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CHIEF EXECUTIVE'S OFFICE
CHIEF EXECUTIVE
Fiona Marshall

13 June 2017

Dear Councillor

You are summoned to attend the meeting of the;

OVERVIEW AND SCRUTINY COMMITTEE

on **WEDNESDAY 21 JUNE 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

A handwritten signature in blue ink, appearing to read 'F. R. Marshall', enclosed within a large, hand-drawn oval.

Chief Executive

COMMITTEE MEMBERSHIP

CHAIRMAN

Councillor M W Helm

VICE-CHAIRMAN

Councillor R P F Dewick

COUNCILLORS

Mrs P A Channer, CC
P G L Elliott
M S Heard
N R Pudney
S J Savage
Mrs M E Thompson

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AGENDA
OVERVIEW AND SCRUTINY COMMITTEE
WEDNESDAY 21 JUNE 2017

1. Chairman's notices (please see overleaf)
2. Apologies for Absence
3. **Minutes of the last meeting** (Pages 5 - 22)

To confirm the Minutes of the meeting of the Overview and Scrutiny Committee held on 29 March 2017, (copy enclosed).

4. **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 on a specific agenda item, the time slots to be allocated on a "first come first served" basis.
3. Participation may take the form of a statement, or alternatively a question to be addressed to the Chairman. There will be no discussion on questions put unless it is formally moved. In line with the current scheme applied to other Committees, the questions must:
 - not be defamatory, frivolous, vexatious or offensive;
 - not be the same or substantially the same as another question to the same meeting or anything so put in the last six months;
 - not involve the disclosure of confidential or exempt information.
4. Anyone wishing to speak must notify the Committee Clerk between 7.00pm and 7.20pm prior to the start of the meeting.

5. **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).

6. **Programme of Work Update** (Pages 23 - 50)

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

7. **Programme of Work 2017 / 18** (Verbal Report)

To discuss and agree a work programme for the Municipal Year 2017 / 18.

8. **Review of Performance - Quarter 4 2016-17** (Pages 51 - 78)

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

9. **Planning Enforcement** (Pages 79 - 154)

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

10. Any other items of scrutiny Members wish to consider

11. 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.



**MINUTES of
OVERVIEW AND SCRUTINY COMMITTEE
29 MARCH 2017**

PRESENT

Chairman	Councillor M S Heard
Vice-Chairman	Councillor E L Bamford
Councillors	H M Bass, Mrs P A Channer, CC, R P F Dewick, N R Pudney and S J Savage

1118. CHAIRMAN'S NOTICES

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

1119. APOLOGY FOR ABSENCE

An apology for absence was received from Councillor M W Helm.

1120. MINUTES OF THE LAST MEETING

RESOLVED

- (i) that the Minutes of the meeting of the Committee held on 8 February 2017 be received.

Minute No. 968 – Section 106 Process and the Monitoring of Agreements and the Collection of Planning Contributions

Councillor S J Savage proposed that the last but one bullet point of the Minute be amended to read "...trackable, automated process *will be put in place*". This was duly agreed.

RESOLVED

- (ii) that subject to the above amendment the Minutes of the meeting of the Committee held on 8 February 2017 be confirmed.

1121. PUBLIC PARTICIPATION

In accordance with the Council's Public Participation Scheme two Members of the Public, Mr Anks and Ms Murphy addressed the Committee in relation to Agenda Item 6 – Progress on Maldon Health Hub Project.

1122. DISCLOSURE OF INTEREST

Councillor N R Pudney disclosed an interest in Agenda Item 6 – Progress on Maldon Health Hub Project as he worked part time for the NHS.

Councillor Mrs P A Channer disclosed a non-pecuniary interest as she was an Essex County Councillor and Essex County Council had links with the Health and Wellbeing Board, Health and Overview and Scrutiny Board along with a lot of interaction with the NHS.

1123. PROGRESS ON MALDON HEALTH HUB PROJECT

Prior to the presentation the Chairman asked the following present at the meeting to introduce themselves to the Committee:

- Dee Daly, Chief Finance Officers at the Clinical Commissioning Group (CCG);
- Melanie Crass, Director of Primary Care and Resilience, Mid Essex CCG;
- Martin Royal, Project Director, Mid Essex CCG;
- Russell Dawes, Public Relations Manager, Maldon District Council (MDC);
- Dawn Moyse, Group Manager - People, Performance and Policy, MDC;
- Helena Beattie, Senior HR Business Partner / Team Leader People Performance and Policy, MDC.

The Chief Executive referred to a pack of papers circulated prior to the meeting which had been marked as confidential, and advised that since distribution it had been ascertained that these papers were not confidential. A copy of the pack was circulated to those persons present and the Chairman advised that it would be available on the Council's website the following day. Mr Royal clarified that within the pack was detailed information which highlighted the levels of activity currently being delivered at the St. Peters site, including a breakdown by postcode to identify where activities were coming from. He explained that this information was available to the public and patient groups to interrogate as they saw fit.

Melanie Crass provided the Committee with an update on work carried out over the last six months. It was noted that the CCG was not in a position to replace the existing community hospital facility like for like and given the current level of austerity had to review how it delivered healthcare. There was lots of innovation and technology forthcoming, including the treatment of patients in their own homes to aid a speedy recovery. Members noted there was a lot of work currently being undertaken and models of working being assessed. Ms Crass informed Members that the CCG was not saying no beds, but no inappropriate beds. In response to a question regarding stroke beds, she explained at this time it was not possible to advise if there would be such a facility in the Maldon District but stroke pathways across the whole of Mid Essex would be assessed.

Mr Royal gave Members a short presentation which provided an executive summary of the work on the Health Hub, the key risks and next steps. A number of questions were raised by Members and in response the following information was provided:

- The service mapping established what was being provided out of the St. Peters site for the Maldon District. This data would be a key element to forthcoming modelling of the new facility. The Maldon Health Hub Stakeholders at its next meeting on 28 April would review the service mapping information.
- The location of the facility was a separate exercise and the CCG were working with the Council to look at a range of site options and would be evaluating these formally with an independent surveyor.
- The CCG as part of its work were looking at whether potential sites could house a health hub with beds or potentially a health hub with for example, a nursing home on the same site. Recommendations regarding this would be coming forward from the Director of Nursing in May and would also set out the Direction of Travel. A period of public engagement would take place in the summer, during which Maldon residents would be consulted regarding beds, primary care and all other accommodation details. The Chief Executive reported that the Council was working closely with the CCG and land owners. She also provided details of the sites currently being considered. The Chief Executive reported that there was very close working with the Planning Department to facilitate this.
- The CCG had undertaken a significant number of discussions with the local GP Practices, in particular to identify how they worked collaboratively. Members were advised it is intended that there would be a practice in Maldon, a new facility in Heybridge and a further new facility in Maldon and these would be interactive and work collaboratively.
- The CCG would shortly be submitted funding for 2017 / 18 and it was anticipated that this would be successful and enable technical and financial details, site access, Value for Money and procurement options to be worked up.
- Mr Royal referenced the need to right off £2.6m (the difference between the netbook value of £4.6m and the open market value of £2m). Mr Royal acknowledged that this had been ongoing and they were working with NHS England to identify with whom the cost would sit. It was noted that if included within the scheme it would render it unviable.

The presentation highlighted a number of current risks that had yet to be evaluated by the operational group. It was noted that mitigation of the key risks was required to ensure that they would not derail the process. The importance for engagement with the local community and patients was also noted.

The Chairman thanked those Officers from the CCG for attending the meeting, giving up their time and he reflected on the usefulness of the discussions.

1124. ABSENCE MANAGEMENT

The Committee received a presentation from the Group Manager - People, Performance and Policy and Senior HR Business Partner / Team Leader People Performance and Policy.

The Interim Director of Resources and Councillor N R Pudney, Member sponsor for this item of scrutiny, provided the Committee with detail of the work they had undertaken.

The Group Manager - People, Performance and Policy explained that the presentation was an extract from Manager training on managing attendance. This related to optimising attendance and keeping absence to a minimum. Members were informed of the benefits from the new attendance management policy and HR system.

The presentation highlighted a number of areas, including:

- Current absence levels – Members were informed that the Council’s number of Full Time Equivalent (FTE) days lost were higher than the national average.
- Absence management – The presentation highlighted the main reasons for sickness absence and it was noted that all staff received a return to work interview following an absence.
- Stress management – It was noted that all managers had received training on the Managing Work Related Stress Policy. In addition, HR were continuing to work with the Council’s Mind Body and Soul Group and excellent feedback had been received in response to the new Employee Assistance Programme available to all staff.
- The key principles to absence management were explained and Members advised how each case was dealt with on an individual basis.
- The Bradford Score (recently introduced by the Council) was used to identify short and long term triggers and managers were provided with a monthly record of the score to review. A new system would shortly provide staff access to their individual record and score.

Councillor Mrs P A Channer referred to work life balance and how some companies had introduced a policy whereby emails were not be dealt with after 6pm at night. She suggested that perhaps this should be considered for both Officers and Members. In response the Group Manager - People, Performance and Policy, agreed in general, referred to the Working Time Directive and questioned the productivity of a person working all hours.

The Chairman agreed for copies of the presentation to be circulated to all Committee Members and urged them all to attend the forthcoming training session. He thanked the Group Manager - People, Performance and Policy and Senior HR Business Partner / Team Leader People Performance and Policy for their presentation and attending the meeting.

Members were advised of an earmarked reserve for capacity building and efficiency funds which the Council would be using in relation to long term sickness and backfilling posts.

Councillor Mrs Channer proposed that the Finance and Corporate Services Committee be asked that consideration corporately be given to the work life balance of Officers including the intrusion of technology in this area e.g. times when emails are not looked at or responded to. This proposal was duly seconded.

In response to a question regarding incorporating the proposal into the Attendance Management Policy, the Chief Executive advised that it was separate issue and it would be clearer for Officers if it was not within this policy. The Group Manager - People,

Performance and Policy informed Members that it could be incorporated into the Council's Wellbeing Policy.

Following further discussion the Chairman put the proposal to the Committee and upon a vote being taken was duly agreed.

RESOLVED that that the Finance and Corporate Services Committee be recommended to consider a policy in respect of work life balance across the Council including the intrusion of technology e.g. times when emails are not looked at or responded to.

1125. CORPORATE COMMUNICATIONS PROTOCOL

The Committee considered the report of the Interim Director of Resources presenting a revised Corporate Communications Protocol (attached at Appendix 1 to the report), taking into the comments of the Finance and Corporates Services Committee (F&CS).

Appendix B to the report detailed the comments and resolution from the F&CS following its consideration of the report from this Committee. The Interim Director of Resources advised that Officers along with Councillor Mrs P A Channer, the Member sponsor, had been working through these comments to address them and the report highlighted how they points had been addressed.

In response to a question regarding the section 2.6.5 of Appendix A and the Peer Review, the Chief Executive advised that the draft Peer Review report had been received by the Council and once the final report was received an action plan would be drawn up to pick up the comments raised. The final Peer Review report would be sent to Members once the draft report had been reviewed.

The Public Relations Manager confirmed that the Courier newspaper was produced with the last one being December 2016. Copies of the publication were available from various locations including the Council offices, online, local libraries etc.

It was noted that the Council's Vision and Goals detailed in section 3 of Appendix A were incorrect as these had recently been updated. The Chief Executive advised that this would amended.

Following further discussion, Councillor H M Bass raised a point of order regarding the discussion and its direction.

Members were advised that they should concentrate on the red comments in Appendix A as these reflected the post recent changes.

The Chairman then put the recommendations as set out in the report which were agreed subject to the amendment to section 3 of Appendix A, as detailed above.

RESOLVED

- (i) that the revised Corporate Communications Protocol, be noted;

- (ii) that the Finance and Corporate Services Committee be recommended to consider the revised Corporate Communications Protocol attached at **APPENDIX A** for adoption by the Council.

1126. 2016 / 17 PROGRAMME OF WORK

The Committee received the report of the Director of Resources which provided an update of the Committee's Work Programme for 2016 / 17 (attached at Appendix 1 to the report).

A brief update on the topics of scrutiny was provided and it was agreed that the scrutiny topic regarding Absence Management (with a report back in six months to the Committee) would be added to the Programme of Work. Those completed would be marked as such.

It was agreed that the Chief Executive would send a letter of thanks to those representatives from the Clinical Commissioning Group who had given their time to attend this meeting. Members commented on the importance of this project, moving it forward and celebrating the progress to date.

It was noted that the Community Services Committee would be receiving a regular update on the Community Health Hub but it was agreed that this was still required as an item of scrutiny on the Programme of Work.

The Chairman reminded Members that the Membership of this Committee may change in May at the Statutory Annual meeting of the Council. This 'new' Committee would then have to decide its own Programme of Work and whether current items of scrutiny were to continue or new matters added.

RESOLVED that subject to the above amendments to the Programme of Work the contents of the report be noted.

1127. ANY OTHER ITEMS OF SCRUTINY MEMBERS WISH TO CONSIDER

There were none.

Prior to the close of the meeting the Chairman advised this was the last meeting of the municipal year and thanked Members for their work. The Chairman informed the Committee that this was Mr Mehta, Interim Director of Resources last meeting and thanked him for his time and work.

Councillor Mrs P A Channer also thanked the Interim Director of Resources and then the Chairman for his chairmanship during the year.

There being no further items of business the Chairman closed the meeting at 9.46 pm.

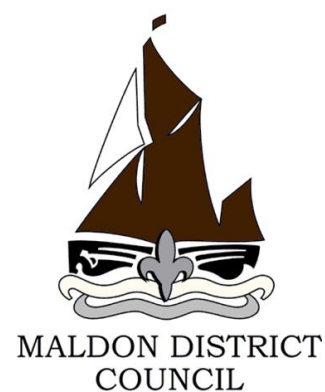
M S HEARD
CHAIRMAN

Document Control Sheet

Document title	Corporate Communications Protocol
Summary of purpose	Three Yearly Review
Prepared by	Russell Dawes
Status	Draft
Version number	V1
Approved by	
Approval date	
Date of implementation	
Review frequency	Three Yearly
Next review date	November 2018
Circulation	
Published on the Council's website	

Validity Statement

This document is due for review by the date shown above, after which it may become invalid. Users of the strategy or policy should ensure that they are consulting the currently valid version of the document.



MALDON DISTRICT COUNCIL

CORPORATE COMMUNICATIONS PROTOCOL

1 INTRODUCTION, SCOPE AND CONTEXT

1.1 ‘Corporate communication’ is a dialogue. It is about ensuring that an appropriate message is given, using the right medium, to all those who need to receive it, and how in return their messages are received.

1.1.1 The purpose of this protocol is therefore to:-

- Ensure that the Council communicates in an accurate, timely and appropriate way that meets its own needs and those of its stakeholders.
- Ensure that stakeholders are well informed on matters relevant to them.
- Ensure that stakeholders have an appropriate mechanism to communicate their views, feelings, opinions etc to the Council in a way that influences, and is seen to influence, Council decision making.
- Use all available methods in which to communicate our messages, promote, enhance and protect the Council’s reputation to secure maximum benefits for the Council and the District in general.

1.1.2 The scope of this protocol is therefore:-

- Communication with the media and other external stakeholders concerning the Council’s policies, plans and activities.
- Communication with colleagues internally to ensure that they are kept informed of our media response concerning the Council’s policies, plans and activities.
- Communication with our external partners and co-ordinate messages as necessary.
- Consultation with the community and other external stakeholders in so far as the Corporate Communications function interfaces with and contributes to the Council’s consultation strategy.

1.1.3 This protocol is mindful of a number of existing strategies but does not specifically deal in detail with the following:-

- Promoting the Maldon District as a visitor destination
- Individual service and business plans.
- Marketing or promoting individual services except as part of promoting a corporate message.
- Petitions including e-Petitions
- Emergency plan
- Economic Prosperity Strategy
- Member/Officer Protocol
- Code of Conduct

1.1.4 Whilst not directly in the scope of this protocol, it must also feed into other strategies, such as our Channel migration strategy, customers’ strategy, consultation strategy, specific service related marketing, Human Resources policies, financial services, e-Petitions etc.

