Carbon Technology SPD provides technical guidance on the above technologies.

5.10.14 For more information regarding the Domestic Renewable Heat Incentive, please visit: https://www.ofgem.gov.uk/environmental-programmes/non-domestic-rhi

Feed-in Tariff Scheme (FIT)

5.10.15 A tailored government initiative designed to promote renewable and low carbon electricity generation technologies, the FIT scheme requires participants to produce electricity via renewable and low carbon technologies and feed surplus electricity into the national grid for an agreed tariff rate.

5.10.16 Participants of the FIT scheme receive quarterly payments for electricity generated and then exported to the national grid from their renewable and low carbon technology. Payments are based on the meter reading that equates to a fixed rate set out in the tariff, paid to consumers by energy suppliers enlisted on a government register.

5.10.17 The renewable and low carbon technologies available under the FIT scheme are:

- Solar photovoltaic (Solar PV)
- Wind
- Micro combined heat and power (CHP)
- Hydro power
- Anaerobic digestion (AD)

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5.10.18 FIT support is provided via two support streams, dependant on size and type of installation:

- For small installations (<50kW) such as domestic or small business set-ups, applications are made to an energy supplier under the title Microgeneration Certification Scheme (MCS). Technologies of particular relevance to the MCS include Solar PV, Wind and Micro Combined Heat and Power (CHP). Statistics from Ofgem indicate that the average home-scale Solar PV installation is 4kW.
- For large installations greater than 50kW and a total installed capacity up to and including 5MW pertaining Solar PV and wind power technologies, applications must be submitted under the scheme ROO-FIT directly to Ofgem.

5.10.19 Support is available for up to 20 years dependant on which technology is chosen by prospective applicants. Applicants that choose to install CHP will be supported through the FIT scheme for 10 years. For more information regarding the Feed-in Tariff Scheme and the available tariff rates, please visit: https://www.ofgem.gov.uk/environmental-programmes/fit

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Appendix 1

BREEAM UK Non-Domestic New Construction

BREEAM Assessment

To achieve a particular BREEAM rating, the minimum overall percentage score must be achieved and the minimum standards, detailed below in Table 3.1, applicable to that rating level complied with.

Minimum standards by BREEAM rating level					
BREEAM issue	**Pass**	**Good**	**Very Good**	**Excellent**	**Outstanding**
Man 01: Project brief and design	None	None	One credit (stakeholder consultation (project delivery)	One credit (stakeholder consultation (project delivery)	One credit (stakeholder consultation (project delivery)
Man03:Responsible construction practices	Criterion 2 None	Criterion 2 None	Criterion 2 None	Criterion 2 One credit (considerate construction)	Criterion 2 Two credit (considerate construction)
Man 04:Commissioing and handover	None	None	None	Criterion 9	Criterion 9
Man05: Aftercare	None	None	None	One credit (Seasonal commissioning)	One credit (Seasonal commissioning)
Ene01: Reduction of energy use and carbon emissions	None	None	None	Five credits	Eight credits
Ene02: Energy monitoring	None	None	One credit (First sub-metering credit)	One credit (First sub-metering credit)	One credit (First sub-metering credit)
Wat01: Water consumption	None	One credit	One credit	One credit	Two credits
Wat02: Water monitoring	None	Criterion 1 only	Criterion 1 only	Criterion 1 only	Criterion 1 only
Mat 03: Responsible sourcing of materials	TBC	TBC	TBC	TBC	TBC
Wst 01: Construction waste management	None	None	None	None	One credit
Wst 03: Operational waste	None	None	None	One credit	One credit
LE03: Minimising impact on existing site ecology	None	None	One credit	One credit	One credit

Table 3.1: Minimum standards by BREEAM rating level

3.5.15 Environmental

A BREEAM Assessor must determine the BREEAM rating using the appropriate assessment tools and caluclators.

Appendix 2

BREEAM UK Domestic New Construction– Home Quality Mark

3.3.7 The Home Quality Mark (HQM) is a voluntary and customer focused assessment and certification scheme, having been created to serve the UK's house builders and the householders who buy and rent new homes. HQM enables house builders to demonstrate high quality builds, differentiating them within the marketplace. For house buyers, they can be confident that the houses they buy are well designed and built, and cost effective in the long term.

3.3.8 The Home Quality Mark will do this by providing impartial information from independent experts on a new home's quality, recognising where performance meets best practice standards that are often significantly above that required by regulation.

3.3.9 Developed and operated by BRE and part of the BREEAM series of quality and sustainable development, HQM has been developed using 25 years of specialised knowledge and skills within a continually developing industry.

What can HQM assess?

3.3.10 The Home Quality Mark can be used to assess the life cycle environmental, social and economic impacts of new builds in the United Kingdom. A new-build itself is one that is a new standalone structure or a part of one that will come into operation and is for the first time after its completion.

3.2.11 The HQM is not appropriate for the refurbishment of existing homes or for new build projects containing rooms for multiple residential purposes such as student and key worker accommodation, care homes, sheltered housing or other multi-residential building types. The BREEAM UK Domestic Refurbishment and BREEAM UK Non-Domestic New Construction schemes can be used to assess these types of project respectively.

When does the HQM assessment take place?

3.3.12 Timing is key for any HQM assessment to be conducted successfully. It is essential that there is a seamless process of integration between the period of construction and the assessments that take place by HQM. This is to make sure any issues summoned by the relevant stakeholders are taken into consideration and addressed without impacting on costs or performance in other areas of the development.

3.3.13 An HQM assessment is a two stage process to ensure that opportunities are identified during the design stage (initial assessment and certificate) and implementation is confirmed during construction (conclusive assessment and certificate).

3.3.14 If you wish to understand, in greater detail, the technical content concerning the Home Quality Mark, you can find more information at: http://www.homequalitymark.com/filelibrary/HQM-Beta--England--2015_SD232_r1.0.pdf.

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3.3.15 BREEAM New Construction is a performance based assessment method and certificate scheme for new buildings. The primary aim of BREEAM New Construction is to mitigate the life cycle impacts associated with new buildings on the environment in an efficient and cost effective process. As BRE states, this is predominantly achieved through integration and use of the scheme by clients and their project teams at key stages in the design and construction process.

3.3.16 The scheme itself can be used to assess and rate the environmental impacts arising from a newly constructed building developments at two life cycle stages. These are:

1. New Build Design Stage
2. New Build Post Construction Stage

New Build Design Stage

3.3.17 The Design Stage assessment and interim BREEAM rating confirms the proposed new building's performance during the construction period of the life cycle. This stage of assessment and certification would take place ideally at the beginning of the construction stage.

3.3.18 For any assessment to be complete at this stage, the design must be presented before a BREEAM assessor for verification and evaluation of the buildings performance against a criteria based document set out in the BREEAM UK New Construction Technical Manual.

Post-Construction Stage (PCS)

3.3.19 The PCS assessment and BREEAM rating confirms the final 'as-built' performance of the building at the new construction stage of the life cycle. A final PCS assessment is completed and certified after practical completion of the building works.

