

# Unrestricted Document Pack

APOLOGIES Committee Services  
Tel. 01621 875791

Council Chamber 01621 859677

HEAD OF PAID SERVICE'S OFFICE  
HEAD OF PAID SERVICE  
Richard Holmes

31 October 2018

Dear Councillor

You are summoned to attend the;

**MEETING OF THE MALDON DISTRICT COUNCIL**

on **THURSDAY 8 NOVEMBER 2018 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 black ink, appearing to read 'R.A. Holmes', with a long horizontal flourish underneath.

Head of Paid Service

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## **AGENDA COUNCIL**

**THURSDAY 8 NOVEMBER 2018**

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1. **Chairman's notices**
2. **Apologies for Absence**
3. **Declaration 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).

4. **Minutes - 13 September 2018** (Pages 7 - 22)

To confirm the Minutes of the Council meeting held on 13 September 2018 (copy enclosed).

5. **Public Questions**

To receive questions from members of the public, of which prior notification in writing has been received (no later than noon on the Tuesday prior to the day of the meeting).

6. **Chairman's Announcements**

7. **Minute Book** (Pages 23 - 338)

To consider the Minutes of the under mentioned Committees (copy enclosed).

\* Please note that where Minutes contain recommendations to the Council the Minute references for these recommendations are listed below for Members' information.

|                                         |                  |
|-----------------------------------------|------------------|
| Planning and Licensing Committee* ..... | 6 September 2018 |
|-----------------------------------------|------------------|

- |                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"><li>• Minute 399 – Review of Street Collections Policy</li><li>• Minute 400 - Licensing Act 2003: Draft Statement of Policy and Consultation</li><li>• Minute 401 - Gambling Act 2005: Draft Statement of Policy and Consultation</li><li>• Minute 402 - Maldon District Vehicle Parking Standards Supplementary Planning Document</li></ul> |
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|                                                                                                                                                                                                                                                                                    |                   |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| <ul style="list-style-type: none"> <li>Minute 404 – Maldon District Affordable Housing and Viability Supplementary Planning Document</li> <li>Minute 407 – Essex Planning Officers Association</li> <li>Minute 408 – Maldon District Statement of Community Involvement</li> </ul> |                   |
| Finance and Corporate Services Committee* .....                                                                                                                                                                                                                                    | 25 September 2018 |
| <ul style="list-style-type: none"> <li>Minute 458 – Superfast Broadband in Maldon District</li> </ul>                                                                                                                                                                              |                   |
| Audit Committee.....                                                                                                                                                                                                                                                               | 27 September 2018 |

## 8. **Minutes of Meetings of Committees**

To note that since the last Council, up until Wednesday 31 October 2018 (Council agenda dispatch) the following Committees have met, and to receive any questions in accordance with Council and Committee Procedure Rule 6 (2).

### Minutes published:

|                                       |                                  |
|---------------------------------------|----------------------------------|
| North Western Area Planning Committee | <a href="#">3 September 2018</a> |
| South Eastern Area Planning Committee | <a href="#">10 September</a>     |
| Central Area Planning Committee       | <a href="#">19 September</a>     |
| North Western Area Planning Committee | <a href="#">1 October</a>        |
| Overview and Scrutiny Committee       | <a href="#">3 October</a>        |
| South Eastern Area Planning Committee | <a href="#">8 October</a>        |

### Minutes NOT finalised for publication:

|                                       |                                    |
|---------------------------------------|------------------------------------|
| Central Area Planning Committee       | <a href="#">17 October</a>         |
| Appointments Committee                | <a href="#">23 October (pm)</a>    |
|                                       | <a href="#">24 October (08:45)</a> |
|                                       | <a href="#">24 October (10:00)</a> |
|                                       | <a href="#">24 October (13:15)</a> |
|                                       | <a href="#">26 October</a>         |
| North Western Area Planning Committee | <a href="#">29 October</a>         |
| Appointments Committee                | <a href="#">31 October (08:45)</a> |
|                                       | <a href="#">31 October (12:00)</a> |
|                                       | <a href="#">31 October (15:00)</a> |

## 9. **Questions in accordance with Procedure Rule 6(3) of which notice has been given**



10. **Corporate Enforcement Policy** (Pages 339 - 358)
- To consider the report of the Director of Strategy, Performance and Governance (copy enclosed).
11. **Battle's Over - 100 Years of Remembrance** (Pages 359 - 362)
- To receive and note the report of the Director of Service Delivery (copy enclosed).
12. **Essex Superfast Broadband** (Pages 363 - 402)
- To consider the report of the Director of Strategy, Performance and Governance (copy enclosed).
13. **Questions to the Leader of the Council in accordance with Procedure Rule 1 (3) (m)**
14. **Business by reason of special circumstances considered by the Chairman to be urgent**
15. **Exclusion of the Public and Press**
- To resolve that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Act, and that this satisfies the public interest test.
16. **Full Council Transformation: Gateway Review** (Pages 403 - 448)
- To consider the report of the Director of Strategy, Performance and Governance (copy enclosed).

### **NOTICES**

#### **Sound Recording of Meeting**

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

#### **Fire**

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

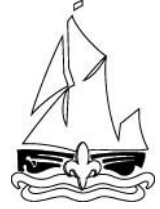
#### **Health and Safety**

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

#### **Closed-Circuit Television (CCTV)**

This meeting is being monitored and recorded by CCTV.

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**MINUTES of  
COUNCIL  
13 SEPTEMBER 2018**

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**PRESENT**

Chairman                      Councillor H M Bass

Vice-Chairman              Councillor N R Pudney

Councillors                  Mrs B F Acevedo, J P F Archer, E L Bamford,  
Miss A M Beale, B S Beale MBE, R G Boyce MBE,  
R P F Dewick, I E Dobson, Mrs H E Elliott, P G L Elliott,  
A S Fluker, Mrs B D Harker, B E Harker, M W Helm,  
J V Keyes, Miss M R Lewis, R Pratt, CC, S J Savage,  
Mrs N G F Shaughnessy, Rev. A E J Shrimpton, D M Sismey,  
A K M St. Joseph, Mrs M E Thompson and Miss S White

**418. CHAIRMAN'S NOTICES**

The Chairman referred to the notices printed on the agenda.

**419. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors A T Cain, Mrs P A Channer CC, M F L Durham CC, M S Heard and M R Pearlman.

**420. DECLARATION OF INTEREST**

Councillor D M Sismey disclosed a pecuniary interest in relation to his employment with Goldman Sachs and specifically Minute 176 – Annual Treasury Outturn 2017 / 18 (Minutes of the Finance and Corporate Services Committee) and advised that he would leave the meeting for this item of business.

Councillor R Pratt disclosed a non-pecuniary interest as an Essex County Councillor, particularly in relation to Agenda Item 12 - Request for match funding to bring forward additional County Highways Projects.

**421. MINUTES - 12 JULY 2018**

**RESOLVED** that the Minutes of the Council meeting held on 12 July 2018 be adopted.

**422. MINUTES - 9 AUGUST 2018**

**RESOLVED** that the Minutes of the extraordinary Council meeting held on 9 August 2018 be adopted.

**423. MINUTES - 16 AUGUST 2018**

**RESOLVED**

- (i) that the Minutes of the extraordinary Council meeting held on 16 August 2018 be received.

**Minute No. 354 – FUL/MAL/18/00414 Land West of Broad Street Green Road, Heybridge**

It was noted that the last paragraph of this Minute should refer to Councillor B E Harker.

**RESOLVED**

- (ii) That subject to the above amendment, the Minutes of the extraordinary Council meeting held on 16 August 2018, be adopted.

**424. PUBLIC QUESTIONS**

There were none.

**425. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman referred to Ms Fiona Marshall recently leaving the Council and the roles she had undertaken since she joined in 2006. He then presented Ms Marshall with some gifts from the Members as a token of their appreciation and thanked her for everything she had done for the Council. In response, Ms Marshall thanked Members and referred to how Maldon was a special place and it had been a privilege to be part of. Councillor B S Beale, Leader of the Opposition also thanked Ms Marshall at this time.

The Chairman referred to the recent death of former Councillor Nigel Butt and Members agreed that the Chairman would write to his widow.

The Chairman advised that he had attended a number of events (detailed below), and thanked the Vice-Chairman for also attending some events on his behalf.

|            |                                                             |
|------------|-------------------------------------------------------------|
| 30/06/2018 | Armed Forces Day Reception, Stow Maries Great War Aerodrome |
| 01/07/2018 | Dengie Crops Limited 50th Anniversary Lunch                 |
| 01/07/2018 | Brentwood Civic Service ( <i>Vice-Chairman</i> )            |
| 02/07/2018 | Rural Housing Event                                         |

|            |                                                                                                |
|------------|------------------------------------------------------------------------------------------------|
| 05/07/2018 | Visit to PT Classics                                                                           |
| 05/07/2018 | Four T's launch event, the Bell, Tolleshunt Major                                              |
| 05/07/2018 | Citizens' Advice Bureau Annual General Meeting                                                 |
| 06/07/2018 | Visit by Lord Gardiner to Muckmurdo Place, Wickham Bishops                                     |
| 08/07/2018 | Burnham on Crouch Civic Service and Dinner                                                     |
| 08/07/2018 | Rochford Garden Party ( <i>Vice-Chairman</i> )                                                 |
| 17/08/2018 | Visit to Mangapps Railway Museum                                                               |
| 20/07/2018 | Essex County Council Civic Reception                                                           |
| 27/07/2018 | Maldon District Council Civic Tea Party                                                        |
| 03/08/2018 | Unveiling of Steel Soldiers to mark the '100 Days', Maldon                                     |
| 03/08/2018 | Unveiling of Steel Soldiers to mark the '100 Days', Burnham-on-Crouch ( <i>Vice-Chairman</i> ) |
| 04/08/2018 | Maldon Carnival Lunch and Procession                                                           |
| 24/08/2018 | Burnham Week Cocktail Party ( <i>Vice-Chairman</i> )                                           |
| 26/08/2018 | Bell Meadow - 14th Annual Day                                                                  |
| 30/08/2018 | Visit to Fiberweb Geosynthetics Ltd                                                            |
| 05/09/2018 | Visit to Brooks Bros                                                                           |
| 07/09/2018 | High Sheriff Garden Party                                                                      |
| 08/09/2018 | Visit to Maldon Masonic Hall                                                                   |
| 09/09/2018 | Opening - Maldon Oyster and Seafood Festival                                                   |
| 09/09/2018 | HM Merchant Navy Commemoration Day, Maldon ( <i>Vice-Chairman</i> )                            |
| 11/09/2018 | Maldon Society Edward Bright New Blue Plaque Celebration                                       |

At this point the Chairman highlighted to Members two points of conduct at meetings of the Council relating to criticism of Officers and talking when others were talking.

## 426. MINUTE BOOK

### (a) MINUTES OF FINANCE AND CORPORATE SERVICES COMMITTEE – 12 JUNE 2018

#### Minute 170 Chief Executive's Performance Appraisal

##### RESOLVED

- (i) that the procedure rules be updated to set out the requirements (a) to (e), as detailed in section 3.8 of the report with the following amendments and additions:
- that point (c) be amended as follows:
    - The appraisal will take place soon after the Statutory Annual meeting of the Council and before 30 June.
  - that point (e) be amended as follows:
    - Performance reviews against the agreed objectives will be undertaken at least every four months and an end of year review be undertaken prior to the Statutory Annual meeting of the Council.
  - that the Director of Resources or an appropriate appointment of theirs in the HR department is required to:
    - objectively ensure that the process for the Chief Executive's appraisal is followed;
    - report to the following meeting of the Finance and Corporate Services Committee immediately after the June deadline that the process has been followed and the appraisal has taken place.

#### Minute 173 – Human Resources Policies and Procedures

##### RESOLVED

- (ii) that the following two sections be added to the Code of Conduct:

#### **24 Financial**

##### 24.1 All employees will ensure:

- they do not default on payments owed to the Council i.e. Council Tax.
- never make fraudulent claims for public money to gain a financial advantage i.e. housing benefit.
- to adhere to any agreements reached for the repayment of such debts.

##### 24.2 Employees who are in debt or at risk to the Council or are concerned that missed payments may occur should discuss the

matter as soon as is possible with a member of the Human Resources team. Failure to do so could lead to formal action being taken.

- 24.3 Employees in receipt of any allowances or rebates administered by the Council (e.g. council tax rebates) must notify the Council of any change in circumstance that affect the entitlement.

## **25 Accessing IT systems**

- 25.1 Employees will at all times ensure that they comply with the Officer Conditions of Acceptable Use and Personal Commitment Statement policy relating to use of IT equipment.
- 25.2 It is recognised that staff can face a conflict of interest when undertaking their roles. To protect the interests of both the staff concerned and the Council against criticism or allegation of malpractice, as a matter of procedure no employee shall;
- amend or seek to influence the processing of any computer or other record concerning any matter in which they, a family member or friend have an interest;
  - use the Councils IT systems or any other records held to view either their own data or that of records of family or friends
  - use data obtained from any of the Councils IT systems or any other records to give themselves, family or friends any advantage.
  - update any records that relate to themselves, family or friends.

### **Minute 179 – Proposals to Change Office Opening Times to Public**

#### **RESOLVED**

- (iii) that on the last Wednesday of each month the Council Offices open at 10am to enable staff meetings and training to be undertaken during that time.

In accordance with his earlier declaration Councillor D M Sismey left the meeting at this point and the following recommendation was presented by Councillor I E Dobson, Vice-Chairman of the Finance and Corporate Services Committee.

### **Minute 176 – Annual Treasury Outturn 2017 / 18**

#### **RESOLVED**

- (iv) that annual Treasury Management Report for 2017 / 18 attached at Appendix 1 to the Minutes of the Finance and Corporate Services Committee be approved.

Councillor Sismey returned to the chamber at this point.

**RESOLVED** that subject to the above decisions, the Minutes of the meeting of the Finance and Corporate Services Committee held on 12 June 2018 be adopted.

**(d) MINUTES OF PLANNING AND LICENSING COMMITTEE – 19 JULY 2018**

**Minute 290 – Maldon District Specialist Needs Housing Supplementary Planning Document**

**RESOLVED**

- (i) That subject to amendment, the Maldon District Specialist Needs Housing Supplementary Planning Document (attached at Appendix 1 to the Minutes of the Planning and Licensing Committee) be adopted.

**RESOLVED** that subject to the above decision, the Minutes of the meeting of the Planning and Licensing Committee held on 19 July 2018 be adopted.

**RESOLVED** that the following Minutes be noted by the Council.

- Community Services Committee – 10 July 2018
- Overview and Scrutiny Committee – 17 July 2018
- Finance and Corporate Services Committee – 31 July 2018
- Community Services Committee – 28 August 2018
- Overview and Scrutiny Committee – 29 August 2019

**427. MINUTES OF MEETINGS OF COMMITTEES**

The Council noted the list of Committees that had met before and since the last meeting of the Council, up until Wednesday 5 September 2018 for which Minutes had been published.

**428. QUESTIONS IN ACCORDANCE WITH PROCEDURE RULE 6(3) OF WHICH NOTICE HAS BEEN GIVEN**

There were none.

**429. REQUEST FOR MATCH FUNDING TO BRING FORWARD ADDITIONAL COUNTY HIGHWAYS PROJECTS**

The Council considered the report of the Leader of the Council seeking Members' consideration following receipt of a letter from Councillor Kevin Bentley, Essex County Council's cabinet member for Infrastructure offering match funding of up to £100,000 to bring forward additional repairs to potholes in the District's roads.



Councillor A S Fluker proposed that recommendation (i) be amended to delete all words following 'County Council'. This was duly seconded and agreed.

**RESOLVED**

- (i) That Maldon District Council rejects the offer of match funding by Essex County Council;
- (ii) That the Director of Service Delivery writes to Councillor Kevin Bentley to confirm the Council's position.

**430. NEW PROCEDURE AND AUTHORISATIONS FOR SEALING AND SIGNING OF DOCUMENTS**

The Council considered the report of the Director of Resources seeking Members' approval of a new procedure for sealing and signing documents by the Council along with new authorisations.

Members were advised that the sealing process involved member involvement, but there was no legal requirement that a principal authority should have a member signature attesting to sealing of a document. The report proposed a change to the current arrangements which would simplify and speed up the process of sealing and signing documents.

**RESOLVED**

- (i) That the Committee Terms of Reference and Schemes of Delegation be amended at page 2 paragraph 6 to read:

"The Seal shall be attested by any two of the following: a director, any manager who reports directly to a director or any employed solicitor, barrister or legal executive. An entry of every sealing of a document shall be made and consecutively numbered in a book kept for the purpose and shall be signed by the two officers who have attested the seal"

- (ii) That the Committee Terms of Reference and Schemes of Delegation be amended at page 2 paragraph 7 to read:

"A director, any manager who reports directly to a director acting within his area of responsibility or any employed solicitor, barrister or legal executive shall be authorised to sign any contract, notice or other document which is not required to be sealed by the Council"

**431. FEES AND CHARGES IN PROMENADE PARK**

The Council considered the report of the Director of Service Delivery, seeking Members' approval to allow Officers to negotiate realistic income arising from the use of Promenade Park by third parties based on the existing fees and charges structure.

Members were advised that paragraph 3.1.3 of the report should read "...the maximum charge the Council can levy is...".

The report provided background information relating to the current fees and charges for events held on the Council's land at Promenade Park. It was noted that the maximum charge that could be levied was £222 as defined in the agreed Fees and Charges (attached as Appendix 1 to the report).

Councillor A S Fluker proposed that the recommendations in the report be agreed subject to an amendment to recommendation (ii) to include reference to this being in conjunction with the Chairman of the Community Services Committee. This was duly seconded.

Councillor S J Savage referred the public interest regarding this item of business and those charities not registered under the Charities Commission. He then proposed that recommendation (iv) be amended and either deferred for further investigation or amended to increase the number of attendees to 2,500, noting that this would not apply the Maldon Mud Race who saw a larger amount of attendees.

The Chairman sought clarification of Councillor Savage's amendment and in response Councillor Savage clarified that his proposal was, that where a charity registered with the Charity Commission, FCA or Mutual Society Act 1962 their registered address within the District Boundary requests to hold an event with less than 2,500 attendees the Director of Service Delivery in conjunction with the Chairman of Community Services Committee be authorised to negotiate a discount for use. This proposal was duly seconded.

The Director of Service Delivery informed Members that the proposed change was to look at cost recovery following such events and not create additional income.

A debate ensued, during which some Members offered their support both for and against the amendment.

Councillor Savage provided some further clarification regarding the Mutual Society Act 1972 which issued bona fide certificates on the same grounds as the Charities Commission. Following further discussion Councillor Savage amended his proposal to read "...that where a *bona fide* charity is registered with the Charity Commission...". This amendment was duly seconded.

The Chairman then put the amendment to recommendation (iv) in the name of Councillor Savage and upon a vote being taken this was duly agreed.

The Leader of the Council reminded Members of his proposed amendment to recommendation (ii) and then proposed that recommendations (i) to (iii) with this amendment be agreed. This proposal was duly seconded and agreed.

## **RESOLVED**

- (i) that Members approve the insertion of the word 'minimum' before any fee and charge relating to use of land and equipment at Promenade Park (excluding car parking, sports pitches, memorial benches, Splash Park single use tickets and Beach Hut daily charges);

- (ii) that the Director of Service Delivery in conjunction with the Chairman of the Community Services Committee is given authority to negotiate an improved financial position whenever possible from users of facilities arising from a fee or charge;
- (iii) that the charitable concession ‘free’ status be deleted from existing fees and charges and all concessions including charity and community groups be charged accordingly;
- (iv) that where a bona fide charity is registered with the Charity Commission, FCA or Mutual Society Act 1962 with their registered address within the District Boundary requests to hold an event with less than 2,500 attendees the Director of Service Delivery in conjunction with the Chairman of Community Services Committee be authorised to negotiate a discount for use. Any discount given must ensure that full cost recovery remains for any staff time required for preparation, delivery and remediation of any event.

#### **432. CONCLUSIONS OF THE STRENGTHENING COMMUNITIES TASK AND FINISH WORKING GROUP**

The Council considered the report of the Director of Service Delivery updating Members on conclusions of the Strengthening Communities Task and Finish Working Group (the Working Group).

The report provided background information regarding the establishment of the Working Group and its original Terms of Reference were attached as Appendix 3 to the report. The Working Group had recently considered an Audit of Strengthening Communities which showed that a strengthening communities approach underpinned most of the Council’s Health and Wellbeing activities (attached at Appendix 1 to the report). Members were reminded of the Council’s health and Wellbeing Priorities for 2018 / 19.

A new Strengthening Communities vision had been development by the Working Group and was attached as Appendix 2 to the report. Members were informed that this would help embed and underpin the Strengthening Communities approach across all of the Council’s services.

Members noted that the Working Group considered that its work was now completed and monitoring of progress would be through the regular reports on the Key Service Activities. However, it was suggested that the current Membership of the Working Group be expanded and those Members be appointed as Member representatives on the Livewell Partnership Group.

Councillor A S Fluker proposed that the recommendations as set out in the report be agreed and that in relation to recommendation (vii) the following Councillors be appointed to the Livewell Partnership Group:

|                                                        |                                               |
|--------------------------------------------------------|-----------------------------------------------|
| From the Community Services Committee .....            | Councillors E L Bamford<br>and Mrs B D Harker |
| From the Finance and Corporate Services Committee..... | Councillors I E Dobson and<br>B E Harker      |

From the Planning and Licensing Committee .....Councillors Mrs P A  
Channer and A K M St.  
Joseph

This proposal was duly seconded and upon a vote being taken was agreed.