- 1.1.5 The protocol now goes on to identify what core messages we want to promote to a variety of audiences, how we will do it and the implications for the Members of the Council, our Public Relations Team and colleagues both inside and outside of the organisation.
- 1.2 Council's Press Office Protocol**
 - 1.2.1 The Council's press office is managed by the Council's Public Relations and Engagement Team and receives **all** communications from the Press and Media and issues **all** News Release/Statements on behalf of the Council.
 - 1.2.2 The Press Office will not speculate on matters which are raised and will ask for an enquiry to be emailed in order to seek the necessary response in discussion with the relevant Officer, Director and Member as considered appropriate.
 - 1.2.3 With the exception of the Chief Executive, Directors and the Council's PR & Engagement Team (Press Office team, which also includes the Programme and Stakeholder Liaison Manager). No other Officer of the Council is permitted to speak or communicate with the Press and Media on any matters affecting the Council or its business in general, unless after discussion with the Press Office, and as authorised by the Chief Executive, and/or Director, the Leader and/or Deputy Leader of the Council or Committee Chairman and/or Vice-Chairman
 - 1.2.4 If an issue is highlighted to the Press Office by a Member, a copy of the response given will be sent to the originating Member for information.*
- 1.3 Council Staff**
 - 1.3.1 All staff must adhere to the paragraph above (1.2.3) and failure to do so will be seen as a breach of the Council's code of conduct and ultimately may result in disciplinary action being taken in line with our current policies.*
 - 1.3.2 Staff should also show respect and courtesy to Members **at all times in line with the Member /Officer Protocol** and not be seen to do otherwise. Staff will also be reminded of the confidentiality of their posts and the availability of the whistleblowing policy.*
 - 1.3.3 The PR & Engagement Team also works in conjunction with the Programme and Stakeholder Liaison Manager with regards to Planning PR matters.
 - 1.3.4 The Press Office may from time to time use the term 'Council Spokesperson' to respond to agreed enquiries but it should also be acknowledged that the press may also use this term as a matter of course following a response to an enquiry.
 - 1.3.5 However, this is not the case for approved press releases which would normally have an agreed Member quote included.
 - 1.3.6 A style guide is available for staff and this provides useful guidance on items such 'house' font, writing for the web and a variety of letter templates*
 - 1.3.7 In the unlikely absence of anyone in the Public Relations and Engagement Team, media communications will be referred to either the Chief Executive's PA or the Programme and Stakeholder Liaison Manager, who will deal as necessary with any enquiries.
 - 1.3.8 Staff should ensure that Ward Members are advised of issues which may affect their Ward in addition to the relevant Committee Chairman/Vice Chairman/Leader or Deputy Leader as required.*
 - 1.3.9 Either a member of staff or the Press Office will ensure that if an issue is highlighted to the press office by a Member, a copy of the response given will be sent to the originating Member for information.*

Appendix 1 shows the process which should be followed when dealing with the media.

1.4 Meetings of Council and Committees

- 1.4.1 Copies of agenda, minutes and reports for meetings of the Council or its Committees are e-mailed to the Press and Media and placed on the Council's web site seven days before the meeting.
- 1.4.2 Facilities are provided at meetings for the Press to take notes of the proceedings and both the Press and Public may be excluded from a meeting whilst certain confidential matters (as provided for in the relevant legislation) are under discussion.
- 1.4.3 Members of the Public Relations and Engagement Team when available will attend agenda meeting to advise on any matters as necessary.

2. MEMBERS OF THE COUNCIL

- 2.1 Elected Members of the Council play a key and valuable role in communicating the work of the Council to its residents, the media and business community.
- 2.2 Elected Members can express a **Ward**, political party or individual personal view to the press, media or in public forums but should indicate that any such opinion does not necessarily represent the view of the Council.
- 2.3 An elected Member must be mindful of the Council's Code of Conduct and all other policies, procedures and regulations whenever he/she conducts the business of the authority, or conducts the business of the office to which he/she has been elected, appointed, or acts as a representative of the authority.
- 2.4 *If Members fail to adhere to the paragraph above they may be in breach of the requirement for respect and confidentiality as stated within the Local Code of Conduct and may therefore have sanctions applied to them pursuant to the Code (local code of conduct).*
- 2.5 In addition Members should be mindful of the following;
 - Elected Members should not disclose information that is of a confidential nature. This includes any discussion with the press on any matters which may have been discussed as a confidential item on the Council's or Committees' agenda or at any other private briefing or working group.
 - During the pre-election period or 'Purdah', elected Members should comply with the guidance issued. During this period news releases will be issued in the name of the Chief Executive, Director or Council Spokesperson as appropriate

2.6 Dealing with the media

- 2.6.1 A Councillor should act with integrity at all times when representing or acting on behalf of Maldon District Council.
- 2.6.2 Make clear the capacity, in which they are providing the information. For example:
 - as Leader or Deputy Leader of the Council
 - as Chairman of a Committee
 - as Leader or Deputy Leader of the Opposition
 - as an individual (i.e. letter to press for publication)
 - as Ward Councillor
- 2.6.3 Members are advised to keep a copy of any response which is given to the media so as to record the question and the response.

2.6.4 Members are advised to take a cautious approach when dealing with the media if asked for a comment on a controversial subject. It is advisable that the assistance or guidance of the Council's press office is obtained, rather than being led into stating something you did not really mean to say.

2.6.5 *An elected Member should not raise matters relating to the conduct or capability of an Officer at meetings held in public or before the press. **This should be addressed through the existing Member/Officer protocol.***

2.6.6 The Chairman of the Council is the Civic and Ceremonial head of the Council to which is attached great importance in terms of the Council's profile of the District both locally and outside of the District. A separate and detailed protocol already exists for this position and is therefore not part of this Communications protocol.

3. OUR VISION, VALUES & MESSAGES

3.1 Underpinning the communications protocol is the overall vision of the Council, and its four corporate priorities: one internal and four external. Our vision is clearly focussed on the type of community we are striving to achieve and our priorities demonstrate our commitment to support our overall vision.

Our Vision

Working in partnership to make the Maldon District a better place to live, work and enjoy

Our Goals

Helping communities to be safe, active and healthy

Protecting and shaping the District

Creating opportunities for economic growth and prosperity

Delivering good quality, cost effective and valued service

3.1.2 As part of this protocol the Council's vision and corporate identity will be reinforced.

3.1.3 Alongside our vision, brand and values, we need to identify the key messages we wish to promote and in what areas we wish to be recognised for our success.

3.1.4 Key messages must run throughout all communication we have with our residents and partners and need to relate to the community. They are critical to:-

- reinforce what we are trying to achieve; and
- Provide a clear, simple focus for our actions.

3.1.5 Repetition of message is important so that the use of key messages becomes standard practice.
- *If the story does not contain a key message, don't tell the story*

3.2 The Council's good name

3.2.1 The Council has a well known brand which is depicted on livery and stationery as a Thames Sailing Barge but there is a need to continually enforce this message corporately in all of our internal and external communications.

3.2.2 *In addition, the Council is acting and an advocate and supporter of the 'Sense of Place' brand which is being used to promote the District and its eclectic mix of businesses. This complements the Council's own brand and is used in line with the specific Sense of Place guidelines.*

3.2.3 Our Customer Contact Centre promotes the Council's good name through their endeavours to ensure that customer enquiries are dealt with at the first point of contact and together with our Customers Strategy provides a solid foundation in which to ensure that the Council is customer focussed.

4. COMMUNICATING THE MESSAGE

4.1 In order to effectively communicate the message to our residents it is important that any communication is:-

- Relevant to them and where they live
- Timely and accurate
- In plain English (and other formats as appropriate)
- Factual
- Honest – admitting when we're wrong and being prepared to apologise.

4.2 Letting the community tell our story

4.2.1 Day-to-day communications should focus on the service users and tell the story through their eyes – how has this new service affected their lives? Why is it making an impact in their community?

4.2.2 Charter Marks, ISO Accreditation, Beacon Awards and such like may be important to the organisation, but residents may not perceive their true value if the message is not seen as a high priority for our residents.

4.2.3 To communicate our message effectively we need to turn the message around to focus on them – how are we going to make their life better?

4.2.4 The Public Relations and Engagement Team will assist in enabling stories originating from the Council to be written in a more proactive manner:-

- Sourcing contributions from our residents and partners where possible
- Members to endorse initiatives, where possible.
- Wider involvement of Members: feeding back information from successful community projects.

4.3 Keeping the public well informed – key sources and publications

4.3.1 All Key publications should be co-ordinated centrally and reviewed by the Public Relations and Engagement Team to ensure that key messages are used appropriately and consistently.

4.3.2 These core methods of communication would need to be identified but could include:-

- Specific service information leaflets
- Online A-Z Guide
- The Courier (annual)
- Media releases
- Council Tax information
- Our Web site
- Social Networking Sites

4.4 Specific Service Information Leaflets

4.4.1 There is a critical need for the public to have a clear understanding of the range of services we provide and who they should contact.

4.4.2 Feedback in the past has suggested that customers:-

- do not understand what services are provided by the Council
- do not know the best way to access services

4.5 A-Z Guide of services

- 4.5.1 The online A-Z guide of Council services provides an excellent method of communicating the services undertaken/offered by the Council

4.6 The ‘Courier’ - Council newspaper

- 4.6.1 The Courier is produced annually and distributed door-to-door as well as being available via our web site and covers matters which affect our residents or which relate to the District.
- 4.6.2 The Vision for the Courier is to provide;
- Factual and cross cutting information about the work we do
 - Greater involvement from our partners, providing information that is 'joined up', reflecting the fact that customers are concerned with the services they need, and not with who provides them.

4.7 Media Releases

- 4.7.1 It is vital that the Council is able to tell its story in its own words to its residents and the most effective way of managing key messages is through a good relationship with the media.
- 4.7.2 A toolkit called ‘working with the Media’ is available on the intranet and from the Public Relations and Engagement Team has been developed in order to assist colleagues in how to help us to raise our profile of the Council in the print and broadcast media. It gives a template of how to construct a news release and other useful hints and tips.
- 4.7.3 A regular press briefing is just one way in which to ensure that the correct message is given and understood to the media and these will be co-ordinated as necessary.
- 4.7.4 Specific promotions/campaigns will require a managed communications action plan developed by the Public Relations and Engagement Team and will require key actions/milestones.
- 4.7.5 A regular dialogue with the media is vital in order to maintain and build good relations with them.

4.8 Council Tax Information

- 4.8.1 The current Council Tax bill information is provided mainly as part of the online billing process and provided information about how we spend the money.
- 4.8.2 Opportunities are also used to communicate messages to residents who use monthly billing and this in the past has included messages from our partner organisations.

4.9 Web Sites

- 4.9.1 Web sites are a key Communication tool and provide the Council’s with world-wide ‘shop window’.
- 4.9.2 Our corporate web site was upgraded in 2016 and provides information which can be viewed across a number of devices using ‘responsive’ technology. Our ability to offer on-line transactions 24/7 has increased together with a web site which can be developed to meet any future needs.
- 4.9.3 The information on the site will be accurate, interesting, useful and user friendly. This will be monitored by the Public Relations and Engagement Team, Web Site Super User Groups and IT.

- 4.9.4 The Visit Maldon District web site was also refreshed and re-designed in 2016 to meet the growing demands of our visitors. A new events calendar, e-shop and tourism branding as part of the Sense of Place project has enabled the production of a vibrant interactive site

4.10 Social Networking

- 4.10.1 The Council is proactively using social networking as one of the key communications tools.
- 4.10.2 We manage our social media through an online dashboard and are continually expanding our use of the social media channels and have developed an acceptable use of social media guidance document for staff.

4.11 Selling the vision

- 4.11.1 To maximise the impact of the key messages, the Council must promote itself and its work to the community. This can be done cost-effectively (although requiring some budget) and will help to reinforce key messages in a visual way.
- 4.11.2 This promotion should:-
- reflect the vision and brand image;
 - show how the Council is adding value and making lives better;
 - take credit for the work that the Council does; and
 - Signpost customers to services.
- 4.11.3 This should be a combination of PR and advertising (each supporting the other) to get across key messages about our services with a strong visual element, for example the refreshed approach to our recruitment activities.

4.12 Branding everything we do

- 4.12.1 It is important that the Council receives the credit for the work that it is responsible for and where we are working in partnership with others for example:-
- Leisure Centres and car parks - should have appropriate branded signage.
 - Major project developments - funding should be set aside at the earliest time for promotional activity and branding.
 - Partnership working – wherever the Council is working in partnership equal branding opportunities should be given
 - Seeking opportunities to use both the Council's own brand whilst also supporting the 'Sense of Place' brand.

5. ENGAGING WITH THE RESIDENTS

- 5.1 Closer engagement with residents should be seen as key to improving the quality and effectiveness of Council services.
- 5.2 Developing customer opinion and involving service users' needs to be undertaken constantly to maintain a highly level of service and customer satisfaction.
- 5.3 However, citizen and user engagement should not just be about consultation exercises, but it is a fundamental way in which to communicate with, involve and seek the views of local people.
- 5.4 Good media relations have an important part to play in any such consultation working with colleagues to ask the correct questions as per the Consultation Strategy which will inform future decisions.

- 5.5 This should not be seen as a once-a-year duty to consult, but an integral part of any regular feedback from stakeholders, community panels, focus groups, staff, youth forums, hard to reach groups and other partners as appropriate.
- 5.6 The Council has also demonstrated its commitment to improve the profile of the Council and local government in general as a partner in the LGA's Reputation in Local Government initiative.

6. SUMMARY

- 6.1 It is the responsibility of everyone to deliver effective communication. The Chief Executive, Corporate Leadership Team, Members and Staff must be responsible for driving the protocol by actively applying its principles to all aspects of their work.
- 6.2 The Public Relations & Engagement Team will work across services to deliver a comprehensive good news service and deal with bad news as and when it arises.
- 6.3 The Public Relations & Engagement Team, supported by Corporate Leadership Team and with Member consideration, will be responsible for strategic thinking, driving forward the good news and making day-to-day decisions about promoting the Council and its services.
- 6.4 By working together, the delivery of this communications protocol will ensure that the Council grows in reputation and builds a strong relationship with the public.

Media enquiries

Members and officers are encouraged to inform the PR and Engagement team of items of potential media interest

All media enquiries including interviews should be directed to press.office@maldon.gov.uk in the first instance

ENQUIRIES

Forwarded to the appropriate officer
(**Planning issues:** the Programme and Stakeholder Liaison Manager)
to seek a response.
If an issue is highlighted to the Press Office by a Member, a copy of the response given will be sent to the originating Member for information

Matters of fact

The response must be agreed with the Director or nominated officer

Matters of contention or requiring comment

The response must be agreed with the Director or nominated officer and, at the discretion of the Director, attributed to the relevant Chairperson or Ward Member (in which case that Member's agreement must be obtained), Director or Council spokesperson. Exceptionally, a specific member of staff may be nominated by a Member or Director

Agreed response forwarded to press.office@maldon.gov.uk

Proof read and sent to the media

INTERVIEWS

Press office to liaise with the relevant Member, Director or their nominated spokesperson
(**Planning issues:** the Programme and Stakeholder Liaison Manager will assume liaison)

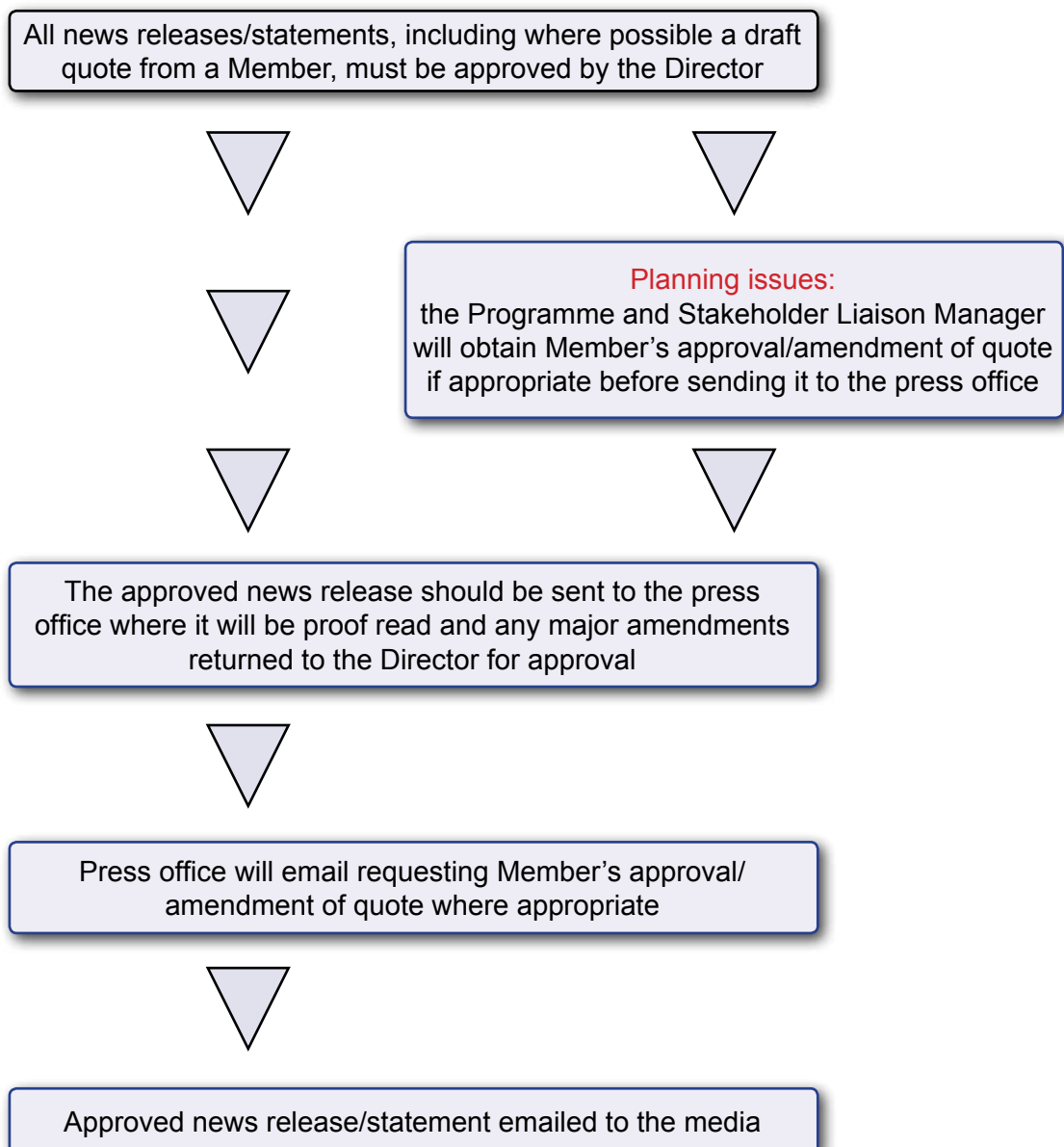
Briefing for Member if appropriate

Press office to confirm arrangements with the media
(**Planning issues:** the Programme and Stakeholder Liaison Manager to confirm arrangements with the media and inform the press office)

Proactive media (news releases and statements)

Members and officers are encouraged to liaise with the PR and Engagement team regarding the production of news releases/statements on potentially controversial issues as well as 'good news' stories.