3.3.20 As stated by BREEAM, there are two alternative approaches to assessment at the post-construction stage:

1. A post-construction review (PCR) of an interim design-stage assessment
2. A post-construction assessment (PCA)

A Post Construction Review assesses a buildings performance once its development and construction stages have been complete. If an interim design-stage assessment has not been conducted i.e. certified, a full post construction stage assessment is required.

When and how to engage with the BREEAM UK New Construction scheme

3.3.17 As with all schemes, timing the engagement with and use of the BREEAM UK New Construction scheme via BREEAM assessor is most important to ensure efficient transition of methodology in the new build procurement process.

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3.3.18 If you wish to understand, in greater detail, the technical content concerning the BREEAM UK Non-Domestic New Construction, you can find more information at: http://www.breeam.com/new-construction.

BREEAM In-Use International Technical Standard

3.3.19 BREEAM In-Use International is a universally recognised assessment method which assists property investors, owners, managers and occupiers to drive sustainable improvements through operational efficiency, including how to continually manage the operation of their building effectively.

3.3.20 All existing commercial building types are suitable for the BREEAM In-Use scheme, however the standard does not apply to residential dwellings.

3.3.21 The primary aim of BREEAM In-Use is to mitigate the operational impacts of existing assets on the environment in a robust and cost effective manner. The scheme provides a holistic approach which enables assets to be assessed and benchmarked across a large range of environmental issues (management, health and wellbeing, energy, transport, water, materials, waste, land use and ecology, and pollution).

3.3.22 The BREEAM In-Use assessment process is broken down into three parts:

- Part 1 – Asses Performance: the performance of the asset's built form, construction, fixtures, fittings and installed services.
- Part 2 – Building Management: the management of the asset.
- Part 3 – Occupier Management: the management of building users and services.

3.3.21 Part 1 and 2 of the assessments can be conducted in separate isolation, however it is recommended that part 2 be conducted in combination with Part 3 as the score for Part 2 feeds into the score for Part 3. It is advised that all 3 Parts are assessed in combination to provide an accurate understanding of the overall environmental impact of their asset.

3.3.22 Using an online rating tool, BREEAM In-Use allows users to register buildings, assess and certify the building performance. A dynamic scoring platform and reporting section allows the user to track and improve the performance of their building or portfolio of buildings.

3.3.23 If you wish to understand, in greater detail, the technical content concerning the BREEAM In-Use International Technical Manual, you can find more information at: http://www.breeam.com/filelibrary/Technical%20Manuals/SD221_BIU_International_2015_Re-issue_V2.0.pdf.

BREEAM UK Domestic Refurbishment & Fit-Out

3.3.24 BREEAM Domestic Refurbishment is a performance based assessment method and certification scheme for domestic buildings undergoing refurbishment. The primary aim of the Domestic Refurbishment & Fit Out scheme is to improve environmental performance of existing dwellings in a robust and cost efficient way. The performance of domestic buildings is assessed against a number of individual measures and associated criteria covering a range

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of environmental issues. This assessment results in a single certified BREEAM rating awarded to the refurnished dwelling.

3.3.25 The BREEAM Domestic Refurbishment & Fit-Out scheme has been developed in accordance with the following principles:

- Promote low cost, sustainable refurbishment
- Recognise the limitations of existing buildings including their inherent built form and location
- Drive market transformation by promoting best practice and innovation in the refurbishment of existing buildings
- Provide a holistic environmental assessment that works effectively across different building and project types
- Recognise the different starting points of our existing building stock

3.3.26 There are two routes to certification depending on the type of project and stage of certification required:

Third party assessment certification:

Third party certification is delivered through licensed BREEAM Domestic Refurbishment Assessors and enables interim and final certification to be obtained through BRE Global Ltd at the design stage (pre-refurbishment) and post refurbishment stages respectively. BREEAM Domestic Refurbishment Assessors can carry out assessments for both small and large scale refurbishments which may be carried out across a site (e.g. a street or an estate).

Self-declaration assessment certification:

A self-declaration assessment is delivered through licenses BREEAM Domestic Refurbishment Assessors who hold a self-declaration certification (referred to as tier 2 license within the scheme) are authorised under the terms of the license to issue self-declaration certificates, for small projects, at the post refurbishment stage only. Design stage certification is not available through self-declaration however a design stage assessment is recommended in order to guide the project specification.

3.3.27 The BREEAM Domestic Refurbishment 2012 scheme can be used to assess the environmental life cycle impacts on refurbishment projects including existing dwelling undergoing refurbishment, extensions, domestic conversions and change of use projects. Table 3.1 outlines two categories under which domestic refurbishments are scoped by BREEAM:

- Category 1: Alterations to existing dwellings and extensions
- Category 2: Domestic conversions and change of use projects

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Category 1	Category 2
Alterations to existing dwellings and extensions Where at least one thermal element (walls, roof or floor) undergoing major alteration (internal/external insulation etc) plus a change to building services such as a new boiler, or internal refit of a room. Refurbished dwellings are within the scope of the scheme where the refurbishment results in an improvement to the dwellings Energy Efficiency Rating (EER).	**Domestic conversions and change of use projects** The scheme can also be applied to domestic conversions and change of use projects. This is where a new dwelling is formed by change of use from a building which was not previously used for domestic purposes. This may also include change of use through conversion of a single dwelling into multiple dwellings, or where several dwellings are converted into a single dwelling. Change of use is further detailed by Regulations 5(a), (b) and (g) of the Building Regulations 2000 for England and Wales.
Extensions Whilst existing dwellings that are being extended can be assessed under the scheme, as the scheme is a whole house assessment methodology, it would require both the extension and the existing dwelling to be included as part of the assessment. This means that in order to achieve credits under the scheme as well as the minimum standards, improvements will be required to the existing dwelling in order to achieve a rating under the scheme.	**Newly constructed dwellings** The scheme cannot be used for newly constructed dwellings. Newly constructed dwellings come under the scope of the Department of Communities and Local Government (DCLG), Replacement national technical standards to the now withdrawn Code for Sustainable Homes.

3.3.28 If you wish to understand, in greater detail, the technical content concerning BREEAM UK Domestic Refurbishment & Fit-out standards, you can find more information at: http://www.breeam.com/bre_PrintOutput/BREEAM_Domestic_refurb_manual_2012.pdf.

BREEAM UK Non-Domestic Refurbishment & Fit-Out

3.3.29 The BREEAM UK Non-Domestic Refurbishment and Fit-Out scheme can be used to assess and determine the environmental impacts associated with non-domestic buildings at the refurbishment and fit-out stages.

3.3.30 The BREEAM UK Non-Domestic Refurbishment and Fit-Out scheme provides a modular set of criteria that are applied depending upon the scope of works for a particular project type including:

- Part 1: Fabric and Structure
- Part 2: Core Services
- Part 3: Local Services
- Part 4: Interior Design

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3.3.31 The scheme is split into these assessment parts to allow the scheme to reflect the aspects of a building that are tenant or landlord responsibilities, as well as the varied life cycle stages that each component or element is upgraded. For commercial buildings, parts 1 and 2 typically reflect the aspects of a building that are landlord responsibilities, with parts 3 and 4 typically being aspects of the building that are tenant responsibilities although this will vary between specific projects.