## RESOLVED

- (i) that the significant work undertaken by the Strengthening Communities Task and Finish Group, be noted;
- (ii) that the wide range of activities and projects that are being undertaken to support the Councils Key Corporate Activity of Strengthening Communities (as set out in Appendix 1 to the report) be noted;
- (iii) that the Strengthening Communities Vision Statement (Appendix 2 to the report) be approved;
- (iv) that the main Strengthening Communities Projects be monitored and reported on as part of the Councils Key Service Activities;
- (v) that the alignment of Strengthening Communities to Health and Wellbeing activities and Projects, and the proposal to expand the Terms of reference Maldon Livewell Partnership Group to include Strengthening communities, be noted;
- (vi) that the development of a joint Health and Wellbeing and Strengthening Communities Strategy during 20018 / 19, be approved;
- (vii) that the following Members be appointed to attend the Livewell Partnership Group:

From the Community Services Committee .....Councillors E L  
Bamford and Mrs B D  
Harker

From the Finance and Corporate Services Committee....Councillors I E Dobson  
and  
B E Harker

From the Planning and Licensing Committee .....Councillors Mrs P A  
Channer and A K M St.  
Joseph

- (viii) that the work of the Strengthening Communities Task and Finish Working Group be concluded.

## 433. DRAFT MALDON DISTRICT HOUSING STRATEGY: STAKEHOLDER AND PUBLIC CONSULTATION

The Council considered the report of Director of Strategy, Performance and Governance seeking Members approval for the draft Housing Strategy (attached as Appendix 1 to the report) to go out for public consultation.

The draft Housing Strategy set out the Council's approach to securing housing supply and dealing with homelessness within the District. Members were advised that the consultation would be for six weeks and the results reported to a future meeting of the Council.

**RESOLVED** that the draft Housing Strategy be approved for stakeholder and public consultation.

**434. LITTLE TOTHAM PARISH COUNCIL - COMMUNITY GOVERNANCE REVIEW**

The Council considered the report of the Director of Resources seeking Members' consideration and determination of the outcome of the Community Governance Review of Electoral Arrangements for Little Totham Parish Council, in light of the recent public consultation.

Members were reminded that following a request by the Parish Council to increase its membership from five to seven, the Council at its meeting on 8 February 2018 resolved to instigate a Community Governance Review. The Community Governance Review document published for consultation was attached at Appendix 1 and details of the review set out in the report.

The report advised that provided the Council was satisfied that the Parish Council's request was sound in the context of the law and associated guidance on this subject as set out in the report, it may agree to proceed to make a Reorganisation Order to increase the membership of the Parish Council with a view to this becoming effective at the next ordinary elections in May 2019.

Councillor A S Fluker proposed that the recommendations set out in the report be agreed. This was duly seconded and agreed.

**RESOLVED**

- (i) That the outcome of this Community Governance Review be noted;
- (ii) That being satisfied that the request meets the law and associated Guidance with respect to the object of achieving effective and convenient community governance, the Council authorises the making of a Re-organisation of Community Governance Order under the Local Government and Public Involvement in Health Act 2007 to increase the membership of Little Totham Parish Council from five to seven Councillors, to be effective from the next ordinary elections in May 2019.

**435. RESTRUCTURE OF PLANNING COMMITTEES**

The Council considered the report of the Director of Strategy, Performance and Governance seeking Members' consideration of the future operation of Area Planning Committees. It was noted that this report followed on from Council meeting on 17 May 2018 when a report on the restructure of planning Committees was considered. The Council at that time agreed that a further review of data would be undertaken in

September 2018 and consideration then given regarding the continuation of Area Planning Committees (APCs) or changing to a single Planning Committee.

This report provided the updated data (Appendix 1 to the report) and feedback on changes to the demands on the three APCs as the Local Development Plan (LDP) was embedded. Members were advised that analysis of the data demonstrated that the Council had become significantly more efficient in relation to Planning decisions following adoption of the LDP and changes following the recent Committee structure review. It was therefore felt possible to condense Members' determination of planning applications into a single Planning Committee for the whole District and the report set out a proposal for the implementation of this.

In his presentation of the report the Leader of the Council referred to the importance of Member involvement in planning applications and how if the Council moved to a single committee there would not be any disenfranchising of Members and planning policies would be consistently applied. The Leader of the Council proposed that:

- (a) recommendation (i) as set out in the report be agreed;
- (b) recommendation (ii) a and b not be agreed as further information was required in order for Members to make an informed decision;
- (c) in order for the Council to make an informed decision to proceed to a single planning Committee a report providing detailed options including constitutional options be presented to the Council;
- (d) a politically balanced Working Group consisting of the Leader and Deputy Leader of the Council along with two Members from each of the APCs be set up to consider the options and report back to the Council for decision in February 2019.

This proposal was duly seconded.

A lengthy debate ensued, a few Members supported the proposal of Councillor Fluker but a number of Members raised concern regarding the proposed change, making particular reference to:

- how the change would remove a level of democracy;
- the amount of public interest and correspondence received by Members from local residents in respect of Area Planning Committees and planning applications for consideration;
- capacity of the Council Chamber especially in light of the amount of public interest that planning applications could generate;
- Ward Members understanding and representing both the local area and needs of the local residents and it was felt that this could be lost if the Council agreed to move to one single committee.

During the debate Councillor D M Sismey proposed an amendment to the proposal, requesting that the Council consider the future of Area Planning Committees at this meeting and that it should agree that current arrangements in respect of three Area Planning Committees. This was duly seconded.

Councillor S J Savage made reference to the split of the Area Planning Committee and proposed that everything south of the River Chelmer and the navigation be included in the Central Area Planning Committee area. This proposal was not supported.

Following further discussion, Councillor M W Helm proposed that Members reduce their allowances and special concessions. In response, the Chairman advised that Councillor Helm could not make this proposal, as it was not on the agenda.

The Chairman then put the first proposal of the Leader of the Council (as set out at (a) above) and upon a vote being taken this was duly agreed.

The Chairman advised that the proposal by Councillor Sismey was the same as recommendation (ii a) as set out the report. He put this to the Council.

In accordance with Procedure Rule No. 13 (3) Councillor P G L Elliott requested a recorded vote. This was duly seconded.

The Chairman then put recommendation (iia) as set out in the report, to retain the three Area Planning Committees, and the voting was as follows:

For the recommendation:

Councillors Mrs B F Acevedo, J P F Archer, Miss A M Beale, B S Beale, R P F Dewick, I E Dobson, Mrs H E Elliott, P G L Elliott, Mrs B D Harker, B E Harker, M W Helm, J V Keyes, Miss M R Lewis, R Pratt, N R Pudney, S J Savage, Mrs N G F Shaughnessy, A E J Shrimpton, D M Sismey, A K M St. Joseph and Miss S White.

Against the recommendation:

Councillors E L Bamford, R G Boyce, A S Fluker and Mrs M E Thompson.

Abstention:

Councillor H M Bass.

The Chairman declared the recommendation was therefore duly agreed.

Councillor Boyce proposed an amendment that the Council continued with the three Area Planning Committees and that these meetings be held at Maldon District Council offices. This proposal was not seconded.

The Chairman then put the Leader of the Council's amendment in respect of recommendation (iii) to the report, detailed in (c) above. At this point, the Leader of the Council withdrew his amendment and subsequently the Chairman advised that recommendation (iii) was withdrawn.

**RESOLVED**

- (i) that the data showing the changes to the demands on the three Area Planning Committees since November 2017, be noted;
- (ii) that the Council continues with three Area Planning Committees.

#### **436. NAMING OF RESPONDENTS IN PLANNING REPORTS**

The Council considered the report of the Director of Strategy, Performance and Governance seeking Members' views on the appropriate process to be adopted by Maldon District Council. In response to Members concerns raised regarding the issue of anonymising comments in July 2018 the Director of Strategy, Performance and Governance had reviewed the practice and his report was attached at Appendix 1 to the report.

It was noted that there was no clear best practice published regarding the inclusion of respondent details within Planning reports. The professional view of Officers was that this information was not necessary to inform a balanced decision and detailed consideration of the planning merit of comments and the weight then applied to them.

Councillor A S Fluker proposed that the Council adopt recommendation D as set out in the report, to include the personal details of respondents commenting on Planning Applications. This proposal was duly seconded and upon a vote being taken agreed.

**RESOLVED** that the personal details of respondents commenting on Planning Applications, be included in Officer reports, subject to the addition of suitable guidance to respondents to the letters to neighbours and on the Council website, ensuring compliance with the General Data Protection Regulations (GDPR).

#### **437. PETITIONS SCHEME UPDATE**

The Council considered the report of the Director of Resources presenting an updated Petitions Scheme (attached as Appendix 1 to the report) for Members' review and approval.

It was noted that the current Petitions Scheme had been reviewed and updated. The key changes were set out in the report.

The Leader of the Council, when presenting the report, referred to some concerns raised regarding the layout of the 'suggested petition format' (contained within the Petitions Scheme) and advised that these had been addressed.

**RESOLVED** that subject to amendment, the updated Petitions Scheme be approved and adopted.

#### **438. QUESTIONS TO THE LEADER OF THE COUNCIL IN ACCORDANCE WITH PROCEDURE RULE 1 (3) (M)**

Councillor Miss M R Lewis asked the Leader of the Council if he could explain how the Maldon District Council Scheme of Delegation was applied resulting in the removal of the Heybridge Flood Alleviation Scheme from the North Heybridge Garden Suburb and Officers accepting the same as an amendment rather than a new application without input or discussion from Members. She also asked if the Leader would agree that in the benefit of public interest a new application could have been a more open and transparent approach? Councillor Miss Lewis further questioned whether the decision had been made with the Leaders' agreement.



In response the Leader of the Council referred to a presentation to the Council from the Director of Planning and Senior Solicitor regarding the planning application where it was explained how it would be dealt with as an amended application as opposed to a variation. The Leader provided further information regarding this and proposed that Councillor Miss Lewis and himself met with the Director of Strategy, Performance and Governance and Senior Solicitor to go over what had been discussed at that presentation as Councillor Miss Lewis had been unable to attend.

Following further discussion the Chairman clarified the proposal from the Leader of the Council.

Councillor M W Helm asked if the Leader of the Council would agree with him that as the Council was trying to make savings that Members should as well by reducing their allowance and special allowances.

In response the Leader advised Councillor Helm that he was welcome to make a proposal or present a motion regarding this. He further reminded Members that a meeting of the Council's Independent Remuneration Panel was due to take place shortly and the Panel would be making a recommendation to the Council regarding Area Planning Committee Chairmen and other Member allowances.

The Chairman of the Council advised Members that no Member was required to draw their expenses if they did not want to.

Councillor R Pratt asked the Leader of the Council if he agreed that as a District Council we should congratulate Maldon in Bloom in gaining gold.

The Leader of the Council agreed that the Council should pay tribute to the enormous hard work and referred to this being the fourth or fifth time Maldon in Bloom had been awarded gold.

Councillor Mrs M E Thompson asked the Leader of the Council for any information or update he could provide regarding the planning application at the Blackwater Leisure Centre featured in the local paper.

The Leader of Council advised Members that this was a serious issue which the Council and Senior Officers had not been aware of. He referred to meeting with the Section 151 Officer and that a report would be brought to a future meeting of the Council in respect of this.

**439. BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES CONSIDERED BY  
THE CHAIRMAN TO BE URGENT**

The Chairman advised that there was a matter to be considered under this item of business and deferred to the Vice-Chairman. Councillor N R Pudney, Vice-Chairman provided Members with a brief update following the last meeting of the Council.

There being no further items of business the Chairman closed the meeting at 9.30 pm.

H M BASS  
CHAIRMAN



**MINUTES of  
PLANNING AND LICENSING COMMITTEE  
6 SEPTEMBER 2018**

---

**PRESENT**

|                                 |                                                                                                             |
|---------------------------------|-------------------------------------------------------------------------------------------------------------|
| Vice-Chairman<br>(in the Chair) | Councillor A K M St. Joseph                                                                                 |
| Councillors                     | B S Beale MBE, R G Boyce MBE, M F L Durham, CC,<br>A S Fluker, R Pratt, CC, S J Savage and Mrs M E Thompson |
| Substitute Member               | Councillor M W Helm                                                                                         |

**394. CHAIRMAN'S NOTICES**

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

**395. APOLOGIES FOR ABSENCE AND SUBSTITUTION NOTICE**

Apologies for absence were received from Councillors Mrs P A Channer, CC and M R Pearlman. In accordance with notice given it was noted that Councillor M W Helm was attending the meeting as a substitute for Councillor Mrs Channer.

**396. MINUTES OF THE LAST MEETING**

**RESOLVED** that the Minutes of the meeting of the Committee held on 19 July 2018 be approved and confirmed.

**397. DISCLOSURE OF INTEREST**

Councillor R Pratt declared a non-pecuniary interest as an Essex County Councillor who had been consulted on a number of items on the agenda and wherever they were mentioned.

Councillors R G Boyce, M W Helm and R Pratt declared interests a Member of an Almshouse Trust.

Councillor M F L Durham declared a non-pecuniary interest as a Member of Essex County Council in relation to any items on the agenda pertaining to that organisation.

Councillor S J Savage declared an interest as he was a member of two Almshouse trusts.

### **398. PUBLIC PARTICIPATION**

No requests had been received.

### **399. REVIEW OF STREET COLLECTIONS POLICY**

The Committee considered the report of the Director of Strategy, Performance and Governance presenting the revised Street Collections Policy (attached as Appendix 1 to the report) for adoption. A number of the changes made to the Policy were set out in the report.

**RECOMMENDED** that the revised Street Collections Policy, attached at **APPENDIX 1** to these Minutes, be adopted.

### **400. LICENSING ACT 2003: DRAFT STATEMENT OF POLICY AND CONSULTATION**

The Committee considered the report of the Director of Strategy, Performance and Governance presenting feedback from the consultation in relation to the Statement of Licensing Policy (attached as Appendix A to the report) and seeking Members' endorsement of the Policy.

The report provided background information regarding the consultation and Appendix B to the report provided a list of consultees. Members were advised that response to the consultation had been poor.

It was noted that the Policy required updating following the recent changes to the Director job titles and the miscellaneous fees table on page 22 of the Appendix needed formatting. Subject to these amendments the recommendations set out in the report were agreed.

#### **RESOLVED**

- (i) that the feedback from the consultation be noted and the final version of the Statement of Licensing Policy with minor changes following feedback from interested parties, be endorsed;

#### **RECOMMENDED**

- (ii) that the revised Statement of Licensing Policy as set out in **APPENDIX 2** to these Minutes, be adopted, effective from January 2019.

### **401. GAMBLING ACT 2005: DRAFT STATEMENT OF POLICY AND CONSULTATION**

The Committee considered the report of the Director of Strategy, Performance and Governance presenting feedback from the consultation in relation to the Gambling Act 2005: Statement of Licensing Policy (attached as Appendix A to the report) and seeking Members' endorsement of the Policy.

The report provided background information regarding the consultation and Appendix 2 to the report provided a list of consultees. Members were advised that no response to the consultation had been received.

It was noted that to provide continuity, a new Statement of Licensing Policy had to be adopted by the Council before the existing policy expired in January 2019.

In response to a question it was confirmed that any reference to the old Director titles within the policy would be updated prior to its approval.

#### **RESOLVED**

- (i) That it be noted there was no feedback from the consultation and the final version of Maldon District Council's Statement of Licensing Policy for gambling be endorsed;

#### **RECOMMENDED**

- (ii) that the revised Statement of Licensing Policy as set out in **APPENDIX 3** to these Minutes, be adopted, to be published in December 2018 and effective from January 2019.

#### **402. MALDON DISTRICT VEHICLE PARKING STANDARDS SUPPLEMENTARY PLANNING DOCUMENT**

Councillor S J Savage declared an interest in this item of business as he did not have a car.

The Committee considered the report of the Director of Strategy, Performance and Governance presenting findings of the comments received as part of the consultation on the Vehicle Parking Standards Supplementary Planning Document (SPD) and seeking endorsement of amendments for adoption by the Council.

Following a public consultation on the Vehicle Parking Standards SPD it was noted that a number of representations had been received. These along with policy responses and proposed amendments to the SPD were set out in Appendix A to the report. The main amendments were also summarised in the report and the revised SPD incorporating these changes was attached as Appendix B.

#### **RESOLVED**

- (i) that the proposed amendments to the draft Maldon District Vehicle Parking Standards Supplementary Planning Document following the public consultation, be endorsed;

#### **RECOMMENDED**

- (ii) that the final Maldon District Vehicle Parking Standards Supplementary Planning Document (attached as **APPENDIX 4** to these Minutes), be adopted.

#### **403. MALDON DISTRICT SKILLS STRATEGY**

The Committee considered the report of the Director of Strategy, Performance and Governance seeking Members' approval of the draft Maldon District Skills Strategy (attached at Appendix A to the report) for public consultation.

It was noted that the Maldon District Skills Strategy set out the skills, challenges and proposed action to meet the skills needs of businesses, alongside maximising the opportunities for young people. The report provided background information regarding the production of the Strategy including priorities and outcomes identified.

**RESOLVED** that the draft Maldon District Skills Strategy be approved for stakeholder and public consultation.

#### **404. MALDON DISTRICT AFFORDABLE HOUSING AND VIABILITY SUPPLEMENTARY PLANNING DOCUMENT**

The Committee considered the report of the Director of Strategy, Performance and Governance presenting the findings of a recent public consultation on and proposed amendments to the Affordable Housing and Viability Supplementary Planning Document (SPD) (attached as Appendix C to the report).

The report provided background information regarding the consultation process undertaken and it was noted that Appendix A to the report set out the representations, policy response and proposed amendments to the SPD. Members were advised that to ensure consistency with new national guidance there were some consequential changes required to the SPD and these were set out in Appendix B to the report.

A Member highlighted a number of pages with formatting issues in Appendix C and in response, the Chairman advised that these would be corrected prior to adoption.

In response to a number of questions the following information was provided by Officers:

- Although the 2019 National Planning Policy Framework (NPPF) made reference to not providing a viability assessment if certain criteria was met, the Planning Policy Manager advised there was nothing to stop a Local Authority requesting a viability assessment, particularly in respect of larger schemes.
- This SPD related to how the Council negotiated affordable housing but Officers assured Members that all Section 106 agreements ensured that the Council had nomination rights.
- The Council's current Allocations Policy was to be reviewed and at that time the Council would consider the options in relation to this.

Councillor A S Fluker proposed that the report and policy be brought back to this Committee at the earliest opportunity and that the Planning Policy Manager consider intelligence from other Local Authorities who were buying industrial buildings to convert into flats for social tenants. Following clarification of his proposal by the Chairman, Councillor Fluker advised that he was happy for this to be noted and brought to a future meeting of the Committee.

## **RESOLVED**

- (i) That the proposed amendments to the draft Maldon District Affordable Housing and Viability Supplementary Planning Document following the public consultation be approved;

## **RECOMMENDED**

- (ii) That the Maldon District Affordable Housing and Viability Supplementary Planning Document (attached as **APPENDIX 5** to these Minutes), be adopted.

### **405. ESSEX COASTAL RECREATIONAL AVOIDANCE AND MITIGATION STRATEGY (RAMS): NATURAL ENGLAND RESPONSE**

The Committee received the report of the Director of Planning and Regulatory Services which provided an update on the Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS) and sought Members' views on matters which may affect future planning policies and procedures.

The report provided background information regarding the RAMS, a joint initiative between 11 Essex Authorities to identify the recreational impacts new homes would have on the international and nationally protected sites along the Essex Coast. Members noted the progress to date, as set out in the report.

At the last meeting of this Committee Members had requested that further clarification be sought from Natural England relating to the purpose of the RAMS and the appropriateness of its aims for the Essex Coast, the process being undertaken and the extent of ecological evidence being used as the baseline for the project. A full and comprehensive response had been received from Natural England and this was attached as Appendix 1 to the report.

It was requested that the delegated responsibility proposed be extended to an additional Member of the Committee. At this point Councillor A S Fluker proposed Councillor S J Savage. The Chairman clarified that this delegation only related to the one meeting taking place in October. Councillor Fluker withdrew his earlier proposition and proposed that the recommendation as set out in the report be approved. This was duly agreed.

**RESOLVED** that the Committee agree to delegate responsibility to the Chairman and Vice-Chairman of this Committee, along with the Director of Strategy, Performance and Governance and the Principal Planning Policy Officer, to meet with Natural England to clarify the extent of the ecological data set out in Natural England's response, ahead of the next RAMS Members Forum Meeting on Wednesday 3 October 2018.

### **406. PLANNING POLICY UPDATE**

The Committee received the report of the Director of Strategy, Performance and Governance providing an update on local, sub-regional and national planning policy matters including Duty to Cooperate and Essex Local Plans and legislative changes as they affected planning policy.

The report highlighted six areas of planning policy which were the subject of separate reports to this Committee.

The report also contained details of the Revised National Planning Policy Framework (NPPF) and associated documents published by the Government in July 2018. It was noted that changes to the NPPF required the Council to review its existing policies against these changes and determine whether a review of policies was required through new plans or in part. The report set out the most significant changes to the consultation draft.

#### **RESOLVED**

- (i) That contents of the report be noted;
- (ii) That Officers report to a future meeting of the Planning and Licensing Committee on the implications of the revisions to the National Planning Policy Framework and associated documents on the Local Development Plan.