The PR & Engagement team has the sole responsibility to send approved news releases/statements to the media. Exceptionally, (eg in the event of urgent need and the non availability of any members of the team), the Programme and Stakeholder Liaison Manager of Chief Executive's PA will assume responsibility.



All press releases/statements are emailed to the 'press contacts list', copied to Corporate Leadership Team, the originator of the news release, circulated to all Members and uploaded on to the Council's website and linked to our social media accounts

Media enquiries received by Elected Members directly from the media

1. Members are encouraged to speak to the media on matters relating to their Ward
2. If a Member is approached to discuss a decision of Council or one of the committees they should ensure that they are clear in what capacity they are commenting (ie Ward Member, Committee Member, or individual)
3. Members are advised to respond in writing to the media so as to record the question and the response
4. Out of courtesy, the Leader or Deputy Leader or relevant committee Chairman/Vice Chairman should be made aware of any such approaches
5. It would also be helpful for the Council's press office to be made aware at press.office@maldon.gov.uk
6. Please note during an emergency this process replaced with the emergency protocol led via Gold Command



REPORT of DIRECTOR OF RESOURCES

**to
OVERVIEW AND SCRUTINY COMMITTEE
21 JUNE 2017**

2016 / 17 PROGRAMME OF WORK UPDATE

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this paper is to provide an update on the work programme of this Committee for 2016/17 and to allow for a Committee discussion of potential areas for the 2017/18 work programme.

2. RECOMMENDATION

That the contents of this report be noted and, following a discussion at the meeting on potential areas for the 2017/18 work programme, the Director of Resources work with the Chairman and Deputy Chairman of this Committee to produce the 2017/18 work programme.

3. SUMMARY OF KEY ISSUES

- 3.1 The Committee agreed a programme of work at the first meeting of the 2016/17 municipal year and **APPENDIX 1** provides an update on each of the various agreed scrutiny topics.

4. CONCLUSION

- 4.1 The work programme for 2016 / 17 progressed in line with expectation and where agreed, ongoing scrutiny topics will be carried over to the 2017/18 work programme.
- 4.2 Additional areas arising from discussion at this Committee meeting will be worked up into a work programme which will be presented at the next meeting of this committee.

5. IMPACT ON CORPORATE GOALS

- 5.1 The work of the Overview and Scrutiny Committee supports the Corporate Goal of: “Delivering good quality, cost effective and valued services”.

6. IMPLICATIONS

- (i) **Impact on Customers** – Scrutiny work may aid in improvements to service to the public by the Council and external authorities.
- (ii) **Impact on Equalities** – None identified.
- (iii) **Impact on Risk** – Recommendations arising from scrutiny could assist in mitigating corporate risks.
- (iv) **Impact on Resources (financial)** – Officer time in preparing the reports and supporting information.
- (v) **Impact on Resources (human)** – None identified.
- (vi) **Impact on the Environment** – None identified.

Background papers: None.

Enquiries to: Emma Foy, Director of Resources, Chief Executive, (Tel: 01621 875762).

Overview and Scrutiny Committee

Programme of Work Update

Scrutiny topic	Member Sponsor	Lead Officer	Scope of Scrutiny	Current Position
Community Hospital	Councillor S J Savage	Chief Executive	The Committee has requested to receive updates on the progress of the Community Hospital and, if necessary, meet with the agencies concerned to ensure that the project is progressing in a timely manner.	See update report to May Community Services – Attached at Appendix 2
Provision of Healthcare Services	Councillor N R Pudney	Chief Executive	The original purpose of the scrutiny was to meet with a representative from the National Health Service (NHS) England to allow for the service to account for the practice of agreeing developer contributions to mitigate the pressures on local medical centres, where such medical centres are at capacity and where the operators of such medical centres object to planning applications within their catchment areas on the grounds of incapacity. However Members raised at the June 2016 meeting, that GP surgeries had advised they were unable to take on more patients despite such contributions being made. It was further agreed at the July 2016 meeting that due to the possible downgrading of the accident and emergency facility at Broomfield in favour of Basildon, that representatives from the Health Service should be invited to attend a future Overview and Scrutiny Committee (O&S) meeting to address Members' concerns in this area.	See update report to May Community Services – Attached at Appendix 2
Section 106	TBC	Director of Resources	The Committee asked for confirmation of: <ul style="list-style-type: none"> Arrangements for collection of Section 106 contributions <ul style="list-style-type: none"> trigger points, billing etc. Sums received and held Decision making process for allocation 	Report considered by the Committee at its meeting on 8 February 2017. Committee decided that a report be submitted every 6 months on the latest status of the Section 106 Agreements similar to the report considered. Furthermore the Interim Head of Planning Services is to set up a section 106 Officer Group to monitor the Section 106 agreements.

APPENDIX 1

Scrutiny topic	Member Sponsor	Lead Officer	Scope of Scrutiny	Current Position
Elections	Councillor H M Bass	Chief Executive	After the 2015 Elections, the Council has reviewed all processes and procedures used in the Elections and that an improvement plan was presented to the O&S in February 2016. It was agreed by the Committee that a further report on elections will be brought to the Committee in 2016 / 17.	Update report scheduled for 19 July to report on delivery of County and Parliamentary elections.
Planning Enforcement	Councillor E L Bamford	Director of Planning and Regulatory Services	<p>The scope of the review for planning enforcement is broken down into three parts, namely:</p> <ul style="list-style-type: none"> • Statutory responsibilities and Maldon District Council's Policy; • Discharge and management of planning enforcement; • Suggested changes to the management of planning enforcement. <p>The first two parts of the review was reported to O&S in February 2016 and the final part was to be brought to the Committee at a future date.</p>	This report will be considered by O&S at its meeting of 21 June 2017
Primary school education in the District	Councillor H M Bass	Director of Customers and Community	<p>To understand the standards of education being provided in the Maldon District at primary level. The Committee was presented with a report at its meeting in April 2016 and it was agreed that an invitation will be sent to Claire Kershaw, Head of Commissioning Education and Lifelong Learning from Essex County Council and Reverend Tim Elbourne, Director of Education from Chelmsford Diocese to a future meeting of this Committee to facilitate the scrutiny of primary education within the Maldon District.</p> <p>The Committee agreed at the June meeting that a further report should be brought back to this Committee towards the end of the year.</p>	Arrangements are now being made for attendance by representatives from ECC Education and the Church of England at a future meeting of this Committee as agreed. Written responses to additional questions have now been received from ECC and the Church of England and these will be circulated to Members for information.

APPENDIX 1

Scrutiny topic	Member Sponsor	Lead Officer	Scope of Scrutiny	Current Position
Stow Maries Aerodrome	Councillor M Heard	Director of Resources	To ensure that the management of Stow Maries Aerodrome were operating the organisation in such a way to give some assurance to the Committee that the Council could expect to recover its monies correctly. The Committee received a report on this at the April 2016 meeting and agreed that a representative from Stow Maries Great War Aerodrome Limited be invited to attend a future meeting of the Committee to demonstrate their sustainable business plan and discuss their ability to repay the Maldon District Council loan; with particular focus on how they were planning to generate more income in the longer term and their long term vision on the Stow Maries Aerodrome	<p>The Scrutiny Lead and the Chief Executive have met with the Trust to talk through their current financial position. It is clear that the Trust have sufficient reserves to cover the revenue deficit for the medium term position. The Chairman and Chief Executive explained that the Trust are in the process of submitting a bid to the Heritage Lottery Fund which focuses on delivering the first phase of their 20 year master plan to preserve and protect the fabric of the site and creating a unique and exciting visitor experience. The bid is a first round submittal and supporting documents, such as the business plan will be finalised in the second round phase. I have asked the Trust to share those with the Council when available.</p> <p>The Trust is now sharing its monthly management accounts with the Council.</p>

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REPORT of CHIEF EXECUTIVE

to
COMMUNITY SERVICES COMMITTEE
23 MAY 2017

MALDON HEALTH HUB PROJECT

1. PURPOSE OF THE REPORT

- 1.1 To update Members on progress of the Maldon Health Hub Project.

2. RECOMMENDATION

That the contents of this report be noted.

3. SUMMARY OF KEY ISSUES

- 3.1 This report is for Members' information only.
- 3.2 A meeting of the Maldon Health Hub Stakeholder Project Board took place on 28 April 2017 and the following key points are of note.
- 3.3 **Primary Care**
- 3.3.1 Presentations providing an overview of the primary care provision across both the Dengie and Maldon localities were provided. The presentations provided the following information:-
- 3.3.1.1 Negotiations regarding the provision of health care facility North Heybridge Garden Suburb are underway and draft Heads of Terms have been drawn up. National Health Service (NHS) England, Mid Essex Clinical Commissioning Group (MECCG), Countryside and Maldon District Council (MDC) are involved in those discussions. The need for certainty on space requirements was stressed so that work on the business case can commence.
- 3.3.1.2 The Project Manager confirmed that the previous uncertainties regarding the impact of relocation of the surgeries on dispensing and pharmacy provision have now been ironed out.
- 3.3.1.3 Both Blackwater and Longfield surgeries have been allocated funding from the General Practitioner (GP) Resilience Fund to enable them to undertake joint "diagnostic" work that will help identify strategies to improve their resilience. Conclusions from this work will contribute to the business case for relocation of the Blackwater practice into the new health hub.
- 3.3.1.4 A copy of the presentations are provided as background papers to this report.

3.4 Health Hub

3.4.1 The services currently provided at St Peter's Hospital are as follows:

- Inpatient Stroke / Rehabilitation Services;
- Midwifery-Led Maternity Services;
- Outpatients;
- Audiology;
- Tissue Viability and Lymphoedema Services;
- Imaging;
- Phlebotomy;
- Physiotherapy;
- Occupational Therapy;
- Speech and Language Therapy;
- Early Supported Discharge;
- Out of Hours GP service.

3.4.2 The CCG's stated intention is that the new Maldon Health Hub will incorporate all services currently provided at St Peter's Hospital (with the possible exception of inpatient beds) and a range of new services.

3.4.3 The provision or otherwise of Inpatient Services is the subject of a review being led by Mid Essex CCG, set in the context of the regional Sustainability and Transformation Plan. Members have previously been informed of the CCG's aim of delivering high quality care, closer to home. Development of their 'Home First' model of care is being led and designed by nurses and doctors. The CCG wish to ensure that a patient's journey is supported from the point of acute (hospital) admission to discharge home. They also intend to make provision of more intensive care within people's homes and look to ensure that patients who can be treated within the community without the need for a hospital admission will be able to access high quality and timely care when required. It is possible that as part of this development they will look to pay for less community hospital beds and instead invest in better ways to care for patients in their own home or potentially in nursing homes with extra care. The CCG is aiming to make recommendations on this new model of care in May 2017. A Clinical Review Group chaired by the CCG Director of Nursing will lead this work and will share conclusions on the model with partners and patients for their views during the summer.

3.4.4 It has been confirmed that the Maldon Health Hub will include GP services (expected to be provided by the Blackwater Practice) and, potentially, a Pharmacy.

3.4.5 The key outstanding issues to resolve in relation to the scope of service for the Maldon Health Hub are the provision of Mental Health services, local authority services (both Essex County Council (ECC) and MDC) and voluntary sector services.

3.4.6 An assessment has been made, at high-level, of the space that would be required in the Maldon Health Hub to accommodate the proposed scope of services and projected future activity volumes. The approach that has been adopted is as follows:

- Activity projections for clinical services have been provided by Mid Essex CCG;
- Activity projections have been converted into capacity requirements by Arcadis;
- Space requirements for clinical services have been estimated on the basis of relevant guidance and experience of similar schemes delivered elsewhere;
- Allowances have been made for departments for which detailed specifications have not yet been provided, i.e. support facilities, community & commercial facilities and a staff administration base (hot-desking) for community clinical staff;
- Engagement with commissioners and providers is now required to finalise the activity projections, capacity requirements and room-by-room Schedule of Accommodation.

3.5 Site Options

3.5.1 There has been an ongoing process of identifying and assessing potential sites for the Maldon Health Hub. The most recent assessment was undertaken by representatives of Mid Essex CCG and Maldon District Council in March 2017. Four sites were considered as follows (the references relate to a previous site list produced in 2016):

- Site A: St Peter's Hospital, Spital Road
- Site F: Maldon Leisure Quarter
- Site G: North of Wycke Hill
- Site H: Maldon Hall Farm

3.5.2 It was concluded that Sites A and G would be viable locations for the Maldon Health Hub; and Site F, which is likely to be more complex to bring forward, be held in reserve. Further discussions with the landowner for Site H are required to understand their aspirations.

3.6 Service Model

3.6.1 The CCG is out to procurement for some additional senior project management support to assist in the delivery of the Home First model. Evaluation undertaken through this project will help the CCG draw conclusions on the bed capacity required within the new facility.

3.6.2 At the current time the following options for potential service models have been identified:

- Primary Care and Community Health Services;
- Primary Care and Community Health Services + Inpatient Beds;
- Primary Care and Community Health Services + Care Home.

3.7 Commercial Model

3.7.1 The Outline Business Case for the Maldon Health Hub will need to set out proposals for:

- which organisation(s) will own the land and building;
- how leasing arrangements will be structured;
- which organisation(s) will be responsible for procuring the facility (i.e. “the developer”);
- how the capital funds will be obtained.

3.7.2 There will also need to be an assessment of the expected revenue cost impact of the new facility, for commissioners and providers.

3.7.3 An initial identification and appraisal of the potential funding, ownership and procurement options for the Maldon Health Hub was undertaken in 2016 with Mid Essex CCG, Mid Essex Hospitals NHS Trust, Provide and Maldon District Council. The key issues were considered but a commercial plan was not finalised, as the plan must take account of the specific features of the “preferred option” for the Maldon Health Hub.

3.7.4 The potential sources of funding for the Maldon Health Hub are:

- NHS capital;
- MDC capital;
- Private sector capital;
- or a combination of two or three of these sources.

3.7.5 On the basis of the proposed short-list of options for the Maldon Health Hub, the principal options for ownership of the new facility (and site) are as follows:

St Peter's Hospital Site	North of Wyke Hill Site
MEHT retains ownership of the land and owns the new building	The site is acquired by MDC and the building is owned by MDC
MEHT retains ownership of the land – the building is owned by NHS Property Services, MDC, Provide or a 3 rd Party Developer	The site is acquired by NHS Property Services and the building is owned by NHS Property Services
The land and building are owned by NHS Property Services, MDC, Provide or a 3 rd Party Developer	The site is acquired by Provide or a 3 rd Party Developer and the building is owned by Provide or the 3 rd Party Developer

3.7.6 In the case of either site option, a Joint Venture involving one or more parties could be created and that there are a range of options relating to lease and/or licence structures.

3.8 Next Steps

3.8.1 The next stage in the planning and implementation of the Maldon Health Hub is the development of an Outline Business Case (OBC) (which will be preceded by public

consultation on the service model options, as explained above). The working assumption is that Mid Essex CCG will need to produce an Outline Business Case in line with current NHS England guidance, regardless of the procurement / funding route. The OBC will need to demonstrate that the development of the Maldon Health Hub is:

- supported by local needs (the Strategic Case);
- value for money (the Economic Case);
- commercially viable (the Commercial Case);
- affordable (the Financial Case);
- deliverable (the Management Case).

The appraisals undertaken for the OBC will inform the public consultation exercise.

- 3.8.2 A project plan setting of the key tasks required to progress the Maldon Health Hub project through to public consultation (in July 2017) and Outline Business Case development are shown in at APPENDIX 1.

4. IMPACT ON CORPORATE GOALS

- 4.1 Work with partners to deliver the new Maldon Health Hub is a key corporate activity set out in the Council's Corporate Plan for 2015 - 2019.