Assessment Scope

3.3.32 Having been developed to allow a flexible approach to assessments to fit the needs of a project, this approach also allows the client/developer/assessor to select the parts of the assessment that are relevant to the scope of work being carried out. The following assessment scope provides details of when it may be appropriate to conduct an assessment against each part, depending on the nature of the refurbishment or fit-out works that are being carried out.

3.3.33 Part 1: Fabric and Structure

A part 1 assessment is appropriate where a refurbishment project includes one or more of the following alterations to the building fabric and where the area to renovate is greater than 50 percent of the surface of the individual element or 25 percent of the total building envelope:

- Building façade: where the external façade of the buildings is being upgraded/ refurbished such as new cladding, rendering, façade system, internal dry lining etc.
- Roof: where a new roof is being installed or where significant changes are being made to the roof structure or the replacement/refurbishment of roof coverings.
- Windows: where changes are being made to the windows such as replacement, upgrade/refurbishment of existing windows with new glazing or the specification of secondary glazing.

3.3.34 Part 2: Core Services

A Part 2 assessment may be appropriate where at least two of the following are being installed or upgraded to a level that requires compliance with the Building Regulations Compliance Guide:

- Central air handling unit
- Heating boiler
- More than 50% of heat distribution
- Chiller plant
- More than 50% of chiller distribution
- Water services (sanitary fittings in core)
- Building management system
- Community heating system (e.g. CCHP)
- Low and zero carbon technologies.

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3.3.35 A Part 2 assessment does not include the full scope of a category A fit-out, due to the fact that the specification of items such as ceiling finishes, raised floors and the zoning of local services about the lettable flood area and other Category A works are not typically finalised until the space undergoes final fit-out (often referred to as Category B fit-out) according to the tenant's specification and liable to change. These items are excluded from a Part 2 assessment with local services assessed under Part 3 and interior finishes assessed under Part 4, which covers the typical scope of a Category B fit-out. Therefore, where category A works include local service provision (e.g. lighting) it may be appropriate to also assess the project against Part 3: Local Services.

3.3.36 Part 3: Local Services

A Part 3 assessment may be appropriate where at least two of the following fixed local building services are being installed or upgraded e.g. a replacement or new installation of local heating/cooling units.

- Replacement of more than 50% of light fittings, system and controls
- Upgrade of zone controls
- Local ventilation
- Local heating units (including sources not connected to core services)
- Local cooling units (including sources not connected to core services)
- Point of use water heaters.

3.3.37 Local services are defined as services that supply a specific area and may connect into the distribution systems from the core services within the tenanted area.

3.3.38 Part 4: Interior Design

A Part 4 assessment may be appropriate where the refurbishment or fit-out works involve changes to the layout and/or redecoration of the refurbishment or fit-out area, including:

- Remodelling/changes to interior spaces including two or more of the following:
  - Wall coverings (alterations to at least 50% by area)
  - Floor coverings (alterations to at least 50% by area)
  - Ceiling covering or systems (alterations to at least 50% by area)
  - Partitions (alterations to at least 50% by area)
  - Raised floor system (alterations to at least 50% by area)
  - Furniture and fittings e.g. office furniture, retail display furniture and fittings etc. (alterations to at least 50% by area)

- AND at least one of the following:
  - Sanitary fittings e.g. tea/coffee points, kitchenette and washrooms (alterations to at least 50% of fittings)
  - Equipment e.g. Office equipment, display lighting, display chillers/freezers (alterations to at least 50% of equipment)
  - Local electrical installations e.g. sub-metering

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3.3.39 Part 4 is broadly in line with a Category B fit-out and where the fit-out works also include changes or additions to local services, a Part 3 assessment may also be relevant.

3.3.40 If you wish to understand, in greater detail, the technical content concerning BREEAM UK Non-Domestic Refurbishment & Fit-out standards, you can find more information at: http://www.breeam.com/ndrefurb2014manual/#02_scope_refurb/buildings_not_covered_scope_rfrb.htm%3FTocPath%3D_____8.

Appendix 3

Pre-Application Advice

Pre-application advice will include a written response, in detail, considering the primary planning issues for the proposed application. The level of detail provided in the response will reflect the level of accuracy and detail provided in the information given to the Council by the applicant. A wider and more detailed scope of information provided to the Council regarding the proposal will result in a more accurate and in-depth analysis, allowing for positive feedback to be given.

Pre-application advice is encouraged as it can:

- Verify all local and national requirements, set out in both the Approved Maldon District Local Development Plan and the National Planning Policy Framework.
- Allow for constructive and open dialogue with interested partied from an early stage to identify, understand and seek to resolve issues associated with the proposed development.
- Provide tools for mitigation if the proposed development would produce any impacts on the surrounding environment, including any planning conditions.
- Reduce the likelihood of submitting an invalid application.
- Help the applicant understand how planning policies and other requirements affect a proposal.

It is also important that applicants emphasise why the proposed development should be allowed to progress and gain planning permission. The planning application will be held against the relevant policies within the Local Development Plan, therefore justification will be required for any proposal if it constituted to be an exception to the plan.

The nature of pre-application engagement allows for a collaborative process that involves not only the prospective applicant and the Local Planning Authority, but also statutory and non-statutory consultees, elected members and local people. It is recognised that the parties involved at the pre-application stage will vary on a case by case basis.

All parties involved have an important role to play in ensuring the efficiency and effectiveness of pre-application engagement. Cross-party engagement will legitimately seek to identify all possible planning issues that may affect particular stakeholders or the environment.

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For pre-application advice, there may be a fee applied. Please visit the Maldon District Council website for more detail at: https://www.maldon.gov.uk/info/20046/development_management/9227/planning_advice_and_information

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REPORT of
CHIEF EXECUTIVE

to
PLANNING AND LICENSING COMMITTEE
16 NOVEMBER 2017

CODE OF GOOD PRACTICE AND GUIDANCE ON THE CONDUCT OF PLANNING MATTERS

1. PURPOSE OF THE REPORT

1.1 To seek endorsement of the Code of Practice and Guidance on the Conduct of Planning Matters (**APPENDIX 1**) for recommendation to the Council for adoption as part of its Constitution in the light of further revision.

2. RECOMMENDATIONS

To the Council:

(i) that the Code of Practice and Guidance on the Conduct of Planning Matters (**APPENDIX 1**) is endorsed and the Council is recommended to adopt it as an annexe to the Constitution;

(ii) that the changes to constitutional arrangements as set out in paragraph 3.11 of this report, be agreed.

3. AREA FOR DECISION / ACTION

3.1 This matter was considered by the Committee at its meetings on 13 June and 14 September 2017. Following the first occasion, it was agreed that the Chairman and Vice-Chairman of the Committee together with the Leader and Deputy Leader of the Council in consultation with Officers to agree the final version of the Code of Good Practice / Guidance document. The updated document was brought back to the Committee at its last meeting for endorsement and recommendation to the Council for adoption. At the meeting of the Council on 2 November 2017, given the lack of clarity as to the proposed revisions, it was agreed that the matter be referred back to this Committee for further consideration and recommendation.