#### **407. ESSEX PLANNING OFFICERS ASSOCIATION**

The Committee considered the report of the Director of Strategy, Performance and Governance outlining the roles and activities of the Essex Planning Officers Association (EPOA) and seeking Members endorsement of the Essex wide protocols and policy documents produced by EPOA. It was noted that endorsement of the documents would not make then planning policy but provided acknowledgement by the Council of a need in some instances for a strategic Essex wide approach to certain planning matters.

The report provided background information on the makeup of EPOA, its governance structure, related costs and the Council's representation by Officers. Members' noted the list of documents produced by EPOA and those areas it was currently preparing guidance on. The Planning Policy Manager advised that some of the documents listed were already reflected in Council policies, e.g. the Essex Design Guide. Members' attention was drawn to two EPOA documents which were recommended for endorsement by the Council and attached as Appendices 1 and 2 to the report.

**RECOMMENDED** that the following Essex Planning Officers Association (EPOA) documents are supported and endorsed:

- Guidance Note: Mechanism for Consideration of Unmet Housing Need (2017), attached as **APPENDIX 6** to these Minutes;
- Greater Essex Planning Protocol (2018), attached as **APPENDIX 7** to these Minutes.

#### **408. MALDON DISTRICT STATEMENT OF COMMUNITY INVOLVEMENT**

The Committee considered the report of the Director of Strategy, Performance and Governance presenting findings of the comments received as part of the consultation on the Maldon District Statement of Community Involvement (SCI) and seeking endorsement of amendments for adoption by the Council.



Following a public consultation on the Maldon SCI a number of representations had been received. These along with policy responses and proposed amendments to the SPD were set out in Appendix A to the report. The main amendments were also summarised in the report and the final SCI was attached as Appendix B to the report.

It was noted that the SCI provided detailed guidance for the local community and stakeholders and delivers a framework for effective engagement and consultation on policy documents and planning matters within the District. Once approved the SCI would replace the approved 2007 SCI and its 2011 addendum.

It was noted that the first paragraph on page 32 of Appendix B contained a typographical error and should read "...strong presumption that *the* Neighbourhood". Subject to this amendment the recommendations as set out in the report were agreed.

#### **RESOLVED**

- (i) That the proposed amendments to the draft Statement of Community Involvement, following the public consultation, be approved.

#### **RECOMMENDED**

- (ii) that the final Statement of Community Involvement attached at **APPENDIX 8** to these Minutes, be adopted.

There being no further items of business the Chairman closed the meeting at 8.15 pm.

A K M ST. JOSEPH  
CHAIRMAN

## Document Control Sheet

|                                           |                                                                                           |
|-------------------------------------------|-------------------------------------------------------------------------------------------|
| <b>Document title</b>                     | Street Collections Policy                                                                 |
| <b>Summary of purpose</b>                 | To provide transparency and consistency of approach when determining permitting decisions |
| <b>Prepared by</b>                        | Gill Gibson                                                                               |
|                                           |                                                                                           |
| <b>Status</b>                             | Draft                                                                                     |
| <b>Version number</b>                     | 1                                                                                         |
| <b>Approved by</b>                        | Planning and Licensing                                                                    |
| <b>Approval date</b>                      | ?                                                                                         |
|                                           |                                                                                           |
| <b>Date of implementation</b>             | Immediately following Member approval                                                     |
| <b>Review frequency</b>                   | 5 years                                                                                   |
| <b>Next review date</b>                   | June 2023                                                                                 |
| <b>Circulation</b>                        | Public document                                                                           |
| <b>Published on the Council's website</b> | yes                                                                                       |

**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

Princes Road  
Maldon  
Essex CM9 5DL



## Street Collections Policy

### 1. Aim

- 1.1 The aim of this policy is to set out the principles that will be applied in dealing with applications received for charitable collections under the 'Street Collection Regulations' in order to ensure fairness, to prevent nuisance caused by frequent or intrusive collections and to protect the public from unscrupulous collecting activities.
- 1.2 This policy sets out:-
  - (i) how applications for street collection permits will be fairly allocated;
  - (ii) how applications are to be made; and
  - (iii) additional information for charitable bodies who may be seeking a permit for a street collection.

### 2. Background

- 2.1 The Council has local Street Collection Regulations in place with regard to street collections. This policy should be read in conjunction with these Regulations (see Appendix A).
- 2.2 These Street Collection Regulations require that anyone wishing to make a public collection or sell articles for a charitable purpose must have a Street Collection Permit from the Council if collecting anywhere in the district of Maldon (see map, Appendix B). This enables the Council to regulate the number of collections taking place at any one time, to regulate the method of collection and to ensure that only legitimate collections are permitted to take place.
- 2.3 There is no right of appeal against the refusal of a Street Collection Permit, however, the Council's actions can be challenged by application to the High Court for a review of its decision.

### 3. Scope of Policy

- 3.1 This policy affects any person, charity, society, committee or other person responsible for any collection of money or sale of an article for charitable purposes in any street or public place. Permits will be issued in line with this policy and granted for a specific date and for a specified locality. Operating outside the conditions of the permit or the requirements of the Street Collection Regulations is an offence.
- 3.2 The Regulations and this policy do not extend to:-
  - (i) collections or sale of article(s) for charitable purposes in non-public places (if private land, consent should be obtained from the landowner);
  - (ii) collections made incidental to meetings in the open air; and

- (iii) the selling of articles in the ordinary course of trade, for the purpose of earning a livelihood, where no representation is made by or on behalf of the seller that any part of the proceeds of the sale are for charitable purposes.
- 3.3 All permit holders should be aware that they have responsibilities to the public in the course of their collection activities. Applicants should have adequate insurance cover, including public liability.
- 3.4 The grant of a permit does not allow the placement of any vehicle, stand, chair, items of equipment or display material, and applicants should be aware that the placing of these on the highway may constitute an obstruction.

#### **4. Applications for Permits**

4.1 Applications submitted must comply with the following requirements.

- (i) All applications for a permit to be made in writing on the specified form (available on the Council's website).
- (ii) Only applications that are fully completed will be processed. Those that are incomplete will be returned to the sender.
- (iii) Permits will only normally be granted to charities registered with the Charities Commission. An application, however, will be considered from an organisation or activity which although not charitable by strict definition, is charitable or non-profit making in character. Proof of charitable status or of the charitable nature of the organisation is required to be submitted with the application.
- (iv) Any application that is received less than one calendar month before the date that the permit is requested for shall be refused except in exceptional circumstances and this shall be at the discretion of the Council. No application, however, shall be considered if submitted less than three weeks prior to the requested date except in the case of an application in response to a significant international, national or local disaster, in which case the Service Manager, using discretion, can waive these requirements and also the restrictions on the number of permits that can be issued for any one day.
- (v) Applications received the following calendar year shall be considered on the first working day of that following year, unless the collection date requested occurs in the first month of that year.

4.2 In respect of processing applications.

- (i) Applications will be dealt with on a 'first come, first served' basis, but, when applications are considered simultaneously at the start of the calendar year, officers will seek to ensure that one off bookings are not disadvantaged as a consequence of block / regular bookings.
- (ii) Only two street collections permits will be granted within the district on any one day: collections granted will be in separate locations within the district. The exception to this is set out below.
- (iii) More than two Street Collection Permits for any one day may be granted within the district in respect of any significant community type event. The maximum number and locations of permits shall be set individually for each such event, and prior to each event, by the Council.

- 4.3 A permit will not be granted to any organisation or body which failed in the previous year to make an adequate statement setting out the required financial information (as required in clause 16 of the Street Collection Regulations) to the Council.
- 4.4 The Council does not make a charge for the issue of a Street Collection Permit.

## **5. Review and Representations**

- 5.1 This policy will be reviewed at 5 yearly intervals, unless there is a change in the legislative requirements relating to charitable collections before that time.
- 5.2 Anyone wishing to comment on this policy may do so at any time via the Council's 'Contact Us' page on the Council's website at [www.maldon.gov.uk](http://www.maldon.gov.uk).
- 5.3 Complaints relating to the services provided may be made via the Council's website, [www.maldon.gov.uk](http://www.maldon.gov.uk), 'How to make a complaint'.

## **Street Collection Regulations**

1. In these Regulations, unless the context otherwise requires:-  
  
"collection" means a collection of money or a sale of articles for the benefit of charitable or other purposes and the word "collector" shall be construed accordingly;  
"promoter" means a person who causes others to act as collectors;  
"the licensing authority" means "the Maldon District Council";  
"permit" means a permit for a collection;  
"contributor" means a person who contributes to a collection and includes a purchaser of articles for sale for the benefit of charitable or other purposes;  
"collecting box" means a box or other receptacle for the reception of money from contributors.
2. No collection, other than a collection taken at a meeting in the open air, shall be made in any street or public place within the area administered by the Maldon District Council unless a promoter shall have first obtained from the licensing authority a permit.
3. Application for a permit shall be made in writing in a form prescribed by the licensing authority not later than one month before the date on which it is proposed to make the collection.  
Provided that the licensing authority may reduce the period of one month if satisfied that there are special reasons for so doing.
4. No collection shall be made except upon the day and between the hours stated in the permit.
5. The licensing authority may, in granting a permit, limit the collection to such streets or public places or such parts thereof as it thinks fit.
6. (a) No person may assist or take part in any collection without the written authority of a promoter.  
  
(b) Any person authorised under paragraph (a) above shall produce such written authority forthwith for inspection on being requested to do so by a duly authorised officer of the licensing authority or any constable.
7. No collection shall be made in any part of the carriageway of any street which has a footway.  
Provided that the licensing authority may, if it thinks fit, allow a collection to take place on the said carriageway where such collection has been authorised to be held in connection with a procession.
8. No collection shall be made in a manner likely to inconvenience or annoy any person.
9. No collector shall importune any person to the annoyance of that person.
10. While collecting:-  
  
(a) a collector shall remain stationary; and

(b) a collector or two collectors together shall not be nearer to another collector than 25 meters.

Provided that the licensing authority may, if it thinks fit, waive the requirements of this Regulation in respect of a collection which has been authorised to be held in connection with a procession.

11. No promoter, collector or other person who is otherwise connected with a collection shall permit a person under the age of sixteen years to act as a collector.  
Provided that this Regulation shall not apply to persons being cadets, boy scouts, girl guides or members of such other similar organisations as the licensing authority shall approve for the purpose, where such persons are collecting or selling under the direct supervision of responsible officers and are dressed in the uniform of their particular organisation.
12. (a) Every collector shall carry a collecting box.  
  
(b) All collecting boxes shall be numbered consecutively and shall be securely closed and sealed in such a way as to prevent them being opened without the seal being broken.  
  
(c) All money received by a collector from contributors shall immediately be placed in a collecting box.  
  
(d) Every collector shall deliver, unopened, all collecting boxes in his possession to a promoter.
13. A collector shall not carry or use any collecting box, receptacle or tray which does not bear displayed prominently thereon the name of the charity or fund which is to benefit nor any collecting box which is not duly numbered.
14. (a) Subject to subparagraph (b) below, a collecting box shall be opened in the presence of a promoter and another responsible adult.  
  
(b) Where a collecting box is delivered, unopened, to a bank, it may be opened by an official of the bank.  
  
(c) As soon as a collecting box has been opened, the person opening it shall count the contents and shall enter the amount with the number of the collecting box on a list which shall be certified by that person.
15. (a) No payment shall be made to any collector.  
  
(b) No payment shall be made out of the proceeds of a collection, either directly or indirectly, to any person connected with the promotion or conduct of such a collection for, or in respect of, services connected therewith, except such payments as may have been approved by the licensing authority.
16. (1) Within one month after the date of any collection, the person to whom a permit has been granted shall forward to the licensing authority:-
  1. a statement in the form set out in the Schedule to these Regulations, or in a form to the like effect, showing the amount received and expenses and

payments incurred in connection with such collection, and certified by that person and a qualified accountant;

2. a list of the collectors;

3. a list of the amounts contained in each collecting box;

and shall, if required by the licensing authority, satisfy it as to the proper application of the proceeds of the collection.

(2) The said person shall also, within the same period, at the expense of that person and after a qualified accountant has given his certificate under paragraph (1)1. above, publish in such newspaper or newspapers as the licensing authority may direct a statement showing the name of the person to whom the permit has been granted, the area to which the permit relates, the name of the charity or fund to benefit, the date of the collection, the amount collected and the amount of the expenses and payments incurred in connection with such collection.

(3) The licensing authority may, if satisfied there are special reasons for so doing, extend the period of one month referred to in paragraph (1) above.

(4) For the purposes of this Regulation, "a qualified accountant" means a member of one or more of the following bodies:-

the Institute of Chartered Accountants in England and Wales;  
the Institute of Chartered Accountants in Scotland;  
the Association of Certified Accountants;  
the Institute of Chartered Accountants in Ireland.

17. These Regulations shall not apply:-

1. in respect of a collection taken at a meeting in the open air; or

2. to the selling of articles in any street or public place when the articles are sold in the ordinary course of trade.

18. By virtue of the Criminal Justice Acts 1982 and 1991, any person who acts in contravention of any of the foregoing Regulations shall be liable on summary conviction to a fine not exceeding the level 1 on the standard scale.



**CHARITY COLLECTION  
FORM OF STATEMENT**

Name of the person whom the permit was granted: \_\_\_\_\_

Address of the person whom the permit was granted: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date of Collection: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

Name of charity or fund which is to benefit: \_\_\_\_\_

**Show nil entries**

| Proceeds of Collection                                                      | Amount | Total | Expenses and Application of Proceeds          | Amount | Total |
|-----------------------------------------------------------------------------|--------|-------|-----------------------------------------------|--------|-------|
| From collecting boxes as per list of collectors and amounts attached hereto |        |       | Printing and Stationery                       |        |       |
|                                                                             |        |       | Postage                                       |        |       |
|                                                                             |        |       | Advertising                                   |        |       |
| Interest on proceeds                                                        |        |       | Collecting boxes                              |        |       |
|                                                                             |        |       | Badges                                        |        |       |
|                                                                             |        |       | Emblems                                       |        |       |
| Other items:-                                                               |        |       | Other items:-                                 |        |       |
|                                                                             |        |       | Payments approved under Regulation of balance |        |       |
|                                                                             |        |       | Disposal of balance (insert particulars)      |        |       |
| <b>TOTAL £</b>                                                              |        |       | <b>TOTAL £</b>                                |        |       |

**Certificate of the person to whom the permit was granted**

I certify that to the best of my knowledge and belief this is a true account of the proceeds, expenses and application of the proceeds of the collection.

Date: \_\_\_\_\_ Signed: \_\_\_\_\_

**Certificate of Accountant**

I certify that I have obtained all the information and explanations and that this is in my opinion a true account of the proceeds, expenses and application of the proceeds of the collection.

Date: \_\_\_\_\_ Signed: \_\_\_\_\_

Qualifications (see Regulation 16) \_\_\_\_\_

Please return this form to: Maldon District Council, F.A.O. Licensing, Princes Road, Maldon, Essex CM9 5DL.

[www.maldon.gov.uk](http://www.maldon.gov.uk)

Telephone: 01621 854477

Map of the Maldon District



## Document Control Sheet

|                                           |                                                                                                             |
|-------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| <b>Document title</b>                     | Licensing Act 2003: Statement of Licensing Policy                                                           |
| <b>Summary of purpose</b>                 | Legal requirement: to provide transparency and consistency of approach when determining licensing decisions |
| <b>Prepared by</b>                        | Gill Gibson                                                                                                 |
|                                           |                                                                                                             |
| <b>Status</b>                             | Draft                                                                                                       |
| <b>Version number</b>                     | 2                                                                                                           |
| <b>Approved by</b>                        | Planning and Licensing                                                                                      |
| <b>Approval date</b>                      | ?                                                                                                           |
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| <b>Circulation</b>                        | Public document                                                                                             |
| <b>Published on the Council's website</b> | yes                                                                                                         |

## 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.



# **Licensing Act 2003**

## **Statement of Licensing Policy**

January 2019

|                 |
|-----------------|
| <b>Contents</b> |
|-----------------|

|    |                                   |
|----|-----------------------------------|
| 1  | Introduction: the Maldon District |
| 7  | Statutory Powers                  |
| 11 | Policy Development                |
| 12 | How to Read this Policy           |
| 15 | Extent of Policy                  |
| 17 | Licensing Objectives              |
| 19 | Links to other Strategies         |
| 23 | Regulated Entertainment           |
| 25 | Fundamental Rights                |
| 27 | Licensing Conditions              |
| 32 | Applications                      |
| 38 | Representations                   |
| 40 | Temporary Event Notices           |
| 42 | Delegation of Functions           |
| 43 | Cumulative Effect and Need        |
| 49 | Advice and Guidance               |
| 51 | Consultation                      |
| 53 | Enforcement                       |
| 58 | Reviews                           |
| 61 | Licensing Objectives              |
| 71 | Prevention of Crime and Disorder  |
| 77 | Public Safety                     |
| 80 | Prevention of Public Nuisance     |
| 89 | Protection of Children from Harm  |

## Appendices

|    |                                                                  |
|----|------------------------------------------------------------------|
| 1  | Application Processes                                            |
| 2  | Contact Details                                                  |
| 3  | Exemptions                                                       |
| 4  | Mandatory Conditions                                             |
| 5  | Pool of Conditions: Prevention of Crime and Disorder             |
| 6  | Public Safety                                                    |
| 7  | Pool of Conditions: Theatres, Cinemas, Concert Halls and Similar |
| 8  | Pool of Conditions: Prevention of Public Nuisance                |
| 9  | Pool of conditions: Protection of Children from Harm             |
| 10 | Terms of Reference and Delegated Powers                          |
| 11 | Definitions                                                      |

### **Introduction: the Maldon District**

- 1 The Maldon District has a population of approximately 63,350 and is mainly rural in character with a coastline of some 96 kilometres and a total area of 360 square kilometres.
- 2 The two main towns of Maldon and Burnham-on-Crouch are surrounded by numerous villages, each with their own individual character.
- 3 There are few major concentrations of premises in the District providing regulated entertainment and / or the retail sale of alcohol. There are also few private clubs; no dedicated theatres and one cinema. Local venues such as village, community and school halls provide many of the locations for cultural activities.
- 4 There are a number of public houses in the District outside of the main towns, serving the small, rural villages, providing the focal point for community life and supporting the visitor economy. In other cases, this focal point may be provided by small stores and shops that often sell alcohol.
- 5 The main late night refreshment premises are located in the two main towns.
- 6 Due to the rural nature of the District, premises and events that will be licensed under the Licensing Act 2003 (as amended) will often provide an essential contribution to the local economy of the District through tourism and cultural development.

### **Statutory Powers**

- 7 Maldon District Council (the Council) is the Licensing Authority under the Licensing Act 2003 (as amended), (the Act). It is responsible for granting Premises Licences, Club Premises Certificates and Personal Licences and for receiving Temporary Event Notices in the Maldon District in respect of the retail sale and / or supply of alcohol, the provision of regulated entertainment and late night refreshment.
- 8 The Act requires the Licensing Authority to carry out its various licensing functions to promote the following 4 licensing objectives:-
  - prevention of crime and disorder;
  - public safety;
  - prevention of public nuisance; and
  - protection of children from harm.
- 9 The licensing objectives are the only matters the Licensing Authority can take into account in determining any application for, or imposing any conditions on, a Licence or Certificate under the Act.
- 10 The Act requires the Licensing Authority to publish a Statement of Licensing Policy (the Policy) that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The Policy takes effect on 01 January 2019 and will remain in force for a period of not more than five years. It will be subject to regular review and further consultation prior to 31 December 2023.

### **Policy Development**

- 11 The Policy has been prepared in accordance with the provisions of the Act and having regard to the Guidance issued under Section 182 of the Act.

### How to Read this Policy

- 12 When assessing applications, the Licensing Authority must be satisfied that the measures proposed in an applicant's operating schedule aim to achieve the 4 licensing objectives. Bold type refers to matters that, where appropriate, the Licensing Authority expects to see in an applicant's operating schedule. Passages of text that are not in bold are provided to assist applicants to understand what the Licensing Authority is seeking to achieve, the factors that influence the achievement of those outcomes and the control measures that could be implemented by an applicant to achieve those outcomes.
- 13 The term licence in this Policy is used as a general term to refer to the range of licences, certificates, notices and permissions under the Act.
- 14 The Licensing Policy is contained within paragraphs 8 to 98 of this document and is supported by other sections that provide important information aimed at helping those reading or referring to it. The information provided outside paragraphs 8 to 104 may be subject to change from time to time but any such changes will not invoke the procedures for revisions of the Licensing Policy referred to in Section 5 of the Act.

### Extent of Policy

- 15 This Policy cannot detail all the factors that influence the achievement of the licensing objectives nor can it detail all the control measures that may be appropriate. It should be recognised that this Policy covers a broad variety of premises and associated activities including theatres, cinemas, restaurants, public houses, nightclubs, private members' clubs, village halls and community centres, as well as some shops, stores and supermarkets, off-licences and premises and vehicles selling hot food or hot drink after 11.00 pm.
- 16 The Council is aware that its own land and premises provide the venues for some types of regulated entertainment. In these cases, it will consider seeking Premises Licences for these public places to support the provision of cultural and other event in the District and encourage a broad range of entertainment, particularly live music, dance and theatre for the wider benefit of the community.

### Licensing Objectives

- 17 In respect of each of the 4 licensing objectives, applicants should consider what measures are required to be implemented and maintained in respect of each of the licensing objectives that are relevant to the individual style and characteristics of their premises and the types of licensable activities and events. Where appropriate, applicants should consider whether or not any additional measures are required in respect of occasional or specific events intended to, or are likely to, attract larger audiences. These measures should be reflected in the applicant's operating schedule.
- 18 When considering applications, the Licensing Authority will have regard to the Policy, the Act, statutory guidance issued under section 182 of the Act and the licensing objectives together with all supporting Regulations.