5. IMPLICATIONS

- (i) **Impact on Customers** – A new Community Health Hub has the potential to improve access to health care and thereby improve the health and wellbeing of residents.
- (ii) **Impact on Equalities** – The provision of a new facility will play a role in reducing health inequalities.
- (iii) **Impact on Risk** – A project risk register is provided as a background paper to this report.
- (iv) **Impact on Resources (financial)** – None at the current time.
- (v) **Impact on Resources (human)** – None.
- (vi) **Impact on the Environment** – A full environmental impact assessment will be required as part of the development of a Community Hospital.

Background Papers:

Maldon Locality Profile

Dengie Locality Profile

Enquiries to: Fiona Marshall, Chief Executive, (Tel: 01621 875710). "

- The following key tasks are required to progress the Maldon Health Hub project through to public consultation (in July 2017) and Outline Business Case development:

Task	Completion
Finalise MHH Specification/Accommodation Schedule	12 th May
Confirm short-list of options (CCG)	12 th May
Develop concept designs	9 th June
Produce capital/revenue cost estimates	9 th June
Undertake risk assessment (all options)	9 th June
Undertake benefits appraisal	9 th June
Run economic appraisal	16 th June
Determine procurement strategy	16 th June
Produce consultation documentation	30 th June
Undertake public consultation	22 nd September
Produce Draft Outline Business Case	29 th September

- The submission date for the OBC is dependent on the timescale and outcomes of the public consultation exercise



Dengie – Locality

Mid Essex CCG Overview

24th April 2017



Mid Essex

Clinical Commissioning Group

The Dengie – population health

- Slightly lower levels of obesity against national and mid Essex averages
- Higher than peer group, local and national averages for:
 - Stroke prevalence
 - CHD prevalence
 - CKD prevalence
 - Diabetes prevalence
- Within 10% national and local average for COPD and cancer
- Better than average or average rates for:
 - emergency admissions for patients less than 75
 - Day cases
 - Elective admissions
 - A&E attendances
- Prescribing costs across the locality are higher than other areas across mid Essex



About the Dengie: Rural population who rely on GP for health needs

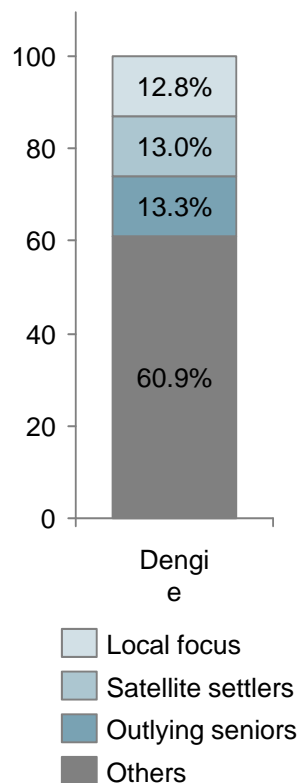


Mid Essex

Clinical Commissioning Group

Rural focus of population types...

Population groups (%)



Source: Mosaic; BCG analysis

... who rely on GP as first contact for health needs and are technology averse ...

Local focus

Rural families in affordable village homes who are reliant on the local economy for jobs

- More likely than average to talk to their GP (70%) about their health
- Less likely to seek help or to look after their own health
- Responsive to email, but less so to other digital channels

Satellite settlers

Mature households living in expanding developments

- Less likely than average to talk to their GP (63%) about their health
- More inclined to feel that they do not take good care of themselves
- Many do not like technology (19%), and fewer than average (54%) prefer to use email

Outlying seniors

Pensioners living in inexpensive housing in out of the way locations

- More likely than average to talk to their GP about their health, rather than pharmacists, NHS111 or other practitioners
- Less inclined to feel that they should do more about their health
- Most are not tech savvy, though the most preferred channel is still emails

... self-care has potential, but work required to promote AHPs

Increase the use of alternative healthcare practitioners

- Allied Health Professionals (AHPs) such as nurses and pharmacists, can serve as first point-of-call healthcare professional for some groups, though persuasion would be needed amongst patients for this

Promote self-care and self-management

- Patient education to increase patient activation and self-care. Support with AHPs e.g., health-checks and medicine use reviews by community pharmacists.

Despite low enthusiasm for technology in general, email is considered preferred means of communication



Mid Essex

Clinical Commissioning Group

The Dengie Primary Care (GP)

- There are currently four GP practices serving the population of the Dengie:
 - Burnham Surgery
 - Dengie Medical Partnership
 - Trinity Medical Practice
 - The William Fisher Medical Centre
- As at 1st April 2017, they had a combined registered patient list size of 23,800.
- Quality of Primary Care / General Practice services, as measured by the national Quality & Outcomes Framework (QOF) 2015/16 , shows an overall achievement of over 97% for Dengie practices (range 95.31 to 98.89%).
- Patient satisfaction, as measured by the National Patient Survey 2016, shows practices to be in the upper quartile in the areas of appointments, opening hours and overall experience with the vast majority of patients indicating that they would “recommend” their practice.



Mid Essex

Clinical Commissioning Group

The Dengie – Locality

- All Dengie practices provide the full range of Public Health Directed Enhanced Services (DES) and practically all other Directed Enhanced Services commissioned by NHS England and Local Enhanced Services (LES) commissioned by Mid Essex CCG.
- In terms of demography, the Index of Multiple Deprivation shows that the Dengie has a similar level of deprivation as mid Essex as a whole.
- The population of the Dengie shows a higher level of over 75s than the national average and a greater overall life expectancy.
- There is a history of effective collaborative working across Dengie GP practices.
- Collaborative working is already in place across the practices within the area and is currently being further developed in partnership with provider organisations.
- There is commitment and genuine enthusiasm across the practices about the possibility of developing the use of technology to support virtual meetings and potentially online consultations.



Mid Essex

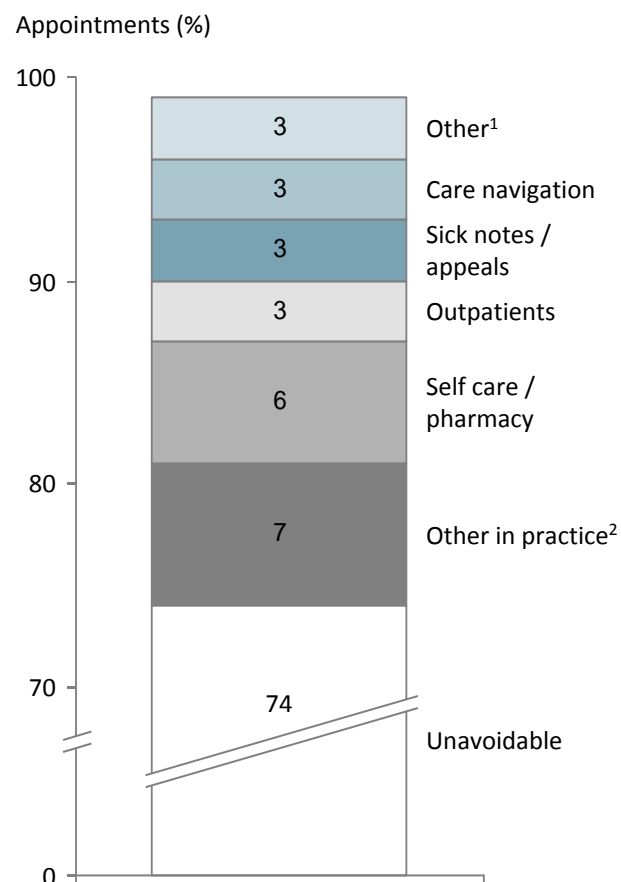
Clinical Commissioning Group

The Dengie – Development of the Locality

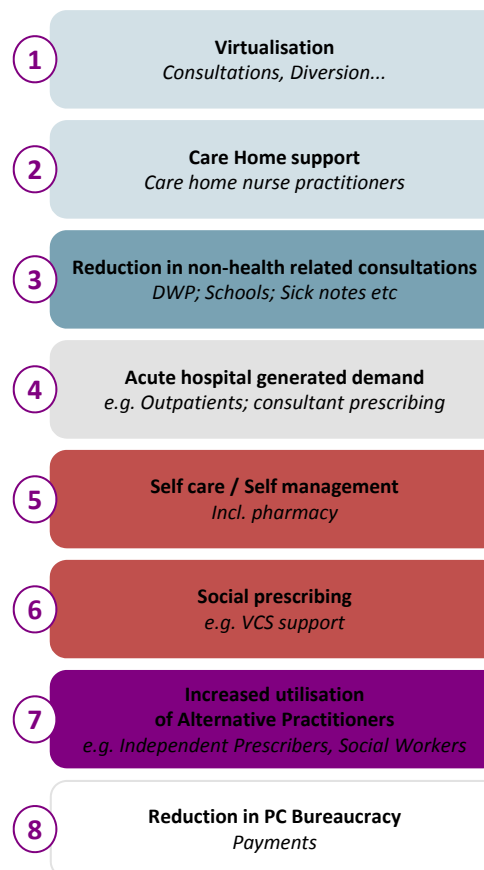
- To facilitate and further develop optimal locality working, the CCG has been working with local practices, providing information and detail on options and opportunities, supporting discussion and detailed “deep dive” analysis to be developed in partnership across health and social care services with input from the District.
- An initial workshop and follow up meetings have already been held, involving all local practices and partner community organisations.
- From these events, some “quick wins” have been achieved and the following priority groups have been identified for early attention / action:
 - Frail Elderly Patients
 - Patients with Long Term Conditions
 - People with Mental Health Problems
 - Children
- A local delivery programme is now being developed to progress a number of work streams, including proposals on better use of IT, shared operating arrangements across practices and community providers and the creation of a Dengie Health & Social Care Steering Group.

Future model of care: Interventions to release GP capacity

26% of current GP appointments are considered to be avoidable



Interventions can release GP capacity



Opportunity assessment

- Video-link appointments have been successful amongst some older people. Relatively low use of apps amongst hard-to-reach
- Care homes occupy a lot of GP time and where care home nurses have been present it has been successful
- Co-location difficult due to dispersed population, but other solutions would save a lot of time
- Acute-generated demand a big issue; opportunities to solve are hard to solve as one locality
- Patients generally quite well equipped for self-care, incentivised due to remoteness
- Few other services in the area to send patients on to e.g. gyms
- Community matrons have been very helpful, little GP capacity to effect triage

1. A patient contact was categorised as, "other" when there was no good description of the reason that the contact was avoidable in the list of options provided to the GPs

2. Patients could have been seen by other staff in the practice

Source: GP Forward View 2016 (Audit of ~5000 GP consultations); Making Time in General Practice 2015



Mid Essex

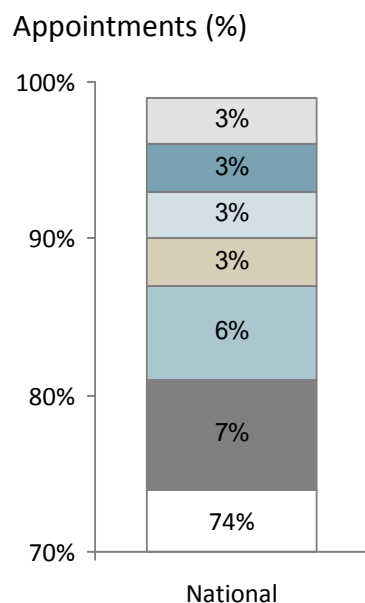
Clinical Commissioning Group

18% of GP appointments could be avoided

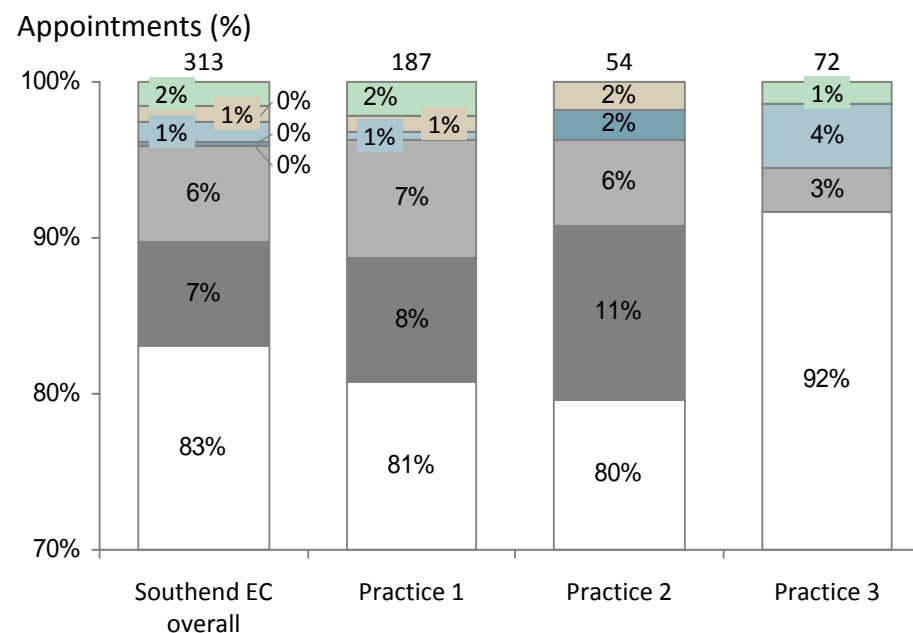
Audit of three practices in the Dengie

Emerging view

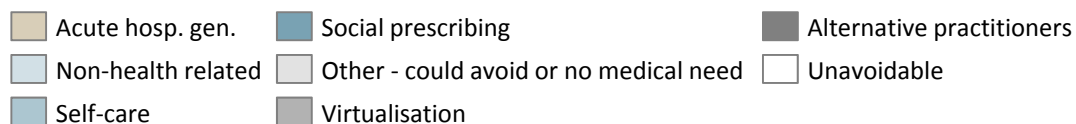
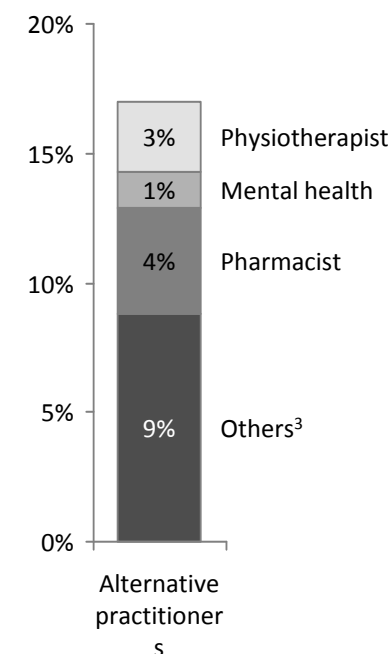
Nationally, 26% avoidable



Dengie, 17% avoidable¹ overall, 7% could be diverted to alternative practitioners ...



... mostly nurses and pharmacists





Maldon – Locality

Mid Essex CCG Overview



About Maldon – population health

- 10% Better than local and national average for:
 - Obesity
 - Non-Elective Admissions in people over 75 years of age
 - Outpatients attendance
- Within 10% national and/or local average for:
 - Smoking prevalence
 - Stroke prevalence
 - Cancer prevalence
 - Chronic Kidney Disease prevalence
 - Diabetes prevalence
 - Non-Elective Admissions in people under 75 years of age
 - Day Cases
 - Elective Admissions
 - Outpatient attendances
- 10% worse than local and national average for:
 - Hypertension prevalence, i.e. relatively more people in Maldon have high blood pressure



About Maldon – local issues

- **GP Practices** – imminent and medium term GP retirements expected. Coupled with challenges in retaining other staff including nursing staff across the locality and the known difficulties in recruiting clinical staff, there is concern about the maintenance and sustainability of the existing clinical resources.
- **Closed Lists** – a factor of the increasing demand and limited capacity. Work is ongoing in support of the practices to address both – reviewing appointments, care by appropriate professional, funding and GP recruitment (including participating in EU campaign).
- **Community Services** – ensuring direct access to and timely support from appropriate professionals on an ongoing basis and in particular to address patients in crisis.
- **Mental Health** – the mental health allocation is not broken down to locality/sub-locality and is made up of four community pathways covering: psychosis; non-psychosis; dementia; crisis referral. Any one of the four teams can be accessed and assessment is carried out.
- **Social Care** – currently Adult Social Care resources are not aligned to neighbourhoods and are working towards a complete reconfiguration of their structures. Beginning with Braintree in mid Essex, Adult Social Care and their partners will begin to define the potential allocation of resources for the geographic area, with other areas to follow.



Maldon Locality Development

- **Collaborative arrangements** are already working across Maldon
 - Joint working on use of transformational funding
 - Joint bid for resilience funding
 - Other plans for joint working to support the locality
- As part of national direction and local (mid Essex) plans, the locality is currently exploring options and opportunities about further and future development.
- Work is currently in hand, with workstreams agreed for practice to work with other out-of-hospital providers (including social care) to look at priorities for sustaining primary care and ensuring continued delivery of appropriate and accessible services to support the health and wellbeing needs of the population.
- From these workstreams, plans will be agreed and implemented on a phased basis to deliver the emerging vision of future service provision.