3.2 The updated document incorporating the agreed changes is attached at **APPENDIX 1**. It appears that this is the same version as that considered by the Committee at its last meeting. The various appendices referred to in it will be added when published.

3.3 With particular reference to Member training on planning matters, while the intention is that training is 'mandatory', this document remains primarily of a guidance/good practice nature. On training, it points to what arrangements will be put in place and

the expectation on Members in this respect. It is proposed that revisions be made to the Procedure Rule on voting to provide the complementary sanction where Members have not undertaken the requisite training. It was the intention that the training programme be introduced prior to the start of the new Council in May 2019.

3.4 As stated before, it is common practice now for local authorities to establish and publish as part of their constitutional documentation guidance on the conduct of planning matters. Alongside the need to ensure greater consistency and understanding of the various Planning processes, there is good reason to demonstrate to the public how the Council goes about fulfilling this role.

3.5 The intention of a Code of Good Practice / Guidance document is not only to set the scene but also to provide a framework for drawing together all relevant guidance, advice and adopted protocols relative to the Planning function. It is a reference document for both Members and Officers and will sit above the Manual / Toolkit being developed as an internal service document, the concept for which was established in the previous Planning Services Improvement Plan.

3.6 The updated draft document addresses the issue of Member Training and includes the expectation that it will become mandatory for all Members who sit on a Planning Committee. It is not for the document to detail how and when such training will be delivered. What is envisaged however is that in preparation for and consequent upon a newly-elected Council coming into office, a comprehensive training programme will be in place as part of the induction arrangements. This would be refreshed as necessary throughout Councillors' terms of office, and supplemented by briefings at Committee meetings on key topics such as new policy, guidance and legislation. As identified by the Committee at its last meeting, the sanction for not having undergone the fundamental training once it is introduced will be that although a Councillor may attend a meeting and speak, he or she would not be able to vote. This can be reinforced through an addition to the Council and Committee Procedure Rules.

3.7 Given that the present Council is halfway through its term of office, it is proposed to deal with training in a positive way in the interim and Officers will be looking to work with the Chairman and Vice-Chairman, Leader and Deputy Leader to agree a programme in September for early delivery.

3.8 Another proposed change consequent upon is how applications by the Council and affecting Council-owned land are dealt with. On the basis that the Guidance document lays emphasis on the fact that these applications will be treated no differently to any other, it is proposed to delete the current provision that requires such applications to be referred to the Council where there is a recommendation or a Committee inclination to refuse.

3.9 At the last meeting also, the Committee supported the introduction of a provision that unless a Member has been present for the entire debate on a planning application he/she should not vote on the matter. The Committee, if endorsing this, may wish to recommend to the Council that this provision is strengthened by a reference in Procedure Rules.

3.10 The final proposed consequential change seeks to improve clarity of process around finalisation of the terms of reasons for refusal or conditions of approval after the

meeting. It has been highlighted that on occasions there can be the need to review the precision of conditions agreed by a Committee in the event of the passage of time between the Committee decision and the issue of a decision notice consequent upon the completion of a Section 106 agreement (planning obligation). A suitable provision to cover these circumstances is proposed to be included in the Scheme of Delegation.

3.11 The actual proposed changes to the Constitution arising from the issues covered in paras. 3.6-3.10 above are as follows:

Procedure Rule 13 – Voting

Add to (1) – If a Member has not been present at the meeting for the whole of the consideration of a planning application or related matter, or has not undergone fundamental induction training once such a programme has been introduced he/she shall not vote on the matter.

Planning and Licensing Committee Scheme of Delegation

To the Chief Executive (Director) –

In consultation with the Chairman of the Committee, to review the accuracy of agreed planning conditions due to the passage of time between the Committee decision and the issue of a decision notice consequent upon the completion of a S106 planning obligation.

Terms of Reference of Area Planning Committees

Delete provision (a) – To consider and report to the Council
Amend existing para. (b)(i)11 by the deletion of "The approval of"

3.12 In the further discussions Members also discussed arrangements for site visits and the updated Guidelines, which include provision for an organised site visit to take place between publication of an agenda and the actual meeting date is attached as **APPENDIX 2** as background information.

5. IMPACT ON CORPORATE GOALS

5.1 The updating of the corporate governance and associated arrangements underpins the decision making processes of the Council, is in part a matter of compliance with the law and is also linked to the Corporate Goal of aiming to be an organisation that delivers good quality cost effective and valued services in a transparent way.

6. IMPLICATIONS

(i) **Impact on Customers** – This documentation will help demonstrate how the Council's planning processes operate and how decisions are taken.

(ii) **Impact on Equalities** – None identified.

(iii) **Impact on Risk** – None identified.

(iv) **Impact on Resources (financial)** – None identified.

(v) **Impact on Resources (human)** – None identified.

(vi) **Impact on the Environment** – None identified.

Background Papers: None.

Enquiries to: Stuart Jennings, Corporate Governance Project Officer, (Tel.01621 875745).

MALDON DISTRICT
COUNCIL

ANNEXE TO CONSTITUTION

Part __

CODE OF GOOD PRACTICE AND GUIDANCE ON THE THE CONDUCT OF PLANNING MATTERS

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Draft June 2017

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1 BACKGROUND AND INTRODUCTION

1.1 This document sets out the way in which the Maldon District Council ("the Council") will discharge its planning functions and responsibilities, in particular the determination of planning applications and related matters. In this document, the term "Planning Committees" means the Area Planning Committees and/or the Planning and Licensing Committee. It will also apply to extraordinary meetings of the Council called to deal with defined strategic planning applications.

1.2 This document applies to Members and Officers at all times when involved in the planning process. (This includes, where applicable, when part of decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers, the public and consultative meetings). It applies as equally to planning enforcement matters as it does to planning applications.

1.3 This Guidance supplements the Members' Code of Conduct. It is unlikely that there will be any conflict between the two documents but, if there is, the provisions of the Members' Code of Conduct will take precedence.

1.4 One of the key purposes of the planning system is to manage development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that the local planning authority, both planning officers and the planning committee, make~~,~~ planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for suggesting that a decision has been partial, biased or not well founded in any way.

1.5 An important reference document is Probity in Planning for Councillors and Officers (April 2013) issued jointly by the Local Government Association and the Planning Advisory Service.

2 COUNCILLORS AND OFFICERS – ROLES, RELATIONSHIPS AND CONDUCT

2.1 The successful operation of the planning system relies on mutual trust between Members and Officers, and an understanding of each other's roles. It also relies on each ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so. Councillors and Officers have different but complementary roles. While both serve the public in different ways, Councillors are elected and therefore have a responsibility towards the electorate. Officers are employed by and therefore responsible to the Council as a whole. It follows that although Officers will advise Councillors, both individually and collectively, they may only take instructions from the Council or a Committee. Officers are responsible for the implementation of decisions of the Council and its Committees.