### Links to Other Strategies

- 19 In preparing the Policy, the Licensing Authority has had regard to and consulted those involved in its local strategies on crime prevention, planning, transport, culture, tourism and economic development to ensure the proper co-ordination and integration of the aims and actions of these policies. The review and development of these various strategies will be considered for their impact on the Policy.
- 20 The Licensing Authority will, as appropriate, take account of the needs of and any relevant information in relation to crime prevention, planning, transport, tourism, economic development and any cultural issues. The Licensing Authority will monitor these areas and



ensure that the development or review of any new or existing strategies covering them will reflect the licensing objectives set out in the Policy. Where such monitoring shows that licensed activities are impacting adversely on these areas, it will be reported to the Planning and Licensing Committee and any other Committee of the Council having responsibility for those areas which may lead to a review of the Policy.

- 21 To ensure proper integration with the Council's planning policies, reports will be submitted where appropriate on the situation regarding licensed premises in the District and their general impact on alcohol related crime and disorder to enable informed decisions to be made on planning issues.
- 22 The Licensing Authority recognises its responsibilities under the Equality Act 2010. This statement of Licensing Policy sets out the principles on which the Council will process and determine applications thereby promoting transparency and fairness. This will include ensuring that Licensing applicants and stakeholders with different protected characteristics can access the licensing process.

### **Regulated Entertainment**

- 23 The Licensing Authority welcomes a diverse provision of cultural activities for the benefit of communities. The Licensing Authority will monitor the licensing of regulated entertainment, especially with regard to live music and dancing, theatrical performances, circuses etc. to ensure that such events are promoted without unreasonable restrictions being imposed which would discourage such events. The Licensing Authority recognises the need to balance the natural concern to prevent disturbance in neighbourhoods with the wider cultural benefits, particularly for children. Where conflicts arise, advice and guidance on this matter will be sought from appropriate services within the Council and from the Responsible Authorities.
- 24 The Licensing Authority will adopt a similar approach to local sports clubs in relation to the premises they use and any events they hold involving the provision of regulated entertainment.

### **Fundamental Rights**

- 25 The Policy does not seek to undermine the rights of any person to apply under the Act, as amended, for a variety of permissions and to have their application considered on its individual merits, nor does it override the rights of any person to make representations on any application or to seek a review of a licence where they have grounds to do so under the Act.
- 26 Applicants and those making representations in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the Licensing Authority.

### **Licensing Conditions**

- 27 Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold Personal Licences. Where relevant representations are made, the Licensing Authority will seek to make objective judgements as to whether conditions need to be attached to a licence which are appropriate to the licensing objectives. Where no relevant representations are made, an application must be granted on the terms sought. Further, where a Temporary Event Notice (TEN) has been given, no conditions can be imposed unless the Police or the responsible authority for Environmental Health have objected, and the premises which is the subject of the TEN is covered either by a premises licence or a club premises certificate.

- 28 Any conditions arising from an operating schedule or from representations made by a Responsible Authority will primarily focus on the direct impact of the activities taking place at the premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned. Conditions will cover matters that are within the control of individual licensees.
- 29 When considering any conditions, the Licensing Authority acknowledges that the licensing function cannot be used for the general control of anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. Other mechanisms, however, may be utilised, where appropriate, to tackle unruly or unlawful behaviour of people attending the premises when beyond the control of the individual, club or business holding the licence. These may include:-
- planning controls;
  - provision of CCTV surveillance in town centres, taxi ranks, public conveniences, street cleaning and litter patrols;
  - powers of the Council to designate parts of its area as places where alcohol may not be consumed in public;
  - police enforcement of the general law concerning disorder and anti-social behaviour including fixed penalty notices;
  - prosecution of any Personal Licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
  - confiscation of alcohol from children and adults in designated areas; and
  - powers of the Police, other responsible authorities or any other person to seek a review of the licence or certificate.
- 30 If an applicant volunteers a prohibition or restriction in his operating schedule because their own risk assessment has determined such prohibition or restriction to be appropriate, such volunteered prohibitions or restrictions will become conditions attached to a licence and will be enforceable as such.
- 31 The Licensing Authority recognises that all applications should be considered on their own merit and any conditions attached to a licence will be tailored to each individual premise in order to avoid the imposition of disproportionate and other burdensome conditions on those premises. Standard conditions, other than the mandatory conditions, will be avoided and no condition will be imposed that cannot be shown to be necessary for the promotion of the licensing objectives.

### **Applications**

- 32 When considering any application, the Licensing Authority will, wherever possible, avoid duplication with other regulatory regimes and will not use the licensing regime to achieve outcomes that can be achieved by other legislation. In particular, its licensing functions will be discharged separately from its functions as the local planning authority. No decision of the Licensing Authority implies that the consent of the Council has been granted under any other statutory powers or as a landowner.
- 33 There are, however, links between the planning and licensing functions that cannot be ignored. For example, applications for Premises Licences will be expected to reflect any operating hours that are stipulated as part of a condition of a planning permission. Where they do not, the hours granted in the Premises Licence should not, under planning law, be operated unless and until the conditions of the planning permission have been amended.
- 34 Other permissions may also be applicable to licensed premises and applicants are expected to ensure that such permissions are obtained where necessary.
- 35 New businesses and premises involving licensable activities, particularly where they are part of a new development or major alterations to existing premises, provide an opportunity

to take early account of meeting the crime and disorder licensing objective. In such cases, the Licensing Authority will expect that the 'secured by design' approach has been taken into consideration.

- 36 When one part of the Council seeks a Premises Licence from the Licensing Authority, the Licensing Sub-Committee or relevant officer of the Licensing Authority will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the Police, they will be considered fairly and impartially by the Licensing Sub-Committee. Those making representations who are genuinely aggrieved by a positive decision in favour of the Council's application by the Licensing Authority are entitled to appeal to the Magistrates' Court and thereby receive an independent hearing of any decision made.
- 37 Applications for licences made under the Act must be made in a form prescribed by regulations and must be accompanied by all prescribed information and documents, including the relevant fee where required. Applications received by the Licensing Authority will be assessed on receipt for compliance with these regulations and any application found to be incomplete or incorrect will be returned with an explanation.

### **Representations**

- 38 The Licensing Authority itself, the Chief Officer of Police, the local Fire and Rescue Authority, the relevant local enforcing authority for the Health and Safety at Work Act 1974, the Local Planning Authority, the Local Authority with responsibility for minimising or preventing pollution to the environment or of harm to health, the Child Protection Authority and the Local Authority responsible for primary health are all known as Responsible Authorities under the Act. As such, these bodies are consulted and may make representations on applications, so far as they relate to the promotion of the 4 licensing objectives and may request reviews once licences have been issued.
- 39 Any other person is entitled to raise relevant representations. A representation is relevant if it relates to the likely effect of the grant of a licence on the promotion of at least one of the 4 licensing objectives. In addition, the representation must not be frivolous or vexatious and in the case of reviews, not repetitious.

### **Temporary Event Notices**

- 40 Certain temporary events are not required to be licensed but notification must be given to the Licensing Authority, Maldon District Council Environmental Health and Essex Police in the form of a Temporary Event Notice. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the Police, Licensing Authority and Environmental Health to work with them to identify and reduce the impact of the event on the 4 licensing objectives.
- 41 The Act provides for Late Temporary Event Notices to be given up to five working days before the event. The Licensing Authority will process late Temporary Event Notices but premises users should note that the intention is that they are reserved for circumstances outside the applicant's control where there is a genuine need for a late notice.

### **Delegation of Functions**

- 42 With the exception of the approval and review of its Licensing Policy and the making of early morning restriction orders, late night levies and fee setting, decisions on licensing matters will be taken in accordance with an approved Scheme of Delegation aimed at underlining the principles of timely, efficient and effective decision-making. The Planning and Licensing Committee will receive regular reports regarding licences determined by officers and Licensing Sub-Committees under delegated powers in order to maintain an overview of the general licensing situation.

### **Cumulative Effect and Need**

- 43 There can be confusion about the difference between need and the cumulative impact of premises on the licensing objectives. Need concerns commercial demand, e.g. for another public house, restaurant or hotel; it is not a matter for the Licensing Authority or for this Policy. Nothing in this Policy will seek to limit the number of licensed premises on the basis that there are already sufficient to satisfy demand. This is a matter for market forces, or in cases where a planning application is required, for the planning process and as such falls outside the scope of this Policy.
- 44 Cumulative impact means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the Licensing Authority to consider in developing the Policy.
- 45 The Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets, with the potential impact of an increase in crime, anti-social behaviour, noise pollution and other disturbance to residents, together with an increase in littering or fouling. In such cases, the amenity of local area can be placed under severe pressure although the impact may not be attributable to any individual premises.
- 46 The Licensing Authority will only consider adopting a policy on cumulative impact or introducing an early morning restriction order if there is evidence that a significant number of licensed premises concentrated in one area results in unacceptable levels of crime and disorder, public nuisance or otherwise impacts on the licensing objectives. Likewise, the Licensing Authority will only consider introducing a late night levy across the whole of the District if there is evidence that this is necessary to pay for additional policing of the night time economy. For both purposes the Licensing Authority would wish to review evidence from the Chief Officer of Police before making a decision.
- 47 The Licensing Authority, having regard to the evidence currently available, considers that there is no particular part of the Maldon District having such an impact on any of the licensing objectives or giving rise to significant additional policing of the night time economy.
- 48 This does not exclude the ability to consider introducing a special policy on cumulative impact or late night levy should the need arise. This will be evidence based following representation from persons, businesses or a responsible authority which triggers consideration of whether any additional licences or substantial variations to existing licences, to increase such aspects as capacity or operating hours, would lead to an unacceptable saturation in an area. The onus will be on the person or authority making the representation to provide evidence that additional licences or the variation of existing licences will produce the cumulative impact claimed.

### **Advice and Guidance**

- 49 The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Act can provide and the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants develop their operating schedule.
- 50 The Licensing Authority will also seek to liaise with applicants and/or mediate between applicants and others who may make representations to achieve a satisfactory outcome for all involved, wherever this is possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that the applicant discusses his proposal with the Licensing Authority and those from whom they

think representations are likely prior to submitting their application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process which may restrict the opportunity for discussion and liaison.

### **Consultation**

- 51 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents and enforcers, all of whom have views and concerns that require consideration as part of the licensing function and the promotion of the licensing objectives.
- 52 In developing this Policy, the Licensing Authority has consulted widely. Along with the statutory consultees (the Chief Police Officer for the District and the Essex County Fire and Rescue Service), the views of existing licence holders, businesses, voluntary groups, residents and a range of other organisations including Parish / Town Councils were sought and considered over a 12 week period. Due consideration was given to the views of all those who responded to that consultation process.

### **Enforcement**

- 53 The Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a level playing field on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The Licensing Authority recognises the interests of both citizens and businesses and will work closely with partners to assist licence holders to comply with the law and the 4 licensing objectives it seeks to promote. Proportionate but firm action will be taken against those who commit serious offences or consistently break the law.
- 54 The Council is committed to the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner and will abide by its own enforcement policy.
- 55 The Council has adopted the principles of the Enforcement Concordat in that licence holders should:-
  - receive clear explanations from regulators of what they need to do and by when;
  - have opportunities to resolve differences before enforcement action is taken - unless immediate action is needed;
  - receive an explanation of their rights of appeal.
- 56 The Council's Enforcement Policy and corporate feedback procedure for complaints is available on the Council's website: [www.maldon.gov.uk](http://www.maldon.gov.uk)
- 57 The principle of using a scoring scheme based on risk factors will normally prevail and proactive inspections will usually be undertaken in accordance with intelligence received and a priority inspection scheme. This should ensure that resources are more effectively allocated to higher risk or problem premises. Reactive visits and inspections will normally be limited to cases where complaints are received or where intelligence suggests the licensing objectives are at risk.

### **Reviews**

- 58 Where possible and appropriate, any responsible authority will give early warning to licence holders of any concerns about problems occurring at premises associated with the licensing objectives.
- 59 The Act provides a mechanism for reviewing Premises Licences where problems associated with achieving the licensing objectives occur. No more than one review will normally be permitted on similar grounds within any 12 month period, except in exceptional

and compelling circumstances or where it arises following a Closure Order. In addition, where premises are associated with serious crime or serious disorder a senior police officer may apply for a review of the Premises Licence which may result in:-

- the modification of the conditions of the Premises Licence;
- the exclusion of an activity or activities from the scope of the licence;
- the removal of the designated premises supervisor from the licence;
- the suspension or revocation of the licence.

The initial decision may be determined in the absence of the Premises Licence holder. A review must then take place within 28 days of the application for review.

- 60 Responsible Authorities or any other person can trigger a review of a Premises Licence but must provide evidence to the Licensing Authority to substantiate any allegations.

### **Licensing Objectives**

- 61 The following sections set out the Licensing Authority's Policy relating specifically to the 4 licensing objectives:

- prevention of crime and disorder;
- public safety;
- prevention of public nuisance; and
- protection of children from harm.

- 62 Each section lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this Policy applies, the lists provided are not exhaustive. Applicants should know their premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and events.

- 63 Further, in each section, a list of possible control measures is provided for the assistance of applicants, but again this is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective. Similarly, applicants will not be required to mention a control measure more than once in their operating schedule.

- 64 The selection of control measures, referred to above, should be based upon a risk assessment of the premises, events, activities and the age, number and characteristics of customers expected to attend. Whilst the Licensing Authority cannot require such risk assessments to be documented (other than where required by other legislation), it considers such documentation to be good practice and a useful tool in the instruction and training of staff as well as a sound basis to enable the licence holder to respond to changing circumstances/conditions at the premises.

- 65 Additional measures may be necessary on an occasional or specific basis such as when a special event or promotion is planned, which is intended, or likely, to attract larger audiences and/or audiences of a different nature. These can often have a significant impact on the achievement of the licensing objectives. Where applicable, reference should be made in an applicant's operating schedule to such occasions and the additional measures that are planned in order to achieve the licensing objectives.

- 66 The Licensing Authority considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of best practice to be amongst the most important control measures for the achievement of all the licensing objectives. For this reason, the Licensing Authority would expect these elements to be specifically considered and addressed within an applicant's operating schedule.

- 67 In addition, the number of people who can be accommodated in the premises (or at specific events as appropriate) is also considered to be an essential factor in the achievement of the 4 licensing objectives. This may not apply in the case of premises licensed for the consumption of food and / or alcohol off the premises. The Licensing Authority would expect the issue of occupancy capacity to be considered and addressed, where necessary, within an applicant's operating schedule and, in most instances, will agree a maximum occupancy capacity based on the applicant's assessment within their operating schedule.
- 68 The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These include:-
- nature of the premises or event;
  - nature of the licensable activities being provided;
  - provision or removal of items such as temporary structure, including a stage or furniture;
  - number of staff available to supervise people attending the premises under normal circumstances and in the event of an emergency;
  - age of those people
  - people attending the premises with disabilities or special needs, e.g. those whose first language is not English; and
  - availability of suitable and sufficient sanitary accommodation.
- 69 The Licensing Authority will consider applications for minor variations to Premises Licences provided that the Authority is satisfied that the variation will not adversely impact on the licensing objectives. The Licensing Authority will consult with responsible authorities where appropriate to make such an assessment.
- 70 An agreement of a capacity for premises or events should not necessarily be seen as a requirement to provide permanent monitoring arrangements such as door staff, attendance clickers or maintenance of attendance records in all circumstances. The Licensing Authority recognises that the person in charge of small premises and events with simple layouts can often readily assess the number of people attending those premises or events without resort to such measures. Nevertheless, in larger or more complex premises or special events or promotions where that number cannot readily be assessed or is likely to be approached, an applicant should detail the additional arrangements that should be put in place to ensure that the permitted number of people attending the premises or event is not exceeded.

### **Prevention of Crime and Disorder**

- 71 The Council is committed to further reducing crime and disorder within the Maldon District and helping people feel safe.
- 72 Legislation provides a wide range of measures for preventing crime and disorder and imposes a duty on the Council, Essex Police, Essex County Council and others to consider crime and disorder reduction in the exercise of all their duties.
- 73 The promotion of the licensing objective to prevent crime and disorder places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to minimise or prevent crime and disorder, relevant to the individual style and characteristics of their premises and events.
- 74 When addressing the issue of crime and disorder, an applicant should demonstrate that those factors that impact on crime and disorder have been considered. These specifically

include:-

- underage drinking;
- drunkenness on premises;
- public drunkenness;
- drugs;
- violent behaviour; and
- anti-social behaviour.
- 

75 The following examples of control measures are given to assist applicants and are considered to be amongst the most important to be taken into account in an operating schedule, having regard to their particular type of premises and/or activities:-

- effective and responsible management;
- training and supervision of staff;
- adoption of best practice guidance (e.g. the National Alcohol Harm Reduction Strategy toolkit and other voluntary Codes of Practice, 'Security in Design', 'Drugs and Pubs' which are published by the British Beer and Pub Association (BBPA));
- acceptance of accredited 'proof of age' cards or approved ID;
- age challenge schemes such as 'Challenge 25';
- provision of effective CCTV in and around premises;
- employment of Security Industry Authority licensed door staff;
- provision of toughened or plastic drinking vessels;
- provision of secure deposit boxes for confiscated items;
- provision of litter bins and other security measures such as lighting; and
- membership of local 'Pubwatch' schemes or similar organisations.

Note: This Policy applies to a wide range of premises and activities and the above list will not be relevant in all cases.

76 Within the operating schedule for premises from which alcohol will be sold, with the exception of qualifying community premises and the holders of club premises certificates, a Designated Premises Supervisor (DPS) must be named. The Licensing Authority will normally expect the DPS to have been given the day to day responsibility for running the premises by the holder of the Premises Licence and, as such, would normally be present on the premises on a regular basis. In addition to the DPS holding a Personal Licence, the Licensing Authority would strongly encourage him to undergo additional training and to have experience commensurate with the nature and style of the entertainment provided and the capacity of the premises.

### **Public Safety**

77 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. To this end, applicants should demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.

78 When addressing the issue of public safety, an applicant should demonstrate that those factors that impact on public safety have been considered. These may include:-

- The number of people attending the premises;
- age, condition, design and layout of the premises, including the means of escape;
- nature of activities, in particular the sale or supply of alcohol and / or the provision of alcohol and / or the provision of music and dancing, including whether these activities are of a temporary or permanent nature;



- hours of operation (differentiating between the hours of opening and the hours when the licensable activities will be provided);
- customer profile (age, disability, etc.); and
- use of special effects such as lasers, pyrotechnics, smoke machines, foam, etc.

79 The following examples of control measures are given to assist applicants and are considered to be amongst the most important to be taken into account in an operating schedule, having regard to their particular type of premises and / or activities:-

- suitable and sufficient risk assessments;
- effective and responsible management;
- provision of a sufficient number of people employed or engaged to secure the safety of everyone attending the premises or event;
- appropriate instruction, training and supervision of those employed or engaged to secure the safety of everyone attending the premises or event;
- adoption of best practice or guidance (e.g. Guide to Fire Precautions in Existing Places of Entertainment and Like Premises, the Event Safety Guide, and Managing Safety in Pubs published by the BBPA);
- provision of effective CCTV in and around the premises;
- provision of toughened or plastic drinking vessels;
- implementation of crowd management measures; and
- regular testing (and certification where appropriate) of procedures, appliances, systems, etc. pertinent to safety).

Note: This Policy applies to a wide range of premises and activities and the above list will not be relevant in all cases. In particular, in respect of vessels for which a Passenger Ship Certificate is in force, the public safety objective will be considered to be met in respect of layout, structure, access and operation of the vessel.

### **Prevention of Public Nuisance**

- 80 Licensed premises have a significant potential to impact adversely on communities through public nuisance which can arise from their operation. The Licensing Authority recognises the need to maintain and protect the amenity of residents, visitors and other businesses from the potential consequences of the operation of licensed premises, whilst balancing the rights of licensed premises to develop their business potential.
- 81 The Licensing Authority interprets the term public nuisance in relation to its meaning in common law. This includes issues such as noise nuisance, light pollution, noxious smells, litter and anti-social behaviour where these interfere with the public as a class of citizens and not merely one person.
- 82 Applicants should demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained with the intention of preventing public nuisance, relevant to the individual style and characteristics of their premises and events.
- 83 The Licensing Authority recognises the intention of the legislation in seeking a more flexible licensing regime with the concept of wider hours of operation. Conversely, it must be appreciated that premises seeking to provide late or unrestricted hours of operation can present a greater potential for public nuisance and adverse effect upon residential amenity. There will be occasions when proposals for extended or unrestricted hours of operation may be unsuitable, e.g. in residential areas.
- 84 Every application will be determined on its merits, but applicants wishing to operating between 23:00 and 08:00 hours should demonstrate to the satisfaction of the Licensing Authority in their operating schedule that there will be no disturbance to members of the public living, working or otherwise engaged in normal activity in the vicinity of the premises concerned.