Maldon Practice Development

- The Index of Multiple Deprivation shows that Maldon has a higher level of deprivation than Mid Essex CCG as a whole.
- There is one training practice in the locality (Longfield Medical Centre).
- There is a history of effective collaborative working across the Maldon GP practices.
- Both practices have collaborated in accessing funds from the CCGs PCSTD fund, to jointly employ a clinical pharmacist to provide additional capacity and undertake health checks on the frail and elderly patients and visit care homes.
- There is also a close working relationship between the practices at manager level and a commitment to working together going forward.
- There is good engagement between the practices and with Mid Essex CCG.



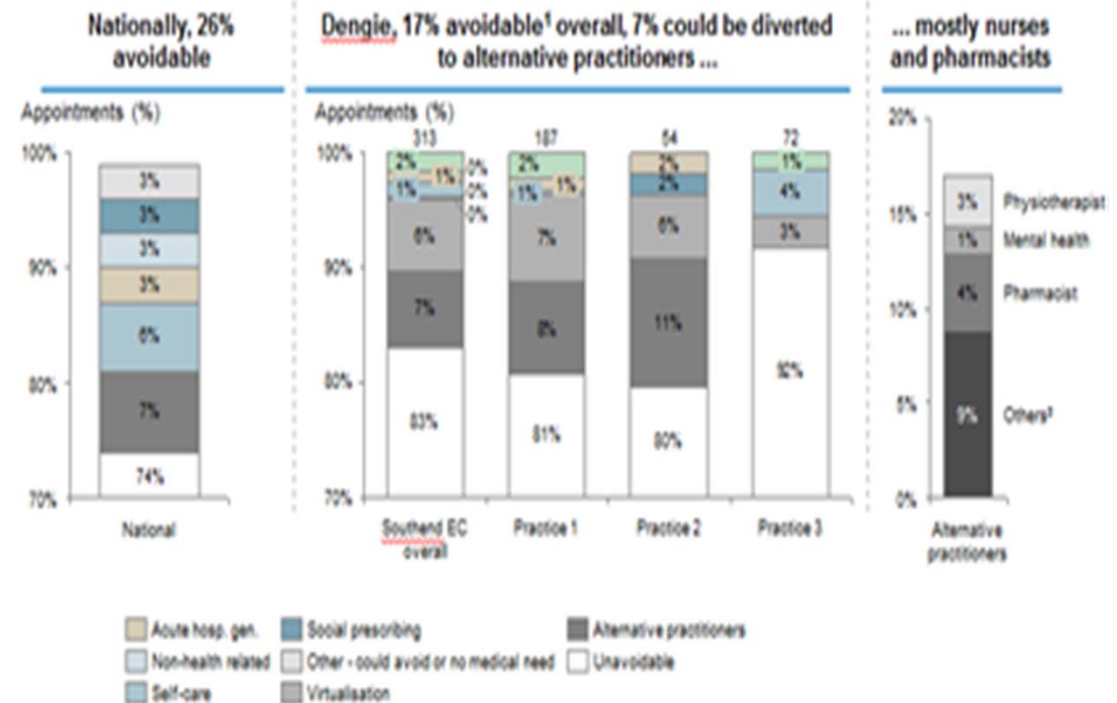
Maldon – development of the Locality

- To facilitate and further develop optimal locality working, the CCG is working with local practices, providing information and detail on options and opportunities, supporting discussion and detailed “deep dive” analysis to be developed in partnership across health and social care services with input from the District.
- The level of collaborative working that Maldon will embrace will be determined through practice liaison and cross organisation workshops, with the aim of establishing a joint and integrated system of working from April 2017.
- Collaborative working with Provide, Social Care and Mental Health colleagues is being progressed through the sub locality development work.

Next steps

Workforce – Skill Mix Review

Practices have agreed to undertake an audit of their appointments to understand why patients are consulting with their GP and whether these appointments were avoidable or if patients could be seen by another healthcare professional.



Based on local audit undertaken elsewhere 17% of GP appointments could have been avoided, of which 7% could have been seen by alternative practitioners.

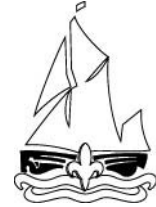


Maldon – current estates

The Primary Care / General Practice premises position available is summarised as:

647m ²	GP Owned	Longfield	Purpose built premises with limited parking. Limited scope for expansion
328m ²	GP Owned	Blackwater	Purpose built premises with limited parking and no scope for expansion
73m ²	GP Lease	Longfield Branch	Converted retail space
95m ²	GP Owned	Blackwater Branch	Converted bungalow style premises

Opportunities for the replacement of the branch surgery at Heybridge are being reviewed.



REPORT of DIRECTOR OF RESOURCES

**to
OVERVIEW AND SCRUTINY COMMITTEE
21 JUNE 2017**

REVIEW OF PERFORMANCE - QUARTER 4 2016 / 17

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to supply Members with details of performance against targets set for 2016/17 and to ensure that progress is being achieved towards the overall corporate goals and objectives detailed in the Corporate Plan 2015-19 adopted by Council in February 2015, with the most recent annual update approved by Council in April 2017.
- 1.2 Members should challenge performance or allocation of resources where the Committee feels that the Council's corporate goals have not or may not be achieved.
- 1.3 Where performance or progress is behind schedule or at risk, the reasons why need to be fully understood and decisions taken on what, if any, action is required to bring performance back on track.
- 1.4 The Corporate Leadership Team (CLT) held the quarterly performance and risk clinics on 17 May 2017 when the performance and risk information provided for each Directorate was reviewed and challenged where necessary. The aim of these clinics is to manage performance effectively to ensure that progress is being achieved towards the corporate goals and objectives. The full quarterly performance pack produced for each Directorate and reviewed by CLT at these clinics will be placed in the Members' Room and copies emailed to all Members following the review of performance by this Committee.
- 1.5 All of the performance information contained within this report is recorded on the Council's Performance and Risk Management system (TEN) to which all Members have access.

2. RECOMMENDATIONS

- (i) That Members' views, comments and questions on the information as set out in this report and **APPENDIX 1** are sought;
- (ii) That Members review and/or scrutinise decisions made by, and the performance of, both Committees and Council Officers;

- (iii) That Members challenge performance or allocation of resources where the Committee feels that the Council's corporate goals may not be achieved;
- (iv) That Members question Members and Officers on decisions and performance, relating to comparisons with service plans and targets, or in respect of particular decisions, initiatives or projects;
- (v) That Members make recommendations to the Chief Executive, Directors, the appropriate Committee and/or Council arising from the outcome of the scrutiny process.

3. SUMMARY OF KEY ISSUES

- 3.1 As agreed by this Committee, **APPENDIX 1** to this report shows the status of all Key Corporate Activities, but additional comments are only provided for those activities and indicators/measures that are behind schedule, at risk or not on target to facilitate the effective scrutiny of performance.

4. IMPACT ON CORPORATE GOALS

- 4.1 The Council stated its corporate goals and desired objectives in the Corporate Plan for 2015-19.
- 4.2 In turn, the Services agreed actions (Key Corporate Activities) that they would take forward in 2016 / 17 to contribute to the achievement of these objectives. Performance indicators and measures were also established to monitor the impact of these actions and to provide evidence of achievements.
- 4.3 To ensure that Maldon District Council (MDC) progresses towards or achieves the goals stated in the Corporate Plan, it is important that performance is monitored and managed effectively against targets and milestones.
- 4.4 As the Council is accountable to the community, it is also important that it is able to demonstrate it is monitoring and managing performance effectively.

5. IMPLICATIONS

- (i) **Impact on Customers** – Performance Management is about agreeing and achieving objectives and priorities, monitoring our performance against agreed targets and timescales, identifying opportunities for improvement, making necessary changes and ultimately delivering quality public services.
- (ii) **Impact on Equalities** – The Council aims to understand the needs of our staff and customers and make sure that our policies and services are designed to meet these needs and are implemented appropriately.

MDC is committed to providing equal opportunity of access to services and working towards developing communities that are free from discrimination.

Effective performance management will assist the Council in determining whether it is achieving this.

- (iii) **Impact on Risk** – If performance is not managed effectively by the Council at both Committee and management level, there is a risk that the Council will not achieve its stated priorities and objectives.
- (iv) **Impact on Resources (financial and human)** – If action is needed to bring key activities or indicators back on track to meet the targets set, a reallocation of resources may be required to ensure that objectives and priorities are achieved.
- (v) **Impact on the Environment** – None.

Background Papers: None.

Enquiries to: Emma Foy, Director of Resources, (Tel: 01621 875762) or Julia Bawden, Performance and Risk Officer, (Tel: 01621 876223).

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Review of Performance 2016-17 Quarter 4 (Q4)



OVERVIEW & SCRUTINY COMMITTEE

QUARTERLY REVIEW OF PERFORMANCE

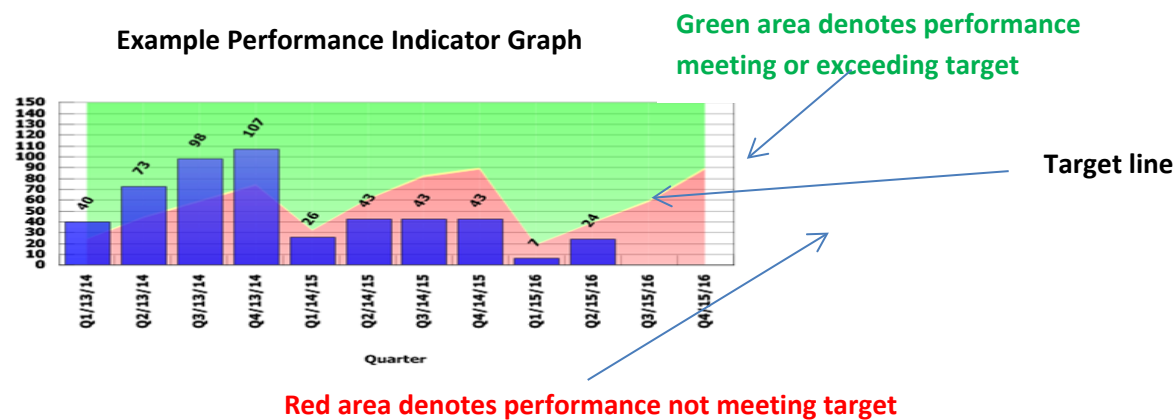
2016-17

QUARTER 4

Status Definitions for Key Corporate Activities

At Risk	There are issues which could impact the completion/ achievement of the Key Corporate Activity in the future
Behind Schedule	Target date for completion of the Key Corporate Activity , or milestones upon which activity depends, have not been met
On Track	Work progressing satisfactorily, milestones upon which the activity depends are being met and overall target for completion should be achieved
Completed	Key Corporate Activity completed – no further work required

Example Performance Indicator Graph



Review of Performance 2016-17 Quarter 4 (Q4)

Corporate Goal - Helping communities to be safe, active and healthy

Key Corporate Activities contributing to this goal - 4			
At Risk	Behind Schedule	On Track	Completed
	1	3	

Key Corporate Activities (KCAs)	Target Date	Status	Comments for KCAs "At Risk" or "Behind Schedule"
Implement Community Safety Partnership action plan	Ongoing	On track	
Implement with partners the Local Action Plan that contributes to the local health and wellbeing needs	Ongoing	On track	
Embedding the Safeguarding policy and procedures across all the Council services	Ongoing	On track	
Develop the Strengthening Communities Strategy	March 2017	Behind schedule	Officers continue to work with Members to develop a strategy for the Council through the Member Task and Finish Working Group. Officers have been tasked with undertaking an audit of community groups to identify any shortfall in provision within the district for consideration by the working group when it next meets.

Review of Performance 2016-17 Quarter 4 (Q4)

Indicators

Indicator	15/16 Actual	16/17 Target	Q3	Q4	Cumulative For the Year	Annual target achieved
Level of reported crime	2,341 Incidents of all crime	Fewer reported incidents than in previous year	624 Incidents of all crime	500 Incidents of all crime	2,422 Incidents of all crime	No
	1,087 Anti-Social Behaviour (ASB) incidents		249 ASB incidents	200 ASB incidents	1,00 ASB incidents	Yes
	Sanctioned detection rate 11.7%	No target			Sanctioned detection rate 12.5%	

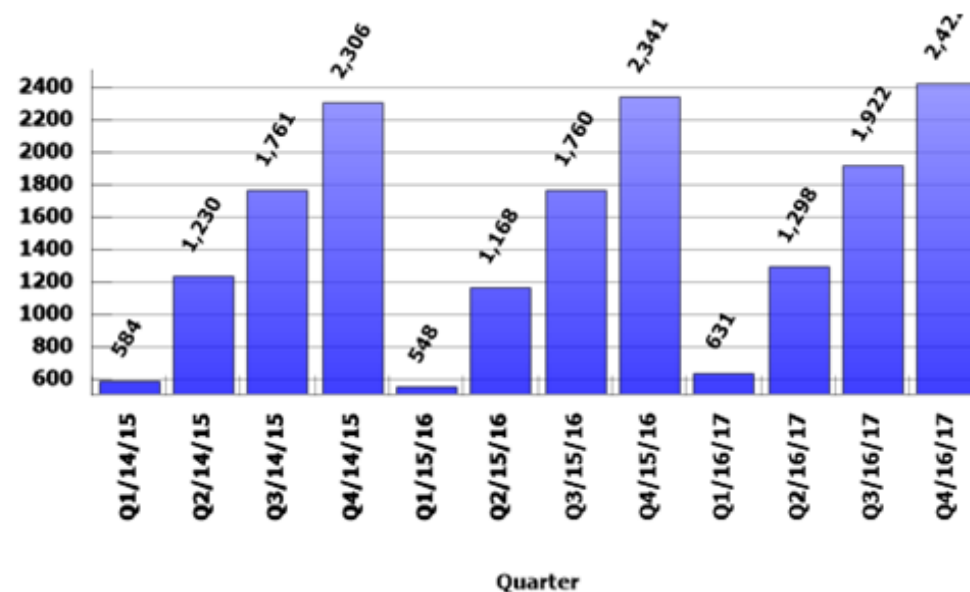
Comment on current performance

Sub groups of the Community Safety Partnership continue to meet on a regular basis and work streams for each individual group are effectively impacting on various areas of community safety. Rural crime remains a concern for local people so there will be a stronger focus on this for 2017/18 with the adoption of the new priority "Tackling rural crime and strengthening communities".

Team members meet with partners on a frequent basis and receive regular information to ensure that the partnership remains responsive to emerging crime trends such as monitoring of the offender cohort, community cohesion issues and children at risk of exploitation.

It is not unusual for the level of crime to reduce in Q4, but often peaks again in Spring particularly for offences such as burglary.

There was some very proactive work undertaken in the area by CID which resulted in an arrest and effectively halted a burglary/vehicle interference series.



Review of Performance 2016-17 Quarter 4 (Q4)

Tracking Measures

The following are designated as “tracking measures” for which it is inappropriate to set targets as the Council has little control of performance, but establishing these measures will enable us to gauge the impact of our actions on the desired outcomes outlined in the Corporate Plan.