2.2 Both Councillors and Officers are guided by codes of conduct. Councillors have signed up to the Council's own Local Code of Conduct and must have regard to and follow this in all their official actions. Breaches of the Code may result in complaints to the Council's Monitoring Officer who may decide to refer the matter to the Standards Committee. Should a breach of the Code be found, sanctions may be imposed on the Councillor concerned. Breaches of the code may also result in complaints of maladministration to the Local Government Ombudsman.

2.3 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of this Code may result in disciplinary action by the Institute. The Council also has in place a Code of Conduct for its staff. In addition to these Codes, its Council and Committee Procedural Rules govern the conduct of Council business, and the Protocol on Member/Officer Relations sets out in greater detail and provides guidance on how the working relationship between Councillors and Officers should operate.

2.4 Councillors must not instruct officers to make a particular recommendation nor to take a particular course of action other than through a decision of the Council or one of its committees. Officers must give objective, impartial planning advice, based on their professional judgement and not be compromised or influenced by political considerations. Chartered Town Planners may only advocate their own professional view. Under the Local Government and Housing Act 1989 the Council is able to place restrictions on the outside activities of senior and other designated Officers, particularly in relation to membership of political parties and other Councils.

2.5 The Council's Local Development Plan is adopted in the interests of the whole community, following public consultation. It therefore reflects the overall public interest, rather than those of individuals or organisations. Councillors and Officers must support the Council's planning policies and make decisions in accordance with them, unless there are sound planning reasons for not ~~doing~~ so doing.

2.6 In dealing with planning applications, Councillors will be acting both as representatives of the people and also as decision makers, objectively considering all relevant issues and deciding upon them. Councillors will justifiably take into account matters of public concern, representations they have received and an assessment of what may or may not be appropriate for the area.

2.7 Not all planning decisions are a matter of planning law or policy. Many decisions require~~d~~ an element of judgment, and therefore Councillors need to retain a fair and open-minded approach to the decision making process. So too will Officers in determining applications under delegated powers. In addition, Officers through their professional responsibilities will be involved in the processing of planning applications including negotiating with and

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providing assistance to applicants and their agents and also members of the public.

2.8 While Councillors may sense a particular responsibility to serve their Ward electors, they have an overriding duty to the people of the Maldon District as a whole. It follows that since planning decisions are being taken on behalf of the Maldon District Council they must be reflective of the interests of the District community as a whole. The decision making process is covered in greater detail in section 6 of this document.

3 COUNCILLORS' TRAINING

3.1 Planning is a complex area, and planning decisions are open to challenge both on appeal and in the courts. It has long been a constant theme of national advice, that all Councillors regardless of their experience should receive adequate training to assist them in the performance of their duties.

3.2 By 01.12.17 aAll Councillors will be required to have completed anthe agreed programme ofof training prior to being able to take part in decision making in planning applications and related matters. Once this training has been completed, it will remain valid for a period of three years, and then refreshed. Any new Councillors who have not undertakenwill be required to undertake the agreed training programme will be able to participate in the discussion but not vote on planning applications and related mattersbefore taking part in decision making in planning matters.

3.3 The training programme in planning will be determined by the Director of Planning & Regulatory Services, in consultation with the Leader and Deputy Leader and the Chairman and Vice-Chairman of Planning & Licensing Committee.

3.42 In addition, all Councillors will be given regular updates to keep them informed of important changes in legislation, procedures or practices, mainly through briefing presentations by Officers at committee meetings. Officers will also arrange training on more specialised planning issues and all members of the Council will be strongly encouraged to attend.

4 PROBITY IN THE PLANNING PROCESS

4.1 Involvement in the planning process creates considerable potential for conflicts of interest, whether it is through an issue directly affecting a Councillor or an Officer, or indirectly in terms of family, friends or possibly an organisation with which he or she is associated. It is a fundamental principle that decisions should not be made by those who have a pecuniary interest in the outcome. This is vital to avoid public confidence in the planning system being eroded.

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4.2 The general rule is that a Councillor or Officer should not use his or her position to further a private or personal interest, rather than the general public interest, or give grounds for any suspicion. The key issue is whether a member of the public would reasonably think that they might be influenced by their interest.

4.3 Councillors engaged in the determination of planning applications must ensure that they do not use their position improperly to confer on or secure for themselves or any other person, an advantage or disadvantage.

Pre-determination/Pre-disposition

4.4 Councillors taking planning decisions are required to have an 'open mind' and listen to all the evidence before taking a decision. The Localism Act 2011 (S25) provides Members with a degree of assurance should they wish to indicate their views in advance without fear of being regarded as having pre-determined the issue and subsequently excluded from the decision making. To do so may still indicate pre-judgment of the application and expose the Council to the possibility of legal challenge.

4.5 The intended effect of the Localism Act provision has still to be determined in the courts, but even if it were held to reduce the prospect of or prevent a legal challenge to the validity of a decision it offers no protection against allegations of maladministration or a breach of the Local Code of Conduct. Members should not make up their minds until they have read the relevant committee reports, heard the evidence and considered the representations, including any public speakers. It is important that Members hear all the evidence and representations prior to reaching a decision.

4.6 The concept of pre-determination is different to that of pre-disposition. While carefully wishing to avoid any show of bias of view, it is acceptable for a Member to indicate a view, and ~~-~~even campaign, on planning issues in a general way. This is relevant where Members of a Planning Committee are also Parish/Town Councillors and where they may wish to contribute to a particular discussion at a more local level. Members must still avoid specific statements on how they will vote on individual planning applications or types of planning application prior to the relevant District Council Planning Committee meeting to avoid any impression of bias and pre-determination. I~~f~~ such statements have been made, they should declare an interest, withdraw from the Chamber and not take part in the debate or vote.

4.7 Councillors on a Planning Committee who are also members of Town or Parish Councils may speak and vote at Town or Parish and District levels if they are genuinely willing to listen to the later debate and weigh the considerations material to the later decision.

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Interests and the Local Code of Conduct

4.8 Membership of another body would constitute a non-pecuniary interest, particularly if it is an organisation whose primary purpose is to lobby to promote or oppose planning proposals. Depending on the degree of involvement there is the prospect of fettering a Councillor's discretion and limiting the ability to participate in the consideration and determination of a planning application.

4.9 Members of Planning Committees who are also Parish/Town Councillors should be aware of the potential repercussions of their involvement in the consideration of planning proposals at Parish/Town Council level. They should make it clear at that time that any views they may express, including the exercise of a vote, on the comments to be made to the District Council, can only be based on the information available to the Parish/Town Council at thate time.

4.10 Members of Planning Committees not affected by an interest through being Parish/Town Councillors are equally advised to take great care about responding to local opinion and publicly declaring a firm view on a proposal at an early stage. It is important that they do not 'fetter their discretion', but rather leave themselves free to reach a view at District Council level, based on all the facts and information.

4.11 The Local Code of Conduct sets out requirements and guidance for Councillors, for the registration and declaration of interests. These must be followed scrupulously and Councillors should review the situation regularly. It must be borne in mind that not only should impropriety be avoided but also any appearance, or grounds for suspicion, of improper conduct.