- 85 The Licensing Authority will not support drinks promotions that encourage the irresponsible consumption of alcohol, such as binge drinking.
- 86 When addressing the issue of prevention of public nuisance, an applicant should demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:-
- location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship;
  - hours of opening, particularly between 23:00 and 08:00 hours;
  - nature of activities to be provided, the customer profile, whether the activities are of a temporary or permanent nature and whether they are to be held inside or outside premises;
  - design and layout of premises, in particular the presence of noise limiting features;
  - number of people attending the premises;
  - availability of public transport;
  - a wind down period between the end of the licensable activities and closure; and
  - last admission time.
- 87 The following examples of control measures are given to assist applicants and are considered to be amongst the most important to be taken into account in an operating schedule, having regard to their particular type of premises and / or activities:-
- effective and responsible management of premises;
  - appropriate instruction, training and supervision of those employed or engaged to prevent incident of public nuisance, (e.g. to ensure customers leave quietly);
  - control of opening hours for all or parts (e.g. garden areas) of the premises (including other times where deliveries take place) and the operation of noise generating plant and equipment;
  - adoption of best practice or guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs produced by the Institute of Acoustics, and Licensed Property Noise Control – Guidance document by the BBPA);
  - where appropriate, the installation of sound proofing, air conditioning, acoustic lobbies and sound limitation devices;
  - management of people, including staff and traffic (and resulting queues) arriving and leaving premises;
  - liaison with public transport providers;
  - siting of external lighting, including security lighting;
  - management arrangements for collection and disposal of litter; and
  - effective ventilation systems to prevent nuisance from odour.

- 88 The Live Music Act 2012 has deregulated aspects of the performance of live music in premises licensed to sell alcohol for consumption on the premises in many circumstances which previously required licensing as regulated entertainment. The Act still provides licensing controls after 23:00 or when the audience is likely to exceed 500 people. Any existing licence conditions on relevant licensed premises that relate to otherwise exempt live music will be suspended between the hours of 08:00 and 23:00. However, this suspension can be lifted and / or additional restrictions applied on review of the licence.

### **Protection of Children from Harm**

- 89 The protection of children is a most important issue. The Licensing Act allows family friendly premises to thrive, but the risk and the prevention of harm to children remains of paramount importance when determining applications.

- 90 The protection of children from harm includes the protection of children from moral, psychological and physical harm and, in relation to the exhibition of films or transmission of programmes or videos, includes the protection of children from exposure to strong language and sexual expletives. In certain circumstances, children are more vulnerable and their needs will require special consideration. Examples would include topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence, horrific incidents, feigned or actual sexual acts, fetishism or entertainment involving strong and offensive language. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and their lack of understanding of danger.
- 91 Where no licensing restriction is necessary, admission of children will remain entirely a matter for the discretion of the individual licensee. This applies to premises licensed under the Act only and not those fully licensed and regulated as sexual encounter venues under the Local Government (Miscellaneous Provisions) Act 1982.
- 92 Applicants should demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events.
- 93 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, an applicant should demonstrate that those factors that impact on harm to children have been considered. Areas that will give particular concern in respect of children include:-
- where entertainment or services of an adult or sexual nature are provided;
  - where there have been convictions of members of the staff at the premises for serving alcohol to minors or where the premises has a reputation for underage drinking;
  - where there is a known association with drug taking or dealing;
  - where there is a strong element of gambling on the premises; and
  - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 94 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and / or activities:-
- effective and responsible management;
  - provision of sufficient number of people employed or engaged to secure the protection of children, including child performers, from harm;
  - adoption of best practice or guidance (e.g. The Portman Group Code of Practice on Naming, Packaging and Promotion of Alcoholic Drinks);
  - limitation on the hours when children may be present in all or parts of the premises;
  - limitation or exclusions by age when certain activities are taking place;
  - measures to ensure children do not purchase, acquire or consume alcohol; and
  - measures to ensure children are not exposed to incidents of violence or disorder.
- 95 In the case of film exhibitions, the Act requires a mandatory condition to be included in all Premises Licences and Club Premises Certificates for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations of the British Board of Film Classification (BBFC) or the Licensing Authority itself. The grant of a Licence or Certificate authorising the exhibition of any film will be conditional upon such film having been classified by the BBFC or the Licensing Authority.

- 96 The Licensing Authority will expect Premises Licence and Club Premises Certificate holders and those who have given notice of a permitted temporary activity under the Act for the exhibition of any film to include in their operating schedule measures that restrict children from viewing age restricted films classified according to the recommendations of the BBFC or by the Licensing Authority.
- 97 The Licensing Authority expects that when a licensable activity is held mainly or exclusively for children and / or young persons under 18, there will be a sufficient number of staff, including supervisors, to ensure their safety. Every supervisor of those caring for children and young people should have undergone an enhanced disclosure check with the Disclosure and Barring Service (DBS). This does not require each member of staff to have undergone this level of check, but will enable staff to be supervised by those who have. Any searching of children or young people, other than of outer clothing that can firstly be removed, must always be conducted by someone of the same sex as the child or young person being searched. Attendance of the child at the event or premises assumes knowledge and consent of the search by the parent or guardian.
- 98 The Licensing Authority will rarely impose complete bans on access by children. However, in exceptional circumstances conditions restricting access or excluding children completely may be considered necessary.

# Appendix 1

## Application Process

### Introduction

This Appendix is intended to offer advice and guidance to applicants for Premises Licences, Club Premises Certificates and Personal Licences and those giving Temporary Event Notices. It provides the basic information designed to help ensure that a successful application is made and general guidance to keep the operations of businesses, clubs, organisations or events within the law.

The Council, as the Licensing Authority, understands that it has a general duty to provide guidance to applicants but it is important that this Appendix is not read in isolation and it should be regarded as an extension to and should be read in conjunction with the Council's Licensing Policy.

It is important to note that several other authorities play an important role in the licensing processes and applicants are advised to contact those authorities for advice and guidance on their specific area of involvement in the licensing arrangements. The contact details of all responsible authorities can be found in Appendix 2.

Information and advice on all the processes explained in this appendix can be obtained from the Council's Licensing Team on 01245 606727 or at [licensing@maldon.gov.uk](mailto:licensing@maldon.gov.uk).

All applications made to the Council (acting as the Licensing Authority) must be submitted to the contact address shown in Appendix 2.

There are 4 types of formality under the Licensing Act 2003 as amended:-

- premises Licence
- club premises certificate
- personal licence
- temporary event notice (TEN)

### Premises Licence

A premises licence is required where any licensable activities are going to take place (see appendix 11). They have no terminal date but can be granted for a specific date or period.

Licence holders are able to choose their operating or opening hours as there are no statutory limitations on the hours during which licensable activities can be carried on. These operating or opening hours will have to be agreed by the Council.

### Grant of or Variation of a Premises Licence

An application must be made on a prescribed form and must be accompanied by:-

- an operating schedule (see definitions at the end of this document);
- a plan of the premises to which the application relates to a scale of 1:100 and containing prescribed information;
- if the licensable activities include the supply of alcohol, consent (on a prescribed form) given by the individual who the applicant wishes to have specified in the premises licence as the premises supervisor;
- the appropriate fee (see separate section on fees in this appendix); and
- copy(ies) of specified documents which show that the applicant is in the UK lawfully and permitted to carry out work in a licensable activity.

If submitting a hard copy of the application, copies must also be given by the applicant to the responsible authorities included in Appendix 2 to the Policy on the same day as the application is given to the Council (note the additional responsible authorities that apply when the premises involved are a vessel). If submitting an application electronically, the Licensing Authority will circulate to the relevant responsible authorities.

Applicants are advised to obtain proof of delivery of their applications to responsible authorities either through the postal service or by way of a receipt if delivered by hand.

In addition, the application must be advertised in a local newspaper on at least one occasion during the period of 10 working days following the day on which the application is given to the Council. A further notice containing prescribed information on at least A4 sized light blue coloured paper must also be displayed by the applicant at or on the premises for a period of not less than 28 consecutive days from the day following the day on which the application is given to the Council. The notice must be printed legibly in black ink or typed in black in size 16 font or larger. Notices must contain the name of the applicant, postal addresses of the premises (or if there is no postal address a description of the premises sufficient to enable the location to be identified), the Council and the date by which any representations in relation to the application need to be made. They should also contain a statement of the relevant licensable activities or relevant qualifying club activities that it is proposed will be carried on at the premises, or in the case of an application to vary a premises licence or a club premises certificate the notices shall briefly describe the proposed variation. The Council will also publicise the application by publishing details on the Council's website [www.maldon.gov.uk](http://www.maldon.gov.uk).

A template form of the public advertisement and public notice are available from the Council's website. The form and notice are not prescribed forms, but they must contain the information shown on the examples provided.

### **Variation of Premises Licence**

An application to vary the premises licence where there has been a change in the premises supervisor must be made in a prescribed form and be accompanied by:-

- the premises licence;
- a form of consent given by the individual who the applicant wishes to have specified in the premises licence as the premises supervisor; and
- the appropriate fee (see separate section of fees in this appendix).

A copy of the application must be given by the applicant to the Chief Officer of Police on the same day as the application is given to the Council.

If it is an application for a minor variation, applicants are advised to speak to the Council in the first instance for advice prior to submission as the application is deemed as rejected if not dealt within a 15 day working period.

### **Club Premises Certificate**

The process for applying for a club premises certificate or a variation of a club premises certificate is similar to that for a premises licence except that because there is no sale of alcohol involved, only a supply managed by or on behalf of the club, neither a designated premises supervisor nor a personal licence holder is required.

### **Temporary Event Notice (TEN)**

Any person can issue a TEN in respect of any premises or area of land and for one or more of the licensable activities (see appendix 11 for certain limitations imposed).

The Notice must be given to the Council at least 10 working days before an event is held or 5 to 9 working days for a late TEN. Guidance under the Act defines working days as excluding the day on which notice is given and the day on which the event is to start. The notice must contain details of the proposed licensable activities. The Council's preferred notice period is not less than 20 working days and not more than 3 months.

The Notice must also contain:-

- the period during which it is proposed to use the premises (not exceeding 168 hours);
- the times during that period when it is proposed that those licensable activities are to take place;
- the maximum number of people (being less than 500 including staff, performers, security etc.) it is proposed will be allowed on the premises during those times;
- where alcohol is to be supplied, whether it is to be for consumption on or off the premises, or both; and
- the fee.

A copy of the notice **must** be given by the applicant to the Chief Officer of Police and Environmental Health at the same time unless submitting the Notice electronically.

### Personal Licences

A personal licence will be required for any sale of alcohol.

To apply, an application must be made to the Council in whose area he / she ordinarily resides on a prescribed form and applicants must be over 18 years of age. The application must contain:-

- 2 passport photographs: they must be 45mm by 35mm, on photographic paper and be taken against a light background and show the full face uncovered and without sunglasses and, except on religious grounds, without a head covering;
- 1 of the photographs must be endorsed on the back with a statement verifying the likeness of the photograph to the applicant by a solicitor, notary, bank or building society official, police officer, civil servant, minister of religion or an individual with a professional qualification (see below);
- a copy of the applicant's licensing qualification: the Personal Licence Qualifications accredited by the Secretary of State to date are:-
  - a) BIIAB Level 2 National Certificate for Personal Licence Holders. For further information visit [www.bii.org](http://www.bii.org);
  - b) GOAL Level 2 Certificate for Personal Licence Holders. For further information e-mail [customerservice@ediplc.com](mailto:customerservice@ediplc.com);
- either a criminal conviction certificate or a criminal record certificate issued under Section 112 or Section 113 of the Police Act 1997 respectively, or the result of a subject access search of the police national computer by the National Identification Service (all of which must have been issued within 1 calendar month of submitting it with the application for the Licence);
- a declaration by the applicant that either he has not been convicted of a relevant offence or a foreign offence, including immigration offences or a civil immigration penalty, accompanied by details of the nature, date of conviction and any sentence imposed on him; and
- the licence fee.

If there are any convictions for a relevant or a foreign offence, the application must be referred by the Council to the Chief Officer of Police. If the applicant has been required to pay an immigration penalty or convicted of an immigration offence or a foreign offence comparable to an immigration offence, the application must also be referred by the Council to the Home Office (Immigration Enforcement). Criminal record checks can be obtained from Disclosure Scotland, forms are also available from the Licensing Team or from [www.disclosurescotland.co.uk](http://www.disclosurescotland.co.uk). There is no definition provided in the Act or the Regulations as to what constitutes a professional qualification. The Council believes this can be interpreted as those people who have passed an examination(s) and are members of an institute that controls its members (e.g. doctors, teachers, accountants, architects, surveyors, etc.). Should applicants have any doubts, they should contact the Council for advice as to who could be regarded as a person holding such qualification.

### Fees - Premises Licences and Club Premises Certificates

Fees are based on the non-domestic rateable value of the premises at the date a valid application is made to the Council. If you are not sure of what your current rateable value is, you can check it on the Valuation Office's website at [www.voa.gov.uk](http://www.voa.gov.uk) or by telephoning the Valuation Office on :03000 501501.

The annual charge is payable each year on the anniversary of the date of the grant of the premises licence or club premises certificate. Certain premises will be exempt from fees and annual charges when they are applying purely for regulated entertainment (i.e. no sale / supply of alcohol or provision of late night refreshment) these being church halls, chapels, parish and community halls or other premises of a similar nature. Premises licences and club premises certificates will be suspended if for non-payment of the fee.

#### Statutory Fees - Premises Licence and Club Premises Certificate

| Rateable Bands                               | A            | B                 | C                  | D                   | E                  | D x 2                                                                                                                         | E x 3 |
|----------------------------------------------|--------------|-------------------|--------------------|---------------------|--------------------|-------------------------------------------------------------------------------------------------------------------------------|-------|
| Rateable Value                               | £0 to £4,300 | £4,301 to £33,000 | £33,001 to £87,000 | £87,001 to £125,000 | £125,001 and above | A multiplier applied to premises in bands D and E where they are exclusively and primarily in the business of selling alcohol |       |
| Premises Licence / Club Premises Certificate | £100         | £190              | £315               | £450                | £635               | £900                                                                                                                          | £1905 |
| Annual Renewal Fee                           | £70          | £180              | £295               | £320                | £350               | £640                                                                                                                          | £1050 |

No fees are payable by schools providing education for pupils up to year 13 or for a 6th form college where, in both cases, the regulated entertainment (i.e. no sale / supply of alcohol or provision of late night refreshment) is carried on at the school or college and for school / college purposes.

Premises that have no non-domestic rateable value such as floating vessels, mobile food vehicles (e.g. burger vans), public areas, parks etc. will pay a fee based on the lowest band.

Additional fees and annual charges are payable for premises licences for exceptionally large premises, i.e. those premises or events where the number of persons allowed is 5,000 or more, as follows:-

| Number of people |        | Additional fee | Annual charge |
|------------------|--------|----------------|---------------|
| 5,000            | 9,999  | £1,000         | £500          |
| 10,000           | 14,999 | £2,000         | £1,000        |
| 15,000           | 19,999 | £4,000         | £2,000        |
| 20,000           | 29,999 | £8,000         | £4,000        |
| 30,000           | 39,999 | £16,000        | £8,000        |
| 40,000           | 49,999 | £24,000        | £12,000       |
| 50,000           | 59,999 | £32,000        | £16,000       |
| 60,000           | 69,999 | £40,000        | £20,000       |
| 70,000           | 79,999 | £48,000        | £24,000       |
| 80,000           | 89,999 | £56,000        | £28,000       |
| 90,000 and over  |        | £64,000        | £32,000       |



## Miscellaneous Fees

Further miscellaneous fees are shown in the following table:-

| <b>Application of Notice</b>                                                                  | <b>Fee</b> |
|-----------------------------------------------------------------------------------------------|------------|
| Application for copy of premises licence or summary on theft, loss etc. (section 25)          | £10.50     |
| Application for a provisional statement (section 29)                                          | £315.00    |
| Notification of change of name or address (holder of premises licence) (section 33)           | £10.50     |
| Application to vary licence to specify individual as premises supervisor (section 37)         | £23.00     |
| Application to transfer premises licence (section 42)                                         | £23.00     |
| Interim authority licence (section 47)                                                        | £23.00     |
| Application for copy of club premises certificate or summary on theft, loss etc. (section 79) | £10.50     |
| Notification of change of name or alteration of club rules (section 82)                       | £10.50     |
| Change or relevant registered address of club (section 83)                                    | £10.50     |
| Temporary event notice (section 100)                                                          | £21.00     |
| Application for copy of temporary event notice on theft, loss etc. (section 110)              | £10.50     |
| Application for grant of personal licence (section 117)                                       | £37.00     |
| Application for copy of personal licence on theft, loss etc. (section 126)                    | £10.50     |
| Notification of change of name or address of personal licence holder (section 127)            | £10.50     |
| Notice of interest in any premises (section 178)                                              | £21.00     |

**Plans**

The scale and contents of plans to be accepted by the Council have been prescribed by The Licensing Act 2003 as amended (Premises Licences and Club Premises Certificates) Regulations 2005

Regulation 23(2) states that unless the relevant licensing authority has previously agreed in writing with the applicant following a request by the applicant that an alternative scale plan is acceptable to it, in which case the plan shall be drawn in that alternative scale, the plan shall be drawn in standard scale.

The standard scale required by the Regulations is 1 millimetre represents 100 millimetres (i.e. 1:100).

Regulation 23(3) requires plans to show:-

- a) the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
- b) the location of points of access to and egress from the premises;
- c) if different from (b) above, the location of escape routes from the premises;
- d) in a case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity;
- e) fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
- f) in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- g) in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- h) the location and type of any fire and any other safety equipment including, if applicable, marine safety equipment; and
- i) the location of a kitchen, if any, on the premises.

Plans may include a legend through which the matters mentioned above are sufficiently illustrated by the use of symbols on the plan.

N.B. There is no requirement for plans to be professionally drawn as long as they clearly show all the prescribed information listed above.

## Appendix 2

## Contact Details

The following table shows the appropriate contact details for the various responsible authorities designated under the Licensing Act 2003 as amended. Applicants should use these addresses as the address to which any correspondence to any of the responsible authorities should be sent: the appropriate point of contact for the Council as the Licensing Authority is also given.

|                              |                                                                                       |
|------------------------------|---------------------------------------------------------------------------------------|
| <b>responsible authority</b> | <b>Maldon District Council Licensing Authority</b>                                    |
| <b>name</b>                  | Licensing                                                                             |
| <b>address</b>               | Maldon District Council<br>Council Offices<br>Princes Road<br>Maldon<br>Essex CM9 5DL |
| <b>telephone number</b>      | 01621 854477                                                                          |
| <b>e-mail address</b>        | <a href="mailto:licensing@maldon.gov.uk">licensing@maldon.gov.uk</a>                  |
| <b>normal office hours</b>   | 0830 to 1700 hours (Mon to Thurs), 0830 to 1630 hours (Friday)                        |

|                               |                                                                                                                                                                                                                                                                                                |
|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>responsible authority</b>  | <b>The Chief Officer of Police</b>                                                                                                                                                                                                                                                             |
| <b>name</b>                   | Licensing Department (Alcohol)                                                                                                                                                                                                                                                                 |
| <b>address</b>                | Essex Police<br>Braintree<br>Essex CM7 3DJ                                                                                                                                                                                                                                                     |
| <b>telephone number</b>       | 01245 452035                                                                                                                                                                                                                                                                                   |
| <b>e-mail address</b>         | <a href="mailto:licensing.applications@essex.pnn.police.uk">licensing.applications@essex.pnn.police.uk</a>                                                                                                                                                                                     |
| <b>normal office hours</b>    | 0800 to 1600 hours daily (15.30 on Fridays)                                                                                                                                                                                                                                                    |
| <b>additional information</b> | <b>TEMPORARY EVENT NOTICES</b><br>Notices should be served in order to reach the Police Licensing Officer within the prescribed timescales: either at the same time or as soon as possible after the Notice is given to the Council, with the envelope clearly marked "TEMPORARY EVENT NOTICE" |

|                              |                                                                                  |
|------------------------------|----------------------------------------------------------------------------------|
| <b>responsible authority</b> | <b>Home Office (Immigration Enforcement)</b>                                     |
| <b>name</b>                  | Alcohol Licensing Team                                                           |
| <b>address</b>               | Lunar House<br>40 Wellesley Road<br>Croydon<br>CR9 2BY                           |
| <b>e-mail address</b>        | <a href="mailto:alcohol@homeoffice.gsi.gov.uk">alcohol@homeoffice.gsi.gov.uk</a> |

|                              |                                                                                                            |
|------------------------------|------------------------------------------------------------------------------------------------------------|
| <b>responsible authority</b> | <b>Essex County Fire and Rescue</b>                                                                        |
| <b>name</b>                  | Chelmsford & Maldon Community Command                                                                      |
| <b>address</b>               | South Woodham Ferrers Fire Station<br>Ferrers Road<br>South Woodham Ferrers<br>Chelmsford<br>Essex CM3 5XH |
| <b>telephone number</b>      | 01245 328388                                                                                               |
| <b>e-mail address</b>        | <a href="mailto:cm.command@essex-fire.gov.uk">cm.command@essex-fire.gov.uk</a>                             |
| <b>normal office hours</b>   | 0900 to 1700 (Monday to Friday)                                                                            |

|                              |                                                  |
|------------------------------|--------------------------------------------------|
| <b>responsible authority</b> | <b>Maldon District Council Health and Safety</b> |
| <b>name</b>                  | Environmental Health (Commercial)                |
| <b>address</b>               | Maldon District Council<br>Council Offices       |