Indicator	14/15 Actual	15/16 Actual	16/17 Actual
Number of households where living conditions were improved through:			
• Intervention of the private sector housing team	44	63	69
• Housing Act interventions	12	21	10
- Overall	9	6	4
- Relating to excess cold, damp and mould			
Overall number of households within the Maldon District that have been assisted as part of the national Green Deal and ECO scheme	690 (between Jan 2013 and Mar 2015)	860 (between Jan 2013 and Dec 2015)	1,178 (Jan 2013 - Dec 16)
Number of assisted installations to improve home energy efficiency through Council promotion	0	20	19

Review of Performance 2016-17 Quarter 4 (Q4)

Corporate Goal - Protecting and shaping the District

Key Corporate Activities contributing to this goal – 6			
At Risk	Behind Schedule	On Track	Completed
	4	2	

Key Corporate Activities (KCAs)	Target Date	Status	Comments for KCAs “At Risk” or “Behind Schedule”
Adopt the Local Development Plan for the District	September 2017	Behind schedule	<p>The Examination-in-Public (EiP) Hearing sessions were held in January 2017. The sessions were based on the Inspector's Matters, Issues and Questions (MIQs) published on 16 November 2016. The Inspector worked with the Council during each of the hearing sessions to consider modifications that would assist in making the Plan and individual policies within it, sound.</p> <p>The Post-Examination modifications, after sign off from the Inspector, were published for public consultation on 17 March. The consultation runs until 28 April.</p> <p>The responses to the public consultation will be sent to the Planning Inspector, who will then complete his Report for the Secretary of State with recommendations on whether the Plan is sound. On receipt of the Planning Inspector's report, the Secretary of State will then consider the Planning Inspector's recommendation and in due course, will issue a report to Council on his decision on the Plan.</p>
Work in partnership to deliver/ensure management/maintenance of strategic infrastructure as per LDP	Ongoing	On track	

Review of Performance 2016-17 Quarter 4 (Q4)

Key Corporate Activities (KCAs)	Target Date	Status	Comments for KCAs "At Risk" or "Behind Schedule"
Work in partnership to develop community consultation groups re management/maintenance of existing open spaces	December 2016	Behind schedule	Update awaited
Adopt the Maldon District Design Guide	May 2017	Behind schedule	<p>The Maldon District Design Guide was approved by the Planning and Licensing Committee on 2 March 2017 for public consultation. The public consultation will start in Spring 2017 for six weeks, at the end of which the representations will be collated and fed into final revisions to be presented to the Council in the Summer 2017.</p> <p>Once adopted the Guide will be a supplementary planning document and a material consideration in planning decisions.</p>
Work with partners to seek funding/bring forward flood relief projects for identified surface flooding risk areas in District	March 2018	Behind schedule	<p>Progress continues to be made on the major flood relief schemes with the majority on track, some successful funding bids and further funding being sought.</p> <p>The following schemes are considered to be behind schedule:</p> <p>The North Heybridge Flood Relief Scheme (Funding application) - Work is continuing with consultants Capita and the Environment Agency to finalise the business case. This work will continue into 2017-18, but with a view to achieving final submission for grant aid in early summer 2017.</p> <p>Maldon, Brickhouse Farm - This project is being led by ECC and is progressing through the detailed design stage. It is understood that ECC are in discussion with their asset team regarding displacement of the allotments into another suitable area. Once available the detailed designs will be reported to Members before progressing to the planning application stage.</p>

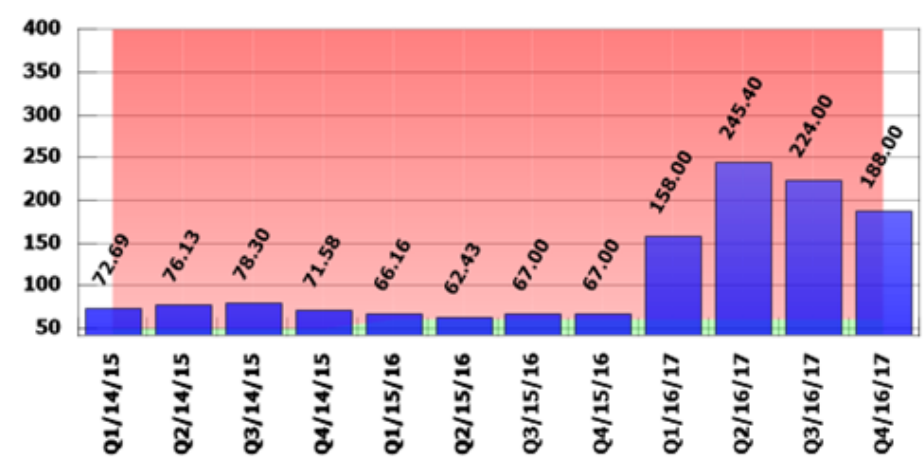
Review of Performance 2016-17 Quarter 4 (Q4)

Key Corporate Activities (KCAs)	Target Date	Status	Comments for KCAs “At Risk” or “Behind Schedule”
Work with housing associations and developers to provide affordable and extra care housing	Ongoing	On track	

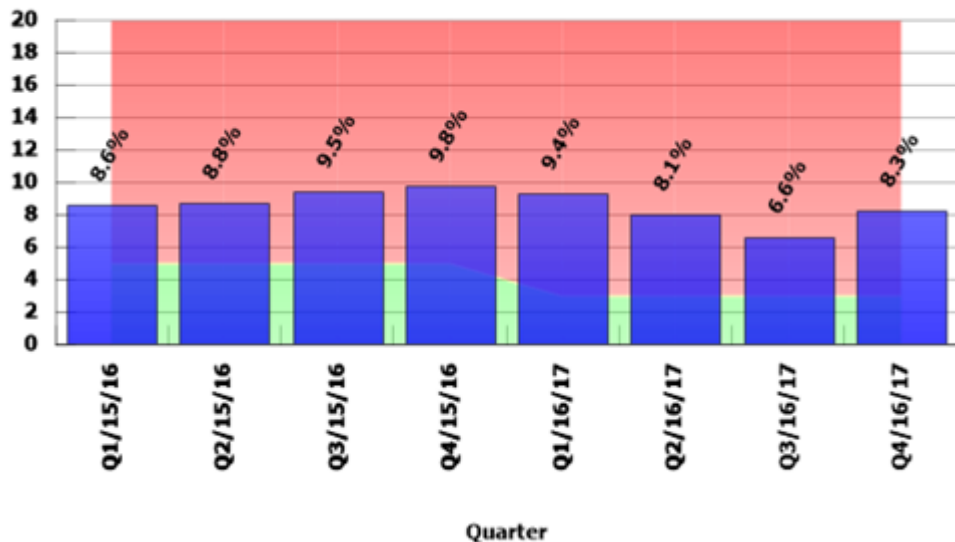
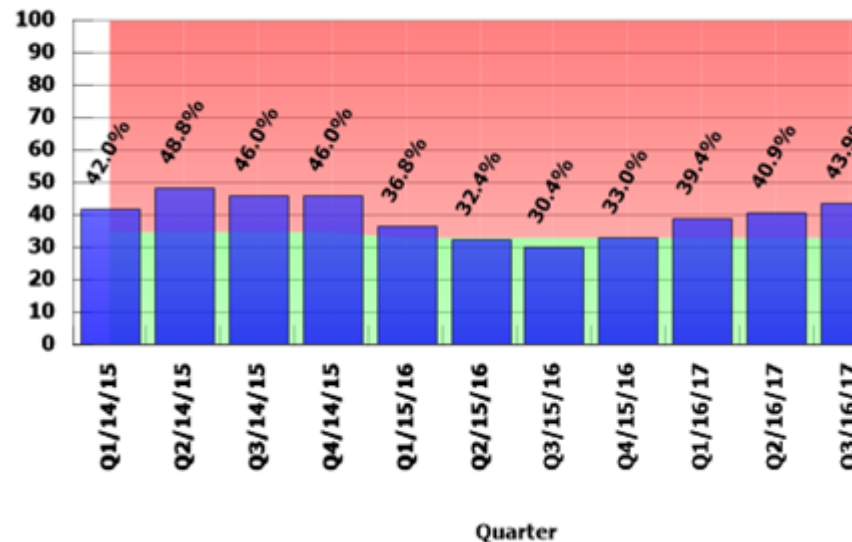
Review of Performance 2016-17 Quarter 4 (Q4)

Indicators						
Indicator	15/16 Actual	16/17 Target	Previous Quarter	Current Quarter	Cumulative For the Year	Annual target achieved
Total household waste arising per household	838 kgs. per household	820 kgs. per household	818 kgs. per household (provisional)			Yes
Residual household waste per household	443 kgs. per household	400 kgs. per household	345 kgs. per household (provisional)			Yes
Percentage of household waste sent for reuse, recycling and composting (including separate green waste)	47.3%	52%	55.8%	54.7% (provisional)	57.8% (provisional)	Yes
Number of missed collections per 100,000 collections	67/100,000* 2,337 actual missed Collections* *As at end of December 2015	60/100,000	101/100,000 858 actual missed Collections	69.4/100,000 589 actual missed Collections	188/100,000 5,602 actual missed Collections Figures relate to period from 6 th June – 31 st March	No

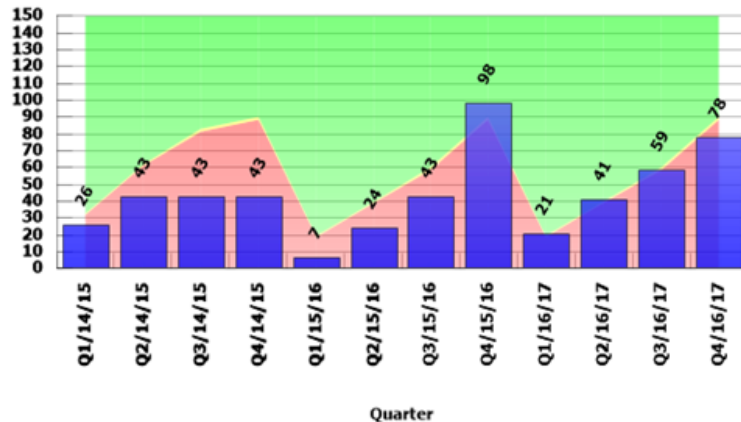
Review of Performance 2016-17 Quarter 4 (Q4)

Indicator	15/16 Actual	16/17 Target	Previous Quarter	Current Quarter	Cumulative For the Year	Annual target achieved																										
Number of missed collections per 100,000 collections																																
Comment on current performance There were 589 justified missed bins recorded in Q4. This figure has reduced by 269 compared to the previous quarter, continuing the downward trend and should be viewed against over 16,000 collections per collection day			 <table><caption>Number of missed collections per 100,000 collections</caption><thead><tr><th>Quarter</th><th>Value</th></tr></thead><tbody><tr><td>Q1/14/15</td><td>72.69</td></tr><tr><td>Q2/14/15</td><td>76.13</td></tr><tr><td>Q3/14/15</td><td>78.30</td></tr><tr><td>Q4/14/15</td><td>71.58</td></tr><tr><td>Q1/15/16</td><td>66.16</td></tr><tr><td>Q2/15/16</td><td>62.43</td></tr><tr><td>Q3/15/16</td><td>67.00</td></tr><tr><td>Q4/15/16</td><td>67.00</td></tr><tr><td>Q1/16/17</td><td>158.00</td></tr><tr><td>Q2/16/17</td><td>245.40</td></tr><tr><td>Q3/16/17</td><td>224.00</td></tr><tr><td>Q4/16/17</td><td>188.00</td></tr></tbody></table>				Quarter	Value	Q1/14/15	72.69	Q2/14/15	76.13	Q3/14/15	78.30	Q4/14/15	71.58	Q1/15/16	66.16	Q2/15/16	62.43	Q3/15/16	67.00	Q4/15/16	67.00	Q1/16/17	158.00	Q2/16/17	245.40	Q3/16/17	224.00	Q4/16/17	188.00
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Percentage of major planning appeals allowed	9.8% *(for the 2 year minus 9 months period as per DCLG assessment re quality of decisions)	3%	6.6% (for the 2 year minus 9 months period as per DCLG assessment re quality of decisions)	8.33% (for the 2 year minus 9 months period as per DCLG assessment re quality of decisions)	N/A	No																										
Percentage of all planning appeal decisions allowed	33%	33%	51.85%	46.43%	44.44%	No																										

Review of Performance 2016-17 Quarter 4 (Q4)

Indicator	15/16 Actual	16/17 Target	Previous Quarter	Current Quarter	Cumulative For the Year	Annual target achieved																																										
Percentage of planning appeals allowed																																																
This is continually monitored using a rolling period of 2 years minus 9 months, to indicate performance leading up to the annual assessment undertaken by DCLG in January. Local authorities have been advised that the threshold for appeal decisions allowed will reduce to 10% for the 2018 assessment of whether an authority is under performing.																																																
Percentage of major planning appeals allowed over the assessment period for the quality of decisions				Percentage of all planning appeals allowed																																												
 <table><thead><tr><th>Quarter</th><th>Percentage</th></tr></thead><tbody><tr><td>Q1/15/16</td><td>8.6%</td></tr><tr><td>Q2/15/16</td><td>8.8%</td></tr><tr><td>Q3/15/16</td><td>9.5%</td></tr><tr><td>Q4/15/16</td><td>9.8%</td></tr><tr><td>Q1/16/17</td><td>9.4%</td></tr><tr><td>Q2/16/17</td><td>8.1%</td></tr><tr><td>Q3/16/17</td><td>6.6%</td></tr><tr><td>Q4/16/17</td><td>8.3%</td></tr></tbody></table>				Quarter	Percentage	Q1/15/16	8.6%	Q2/15/16	8.8%	Q3/15/16	9.5%	Q4/15/16	9.8%	Q1/16/17	9.4%	Q2/16/17	8.1%	Q3/16/17	6.6%	Q4/16/17	8.3%	 <table><thead><tr><th>Quarter</th><th>Percentage</th></tr></thead><tbody><tr><td>Q1/14/15</td><td>42.0%</td></tr><tr><td>Q2/14/15</td><td>48.8%</td></tr><tr><td>Q3/14/15</td><td>46.0%</td></tr><tr><td>Q4/14/15</td><td>46.0%</td></tr><tr><td>Q1/15/16</td><td>36.8%</td></tr><tr><td>Q2/15/16</td><td>32.4%</td></tr><tr><td>Q3/15/16</td><td>30.4%</td></tr><tr><td>Q4/15/16</td><td>33.0%</td></tr><tr><td>Q1/16/17</td><td>39.4%</td></tr><tr><td>Q2/16/17</td><td>40.9%</td></tr><tr><td>Q3/16/17</td><td>43.9%</td></tr></tbody></table>			Quarter	Percentage	Q1/14/15	42.0%	Q2/14/15	48.8%	Q3/14/15	46.0%	Q4/14/15	46.0%	Q1/15/16	36.8%	Q2/15/16	32.4%	Q3/15/16	30.4%	Q4/15/16	33.0%	Q1/16/17	39.4%	Q2/16/17	40.9%	Q3/16/17	43.9%
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Review of Performance 2016-17 Quarter 4 (Q4)

Indicator	15/16 Actual	16/17 Target	Previous Quarter	Current Quarter	Cumulative For the Year	Annual target achieved
Total number of open market homes delivered	250	180	Figures available in August following production of the Authority Monitoring Report			
Total number of affordable homes delivered (through legal agreements and other means)	45	130	Figures available in August following production of the Authority Monitoring Report			
Total number of long term (i.e. longer than 6 months) empty homes in the District	195 as at 31/03/16 (of which 41 have been empty in excess of 5 years)	N/A	216 as at 31/12/16 (of which 44 have been empty in excess of 5 years)	219 as at 31/03/17 (of which 39 have been empty in excess of 5 years)	N/A	No
Number of long empty homes returned to use	98	90	18	19	78	
Comment on current performance Having successfully tackled a backlog of empty homes in recent years, it has always been acknowledged that numbers of empty homes that could be returned to use in the future would reduce. For this reason the target of 90 for 2016/17, which was challenging has been reduced to 80 for 2017/18.						

Review of Performance 2016-17 Quarter 4 (Q4)

Tracking Measures: The following are designated as “tracking measures” for which it is inappropriate to set targets as the Council has little control of performance, but establishing these measures will enable us to gauge the impact of our actions on the desired outcomes outlined in the Corporate Plan.

Indicator	14/15 Actual	15/16 Actual	16/17 Actual
Fly tipping			
- No. of incidents	- 222	- 214	- 381
- % removed within standard time	- 100%	- 100%	- 100%
No. of reports received from the public re litter	75	38	26
No. of fixed penalty notices issued relating to litter offences	16	18	30
No of reports received from the public re dog fouling	94	50	74
No. of fixed penalty notices issued relating to dog fouling offences	23	12	10
Average Levels of Nitrous Dioxide across the whole District	33µ/ m ³	33.05µ/ m ³	29.60µ/m ³
I. Total no. of applicants who approached MDC’s Housing service	I. 626	I. 462	I. 424
II. Number of applicants who were either prevented from becoming homeless or their situation was resolved through intervention	II. 287	II. 135	II. 93
III. Number of applicants who proceeded to make a formal homelessness application/those accepted as statutory homeless	III. 36	III. 38	III. 25
IV. Number of applicants given advice, but unsuccessful in preventing/relieving the risk of homelessness	IV. 303	IV. 288	IV. 306
Affordable housing needs assessment	New indicator 15/16	The net annual requirement for affordable homes identified in the SHMA (2014) is 130. The most recent review (April 16) shows the annual requirement has increased to 218.	As part of the Council's review into its housing requirements and assessment of its Objectively Assessed Need for housing required for the Examination in Public in January 2017, a full review of both the requirement for affordable housing and the overall requirement for housing was undertaken by independent

Review of Performance 2016-17 Quarter 4 (Q4)

Indicator	14/15 Actual	15/16 Actual	16/17 Actual
			consultants in December 2016. It was found that the need for affordable housing remains as first identified at 130 homes per annum. In view of this, officers have not undertaken any further review for this period but will review once more at the end of the first quarter of 2017/18.

Review of Performance 2016-17 Quarter 4 (Q4)

Corporate Goal - CREATING OPPORTUNITIES FOR ECONOMIC GROWTH AND PROSPERITY

Key Corporate Activities contributing to this goal - 8			
At Risk	Behind Schedule	On Track	Completed
		8	

Key Corporate Activities (KCAs)	Target Date	Status	Comments for KCAs "At Risk" or "Behind Schedule"
Deliver business engagement activities	Ongoing	On track	
Develop and implement an action plan for the Causeway Area re-generation	March 2018	On track	
Promote the District as a destination of choice by setting out what is on offer in Maldon District for new/existing businesses	Ongoing	On track	
Promote the District as a destination of choice by developing a plan with partners to increase visitor numbers/spend in the District	March 2018	On track	
Analyse current skills deficit in the District	March 2018	On track	
Undertake feasibility study to identify possible solutions to address skills deficit	March 2018	On track	
Promote/support improved Broadband connectivity	Ongoing	On track	
Work with partners to improve transport within District as part of ECC Passenger Transport Strategy	March 2018	On track	

Review of Performance 2016-17 Quarter 4 (Q4)

Tracking Measures: The following are designated as “tracking measures” for which it is inappropriate to set targets as the Council has little control of performance, but establishing these measures will enable us to gauge the impact of our actions on the desired outcomes outlined in the Corporate Plan.