4.12 It is for the individual Councillor to decide whether he or she has an interest in any matter considered by a Planning Committee, and if so whether that interest is a pecuniary or non-pecuniary or other one. Councillors with a pecuniary interest must not speak or vote in the decision making process. The Local Code of Conduct explains the effect of interests on participation.

4.13 When declaring an interest at a committee meeting this should be done at the relevant point in the meeting or as soon during the consideration of the matter that the interest becomes apparent. Councillors should be clear and specific in identifying the item on the agenda in which they have an interest and, if so, the nature of that interest. Councillors do not need to declare interests that are not covered by the Code of Conduct, e.g. that they know the applicant, agent or an objector, or that they use the premises the subject of the application. If they feel that such an interest is material they should explain the nature and relevance of it.

4.14 Officers must declare any personal or financial interest in any planning matter before the Council, must not deal with such matters on behalf of the Council and must not give advice to Councillors or other Officers on them. An Officer with a personal or financial interest in a planning matter must withdraw from

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any relevant committee meeting whilst that matter is discussed. Planning Officers must maintain their professional integrity and should avoid becoming associated in the public mind with representatives of the development industry or environmental or other pressure or amenity groups.

Gifts and Hospitality

4.15 Councillors and Officers should be very cautious about accepting gifts and hospitality and must follow their respective Codes of Conduct.

5 PRE-DISCUSSION AND LOBBYING

5.1 This theme is closely linked to issues covered in the previous Probity section. It is inevitable that Councillors will be subject to lobbying, particularly on planning applications. Again, it is emphasised that great care needs to be taken to maintain the integrity of the planning process, the Council, and the Councillor concerned. Lobbying can lead to the impartiality of a Councillor being called into question and could even cause public mistrust of the Council.

Lobbying

5.2 Lobbying is an attempt to influence Councillors' views in order to achieve a particular decision. It can be by applicants, agents or objectors or by other Councillors. Lobbying may be verbal or by the circulation of letters or documents to all or some Councillors. Planning decisions must be made strictly on the facts and policies relating to each application. Lobbying can, unless care and common sense are exercised by all parties concerned, lead to the impartiality and integrity of a Councillor being called into question.

5.3 Notwithstanding the provisions of s.25 of the Localism Act 2011 (as mentioned in 4.2 above) when being lobbied, Councillors, and members of a Planning Committee in particular, should take care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such circumstances they should restrict themselves to giving procedural advice, including suggesting to those who are lobbying that they should speak or write to the relevant Officer in order that their opinions can be included in the Officer's report to the Committee. If they do express an opinion they should make it clear that they will only be in a position to take a final decision after having received and considered all the relevant evidence and arguments at the Committee meeting.

5.4 A Committee member who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If a Member responds to lobbying by deciding to go public in support of, or against, a particular outcome it would be very difficult

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for that Member to argue convincingly when the Committee takes its decision that he has carefully weighed the evidence and arguments presented at committee. Although not amounting to a disclosable or other pecuniary interest according to the Code of Conduct the proper course of action for such a Member would be to make an open declaration not to vote. However, this is a severe restriction on the Member's wish - duty, even – to represent the views of the electorate. Councillors should therefore generally avoid organising support for or opposition to a planning application and avoid lobbying other Councillors. Such actions can easily be misunderstood by parties to the application and by the public.

5.5 Councillors should not excessively lobby fellow Councillors regarding their concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.

5.6 Individual Councillors should avoid visiting application sites upon the request of applicants or objectors as this may result in those parties attempting to unduly influence the views of Councillors and give the impression of bias.~~may often be asked by both applicants and objectors to visit application sites. Such visits may be valuable in gaining an understanding of the implications of proposals~~. It is important however that the parties are clear in the understanding that the reason for Councillors' involvement in this way is purely to gather information. Where this occurs, Councillors should advise the Director of Planning and Regulatory Services~~Planning Director~~ and make known their involvement at the relevant Committee meeting at which the application is considered. An approved protocol for site visits organised by a Planning Committee is at Appendix 1.

Pre-application discussion

5.7 It is likely that in certain cases discussions will take place between potential applicants and Officers prior to the submission of a planning application. Such discussions may be beneficial in terms of applications being prepared for submission which can then proceed without undue delay to determination. Potential appeals may be avoided by good communication at an early stage of the process. Advice given should be consistent and based on the development plan and material considerations. An approved protocol for Pre-Application Discussions is at Appendix 2.

5.8 If Councillors receive information that is relevant to a prospective planning decision they must declare that information to the relevant planning officers and to the committee. Discussions with applicants, agents or objectors should be reported and any correspondence made available to officers before the committee meeting. Where information has been provided to Councillors or Officers on a confidential basis, it shall not be disclosed to third parties.

5.9 Where Councillors are acting as agents for people pursuing a planning matter with the Council or submitting planning applications on behalf of their

employers as part of their job, they should make it clear to their clients that they cannot and will not use their position as a Councillor to influence the outcome of an application.

5.10 Councillors should not meet applicants or agents or third parties in connection with a current ~~or proposed~~ application. If Councillors do agree to meet they should only do so in the presence of a planning officer~~. In exceptional circumstances, where it is not possible to arrange a meeting in the presence of a planning officer without causing undue delay, Councillors should notify the relevant planning officer of the proposed meeting beforehand and the notification recorded in the application file.~~ Councillors should listen and may ask questions but should not comment nor seek to negotiate. They must make clear that any views they express are personal, rather than those of the Council. A note should be taken of the meeting and placed on the application file. The fact that a Councillor has discussed any proposal with the applicant, agent, supporters or objectors must be made clear when the application is before the Committee for determination.

Planning Enforcement

5.11 Councillors may also become involved in matters that are the subject of a complaint or investigation, and on which enforcement or other legal action may be under consideration. In these circumstances, Councillors are strongly advised to ensure that any action on their part does not prejudice the Council's position, that any enquiries on specific issues are restricted to matters of fact or general case progress, and acknowledge that enforcement cases will be dealt with in accordance with the Council's Planning Enforcement Policy (see Appendix 3).

Contact with Application Case Officer

5.12 Councillors will often need to contact the Planning Case Officer on development proposals. Contact should however be limited to requests for factual information and the seeking of advice on progress and the nature of consultation responses received. While Councillors are encouraged to discuss their concerns with Officers, they must ~~should~~ not attempt to influence or pressure Officers in the making of particular recommendations. If a Councillor is unhappy with the way in which a case is progressing, the matter should be discussed with a senior officer of at least Team Leader level.

5.13 Officers should remain free of any outside influence to make recommendations on planning matters based on their own professional judgements and having regard to all material and other considerations. Councillors should not put improper pressure on Officers for a particular recommendation and, as required by the Code of Conduct, should not do anything which compromises, or is likely to compromise, their impartiality.

Availability and Veracity of Information

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5.14 Planning applications must be determined on the basis of the documents and information formally submitted. Any submissions from applicants' agents or objectors which are formally received by the Council can properly be taken into account in making a decision. It can cause problems if Councillors are given information or assurances by applicants which are not part of the formal application and which are not, therefore, enforceable. Problems can also arise if Councillors are given information by objectors which may be misleading, untrue or irrelevant. It can be problematical if officers are unaware of submissions by applicants and objectors and are therefore unable to consider them and advise the Committee about their relevance or enforceability. Councillors should forward such information to the officers for consideration prior to the Committee meeting.