|                               |                                                                        |
|-------------------------------|------------------------------------------------------------------------|
|                               | Princes Road<br>Maldon<br>Essex CM9 5DL                                |
| <b>telephone number</b>       | 01621 875813                                                           |
| <b>e-mail address</b>         | <a href="mailto:commercial@maldon.gov.uk">commercial@maldon.gov.uk</a> |
| <b>normal office hours</b>    | 0830 to 1700 hours (Mon to Thurs), 0830 to 1630 hours (Friday)         |
| <b>additional information</b> | See Health and Safety Executive below                                  |

|                               |                                                                                                                                                                                                                                                                                                           |
|-------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>responsible authority</b>  | <b>Health and Safety Executive</b>                                                                                                                                                                                                                                                                        |
| <b>name</b>                   |                                                                                                                                                                                                                                                                                                           |
| <b>address</b>                | Redwing House<br>Hedgerow Business Park<br>Colchester Road<br>Chelmsford<br>Essex CM2 5PB                                                                                                                                                                                                                 |
| <b>telephone number</b>       | 01245 706200                                                                                                                                                                                                                                                                                              |
| <b>e-mail address</b>         |                                                                                                                                                                                                                                                                                                           |
| <b>normal office hours</b>    |                                                                                                                                                                                                                                                                                                           |
| <b>additional information</b> | The HSE is the enforcing authority in certain types of premises, e.g. Council property, fairgrounds, hospitals and schools. In most other cases the enforcing authority for licensed premises and places of entertainment is normally the Health and Safety at Maldon District Council as detailed above. |

|                              |                                                                                       |
|------------------------------|---------------------------------------------------------------------------------------|
| <b>responsible authority</b> | <b>Maldon District Council Planning Authority</b>                                     |
| <b>name</b>                  | Planning Services                                                                     |
| <b>address</b>               | Maldon District Council<br>Council Offices<br>Princes Road<br>Maldon<br>Essex CM9 5DL |
| <b>telephone number</b>      | 01621 875870                                                                          |
| <b>e-mail address</b>        | <a href="mailto:planning@maldon.gov.uk">planning@maldon.gov.uk</a>                    |
| <b>normal office hours</b>   | 0830 to 1700 hours (Mon to Thurs), 0830 to 1630 hours (Friday)                        |

|                              |                                                                                                          |
|------------------------------|----------------------------------------------------------------------------------------------------------|
| <b>responsible authority</b> | <b>Maldon District Council Environmental Health</b>                                                      |
| <b>name</b>                  | Environmental Health (Environmental Protection)                                                          |
| <b>address</b>               | Maldon District Council<br>Council Offices<br>Princes Road<br>Maldon<br>Essex CM9 5DL                    |
| <b>telephone number</b>      | 01621 875819                                                                                             |
| <b>e-mail address</b>        | <a href="mailto:environmentservices.request@maldon.gov.uk">environmentservices.request@maldon.gov.uk</a> |
| <b>normal office hours</b>   | 0830 to 1700 hours (Mon to Thurs), 0830 to 1630 hours (Friday)                                           |

|                              |                                                                                                                                      |
|------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| <b>responsible authority</b> | <b>The Child Protection Authority</b>                                                                                                |
| <b>name</b>                  | Local Authority Designated Officer (LADO)                                                                                            |
| <b>address</b>               | F.A.O. Licensing<br>Quality Assurance and Safeguarding Service<br>Family Operations<br>70 Duke Street<br>Chelmsford<br>Essex CM1 1JP |
| <b>telephone number</b>      | 03330 139797                                                                                                                         |
| <b>e-mail address</b>        | <a href="mailto:LicenceApplications@essex.gov.uk">LicenceApplications@essex.gov.uk</a>                                               |
| <b>normal office hours</b>   |                                                                                                                                      |

|                              |                                                                                                               |
|------------------------------|---------------------------------------------------------------------------------------------------------------|
| <b>responsible authority</b> | <b>Essex County Council Health Board</b>                                                                      |
| <b>name</b>                  | Licensing Officer                                                                                             |
| <b>address</b>               | Public Health Team<br>Essex County Council<br>A1<br>County Hall<br>Market Road<br>Chelmsford<br>Essex CM1 1LX |
| <b>telephone number</b>      |                                                                                                               |
| <b>e-mail address</b>        |                                                                                                               |

|                              |                                                                                                                         |
|------------------------------|-------------------------------------------------------------------------------------------------------------------------|
| <b>responsible authority</b> | <b>Essex Trading Standards</b>                                                                                          |
| <b>name</b>                  | Information and Business Support Team                                                                                   |
| <b>address</b>               | Essex Trading Standards<br>Essex County Council<br>County Hall, Room CG32<br>Market Road<br>Chelmsford<br>Essex CM1 1QH |
| <b>telephone number</b>      | 03330 139887                                                                                                            |
| <b>e-mail address</b>        | <a href="mailto:BusinessSupport-TradingStandards@essex.gov.uk">BusinessSupport-TradingStandards@essex.gov.uk</a>        |
| <b>normal office hours</b>   |                                                                                                                         |

In addition to the above, further responsible authorities apply where the premises are a vessel

|                              |                                                                            |
|------------------------------|----------------------------------------------------------------------------|
| <b>responsible authority</b> | <b>Crouch Harbour Authority</b>                                            |
| <b>name</b>                  | The Harbour Master                                                         |
| <b>address</b>               | Crouch Harbour Authority<br>The Quay<br>Burnham-on-Crouch<br>Essex CM0 7NT |
| <b>telephone number</b>      | 01621 783602                                                               |
| <b>e-mail address</b>        | <a href="mailto:info@crouchharbour.org.uk">info@crouchharbour.org.uk</a>   |
| <b>normal office hours</b>   | 0900 to 1600 hours (Monday to Friday)                                      |

|                              |                                                                                        |
|------------------------------|----------------------------------------------------------------------------------------|
| <b>responsible authority</b> | <b>Maldon Harbour Improvement Commissioners</b>                                        |
| <b>name</b>                  | Clerk to the Commissioners                                                             |
| <b>address</b>               | Maldon Harbour Improvement Commissioners<br>5 Fir Tree Walk<br>Maldon<br>Essex CM9 4NS |
| <b>telephone number</b>      | 01621 853253                                                                           |
| <b>e-mail address</b>        | <a href="mailto:john.hughes11@tesco.net">john.hughes11@tesco.net</a>                   |
| <b>normal office hours</b>   |                                                                                        |

|                              |                                                                                                              |
|------------------------------|--------------------------------------------------------------------------------------------------------------|
| <b>responsible authority</b> | <b>Environment Agency</b>                                                                                    |
| <b>name</b>                  |                                                                                                              |
| <b>address</b>               | National Customer Contact Centre<br>Quadrant Two<br>99 Parkway Avenue<br>Sheffield<br>South Yorkshire S9 4WF |
| <b>telephone number</b>      | 03708 506506                                                                                                 |
| <b>e-mail address</b>        | <a href="mailto:enquiries@environment-agency.gov.uk">enquiries@environment-agency.gov.uk</a>                 |
| <b>normal office hours</b>   | 0900 to 1700 hours (Monday to Friday)                                                                        |

|                              |                                                                                                            |
|------------------------------|------------------------------------------------------------------------------------------------------------|
| <b>responsible authority</b> | <b>British Waterways Board</b>                                                                             |
| <b>name</b>                  |                                                                                                            |
| <b>address</b>               | South East Office<br>Ground Floor<br>500-600 Witan Gate House<br>Milton Keynes MK9 1BW                     |
| <b>telephone number</b>      | 01908 302500                                                                                               |
| <b>e-mail address</b>        | <a href="mailto:enquiries.southeast@britishwaterways.co.uk">enquiries.southeast@britishwaterways.co.uk</a> |
| <b>normal office hours</b>   |                                                                                                            |

|                              |                                                                                                                      |
|------------------------------|----------------------------------------------------------------------------------------------------------------------|
| <b>responsible authority</b> | <b>The Secretary of State for Transport (through the Maritime and Coastguard Agency)</b>                             |
| <b>name</b>                  | Surveyor in Charge                                                                                                   |
| <b>address</b>               | Harwich Marine Office<br>Maritime and Coastguard Agency (Thames)<br>East Terrace<br>Walton-on-Naze<br>Essex CO14 8PY |
| <b>telephone number</b>      | 01255 682107                                                                                                         |
| <b>e-mail address</b>        | <a href="mailto:harwich.mo@mcga.gov.uk">harwich.mo@mcga.gov.uk</a>                                                   |
| <b>normal office hours</b>   | 0830 to 1700 hours                                                                                                   |

## Appendix 3

### *Exemptions*

The following activities are not regarded as regulated entertainment and are therefore exempt for the purposes of the Act:-

#### **Exhibition of a Film**

If the sole or main purpose of the entertainment is to demonstrate any product, advertise any goods or services, or provide information, education or instruction.

If the entertainment consists of or forms part of an exhibit put on show for any purposes of a museum or gallery.

#### **Live Music or the Playing of Recorded Music**

If the entertainment is live music and subject to the exemptions provided by the Live Music Act 2012 or if the entertainment is incidental to some other activity which is not within the description of regulated entertainment or the provision of entertainment facilities.

#### **Television or Radio Receivers**

If the entertainment consists of the simultaneous reception and playing of a programme included in a programme service within.

#### **Religious Services and Places of Worship, etc.**

If the entertainment is for the purposes of, or for the purposes incidental to, a religious meeting or service or at a place of public religious worship.

#### **Garden Fetes, etc.**

If the entertainment is at a garden fete or at a function or event of a similar character, unless the fete, function or event is promoted with a view to applying the whole or part of its proceeds for purposes of private gain (as defined in the Lotteries and Amusements Act 1976).

#### **Morris Dancing, etc.**

If the entertainment is a performance of Morris dancing or any dancing of a similar nature or a performance of unamplified, live music as an integral part of such a performance, or facilities for enabling persons to take part in such activities.

#### **Vehicles in Motion**

If the entertainment is on premises consisting of or forming part of a vehicle and at a time when the vehicle is not permanently or temporarily parked.

#### **Performance of Plays**

Performance of plays and exhibition of dance to an audience limit of 500 people.

#### **Indoor Sport**

Indoor sport to an audience limit of 1000 people but excluding boxing, wrestling and mixed martial arts.

**Venues Providing Amplified or Unamplified Music**

The Live Music Act 2012 deregulates the performance of certain live music and the provision of facilities for making music in the following circumstances, it:

- removes the licensing requirement for unamplified live music taking place between 8am and 11pm in all venues, subject to the right of the Council to impose conditions about live music following a review of a premises licence or club premises certificate relating to premises authorised to supply alcohol for consumption on the premises
- removes the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons on premises authorised to supply alcohol for consumption on the premises, subject to the right of the Council to impose conditions about live music following a review of a premises licence or club premises certificate
- removes the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment)
- removes the licensing requirement for the provision of entertainment facilities
- widens the licensing exemption for live music integral to a performance of Morris dancing or dancing of a similar type, so that the exemption applies to live or recorded music instead of unamplified live music.

Conditions on an existing licence relating to the performance of live music do not have effect between 08.00 and 23.00. Any conditions imposed following a review of the premises licence, however, will take effect irrespective of the provisions of this Act.



## Mandatory Conditions

### Where a Premises Licence Authorises the Supply of Alcohol

That no supply of alcohol may be made under the premises licence:-

- a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

That every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

### Exhibition of Films

Where a premises licence or club premises certificate authorises the exhibition of films, the licence or certificate must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with these paragraphs.

Where the film classification body is specified in the Licence or Certificate, unless paragraph 3(b) below applies, admission of children must be restricted in accordance with any recommendation by that body.

Where,

- a. the film classification body is not specified in the Licence or Certificate, or
- b. the Licensing Authority has notified the holder of the Licence or the Club which holds the Certificate that this paragraph applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by the Council.

In these paragraphs, children means persons aged under 18, and film classification body means the person or persons designated as the authority under Section 4 of the Video Recordings Act 1984 (authority to determine suitability of video works for classification).

### Door Supervision

Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.

### Club Premises Certificate for Supply of Alcohol for Consumption Off the Premises

A club premises certificate which authorises the supply of alcohol for consumption off the premises must include the following conditions:-

The **first condition** is that the supply must be made at a time when the premises are open for the purposes of supplying alcohol, in accordance with the club premises certificate, to members of the club for consumption on the premises.

(Note: This condition means that if the club is open for the supply of alcohol to its members, i.e. during its normal licensable hours, then a supply of alcohol can be made for consumption off the premises.)

The **second condition** is that any alcohol supplied for consumption off the premises must be in a sealed container.

(Note: this means that opened bottles or cans of alcohol can be supplied for consumption off the premises).

The **third condition** is that any supply of alcohol for consumption off the premises must be made to a member of the club in person.

(Note: a supply of alcohol for consumption off the premises can only be made to a member of the club in person and not a guest.)

**The Licensing Act 2003 (Mandatory Conditions) Order 2010** introduced additional mandatory conditions as follows:-

1. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. An irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children:-
  - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol); or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
  - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on:
    - (i) the outcome of a race, competition or other event or process, or
    - (ii) the likelihood of anything occurring or not occurring;
  - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

4. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
5. The responsible person shall ensure that:-
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml; and
  - (b) customers are made aware of the availability of these measures.

## Appendix 5

### Pool of Conditions: Prevention of Crime and Disorder

It should be noted in particular that it is unlawful under the 2003 Act:-

- to knowingly to sell or supply or attempt to sell or supply alcohol to a person who is drunk;
- to knowingly to allow disorderly conduct on licensed premises;
- for the holder of a premises licence or a designated premises supervisor knowingly to keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported;
- to allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol.

Conditions enforcing these arrangements are therefore unnecessary.

#### General

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, when responsible authorities are considering such applications and the Council is considering applications following the receipt of any relevant representations from a responsible authority or interested party, the following options should be considered as measures which, if necessary, would promote the prevention of crime and disorder.

Whether or not any risk assessment shows these options to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved. It should also be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members.

Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.

Under no circumstances should the following measures be regarded as standard conditions to be automatically imposed in all cases. They are designed to provide a range of possible conditions drawn from experience relating to differing situations and to offer guidance.

Any individual preparing an operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

#### Text / Radio Pagers

Text and radio pagers connecting premises licence holders, designated premises supervisors, managers of premises and clubs to the local police can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.

Such pagers provide two-way communication, enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

The Secretary of State recommends that text or radio pagers should be considered appropriate necessary conditions for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. Following individual consideration of the particular circumstances of the venue, such conditions may also be appropriate and necessary in other areas for the prevention of crime and disorder.

It is recommended that a condition requiring the text / radio pager links to the police should include the following elements:-

- the text / radio pager equipment is kept in working order at all times;
- the pager be activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
- any police instructions / directions are complied with whenever given; and
- all instances of crime and disorder are reported via the text / radio pager link by the designated premises supervisor or a responsible member of staff to an agreed police contact point.

### **Door Supervisors**

Conditions relating to the provision of door supervisors and security teams may be valuable in:-

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- keeping out excluded individuals (subject to court bans or imposed by the licence holder);
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- maintaining orderly queuing outside of venues prone to such queuing.

Where door supervisors conducting security activities are to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches). Door supervisors also have a role to play in ensuring public safety.

### **Bottle Bans**

Glass bottles may be used as weapons inflicting more serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises. It is recommended that a condition requiring that no sales of beverages in glass bottles for consumption on the premises should be expressed in clear terms and includes the following elements:

- no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar; and
- no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (note: this needs to be carefully worded where off-sales also take place).

In appropriate circumstances, the condition could include exceptions, for example, as follows:-

- bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

## Plastic Containers and Toughened Glass

Glasses containing drinks may be used as weapons during incidents of disorder and if not toughened, can cause very serious injuries. Consideration could therefore be given to conditions requiring either the use of plastic containers or toughened glass which inflicts less severe injuries where considered necessary. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of such plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.

It should be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety.

## CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time. The police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

## Open Containers Not to be Taken from the Premises

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. Where premises are licensed for the sale of alcohol for consumption off the premises, which would be entirely lawful. Consideration should be given, however, to a condition preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and open bottles). This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

## Restrictions on Drinking Areas

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Such conditions should not only specify these areas, but indicate the circumstances in which the ban would apply and times at which it should be enforced.

## Capacity Limits

Consideration should also be given to conditions which set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration should also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

## Proof of Age Cards

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a policy to be applied at certain licensed premises requiring the production of proof of age before such sales are made. This should not be limited to recognised proof of age cards, but allow for the production of other proof, such as photo-driving licences, student cards (supported by the PASS accreditation i.e. Essex County Bite Cards); passports or Military ID. The Secretary of State strongly supports the PASS accreditation system which aims to approve and accredit various proof of age schemes that

are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences and passports. It should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For example, the requirement might be to ensure sight of evidence of age from any person appearing to those selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure most minors, even those looking older, would need to produce proof of age before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity.

### Crime Prevention Notices

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the displaying of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers and to guard their property. Similarly, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

### Drinks Promotions

Standardised conditions should not be attached to premises licences or club premises certificates which promote fixed prices for alcoholic drinks. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind. This can risk creating cartels. Using conditions to control the prices of alcoholic drinks in an area may also breach competition law. Conditions tailored to the individual circumstances of particular premises which address **irresponsible** drinks promotions may be permissible provided they are necessary for the promotion of the licensing objectives, but licensing authorities should take their own legal advice before a licence or certificate is granted in that form. Judgements may be subjective and on occasions, there will be a very fine line between responsible and irresponsible promotions but an even greater distinction to whether the promotion in question can be subject to the imposition of a condition. It is therefore vital that such matters are considered objectively in the context of the licensing objectives and with the benefit of appropriate legal advice.

In addition, when considering any relevant representations which demonstrate a clear causal link between sales promotions or discounting and levels of crime and disorder on or in the vicinity of the premises, it would be appropriate for the Council to consider whether the imposition of a new condition prohibiting irresponsible sales promotions or discounting of prices of alcoholic beverages is necessary at those premises. Before pursuing any form of restrictions, however, licensing authorities should take their own legal advice.

### Signage

It may be necessary for the normal hours under the terms of the premises licence or club premises certificate at which licensable activities are permitted to take place to be displayed on or immediately outside the premises so that it is clear if breaches of the terms of the licence or certificate are taking place.

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises so that the consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

**Large Capacity Venues used Primarily for the Vertical Consumption of Alcohol**

Large capacity vertical drinking premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol and have little or no seating for patrons. Where necessary and appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises (if not volunteered by the venue operator and following representations on such grounds) which require adherence to:-

- a prescribed capacity;
- an appropriate ratio of tables and chairs to customers based on the capacity; and
- the presence of SIA registered security teams to control entry for the purposes of compliance with the capacity limit.

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## Appendix 6

### Pool of Conditions: Public Safety

It should be noted that conditions relating to public safety should be those which are necessary in the particular circumstances of any individual premises or club premises and should not duplicate other requirements of the law. Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc. Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform (Fire Safety) Order 2005 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control those risks. Conditions enforcing those requirements would therefore be unnecessary.

#### General

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and the Council is considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote public safety. Additional matters relating to cinemas and theatres are considered in Appendix 7. It should also be recognised that special issues may arise in connection with outdoor and large scale events.

Whether or not any risk assessment shows any of the measures to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Necessary conditions for the licence or certificate will also depend on local knowledge of the premises. In addition to considering the points made in this Appendix, those preparing operating schedules or club operating schedules, licensing authorities and responsible authorities should consider:-

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance (Entertainment Technology Press – ABTT Publications)
- Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (the purple book)
- Managing Crowds Safety (HSE 2000)
- 5 Steps to Risk Assessments: Case Studies (HSE 1998)
- Guide to Safety at Sports Grounds (Stationery Officer 1997)(the green guide)
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances (Independent Street Arts Network)
- London District Surveyors' Association's Technical Standards for Places of Public Entertainment.

The following British Standards should also be considered:-

- BS 5588 Part 6 (regarding places of assembly)
- BS 5588 Part 9 (regarding ventilation and air conditioning systems)
- BS 5588 Part 9 (regarding means of escape for disabled people)
- BS 5839 (fire detection, fire alarm systems and buildings)
- BS 5266 (emergency lighting systems)

The Council and responsible authorities should note that under no circumstances should any conditions be regarded as standard for all premises.

Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

### **Disabled People**

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:-

- when disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and
- disabled people on the premises are made aware of those arrangements.

### **Escape Routes**

It may be necessary to include conditions relating to the maintenance of all escape routes and exits including external exits. These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other premises where chairs and tables are provided this might also include ensuring that internal gangways are kept unobstructed.

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:-

- all exits doors are easily openable without the use of a key, card, code or similar means; doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept;
- any removable security fastenings are removed whenever the premises are open
- all fire doors are maintained effectively self-closing and shall not be held open other than by approved devices (for example, electromagnetic release operated by smoke detectors);
- fire resisting doors to ducts, service shafts and cupboards shall be kept locked shut; and the edges of the treads of steps and stairways are maintained so as to be conspicuous.

### **Safety Checks**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:-

- safety checks are carried out before the admission of the public; and
- details of such checks are kept in a log book.

### **Curtains, Hangings, Decorations and Upholstery**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:-

- hangings, curtains and temporary decorations are maintained in a flame retardant conditions;
- any upholstered seating meets on an on-going bases the pass criteria for smouldering ignition source 0; flaming ignition source 1; and crib ignition source 5 when tested in accordance with section 5 of BS5852:1990;
- curtains, hangings and temporary decorations are arranged so as not to obstruct exits, fire safety signs or fire fighting equipment; and
- temporary decorations are not used without prior notification to the Council / Fire Authority.
-

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:-

- arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded; and
- the licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request.