Indicator	14/15 Actual	15/16 Actual	16/17 Actual
Within the District total number of employee jobs Source: NOMIS	19,400 2014	19,000 2015	Figure not yet available
Claimant Count Source: NOMIS	430 (as at Feb 2015) (Job Seekers Claimants)	370 (as at March 2016) (Job Seekers and Universal Credit out of work claimants)	385 (as at March 2017) (Job Seekers and Universal Credit out of work claimants) TBC by DWP
Number of business enterprises within the District Source: NOMIS	3,090 (2014)	3,270 (2015)	3,295 (2016)
Number of empty NNDR properties within the District	199 (as at March 2015)	187 (as at March 2016)	168 (as at March 2017)
NNDR Collectable Debt	£13.85m	£14.17m	£14.85m £0.57m real terms increase
Number/percentage of 16 – 18 year olds in the District not in employment, education or training Source: ECC	101 (as at March 2015) (16 – 19 year olds)	80 (as at March 2016) (16 – 19 year olds)	31 (as at March 2017) Equivalent to 2.1% of 16 – 18 year olds in the District not in employment, education or training
Number of participants starting in apprenticeship schemes within the District Source: DfE	520	290 (August 15 – Jan 16)	240 (Figures for August – October 2016 only. Figures for full year not yet published)
Visitor spend in the District Source: TIC	£150m (2014)	£155.5m (2015)	2016 Value of Tourism report available September 2017

Review of Performance 2016-17 Quarter 4 (Q4)

Corporate Goal - Delivering good quality, cost effective and valued services

Key Corporate Activities contributing to this goal - 4				
Activity not being taken forward	At Risk	Behind Schedule	On Track	Completed
1		2	1	

Key Corporate Activities (KCAs)	Target Date	Status	Comments for KCAs "At Risk" or "Behind Schedule"
Implement Workforce Development Plan projects for 16/17: <ul style="list-style-type: none"> - Implement Performance Review System - Implement HRIS and self service - Develop recruitment strategy - Review online jobs portal experience - Introduce Total Reward Policy. 	March 2017	Performance Review System Complete	Major projects implemented include the Performance Review process and the Core element of the HR Information System (HRIS). All key workforce data has been recorded on HRIS enabling more efficient day-to-day operational working within the HR team. In addition, it provides statistical analysis and reports.
		HRIS Core Complete	
		HRIS self service Behind schedule	These projects will continue to be a focus to ensure they are embedded within the Council.
		Recruitment Strategy Behind schedule	Work has started on the recruitment strategy and the Total Reward Policy, but these have not been completed within the timescales originally stated in the Workforce Development Strategy due to factors such as changes in legislation and the Apprentice Levy. These activities are therefore being carried over to 17/18 and need to be worked on in parallel with the other factors.
		Online jobs portal experience Complete	

Review of Performance 2016-17 Quarter 4 (Q4)

Key Corporate Activities (KCAs)	Target Date	Status	Comments for KCAs "At Risk" or "Behind Schedule"
		Total Reward Policy Behind schedule	The self-service end of HRIS is stalled for technical reasons. We must be confident that the end user experience will be positive before this can be rolled out.
Implement the ICT Strategy projects for 16/17: <ul style="list-style-type: none"> - implement the initial Customer Relationship Management (CRM) system 	March 2017	Activity not being taken forward	<p>The work to evaluate whether a CRM system is appropriate for MDC has been completed by the IT Manager and presented to CLT.</p> <p>A review of systems is being undertaken as part of the Transformation programme, following which the ICT Strategy will be reviewed. Any decision to purchase and implement a CRM system will be part of the wider transformation discussions so this project is now closed and the capital resources set aside for this has been rolled into the transformation budget.</p>
Deliver the Medium Term Financial Strategy to achieve a balanced budget	Ongoing	On track	
Implement the Customer Strategy projects for 16/17: <ul style="list-style-type: none"> - Approval of final Customer Strategy - Implementation of new Automated 24 hour telephone payment service - New Website - Procurement of Customer Portal commenced - New Self Service PCs installed in reception - Public Access Wi-Fi in reception - Reception design, incorporating Sense of Place Branding - Corporate Feedback system approved - Restructure of Customers Team 	March 2017	Completed	<p>A number of the 16/17 projects have been completed as follows:</p> <ul style="list-style-type: none"> • Automated Telephone payment system fully embedded. • New website implemented. • Self-service PCs and public access Wi-Fi installed in reception. • Reception redesign completed to incorporate Sense of Place Branding. <p>However, other projects originally scheduled to be</p>

Review of Performance 2016-17 Quarter 4 (Q4)

Key Corporate Activities (KCAs)	Target Date	Status	Comments for KCAs “At Risk” or “Behind Schedule”
		Behind schedule	<p>completed in 16/17, which are being carried over to 17/18 (mainly due to decisions outside of the service's control), are as follows:</p> <ul style="list-style-type: none"> • Customer Strategy - Internal Audit conclusions on Customer Strategy awaited (May 2017) before final version going being submitted to Finance & Corporate Services Committee for approval and adoption. • Project for procurement of Customer Portal paused by CLT and this will now be considered as part of a wider systems review through the Transformation Programme. • The Corporate Feedback system will be reviewed as part of the Customer Strategy. • The business case for the restructure of the Customers Team approved by CLT May 2017.

Review of Performance 2016-17 Quarter 4 (Q4)

Indicators

Indicator	15/16 Actual	16/17 Target	Previous Quarter	Current Quarter	Cumulative For the Year	Annual target achieved
% Council Tax collected	98.3%	98.3%	28.1%	3.87%	98.37%	Yes
% Business Rates collected	98.07%	97.8%	26.21%	7.44%	98.42%	Yes
Time taken to process Housing Benefit/Council Tax Support new claims	14.5 days	15 days	16.35 days	16.25 days	14.8 days	Yes
Time taken to process Housing Benefit/Council Tax Support change of circumstances	7.64 days	9 days	7.24 days	2.87 days	4.99 days	Yes
Percentage of major planning applications determined within 13 weeks	73.13%	75%	87.5%	95.45%	92.42%	Yes
Percentage of minor planning applications determined within 8 weeks	71.12%	70%	83.33%	92.71%	86.71%	Yes
Percentage of other planning applications determined within 8 weeks	89.6%	80%	96.15%	97.18%	94.6%	Yes
% of major planning applications acknowledged within 10 working days	New indicator 16/17	100%	76.47%	100%	89.47%	No

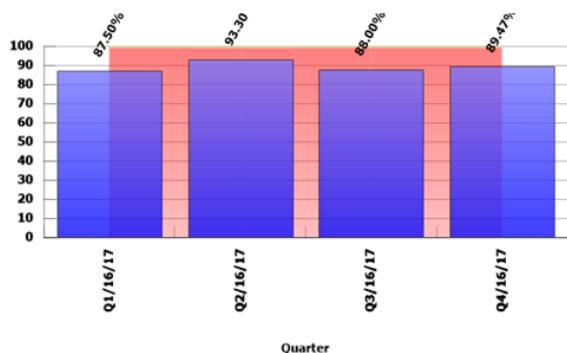
Review of Performance 2016-17 Quarter 4 (Q4)

Indicator	15/16 Actual	16/17 Target	Previous Quarter	Current Quarter	Cumulative For the Year	Annual target achieved
% of minor planning applications acknowledged within 5 working days	New indicator 16/17	100%	55.67%	87.65%	54.57%	No
% of other planning applications acknowledged within 5 working days	New indicator 16/17	100%	58.39%	75.52%	55.75%	No

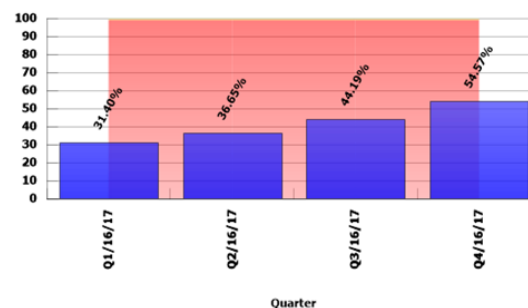
Comment on current performance

Work is being undertaken by an external consultant to review a number of aspects of the Planning Service, which includes looking at improving this area of performance.

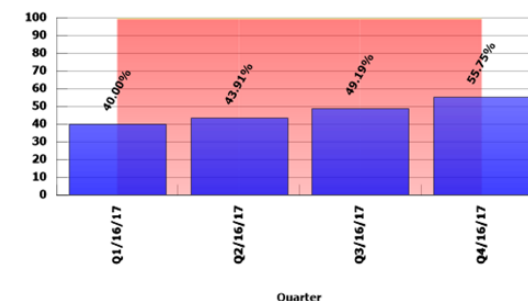
% of major planning applications acknowledged within 10 working days



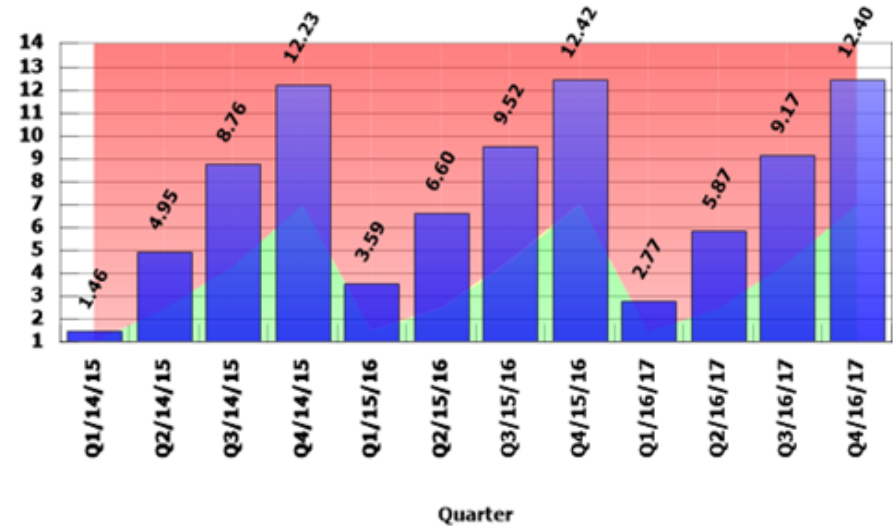
% of minor planning applications acknowledged within 5 working days



% of other planning applications acknowledged within 5 working days



Review of Performance 2016-17 Quarter 4 (Q4)

Indicator	15/16 Actual	16/17 Target	Previous Quarter	Current Quarter	Cumulative For the Year	Annual target achieved																										
Average number of days lost per (Full Time Equivalent) FTE due to sickness	12.42 days per FTE	7 days per FTE	3.3 days per FTE <ul style="list-style-type: none">1.31 days short term absence1.99 days long term absence	3.23 days per FTE <ul style="list-style-type: none">1.55 days short term absence1.69 days long term absence	12.4 days per FTE <ul style="list-style-type: none">5.32 days short term absence7.08 days long term absence	No																										
<u>Comment on current performance</u> <p>A slight increase in short term absence is usual during the winter months - 40% of short term absences in Q4 were due to "cold, flu and infectious diseases".</p> <p>44% of long term absences for the year were due to stress, depression, anxiety or mental health related conditions (50% mainly work related, 50% mainly home related).</p> <p>We are continuing to take proactive steps to help focus on wellbeing and manage stress and mental health issues in the workplace. A new Managing Work Related Stress policy was launched at the start of the year and all managers have received training on the new policy. In addition a Manager's Good Practice Guide to Managing Stress has also been produced and promoted. General stress management training was delivered last year and compulsory stress management training for managers is planned for Summer 2017. In November 2016 the People, Performance and Policy team collaborated with the Mind Body and Soul Group on national Stress Awareness Day where the support and resources available to staff were promoted. A stress and mental health resources area has also been set up</p>			 <table><caption>Average number of days lost per FTE due to sickness by quarter</caption><thead><tr><th>Quarter</th><th>Average number of days lost per FTE</th></tr></thead><tbody><tr><td>Q1/14/15</td><td>1.46</td></tr><tr><td>Q2/14/15</td><td>4.95</td></tr><tr><td>Q3/14/15</td><td>8.76</td></tr><tr><td>Q4/14/15</td><td>12.23</td></tr><tr><td>Q1/15/16</td><td>3.59</td></tr><tr><td>Q2/15/16</td><td>6.60</td></tr><tr><td>Q3/15/16</td><td>9.52</td></tr><tr><td>Q4/15/16</td><td>12.42</td></tr><tr><td>Q1/16/17</td><td>2.77</td></tr><tr><td>Q2/16/17</td><td>5.87</td></tr><tr><td>Q3/16/17</td><td>9.17</td></tr><tr><td>Q4/16/17</td><td>12.40</td></tr></tbody></table>				Quarter	Average number of days lost per FTE	Q1/14/15	1.46	Q2/14/15	4.95	Q3/14/15	8.76	Q4/14/15	12.23	Q1/15/16	3.59	Q2/15/16	6.60	Q3/15/16	9.52	Q4/15/16	12.42	Q1/16/17	2.77	Q2/16/17	5.87	Q3/16/17	9.17	Q4/16/17	12.40
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Review of Performance 2016-17 Quarter 4 (Q4)

<p>on the intranet and is regularly promoted to staff.</p> <p>For the year, the total number of days lost per FTE is 12.4 (5.32 short term and 7.08 long term).</p> <p>The new MDC Managing Attendance Policy was approved by full Council in October. All line managers will receive sickness absence management training early in 2017. It is hoped that this will facilitate a reduction in average sickness absence levels.</p> <p>In addition, actions are being considered as part of the Overview and Scrutiny Committee's Working Group looking into sickness.</p>	
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Review of Performance 2016-17 Quarter 4 (Q4)

Corporate Goal - FOCUSING ON KEY PROJECTS

Key Projects contributing to this goal – 9					
Not started	Activity not being taken forward	At Risk	Behind Schedule	On Track	Completed
1	1	0	2	4	1

Key Corporate Activities (KCAs)	Target Date	Status	Comments for KCAs “At Risk” or “Behind Schedule”
Help to deliver new healthcare facilities for Maldon	Ongoing	On track	
Maximise the benefits from the development of a new nuclear power station at Bradwell	Ongoing	Not started	The Council has recently been informed by EDF and CGN that the Department of Business, Energy & Industrial Strategy (BEIS) has confirmed that the nuclear regulators have been asked to begin the Generic Design Assessment (GDA) for the UK HPR1000 nuclear technology. This marks a first step in the process to seek permission to build a nuclear power station at Bradwell in Essex.
Revitalise the Maldon and Heybridge Central Area	Ongoing	On track	
Deliver the Coastal Revival/Dengie Gateway/Coastal Communities Fund Projects	June 2017	On track	
Deliver the Bradwell Legacy Partnership Action Plan	Ongoing	On track	
Mobilise the waste contract	December 2016	Completed	
Implement the agreed devolution agenda (subject to further agreement by Council)	March 2017	Activity not being taken forward	No further progress has been made in preparation and submission of a Greater Essex devolution bid to Government. This item has now been removed from our KCAs.
Explore options for provision of the future Building Control Service	March 2017	Behind schedule	The Building Control Manager was working with other adjacent local authorities to explore opportunities and to look at how resilience can be built into the service. Unfortunately, sick leave has delayed the process.

Review of Performance 2016-17 Quarter 4 (Q4)

Key Corporate Activities (KCAs)	Target Date	Status	Comments for KCAs “At Risk” or “Behind Schedule”
			Also an external consultant has been brought in to review a number of aspects of the Planning Service; a comprehensive review of the options available to progress the BC service is part of this work.
Generate income through housing investment	Ongoing	Behind schedule	Detailed questions being drafted across services (Housing, Planning, Finance and Legal) to assist with assessing most appropriate options for exploring in more detail. Opportunity to link with plans for Community Led Housing and DCLG guidance that suggests legacy of grant funding could be a sustainable local vehicle for delivery of homes that meet local needs.



REPORT of CHIEF EXECUTIVE

**to
OVERVIEW AND SCRUTINY COMMITTEE
21 JUNE 2017**

PLANNING ENFORCEMENT

1. PURPOSE OF THE REPORT

- 1.1 To provide the Council with an update on the current status of the Planning Enforcement Policy, Practice and Guidance and the Harm Matrix.

2. RECOMMENDATION

Members are asked to recommend adoption of the updated Planning Enforcement Policy, Practice and Guidance to the Planning and Licensing Committee.