6 PLANNING DECISION MAKING AND RELATED PROCESSES

Committee Decisions

6.1 All planning applications to be determined by a Committee will be the subject of comprehensive, written reports from Officers. These reports will describe the site and the proposal, relevant planning history, development plan policies and other material considerations including, where appropriate, national or local guidance, and also representations made by statutory consultees, local residents and other interested parties. They will also contain an assessment of the proposal against those considerations and a reasoned recommendation. Reports will contain all the relevant material known at the time when produced and published as part of the Agenda for a particular meeting. Councillors should endeavour to obtain factual information from officers prior to the meeting. This can assist in reducing delays which may be caused by deferment to obtain further information.

6.2 Sometimes applicants and objectors write directly to Committee Members, after the report has been published, commenting on the report or providing further material. If Planning Services have not been copied into the correspondence, Committee Members should forward any correspondence to the Case Officer as soon as possible.

6.3 Any information material to the decision-making process that is received subsequent to the publication of the Committee Agenda and no later than noon on the last working day prior to the meeting will be reported to the Committee at its meeting. At the meeting, the Planning Officer will advise if the late material raises any matters which should be taken into account by the Committee. The Officer report and last-minute papers should be read and plans/photographs seen before decisions are made. Councillors will also have

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an opportunity to put questions to Officers and hear the views of their fellow Councillors, the Applicants and other third parties during the course of the debate.

6.4 The law requires that where the Development Plan is relevant to a decision, then that decisions should be taken in accordance with it, unless material considerations indicate otherwise (s54A, Town and Country Planning Act, 1990). The Development Plan is therefore the starting point of the decision making process. Proposals having been identified as amounting to a departure from the Development Plan need to be advertised as such. An Officer recommendation to approve contrary to the Development Plan would need to be justified in the most careful terms, and if the Committee is mindful to approve then the application may then need to be referred to the Secretary of State.

6.5 Planning decisions will not always be dictated by planning law or policy. They will sometimes be matters of fine judgment where the balancing of considerations may be difficult. The Officer's report and recommendation will be founded on adopted planning policy and guidance. Planning Committee Members should take care, if expressing any opinion on the planning applications before them, that they confine their comments to matters which are material planning considerations. Regardless of any political group discussion prior to the Committee meeting, Committee Members must consider applications on their merits and not simply feel bound by decisions made at group meetings. Committee Members cannot be "whipped" to vote in a particular way; this advice is supported by the Local Government Ombudsman. Any decisions taken in this way may be viewed as maladministration and could be subject to legal challenge.

6.6 Where Councillors disagree with the Officer recommendation, a proposition can be made to overturn that recommendation. The Committee remains bound by law to make decisions in accordance with the Development Plan and all other material planning considerations. It will therefore need to demonstrate that this requirement has been met in its deliberations, making clear what material considerations are leading it to a decision contrary to professional advice. Failure to do so could result in an appeal against the decision, with potential for an award of costs against the Council in the event that unreasonable behavior on its part is found. It could also render a decision subject to legal challenge (judicial review).

6.7 A proposition contrary to an Officer recommendation, together with the reasoning behind it, needs to be clearly presented and will be recorded in the Minutes. It must then be seconded. Before any debate, the Chairman shall afford the Officers an opportunity to respond to the proposition by way of advice on the implications in terms of risk. Depending on the circumstances and complexity of the case it may be that Officers will need to consider those implications in greater detail and report back. Any proposal for deferment must be disposed of ahead of any conclusion being reached on the decision itself. The Chairman will summarise, or cause to be summarised, the salient

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points of the debate and will seek to ensure the terms of the proposition are clearly understood before putting the matter to the vote.

6.8 Whilst the Committee must clearly set out the reasons for its decisions contrary to Officer recommendation, ~~s~~ the final drafting of conditions and reasons will normally be carried out by Officers. Reasons for refusal must be clear, unambiguous and justified by the evidence of the case. Conditions attached to permissions should be necessary, relevant to planning and the proposed development, enforceable, precise and reasonable in all other respects. The text of non-standard conditions and reasons will be determined by the Director of Planning and Regulatory Services in consultation with the Committee Chairman (or Vice Chairman in his/her absence) following the meeting. The same mechanism will be used for the updating of any planning conditions agreed by a Committee which may be required through the passage of time between the ~~a~~ Committee decision and the issue of a decision notice consequent upon completion of a S106 agreement/planning obligation.

6.9 During Committee Meetings, everything said may be scrutinised by Applicants, objectors, legal advisers and the Press, so Councillors and Officers should be circumspect. Councillors who serve on a Planning Committee should ensure they do not speak to members of the public, or pass or accept notes from them, during the course of a meeting. Councillors who leave the room during the Meeting should avoid speaking to any Applicants or objectors/supporters who may be waiting outside the room. Councillors who leave the room during debate or whilst an application is before the Committee will not take part in the debate or vote on that application.

6.10 Given the nature of the decisions to be taken, it is vital that the means by which decisions are reached are clear and understood by everyone present. The role of the Chairman is therefore important. Although the Council's Procedure Rules allow decisions to be reached through general assent of the Councillors present at a meeting, best practice with regard to decisions on Planning Applications suggests that a show of hands is far preferable.

Decisions delegated to Officers

6.11 Not all decisions on planning applications and related matters will be taken by a Committee. The Council has agreed, and will keep under review, a Scheme of Delegation (alongside the Terms of Reference of Committees) which enables decisions to be taken by responsible Officers. Decisions taken under delegated powers will be subject to the same process and analysis of the facts and all material considerations, as if they were referred to a Committee for determination. A statement to support each delegated decision will be produced and placed on the case file as a matter of record and also for the benefit of interested Councillors and the public.

6.12 Officers take instructions from Councillors only through a decision of the Council or one of its Committees. In the exercise of delegated powers, Officers may in certain cases be required to consult with individual Councillors, and take the views of those individual Councillors into

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consideration. Officers must always act impartially and advise the Council according to their own professional opinion.

Deferments

6.13 A decision on an application should not be deferred without proper justification. For example, the justification might be to ensure that all the proper information is to hand and this might include a site visit. The reason for requesting a deferment must be clearly set out by the proposer and recorded in the Minutes.

Public Attendance at Committee Meetings

6.14 All planning applications referred to a Committee for determination will be considered in public session and all background information will be made available for public inspection upon publication of the agenda papers, unless there are specific reasons for not disclosing or publishing 'exempt information' in accordance with the Local Government Act 1972. Applicants, agents and members of the public, representatives of Parish/Town Councils may speak on planning applications being considered at the meeting. The Council's public participation scheme is at Appendix 5.

7 DEVELOPMENT PROPOSALS BY THE COUNCIL, COUNCILLORS AND OFFICERS

7.1 Committee Terms of Reference provide for the determination of planning applications for the District Council's own development or affecting Council land and applications submitted by Council Members or Officers, by a Planning Committee rather than under delegated powers.