### **Fire Action Notices**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:-

- notices detailing the actions to be taken in the event of fire or other emergencies, including how the fire service should be summoned, are prominently displayed and protected from damage and deterioration.

### **Outbreaks of Fire**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:-

- the fire service must be called at once to any outbreak of fire, however slight, and the details recorded in a fire log book.

### **Loss of Water**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:-

- the local fire control centre are notified as soon as possible if the water supply to any hydrant, hose reel, sprinkler, drencher or other fire extinguishing installation is cut off or restricted.

### **Access for Emergency Vehicles**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that access for emergency vehicles is kept clear and free from obstruction.

### **First Aid**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:-

- adequate and appropriate supply of first aid equipment and materials is available on the premises;
- if necessary, at least one suitably trained first-aider shall be on duty when the public are present; and if more than one suitably trained first-aider that their respective duties are clearly defined.

**Lighting**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:-

- in the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present;
- fire safety signs are adequately illuminated;
- emergency lighting is not altered;
- emergency lighting batteries are fully charged before the admission of the public, members or guests; and
- in the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.

**Temporary Electrical Installations**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:-

- temporary electrical wiring and distribution systems are not provided without [notification to the Council at least 10 days before commencement of the work] [prior inspection by a suitable qualified electrician];
- temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909; and
- where they have not been installed by a competent person, temporary electrical wiring and distribution systems are inspected and certified by a competent person before they are put to use.

With regard to the first bullet above, it should be recognised that 10 days' notice may not be possible where performances are supported by outside technical teams. For example, where temporary electrical installations are made in theatres for television show performances, in such circumstances, the key requirement is that conditions where necessary should ensure that temporary electrical installations are only undertaken by competent qualified persons, for example employed by the television company.

**Indoor Sports Entertainments**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:-

- if necessary, an appropriately qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature;
- where a ring is involved, it is constructed and supported by a competent person and inspected by a competent authority and any material used to form the skirt around the ring is flame-retardant;
- at any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring; and
- at water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also Managing Health and Safety in Swimming Pools issued jointly by the Health and Safety Commission and Sport England).

### Alterations to the Premises

Premises should not be altered in such a way as to make it impossible to comply with an existing licence condition without first seeking a variation of the premises licence proposing the deletion of the condition relating to public safety in question. The applicant will need to propose in a new operating schedule reflecting the proposed alteration to the premises how he or she intends to take alternative steps to promote the public safety objective. The application for variation will enable the responsible authorities with expertise in safety matters to consider whether the proposal is acceptable.

### Special Effects

The use of special effects in venues of all kinds being used for regulated entertainment is increasingly common and can present significant risks. Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Special effects which should be considered include:-

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;
- firearms;
- motor vehicles;
- strobe lighting;
- lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products);
- explosives and highly flammable substances.

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the Council or [inspection by] the fire service.

## Appendix 7

### Pool of Conditions: Theatres, Cinemas, Concert Halls and Similar

There are particular matters in the context of public safety and fire safety which should be considered in connection with theatres and cinemas. The principle remains that conditions must be necessary and should be established through risk assessment and standardised conditions should be avoided. The points which follow are for consideration and do not represent a mandatory list.

#### PREMISES USED FOR CLOSELY SEATED AUDIENCES

##### Attendants

- (a) The number of attendants on each floor in a closely seated auditorium should be as set out on the table below:-

| NUMBER OF MEMBERS OF THE AUDIENCE PRESENT ON A FLOOR                          | MINIMUM NUMBER OF ATTENDANTS REQUIRED TO BE PRESENT ON THAT FLOOR |
|-------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1 – 100                                                                       | 1                                                                 |
| 101 – 250                                                                     | 2                                                                 |
| 251 – 500                                                                     | 3                                                                 |
| 501 – 750                                                                     | 4                                                                 |
| 751 – 1000                                                                    | 5                                                                 |
| Plus 1 additional attendant for each additional 250 persons (or part thereof) |                                                                   |

- (b) Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.
- (c) Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).
- (d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.
- (e) No article shall be attached to the back of any seat which would reduce the clear width of seatways or cause a tripping hazard or obstruction.
- (f) A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.

#### Standing and Sitting in Gangways etc.

- (a) Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.
- (b) Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.
- (c) In no circumstances shall anyone be permitted to:-

- (i) sit in any gangway;
- (ii) stand or sit in front of any exit; or
- (iii) stand or sit on any staircase including any landings.

**Drinks**

Unless authorised by the premises licence or club premises certificate, no drinks shall be sold to or be consumed by a closely seated audience except in plastic and paper containers.

**Balcony Fronts**

Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.

**Special Effects**

Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff. Special effects include:-

- dry ice machines and cryogenic fog; smoke machines and fog generators; pyrotechnics, including fireworks;
- real flame;
- firearms;
- motor vehicles; strobe lighting;
- lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: safety of laser products;
- explosives and highly flammable substances.

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the Council or (inspection by) fire authority.

**Scenery**

Any scenery should be maintained flame-retardant.

**Safety Curtain**

Where a safety curtain is provided, it should be arranged so as to protect the audience from the effects of a fire or smoke on stage for sufficient time to enable the safe evacuation of the auditorium. Where a stage with a proscenium arch is not equipped with a safety curtain, any curtains provided between the stage and the auditorium should be heavyweight and be made of non-combustible material or inherently or durably treated flame retardant fabric.

**Ceilings**

All ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person who will decide when a further inspection would be necessary and a certificate concerning the condition of the ceilings forwarded to the Council.

**Seating**

Where the potential audience exceeds 250 all seats in the auditorium should, except in boxes accommodating not more than 8 persons, be either securely fixed to the floor or battened together in lengths of not fewer than 4 or more than 12.

**PREMISES USED FOR FILM EXHIBITIONS****Attendants - premises without a staff alerting system**

Where the premises are not equipped with a staff alerting system the number of attendants present should be as set out in the table below:-

| NUMBER OF MEMBERS OF THE AUDIENCE PRESENT ON THE PREMISES                                             | MINIMUM NUMBER OF ATTENDANTS REQUIRED TO BE ON DUTY                     |
|-------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|
| 1 – 250                                                                                               | Two                                                                     |
| Plus 1 additional attendant for each additional 250 members of the audience present (or part thereof) |                                                                         |
| Where there are more than 150 members of an audience in any auditorium or on any floor                | At least 1 attendant shall be present in any auditorium or on any floor |

**Attendants - premises with a staff alerting system**

- a. Where the premises are equipped with a staff alerting system the number of attendants present should be as set out in the table below:-

| NUMBER OF MEMBERS OF THE AUDIENCE PRESENT ON THE PREMISES | MINIMUM NUMBER OF ATTENDANTS REQUIRED TO BE ON DUTY                              | MINIMUM NUMBER OF OTHER STAFF ON THE PREMISES WHO ARE AVAILABLE TO ASSIST IN THE EVENT OF AN EMERGENCY |
|-----------------------------------------------------------|----------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
| 1 – 500                                                   | 2                                                                                | 1                                                                                                      |
| 501 - 1000                                                | 3                                                                                | 2                                                                                                      |
| 1001 - 1500                                               | 4                                                                                | 4                                                                                                      |
| 1501 or more                                              | Five plus one for every 500 (or part thereof) persons over 2,000 on the premises | Five plus one for every 500 (or part thereof) persons over 2,000 on the premises                       |

- b. Staff shall not be considered as being able to assist in an emergency if they are:-
- the holder of the premises licence or the manager on duty at the premises; or
  - a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response to an emergency situation; or
  - a member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted of an emergency situation.
- c. Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
- d. The staff alerting system shall be maintained in working order.



**Minimum Lighting**

The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be satisfactory if it complies with the standard specified in BS CP 1007 (Maintained Lighting for Cinemas).

**Flammable Films**

No flammable films shall be allowed in the premises without the prior notification of the Council and fire authority.

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## Appendix 8

### Pool of Conditions: Prevention of Public Nuisance

It should be noted that provisions of the Environmental Protection Act 1990 and the Noise Act 1996 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 as amended enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing public nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

#### General

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and the Council is considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote the prevention of public nuisance.

Whether or not any risk assessment shows them to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Necessary conditions for licences and certificates will also depend on local knowledge of the premises.

#### Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted (other than where they are protected by the transitional provisions of the Licensing Act 2003 as amended) by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder which results from artificially early fixed closing times.

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue.

Restrictions might be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises are open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

#### Noise and Vibration

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that noise or vibration does not emanate from the premises so as to cause a nuisance to occupiers of nearby properties. This might be achieved by 1 or more of the following conditions:-

- keep doors and windows at the premises closed;
- limiting live music to a particular area of the building;
- moving the location and direction of speakers away from external walls or walls that abut private premises;
- fitting of rubber seals to doorways;
- installing rubber speaker mounts;
- requiring the licensee to take measures to ensure that music will not be audible above the

- background level at the nearest noise sensitive location;
- require licenses to undertake routine monitoring to ensure external levels of music are not excessive and take appropriate action where necessary; or
- use noise limiters on amplification equipment used at the premises.

In determining which conditions are necessary and appropriate, the Council shall be aware of the need to avoid unnecessary or disproportionate measures that could deter the holding of events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues. Conditions may also include:-

- that prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and area quietly;
- the use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted; and
- the placing of refuse and recycling such as bottles into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

### **Noxious Smells**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:-

- noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

### **Light Pollution**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:-

- flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

## Appendix 9

### Pool of Conditions: Protection of Children from Harm

It should be noted that it is unlawful under the 2003 Act as amended to permit unaccompanied children under the age of 16 to be present on premises exclusively or primarily used for the supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5 am at all premises supplying alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice. Conditions duplicating these provisions are, therefore, unnecessary.

#### Access for Children to Licensed Premises in General

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Precise policy and details will be a matter for the Council. Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and interested parties who have made representations but only where the Council considers it necessary to protect children from harm. Whilst applications in relation to premises licences and club premises certificates must be judged by the Council on their individual merits and characteristics, the Secretary of State recommends (unless there are circumstances justifying the contrary) that:-

- for any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years: applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:-
  - explain their reasons; and
  - outline in detail the steps that they intend to take to protect children from harm on such premises.
- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00 pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time. Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:-
  - explain their reasons; and
  - outline in detail the steps that they intend to take to protect children from harm on such premises.
- in any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act as amended. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

**Age Restrictions - Specific**

Under the 2003 Act as amended, a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, the Council following relevant representations made by responsible authorities and interested parties will need to consider a range of conditions that are to be tailored to the particular premises and their activities where these are necessary. The Licensing Authorities is expected to consider:-

- the hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00 pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day. Types of event or activity in respect of which no age restrictions may be needed include:
  - Family entertainment; or
  - Non-alcohol events for young age groups such as under 18 dances.
- Similarly, types of event or activity which give rise to a more acute need for age restrictions than normal may include:
  - During 'Happy Hours' or on drinks promotion nights;
  - During activities outlined in the first bullet point in the first paragraph above.

**Age Restrictions - Cinemas**

The Secretary of State considers that, in addition to the mandatory condition imposed by virtue of Section 20, requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under Section 4 of the Video Recordings Act 1984 or by the Council itself, conditions restricting the admission of children to film exhibitions should include:-

- A condition that where the Council is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it: this is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restriction then imposed;
- A condition that when films are classified, by either the film classification body as specified in the licence or the Council, they should be classified in the following way:-

U = Universal: suitable for audiences aged 4 years and over

PG = Parental Guidance: some scenes may be unsuitable for young children

12A = passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult

15 = passed only for viewing by persons aged 15 years or over

18 = passed only for viewing by persons aged 18 years or over

- That conditions specify that immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium, a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film.
- A condition that when the Council has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

*"Where a programme includes a film recommended by the Council as falling into the 12A,*

*15 or 18 category no person appearing to be under the age of 12 and unaccompanied, or under 15 or 18 as appropriate, shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position a notice in the following terms:-*

**'PERSONS UNDER THE AGE OF (insert age) CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME'**

*Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction. This condition does not apply to members of staff under the relevant age while on-duty, provided that the prior written consent of the person's parent or legal guardian has first been obtained."*

## **Theatres**

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

Licensing authorities are also expected to consider whether a condition should be attached to a premises licence which requires the presence of a sufficient number of adult staff on the premises to ensure the well-being of children present on the premises during any emergency (see appendix 7).

## **Performances especially for Children**

Where performances are presented especially for unaccompanied children in theatres and cinemas conditions are anticipated to be needed which require:-

- an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.

The Council is expected, having regard to any representations made by responsible authorities on the issue, to also consider whether or not standing should be allowed. For example, there may be a reduced risk for children in the stalls than at other levels or areas in the building.

## **Children in Performances**

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968, as amended, set out requirements for children performing in a show. Licensing authorities should familiarise themselves with the requirements of these Regulations and not duplicate any of these requirements. However, if it is necessary to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the Council will consider the matters outlined below:-

**venue** - the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance;

**fire safety** - all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children;

**special effects** - it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children;

**care of children** - theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

### **The Portman Group CoP on the Naming, Packaging and Promotion of Alcoholic Drinks**

The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman's Group website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors.

### **Proof of Age Cards**

Proof of age cards are discussed under appendix 5 in connection with the prevention of crime and disorder. However, where necessary and appropriate, a requirement for the production of proof of age cards before any sale of alcohol is made could be attached to any premises licence or club premises certificate for the protection of children from harm. Any such requirement should not be limited to recognised proof of age cards, but allow for the production of other proof, such as photo-driving licences and passports. The Secretary of State strongly supports the PASS accreditation system which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences and passports. As for conditions relating to crime and disorder, it should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For example, the requirement might be to ensure sight of evidence of age from any person appearing to those engaged in selling or supplying alcohols to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors looking older would need to produce proof of age before making such a purchase. Under such an arrangement, only a minority of adults might be affected, but for the majority there would be no disruption of normal activity.

Proof of age cards can also ensure that appropriate checks are made where the presence of children is restricted by age at certain times, such as 16.

## Appendix 10

### Terms of Reference and Delegated Powers

#### Planning and Licensing Committee

##### To consider and report to the Council on:-

1. The approval and adoption of the Council's Licensing Policy under the Licensing Act 2003 as amended.
2. The making of Regulations relating to the licensing functions of the Committee.
3. Setting of all other licensing fees (as appropriate).

##### To exercise on behalf of the Council the following functions:-

1. The discharge of the Council's powers, duties and functions under the Licensing Act 2003, as amended, including the review of, consultation on and publication of the draft revised Council's Licensing Policy.
2. The monitoring of the effects of the Licensing Policy on other related strategies and functions including those relating to crime prevention, planning, transport, tourism, economic development, culture and equality and issues relating to the management of town centres and the night-time economy.
3. The appointment of the relevant Officer of the Council to keep the Licensing Register and any Central Register prescribed by the Secretary of State.
4. The appointment of Authorised Officers for the purposes of the Act.
5. The determination of applications for licences or permits (including the revocation or variation of such licences or permits) in respect of functions of the Committee and those not falling within the power of any other Committee of the Council.
6. The enforcement of licences and permits falling within the purview of the Committee.

#### Licensing Sub-Committee

##### To exercise on behalf of the Planning and Licensing Committee the following functions:-

1. To determine applications for premises licences and club premises certificates where representations are made by an interested party or a responsible authority.
2. To determine applications to vary premises licences and club premises certificates where representations are made by an interested party or a responsible authority.
3. To determine applications to transfer premises licences where the Chief Officer of Police gives notice that granting an application would undermine the crime prevention objective.
4. To determine applications for reviews of premises licences and club premises certificates.
5. To determine reviews of premises licences where a closure order has come into force and where notice has been received of a Magistrates' Court determination.
6. To determine applications for provisional statements where representations are made by an interested party or a responsible authority.



7. To determine applications to vary a designated premises supervisor where the Chief Officer of Police gives notice that granting an application would undermine the crime prevention objective.
8. To determine interim authority notices where the Chief Officer of Police gives notice that failure to cancel any notice will undermine the crime prevention objective.
9. To consider objection notices given by the Chief Officer of Police in respect of temporary event notices and determine if a counter notice is to be issued to the applicant.
10. To determine applications for personal licences where the Chief Officer of Police gives an objection notice that granting an application would undermine the crime prevention objective.
11. To determine objection notices given by the Chief Officer of Police where a personal licence holder has been convicted during the application period of a relevant or foreign offence after the grant of a personal licence.
12. The determination of requests for film exhibitions at a classification that differs from that granted by the British Board of Film Classification (including the viewing of such films).

**To the Environmental Health Manager - Commercial:-**

1. The grant of a premises licence or club premises certificate where no representations are made by a responsible authority or interested party.
2. In consultation with a legal advisor, a determination that representations made by a responsible authority or interested party regarding an application for the grant of (or a variation of) a premises licence or club premises certificate or for the grant of a provisional statement are frivolous or vexatious.
3. The grant of an application to vary a premises licence or club premises certificate where no representations are made by a responsible authority or interested party, and in the case of an application for a minor variation to determine that application having taken into account any representations received.
4. The grant of an application to transfer a premises licence where no notice has been given by the Chief Officer of Police.
5. The determination of an exemption from the requirement to obtain a personal licence holder's consent for an application to transfer a premises licence.
6. The issue of a notice specifying the date of entry and inspection (or any extension of that date) where a club applies for a club premises certificate, a variation of a certificate or on a review of a certificate.
7. In consultation with a legal advisor, a determination that an application for a review of a premises licence or club premises certificate on the grounds that the ground for review is not relevant to one or more of the licensing objectives or is frivolous, vexatious or repetitious.
8. In consultation with a legal advisor, a determination that a club is not a qualifying club or has ceased to be a qualifying club.
9. The grant of an application for a provisional statement in respect of a premises which are being or are about to be constructed or extended where no representations are made by a responsible authority or interested party.

10. The determination of an application to vary the designated premises supervisor where no notice has been given by the Chief Officer of Police.
11. The issue of a notice granting or rejecting an application to vary the designated premises supervisor.
12. The receipt of a notice requesting the removal of a person as a designated premises supervisor.
13. The determination of whether or not a temporary event notice is void.
14. The acknowledgement of receipt of a temporary event notice.
15. Where appropriate, following consideration of any objection notice to a temporary event notice, the issue of a counter notice where it is considered necessary for the prevention of the crime prevention objective.
16. The issue of a counter notice where any of the permitted limits are exceeded in any temporary event notice.
17. The rejection of applications for personal licences where applicants have failed to meet the statutory conditions.
18. The grant of an application for a personal licence where no objection notice has been given by the Chief Officer of Police.
19. To issue notices to the Chief Officer of Police where a personal licence holder has been convicted during the application period of a relevant or foreign offence after the grant of a personal licence.
20. The issue and certification as a true copy of any premises licence or club premises certificate (or a summary of either) or any temporary event notice or personal licence where it has been lost, stolen, damaged or destroyed.
21. Unless specified to the contrary, the issue of all licences, certificates, notices and any other formal notifications required under the Licensing Act 2003.
22. In consultation with a legal advisor and the Chairman of the Planning and Licensing Committee, the institution of legal proceedings in respect of any of the Council's powers under the Licensing Act 2003.
23. To keep a licensing register and any central register prescribed by the Secretary of State.
24. In consultation with the Service Manager – Environmental Health, to authorise officers and duly appoint contractors who are appropriately qualified and experienced to discharge the powers and duties delegated to the Service Manager -Environmental Health.
25. To determine, as part of applications by a management committee of a community premises for a new premises licence, whether the alternative licence condition in relation to the sale of alcohol should apply instead of the mandatory condition, provided that no representation is received from the Chief Officer of Police.
26. To suspend premises licences and club premises certificates for non-payment of the annual fee.
27. To make representations on behalf of the Licensing Authority in respect of all applications for premises licences or club premises certificates and to apply for reviews of the same.

**To the Group Manager – Planning Services and the Environmental Protection Team Leader:-**

1. To respond to the Licensing Authority on behalf of the Council (as a responsible authority) to applications for (or variations of or reviews of) premises licences or club premises certificates.
2. To respond to the Licensing Authority on behalf of the Council (as a responsible authority) to applications for provisional statements in respect of premises.
3. To make applications on behalf of the Council (as a responsible authority) to the Licensing Authority for a review of premises licences or club premises certificates.
4. In consultation with the Director of Strategy, Performance and Governance, to authorise officers and duly appoint contractors who are appropriately qualified and experienced to discharge the delegated powers and duties set out in 1-3 above.

**To the Director of Strategy, Performance and Governance:-**

1. In consultation with a legal advisor and the Chairman of the Planning and Licensing Committee, the institution of legal proceedings in respect of any of the Council's licensing powers.
2. To authorise officers and duly appoint contractors who are appropriately qualified and experienced to discharge the powers and duties delegated to the head of paid service.

## Appendix 11

## Definitions

**Note:** In this Policy, the following definitions are included to provide an explanation of certain terms included in the Act and, therefore, in the Policy. In some cases, they are an abbreviation of what is stated in the Licensing Act 2003 as amended or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003 as amended, any regulations made under the Act and statutory guidance.

**Designated premises supervisor:** the person, who in the case of premises selling alcohol must be a Personal Licence holder, they will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder themselves.