3. SUMMARY OF KEY ISSUES

- 3.1 At the Overview and Scrutiny Committee of 11 January 2017 it was resolved that Councillor Bamford and the Chairman, at the time, of this Committee (Councillor Heard) were to meet with the Group Manager for Planning Services to discuss the revised Planning Enforcement Policy, Practice and Guidance. A copy of the original report is appended to this report as **APPENDIX 1**.
- 3.2 A meeting was held on 16 January 2017 to discuss any issues with the existing policy and the proposed amendments. This meeting resulted in a number of further amendments and alterations; a further meeting was held with Councillor Bamford on the 10 April 2017. A further revised Planning Enforcement Policy, Practice and Guidance has been brought forward in response to the comments provided by Councillors Bamford and Heard. The amended policy, including track changes so Members can see the proposed amendments, is attached as **APPENDIX 2** to this report.

4. CONCLUSION

- 4.1 The Corporate Fraud and Enforcement Team has bedded in over the past eighteen months and the additional resources put into the service as well as the increase in knowledge, experience of the officers and operational improvements to the service has resulted in a betterment to the planning enforcement service offered by the Council. It is acknowledged that improvements can still be made and these will be forthcoming; including an update of the Planning Enforcement Policy, Practice and Guidance.

5. IMPACT ON CORPORATE GOALS

- 5.1 Having an effective planning enforcement service is linked to the Corporate Goals of 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.

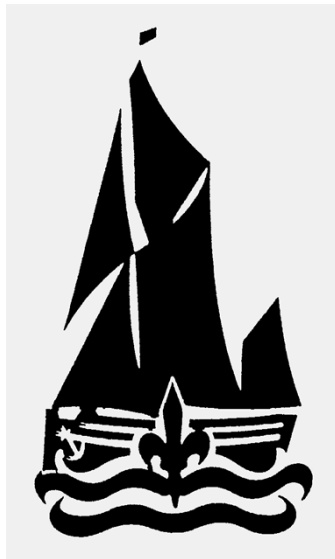
6. IMPLICATIONS

- (i) **Impact on Customers** – The ability to ensure that enforcement process, including enforcement action where appropriate, is taken in a timely, open and transparent way.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – There are no risks associated with carrying out this review.
- (iv) **Impact on Resources (financial)** – Staff resources as required.
- (v) **Impact on Resources (Human)** - To continue to be identified through the Planning Services Improvement Plan.
- (vi) **Impact on the Environment** – Failure to have an effective enforcement policy or service could result in an increase in unauthorised developments and delays in investigating breaches in planning control could lead to adverse impacts on the environment resulting in long term harm which might be difficult to mitigate.

Background Papers: None.

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

PLANNING ENFORCEMENT POLICY, PRACTICE and GUIDANCE



MALDON DISTRICT COUNCIL

April 2015

Maldon District Council
Planning Policy Enforcement Guidance

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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 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 works 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 decisive issue for the Council will be whether the breach of planning control causes significant harm and it is in the public interest to do so.
- 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 is also available 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 certificate of lawful use, be at a disadvantage if they subsequently intend to dispose of their interest in the land 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 has to investigate when complaints are reviewed 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 work to 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 proportionate to the breach or offence, in 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 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 remedy to 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 below ground 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 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) and 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 as 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, in their administrative area. A private individual cannot initiate planning enforcement action, so they often look to the Council to act to remedy concerns that they 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 consent. It includes development not carried out in accordance with planning permissions and breach of conditions. The fact that something is unauthorised does not amount to an offence.
- 3.3 This contrasts with other elements of planning law where certain works and activities, that are in fact offences that can be prosecuted against in the courts which mainly include:
- Works to listed buildings
 - Works or removal to 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

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, telephone, e-mail or, in person. 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, Planning Services (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:
- 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
 - When the breach occurred
 - Any information on the identity of the person(s)/organisation responsible, if known

Confidentiality

- 4.4 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. Anonymous complaints will not normally be investigated.

Recording Complaints

- 4.6. 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 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.

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

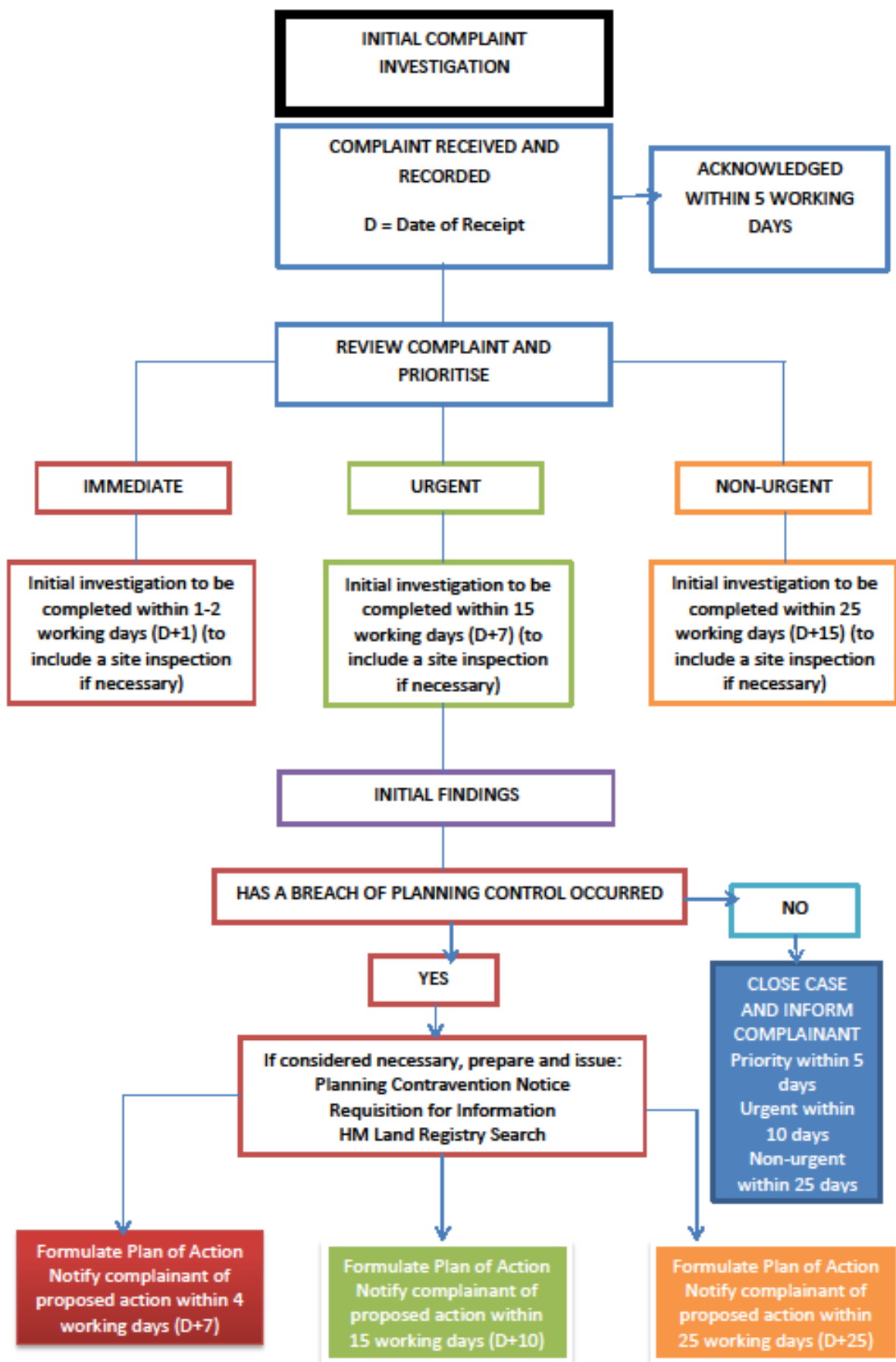
- Other advertisements and satellite dishes attached to protected trees or listed buildings
- 5.2. On receipt of a complaint, it will be prioritised and a preliminary investigation is undertaken to establish if a breach of planning has or, is likely to have occurred.
- 5.3. **Complaints classified as ‘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
 - Operational/building works/change of use/compliance with conditions/obligations affecting residential amenity where ongoing severe neighbour disturbance 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

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



6.0 ASSESSING THE COMPLAINT

- 6.1 An important element of the Councils 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 further investigations. A score below the designated minimum would result in no further action by the Planning Enforcement Team in respect of the breach, although 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 Scores are based on (i) matters of fact i.e. does it relate to a listed building or whether the site is in a conservation area and , (ii) to matters of judgement i. e. whether the breach would result in irreversible harm or whether the development, if permission was granted, would result in an undesirable precedent.

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/alterd 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 as 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?

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 **and 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 control 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 with under the powers delegated to The Director of Planning and Regulatory Services or by 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.

8.0 SECURING COMPLIANCE WITH AN ENFORCEMENT NOTICE

- 8.1 An offence occurs when an owner/occupier fails to comply with 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 **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.
- 10.11. 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

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

10.3 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 City Council to pursue listed building enforcement action.

10.4 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

10.5. The display of advertisements is controlled under the Town and Country Planning (Control of Advertisements) Regulations 1992 (as amended). 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

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

- 10.7. 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).
- 10.8. 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.
- 10.9. 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.
- 10.10. 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

- 10.11. 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)
 5. Do nothing (depending on the scale of the matter)
- 10.12. The only two reasons local authorities can take into account in dealing with advertisements under the Advertisement Regulations are public safety and amenity.
- 10.13. 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.
- 10.14. **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.
- 10.15. **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 displayed 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
- 10.16. 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
- 10.17. 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.
- 10.18. **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.
- 10.19. **Prosecution (by the Highway Authority).** Prosecution under the Highway Act 1980 attracts a fine of up to £1000.
- 10.20. **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

- 10.21. 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 willfully destroy a tree, or willfully 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.

- 10.22. 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

- 10.23. 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.
- 10.24. 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.

11. ENFORCEMENT POLICY FOR MALDON DISTRICT COUNCIL

11.11. 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
- Operational/building works/change of use/compliance with conditions/obligations affecting residential amenity where ongoing severe neighbour disturbance 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.

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)

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.

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 trees 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 of 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 of 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

APPENDIX 2**ENFORCEMENT HARM ASSESSMENT FORM****TO 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
- 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	Worsening (1) Stable (0)	
** Highway safety issue	Yes(2) No (0)	
**Other safety issue	Yes (1) No(0)	
**Causing a Statutory Nuisance	Yes (1) No (0)	
Complainant	Members, immediate neighbour, MP, MDC Officer, Parish Council(1) Anonymous, Malicious (0)	
Age of breach	Within 6 months of immunity (2) Less than 1 month (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 91) No (0)	
** Flood risk	Zone 3 (2) Zone 2 (1) Zone 1 (0)	
**Conservation Area (or adjacent to)	Yes (2) No (0)	
**Listed Building (or affecting character or setting of)	Yes (2) No (0)	
Special exercise (Please provide details)	Yes (1) No (0)	

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**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.

Contact Details: **Planning Services**
 Planning and Regulatory Services
 Council Offices
 Princes Road
 Maldon
 Essex CM9 5DL

Web Site **Contact@maldon.gov.uk**

Phone number for Enforcement Officers:.....

Opening Hours
Mondays to Thursdays 08.30am to 17.00 pm
Fridays 08.30am to 16.30pm

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PLANNING ENFORCEMENT

POLICY, PRACTICE and GUIDANCE



December 2016

Maldon District Council
Planning Policy Enforcement Guidance

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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

APPENDIX 2

- 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 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.

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- 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

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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 or email. It is essential that complainants submit details in writing 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 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.
- 4.4 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.

Confidentiality

- 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

- 4.6 Anonymous complaints will not normally be investigated.

Recording Complaints

- 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.

Comment [ML1]: This is explained at 4.9 so deleted so it doesn't repeat itself.

(Appendix 2 – page 8)

- 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 in order to get a complete understanding of events.
- 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

- 4.10 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

- 4.11 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

- 4.12 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.
- 4.13 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.
- 4.14 If there is no breach of planning control evident, then an explanation will be given to the complainant and the file will be closed.

APPENDIX 2

- 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.
- 4.16 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
- 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.
- 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

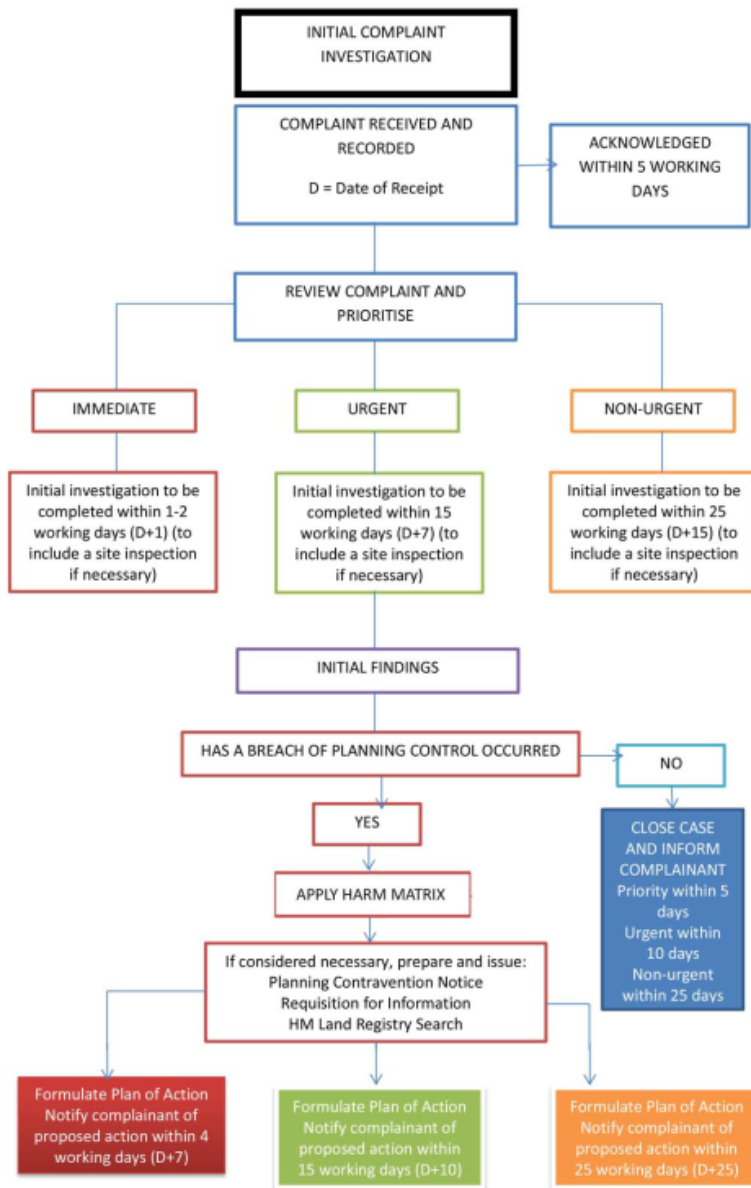
5.5 Complaints classified as 'Non-Urgent' – investigation within 25 working days

- 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)

Initial Investigation Flow Chart

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

APPENDIX 2



Comment [ML2]: Amended flow chart to include application of the harm matrix.

(Appendix 2 – page 13)

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. 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 justify further investigations. A score below 5 would normally result in no further action by the Planning Enforcement Team other than an invitation to submit a retrospective in an attempt remedy/regularise the breach.
- 6.3 As detailed in the next section scores are based on matters of fact i.e. does it relate to a listed building or if the site is in a conservation area, plus matters of judgement i.e. whether the breach would result in irreversible harm or if permission was granted, would the development result in an undesirable precedent.

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/alterd 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 as 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?

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.

APPENDIX 2

ENFORCEMENT PROCEDURES FLOW CHART

Comment [ML3]: Agreed to be removed as 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 2 – page 19)

8.0 SECURING COMPLIANCE WITH AN ENFORCEMENT NOTICE

- 8.1 An offence occurs when an owner/occupier fails to comply with 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.

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.
- 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 a Fixed Penalty Notice under the Anti- social, Crime and Behaviour Act 2014.
 5. Do nothing (depending on the scale of the matter)
- 10.15 The only two reasons local authorities can take into account in dealing with advertisements under the Advertisement Regulations are public safety and 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 Act 1980 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 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 help cover the costs of enforcement and ensure an effective disincentive to ongoing breaches of planning control.

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

- 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)

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.

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 trees 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 of 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 believed it was 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 2**ENFORCEMENT HARM ASSESSMENT FORM****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 (1)	
	Recently Commenced (1)	
	Stable (0)	
** Highway safety issue	Yes (2)	
	No (0)	
**Other safety issue (e.g. contaminated land)	Yes (2)	
	No (0)	
**Causing a Statutory Nuisance	Yes (2)	
	No (0)	
Complainant where full information has been provided as referred to in section 4	Immediate neighbour (2)	
	Members, 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 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 (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 (or affecting character or setting of)	Yes (3)	
	No (0)	

APPENDIX 2

Special operations or tasks (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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