7.2 Such applications will be processed and handled~~treated~~ no differently to any other application and the requirements of the Town and Country Planning legislation and ministerial guidance will be followed in the usual way. Officer recommendations and Committee decisions will be made strictly on planning merits without regard to any financial or other gain which might accrue to the Council if the development is permitted, or to other issues which may need more properly to be considered by another Committee of the Council. It is important that the Council not only treats, but is seen to treat such applications the same as any other.

7.3 Councillors or Officers proposing to submit a planning application should notify the Monitoring Officer. If a Councillor or Officer submits a planning application, they should take no part in its processing by the authority at any point. It is important that neither Councillors nor Officers take any part in the preparation of Local Development Plan policy or supplementary planning guidance they may influence, or be seen as influencing, with a view to future planning proposals they may wish to submit.

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8 PLANNING APPEALS

8.1 A Planning Appeals Protocol has been approved and is at Appendix 6. In the event of a decision taken to refuse contrary to the recommendation of the Director of Planning and Regulatory Services, the Committee may nominate a Member to assist in agreeing the precise reasons for refusal and with the preparation and presentation of the Council's case should the decision be appealed.

8.2 As referred to earlier, Officers must always act impartially and advise the Council of their professional opinion. Chartered Town Planners are obliged to follow the Royal Town Planning Institute's Code of Professional Conduct. Whilst Chartered Town Planners appearing as the Council's expert witnesses at planning inquiries and hearings have a duty to set out the Council's case, they must, if asked, give their own professional view in accordance with that Code.

8.3 The Council is at risk of an award of costs against it if the Planning Inspector finds that there has been unreasonable behaviour. Common examples of unreasonable behaviour are failure to comply with procedural requirements for inquiries or hearings, failure to provide planning evidence to support reasons for refusal, and failure to take into account relevant policy statements in departmental guidance.

9 COMMITTEE SITE VISITS

9.1 Committee ~~S~~site visits can cause delay and additional costs and should only be used when the expected benefit is substantial. A site visit is only likely to be necessary if the impact of the proposed development is difficult to assess from the plans and any supporting material, including any photographs taken by Officers. Site visits may be arranged following publication of the agenda and~~but~~ before the actual meeting.

Where requested at the actual meeting, t~~T~~he reason ~~for requesting a site visit~~ must be clearly set out by the proposer and recorded in the Minutes. All site visits must be carried out in accordance with the Council's agreed guidelines set out in Appendix 1 to this document.

9.2 Site visits are not part of the formal committee proceedings and are not a forum for debate or making planning decisions. Site visits are not open to the public and should not be used to canvass local opinions or as an opportunity for lobbying or advocacy. Councillors should not express personal opinions during site visits.

10 PLANNING OBLIGATIONS

10.1 Under section 106 of the Town and Country Planning Act 1990, the Council as local planning authority may seek planning obligations in connection with

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grant of planning permission. Planning Obligations may be given by way of unilateral undertaking or agreement, and for the most part will regulate the use or development of land as distinct from the controls that may be available through the imposition of planning conditions. In addition, they may be used to secure off-site improvements or financial contributions towards local infrastructure provision.

10.2 To avoid any public mistrust or suspicion, it is important that arrangements in connection with planning obligations are operated in accordance with the principle that planning permission may not be bought or sold. The Council must conduct any negotiations and arrangements in a way which is seen to be fair, open and reasonable.

10.3 If a planning obligation is created in isolation or before a planning application is determined, a copy will be placed as required in Part 1 of the statutory Planning Register and therefore made available for public inspection. Similarly, if a planning obligation is created following determination of an application, a copy will be placed in Part 2 of the Register.

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11 ADMINISTRATION

Monitoring of Decisions

11.1 The Council should monitor planning decisions taken, on an annual basis, both in terms of quality and consistency. Annually, Councillors will visit a sample of implemented planning permissions to assess the quality of the decisions. The committee should formally consider the annual report and decide whether it gives rise to the need to review any policies or practices. The review may include information identifying the number of cases where Officers' recommendations were not accepted and the outcome of any related appeal decisions. The results of the monitoring will be reported to Councillors along with any recommendations to improve quality, consistency or performance.

Records management

11.2 The planning application files should be complete and accurate containing sufficient information and a record of events so that the decision and the process leading to it can be easily understood. Only "background papers" as defined in the Local Government Act 1972 (and listed in committee reports) are automatically available to the public. These would include, in addition to the application document, associated letters and supporting information, replies from consultees and letters from supporters and objectors. The same principles apply to applications determined under Officers' delegated powers.

Such decisions should be as well documented and recorded in the same way as those taken by Committees. These principles apply equally to enforcement and development plan and associated policy matters.

Complaints

11.3 Any complaints received about the way in which a planning application or other planning matter has been dealt with in terms of procedures or fairness will be investigated under the Council's complaints procedures. The fact that someone may disagree with the decision the Council has reached is not a complaint which will normally necessitate investigation, although Officers will explain the reasons for the Council's decision in such a case.

12 INTERPRETATION

12.1 The Chief Executive, Legal and Democratic Services Manager and Director of Planning and Regulatory Services, as appropriate, will provide advice or clarification on any matters of a planning nature contained within this document or otherwise. Issues of probity or otherwise requiring interpretation should be referred to the Monitoring Officer.

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MALDON DISTRICT COUNCIL
Planning Services

GUIDELINES FOR COMMITTEE SITE VISITS

1) Committee site visits may be arranged following publication of the Committee report but prior to the meeting following consultation between the Director of Planning and Regulatory Services and the Chairman of the relevant Committee and the Ward Member(s). Site visits will otherwise only be arranged when the Committee at the meeting cannot fully assess the implications of a development proposal on the basis of the information provided at the Committee meeting and individual Members' informal inspections of the site.

2) The time and date will be agreed with Members at the meeting of the Committee or otherwise with the Chairman of the relevant Committee.

3) The applicant / agent will be contacted to obtain permission to enter the land and to ensure that the time proposed is convenient. The applicant / agent will be advised of the purpose of the visit and the way in which the visit will be conducted.

4) Having confirmed the time and date all Members and ex Officio Members of the Committee will be advised in writing of the time and date of the visit together with a note (or map) of the suggested assembly point. In the case of a site visit by the Planning and Licensing Committee, the Ward Member(s) if not members of the Committee will also be invited.

5) Upon arrival at the site the visit will be led by the Chairman or the Vice-Chairman of the Committee. A Planning Officer will be present with the case file and necessary drawings to illustrate the proposal.

6) In the event of the applicant, agent or land owner being present the purpose of the visit will be explained and the Committee will request that it be allowed to conduct its visit unaccompanied.

7) At no time during the Committee site visit shall the merits of the proposal be discussed with either the applicant, agent, landowner or any third party who may have an interest in the proposal.

8) After the site visit, a note of the Members' attendance will be placed on the file.

9) The application will be referred direct to the next available meeting of the appropriate committee for determination.

(Approved by the Planning and Licensing Committee – 22 August 2002 - Minute No.222 refers.) (Updated January 2017)

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