**Late night refreshment:** the supply of hot food or hot drink to members of the public (whether for consumption on or off the premises) between the hours of 11 pm and 5 am: self-service vending machines are exempt from the requirement to be licensed for the sale of hot food or drink

#### Licensable activities

- the retail sale of alcohol
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- the provision of regulated entertainment
- the provision of late night refreshment

**Licensed premises:** includes club premises and events unless the context otherwise requires.

**Operating schedule:** a document containing a statement of the following matters (and any others that may be prescribed):-

- the relevant licensable activities
- the times at which the licensable activities are to take place and any other times when premises are open to the public
- information regarding the person who will be specified in the licence as the premises supervisor where the licensable activities involve the sale supply alcohol, whether it is for the supply on and/or off the premises
- the steps being taken to promote the licensing objectives

**Premises:** any place and includes a vehicle, vessel or moveable structures

**Regulated entertainment:** includes any of the following:

- a performance of a play
- an exhibition of a film
- an indoor sporting event
- a boxing or wrestling entertainment
- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment of a similar description to the last three categories above

The above list is only regulated where the entertainment takes place in the presence of an audience and is provided, at least partly, to entertain that audience.

**Responsible Authority:** includes any of the following:-

- relevant licensing authority and any other licensing authority in whose area part of the premises is situated
- local Chief Officer of Police
- local Fire and Rescue Authority
- enforcing authority for Health and Safety at Work etc. Act 1974
- local authority with responsibility for environmental health
- local planning authority
- body that represents matters relating to the protection of children from harm (safeguarding unit)
- the primary health function of the relevant local authority
- local weights and measures authority (trading standards)
- in relation to a vessel, a navigation authority, the Environment Agency, the British Waterways Board or the Secretary of State for Transport (Maritime and Coastal Agency)

**Temporary Event Notice:** a permitted temporary activity involving one or more licensable activities subject to the following various conditions and limitations:-

- duration - they are limited to events lasting for up to 168 hours (7 days) with a minimum period of 24 hours between events authorised under separate s on the same premises;
- scale - they cannot involve the presence of more than 499 people at any one time;
- premises - a particular premises is limited to 15 notices in a calendar year and subject to the overall aggregate of 21 days irrespective of the number of occasions on which they have been used; and
- notice - the number of notices given by an individual within a calendar year is limited: to 50 notices for a personal licence holder and 5 notices for other people.

## Document Control Sheet

|                                           |                                                                                                             |
|-------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| <b>Document title</b>                     | Statement of Licensing Policy: Gambling Act 2005                                                            |
| <b>Summary of purpose</b>                 | Legal requirement: to provide transparency and consistency of approach when determining licensing decisions |
| <b>Prepared by</b>                        | Gill Gibson                                                                                                 |
|                                           |                                                                                                             |
| <b>Status</b>                             | Draft                                                                                                       |
| <b>Version number</b>                     | 2                                                                                                           |
| <b>Approved by</b>                        | Planning and Licensing                                                                                      |
| <b>Approval date</b>                      | ?                                                                                                           |
|                                           |                                                                                                             |
| <b>Date of implementation</b>             | Immediately following Council approval                                                                      |
| <b>Review frequency</b>                   | 3 years                                                                                                     |
| <b>Next review date</b>                   | June 2021                                                                                                   |
| <b>Circulation</b>                        | Public document                                                                                             |
| <b>Published on the Council's website</b> | yes                                                                                                         |

**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.

# **STATEMENT OF LICENSING POLICY GAMBLING ACT 2005**



**Published December 2018**

**Applicable from January 2019**

## FOREWARD

The Gambling Act 2005 gave local authorities (licensing authorities) new and extended responsibilities for licensing premises for gambling and created a unified regulator for gambling called the Gambling Commission.

This Statement of Licensing Policy produced by Maldon District Council will be the basis for all gambling related licensing decisions taken by the Council, commencing January 2019.

The statement sets out the principles that Maldon District Council will apply in exercising its licensing functions under the Act. In applying this policy, the Council will not be promoting gambling or restricting opportunities for individuals who wish to participate in gambling, but will seek to balance increased leisure opportunities with the protection that children, vulnerable people and communities need and expect.

In applying the policy, the Council will seek to work in partnership with the gambling industry and other stakeholders, to ensure proper application of the licensing objectives.

This policy has been produced in accordance with the Gambling Act, Regulations and Guidance issued by the Gambling Commission. It will be kept under review and will be amended when issues arise that make change necessary. The Council will seek, through the licensing process and the decisions it takes, to make the Maldon District a safe and welcoming place for both residents and visitors to enjoy.

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Cllr. Mrs. P. A. Channer  
Chairman Planning and Licensing Committee



# CONTENTS

## Item

Foreword

Contents

## PART A - General

1. Introduction
2. The Licensing Objectives
3. Description of the District
4. Responsibilities under the Act
5. Statement of Licensing Policy
6. Consultation
7. Approval of Policy
8. Declaration
9. Responsible Authorities
10. Interested Parties
11. Exchange of Information
12. Public Register
13. Compliance and Enforcement
14. Delegation of Powers

## PART B – Premises Licences

15. General Principles
16. Provisional Statements
17. Representations and Reviews
18. Risk Assessments
19. Adult Gaming Centres
20. Licensed Family Entertainment Centres
21. Casinos
22. Bingo Premises
23. Betting Premises
24. Tracks
25. Travelling Fairs

## PART C – Permits / Notices / Registrations

26. General
27. Unlicensed Family Entertainment Centres Gaming Machine Permits
28. Alcohol Licensed Premises Gaming Machine Permits
29. Prize Gaming Permits
30. Club Gaming and Club Machine Permits
31. Temporary Use Notices (TUNs)
32. Occasional Use Notices (OUNs)
33. Small Society Lotteries

## APPENDICES

- A. Map of the Maldon District
- B. Definitions
- C. List of Consultees
- D. Responsible Authorities
- E. Table of Delegations
- F. Application Processes
- G. Table of Fees

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| <b>PART A</b> |
|---------------|

**1. INTRODUCTION**

1.1 This Statement of Licensing Policy sets out the principles the Maldon District Council, as the Licensing Authority under the Gambling Act 2005 (referred to in this document as 'the Act'), proposes to apply in discharging its functions to license premises for gambling under the Act as well as:-

- designating the body responsible for advising the Authority on the protection of children from harm;
- determining whether or not a person is an 'Interested Party';
- exchanging information with the Gambling Commission and others; and
- inspecting premises and instituting proceedings for offences under the Act.

**2. THE LICENSING OBJECTIVES**

2.1 In exercising most of its functions under the Act, Licensing Authorities must have regard to the licensing objectives. The licensing objectives are:-

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- ensuring that gambling is conducted in a fair and open way; and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

**3. DESCRIPTION OF THE DISTRICT**

3.1 The Maldon District is situated in the County of Essex which comprises twelve District and Borough Councils and two Unitary Authorities. The District wraps around the Blackwater estuary to the East of the County with the River Crouch forming the Southern boundary. Over 70 miles of coastline with the North Sea provides the Eastern boundary. It covers an area of 36,000 hectares and borders Braintree District Council, Chelmsford City Council, Colchester Borough Council and Rochford District Council.

3.2 The Maldon District has a population of 63,350 (ONS 2016). It is mainly rural in character with the main towns of Maldon, Heybridge and Burnham-on-Crouch surrounded by numerous villages, each with their own individual character. A map of the District is attached as [Appendix A](#).

3.3 There are few premises in the District which provide facilities for gambling. The premises that do provide such facilities are predominantly public houses and clubs where gaming machines are provided. The District has a small number of traditional high street betting shops and family entertainment centres associated with coastal holiday parks. There are approximately 40--50 local voluntary charitable and other organisations that are registered to hold regular small society lotteries.

#### 4. RESPONSIBILITIES UNDER THE ACT

- 4.1 The Act establishes each district or borough council as the licensing authority whose responsibilities must be discharged by the Licensing Committee created under Section 6 of the Licensing Act 2003. Maldon District Council is the Licensing Authority for the Maldon District.
- 4.2 The Gambling Commission is responsible for issuing Operating and Personal licences to persons and organisations who:-
- operate a casino;
  - provide facilities for playing bingo or for pool betting;
  - provide facilities for betting;
  - act as intermediaries for betting;
  - make gaming machines available for use in Adult Gaming Centres and Family Entertainment Centres;
  - manufacture, supply, install, adapt, maintain or repair gaming machines;
  - manufacture, supply, install or adapt gambling machine software; or
  - promote a lottery.
- 4.3 The Licensing Authority is responsible for licensing premises in which gambling takes place. All types of gambling are covered, other than spread betting (regulated by the Financial Services Authority) and the National Lottery (regulated by the National Lottery Commission). It is also responsible for issuing permits for premises with gaming machines, for receiving notices from operators wishing to use unlicensed premises for gambling on a temporary basis and the registration of exempt Small Society Lotteries.
- 4.4 The Licensing Authority cannot become involved in the moral issues of gambling and must aim to permit the use of premises for gambling in so far as they think it is:-
- in accordance with any relevant codes of practice;
  - in accordance with any relevant Guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the Licensing Authority's Statement of Licensing Policy.
- 4.5 Before the Licensing Authority can consider an application for a Premises Licence, an Operating and / or Personal Licence must have been obtained from the Gambling Commission.

#### 5. STATEMENT OF LICENSING POLICY

- 5.1 The Licensing Authority is required by the Act to publish a Statement of Licensing Policy which contains the principles it proposes to apply when exercising its functions under the Act.

- 5.2 In this document, this is referred to as 'the Policy'. The Policy must be reviewed and published every 3 years. The Policy must also be reviewed from and any proposed amendments and/or additions must be subject to fresh consultation. The new Policy must then be published.
- 5.3 This Policy takes effect on January 2019.
- 5.4 The Policy is contained within Paragraphs 1 to 32 of this document and is supported by a number of other appendices that provide important and supporting information aimed at helping those reading or referring to it. The information provided outside paragraphs 1 to 33 may be subject to change from time to time but any such changes will not invoke the procedures for revision of the Policy.

## 6. CONSULTATION

- 6.1 When first producing Policy under the Act, the Licensing Authority consulted widely before finalising and publishing it. In addition to the statutory consultees, the Council chose to consult with additional local groups and individuals.
- 6.2 The Act requires that the following parties are consulted by the Licensing Authority:-
- the chief officer of Police for the Authority's area;
  - one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
  - one or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act.
- 6.3 During the original consultation, the other groups and people consulted were organisations, including:-
- faith groups, voluntary and community organisations working with children and young people or working with people who are problem gamblers;
  - medical practices or primary care trusts;
  - the Citizens' Advice Bureau;
  - other tiers of local government; and
  - businesses who are, or were to be, holders of Premises Licences.
- 6.4 Any review of the Statement of Licensing Policy will be published in accordance with the Gambling Act 2005 and will be published on the Council's website.
- 6.5 A list of those consulted during this review is shown in [Appendix C](#).

## 7. APPROVAL OF POLICY

- 7.1 This Policy was approved at a meeting of the full Council on ????? and was published via its website in December 2018.
- 7.2 It should be noted that this Policy does not override the right of any person to make an application, to make representations about an application or to apply for a review of a licence, as each case will be considered on its own merit and according to the requirements of the Act.

## 8. DECLARATION

- 8.1 In this Policy, the Licensing Authority declares that it has had regard to the licensing objectives, formal guidance issued to Licensing Authorities and any responses from those consulted during the consultation process.
- 8.2 The Council recognises its diverse responsibilities under equality legislation and will monitor the impact of these statutory duties through its various corporate responsibilities.
- 8.3 Appendices have been attached to this Policy providing further information and guidance that are intended only to assist readers and should not be interpreted as legal advice or constituent to the Policy. Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Act or the Guidance or Regulations made under the Act.

## 9. RESPONSIBLE AUTHORITIES

- 9.1 A full list of the responsible authorities designated under the Act and their contact details are given in [Appendix D](#). The Licensing Authority is designated as a responsible authority under the Act.
- 9.2 The Licensing Authority is required to designate, in writing, a body that is competent to advise it about the protection of children from harm. In making this designation the following principles have been applied:-
- the competency of the body to advise the Licensing Authority;
  - the need for the body to be responsible for an area covering the whole of the Licensing Authority's area; and
  - the need for the body to be answerable to democratically elected persons rather than any particular invested interest group, etc.
- 9.3 In accordance with the Gambling Commission's guidance to local authorities, Maldon District Council, as the Licensing Authority, designates the Essex County Council Children's Safeguarding Service for this purpose.

## 10. INTERESTED PARTIES

- 10.1 Interested parties can make representations about licensing applications or apply for a review of an existing licence. An interested party is defined in the Act as follows:-

'... a person is an interested party in relation to a premises licence or in relation to an application for or in respect of premises if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:-

- a. lives sufficiently close to the premises to be likely to be affected by the authorised activities,

- b. has business interests that might be affected by the authorised activities, or
- c. represents persons who satisfy paragraphs (a) or (b).'

- 10.2 Interested parties can be persons who are democratically elected such as District and Town/Parish Councillors and Members of Parliament. No specific evidence of being asked to represent an interested person will be required as long as the Councillor or Member of Parliament represents the ward likely to be affected. Likewise, Parish and Town Councils likely to be affected will be considered to be interested parties
- 10.3 District Councillors who are Members of the Planning and Licensing Committee will not qualify to act in this way.
- 10.4 Other than the persons mentioned above, the Licensing Authority will generally require some form of confirmation that a person is authorised to represent an interested party.
- 10.5 The Licensing Authority considers that Trade Associations, Trade Unions and Residents' and Tenants' Associations qualify as 'interested parties' where they can demonstrate that they represent persons in (a) or (b) above.
- 10.6 In determining if a person lives or has business interests sufficiently close to the premises that they are likely to be affected by the authorised activities, the Licensing Authority will consider the following factors:-
- size of the premises;
  - nature of the premises;
  - distance of the premises from the location of the person making the representation;
  - potential impact of the premises (e.g. number of customers and routes likely to be taken by those visiting the establishment);
  - interests of the person or business making a representation, which may be relevant to the distance from the premises;
  - catchment area of the premises (i.e. how far people travel to visit); and
  - whether the person making the representation has business interests in that catchment area that might be affected.

## **11. EXCHANGE OF INFORMATION**

- 11.1 In its exchange of information with parties listed in Schedule 6 of the Act, the Licensing Authority will have regard to:-
- the provisions of the Act, which include the provision that the Data Protection Act 1998 will not be contravened;
  - guidance issued by the Gambling Commission;
  - Data Protection Act 2018;
  - Human Rights Act 1998;
  - Freedom of Information Act 2000;
  - Environmental Information Regulations 2004;
  - the Common Law Duty of Confidence;
  - Electronic Communications Act 2000;
  - Computer Misuse Act 1990;
  - Criminal Procedure and Investigations Act 1996; and

- Crime and Disorder Act 1998.

11.2 Exchanges of information will be conducted in a timely and accurate fashion and confirmed in writing in all cases to form an audit trail. Written confirmation may include information in electronic form. An audit trail should include:-

- a record of the data disclosed;
- a project chronology; and
- notes of meetings with other partners and recent correspondence including phone calls.

## **12. PUBLIC REGISTER**

12.1 The Licensing Authority is required to keep a public register and share information in it with the Gambling Commission and others. Regulations will prescribe what information should be kept in the register.

## **13. COMPLIANCE AND ENFORCEMENT**

13.1 In exercising its functions with regard to the inspection of premises and to instituting criminal proceedings in respect of offences specified, the Licensing Authority will follow best practice as promulgated by the Better Regulation Executive and the Hampton and McCrory reviews of regulatory inspections and enforcement and consisting of the following.

- Proportionate – intervention will only be when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised.
- Accountable – authorities must be able to justify decisions and be subject to public scrutiny.
- Consistent – rules and standards must be joined up and implemented fairly.
- Transparent – enforcement should be open and regulations kept simple and user friendly.
- Targeted – enforcement should be focused on the problems and minimise side effects.

13.2 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible.

13.3 The main enforcement and compliance role of the Licensing Authority in terms of the Act will be to ensure compliance with the Premises Licence and other permissions which it authorises. The Gambling Commission is the enforcement body for Operating and Personal Licences. Concerns about the manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

13.4 The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of Local Authorities.

13.5 Bearing in mind the principle of transparency, the Licensing Authority's enforcement/compliance protocols, or written agreements, will be available on the Council's website: [www.maldon.gov.uk](http://www.maldon.gov.uk)

## **14. DELEGATION OF POWERS**

14.1 The Licensing Authority has agreed a scheme of delegation for discharging its functions under the Act and this can be found in [Appendix E](#).

|                                   |
|-----------------------------------|
| <b>PART B – PREMISES LICENCES</b> |
|-----------------------------------|

**15. GENERAL PRINCIPLES**

- 15.1 Premises Licences will be subject to the permissions/restrictions set out in the Act as well as the specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing Authorities are able to exclude default conditions and also attach others, where it is thought appropriate.
- 15.2 Licensing Authorities are required by the Act, in making decisions about Premises Licences, to permit the use of premises for gambling so far as it thinks fit:-
- in accordance with any relevant codes of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - to be reasonably consistent with the licensing objectives; and
  - in accordance with the Authority's Statement of Licensing Policy

**15.3 Definition of Premises**

Premises are defined in the Act as 'any place'. It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises although this will always be considered in the light of the guidance issued by the Gambling Commission. It will always be a question of fact in each circumstance. The Gambling Commission does not, however, consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

The Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).

**15.4 Demand**

Demand is a commercial consideration and is not an issue for the Licensing Authority.

**15.5 Location**

Location will only be a material consideration in the context of the licensing objectives.

**15.6 Duplication with other Regulatory Regimes**

Duplication with other statutory/regulatory regimes will be avoided where possible. The Licensing Authority will not consider whether a licence application is likely to be awarded planning permission or building control consent.



## 15.7 Licensing Objectives

Premises Licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the following will be considered:

- **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime.**

The Licensing Authority is aware that there is a distinction between disorder and nuisance and that the prevention of nuisance is not a licensing objective under the Act.

Whilst the Licensing Authority is aware that the Gambling Commission will take a leading role in preventing gambling from being a source of crime, it will pay attention to the proposed location of gambling premises in terms of this licensing objective.

Where an area has known high levels of organised crime, this Authority will consider carefully whether gambling premises are suitable to be located there and the need for conditions such as the provision of door supervisors.

- **Ensuring that gambling is conducted in a fair and open way**

The Gambling Commission does not generally expect Licensing Authorities to be concerned with ensuring that gambling is conducted in a fair and open way. The Licensing Authority notes that in relation to the licensing of tracks, its role will be different from other premises in that track operators will not necessarily have an Operating Licence. In those circumstances, the Premises Licence may need to contain conditions to ensure that the environment in which betting takes place is suitable.

- **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

In practice, the objective of protecting children from being harmed or exploited by gambling often means preventing them from taking part in or being in close proximity to gambling.

There is no definition of the term 'vulnerable person' in the Act, but this could include people who are gambling beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.

## 15.8 Conditions

The Licensing Authority is aware that the mandatory and default conditions imposed under the Act will normally be sufficient to regulate gambling premises. In exceptional cases, where there are specific risks or problems associated with a particular locality, specific premises or class of premises, the Authority may consider attaching individual conditions related to the licensing objectives.

Any conditions attached to Licences will be proportionate and will be:-

- relevant to the need to make the proposed premises suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

15.9 In addition, the Licensing Authority will examine how applicants propose to address the licensing objectives. In considering applications, the Licensing Authority will particularly take into account the following:-

- proof of age schemes
- CCTV
- door Supervisors
- supervision of entrances/machine areas;
- physical separation of areas;
- location of entry;
- notices and signage;
- specific opening hours; and
- with particular regard to vulnerable persons, measures such as the use of self-barring schemes, provision of information, leaflets, helpline numbers for organisations such as GamCare.

15.10 Decisions upon individual conditions will be made on a case by case basis. Consideration will be given to using control measures, should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas, etc. Applicants will also be expected to offer their own suggestions as to the way in which the licensing objectives can be effectively met.

15.11 There are conditions which the Licensing Authority attach to Premises Licences. These are:-

- any conditions on the Premises Licence which make it impossible to comply with an Operating Licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body is required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated through local conditions); and
- conditions in relation to stakes, fees, and the winning of prizes.

#### **15.12 Door Supervisors**

The Licensing Authority may consider whether there is a need for door supervisors in terms of the licensing objectives for the protection of children and vulnerable persons from being harmed or exploited by gambling and also in terms of preventing premises becoming a source of crime. As the Act has amended the Security Industry Act 2001, door supervisors at casinos or bingo premises need not be licensed by the Security Industry Authority.

#### **15.13 Credit**

Credit facilities are prohibited from being provided in casinos and bingo licensed premises. Cash machines (ATMs) may be installed in such premises but the Licensing Authority may apply conditions as to where they are sited.

### 15.14 Betting Machines

In relation to casinos, betting premises and tracks, the Licensing Authority can restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a Betting Premises Licence or to a Casino Premises Licence (where betting is permitted in the casino).

When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, among other things, will take into account:-

- size of the premises;
- number of counter positions available for person to person transactions; and
- the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons.

In deciding whether to impose conditions to limit the number of betting machines, each application will be considered on its own merits and account will be taken of codes of practice or guidance issued under the Act.

## 16. PROVISIONAL STATEMENTS

- 16.1 In light of the judgement in respect of an application for a Betting Premises Licence in respect of premises located in Southend-on-Sea, notwithstanding paragraphs 7.55, 7.56 and 7.57 of the Gambling Commission's Guidance to Licensing Authorities:-

A Premises Licence under the Gambling Act 2005 may lawfully be granted in respect of premises that are not ready to be used for gambling, the premises being about to be or in the course of construction or alteration, and they being premises which the applicant has a right to occupy and in respect of which he/she holds an operating licence which authorises him/her to carry on the activity in respect of which the Premises Licence is sought.

## 17. REPRESENTATIONS AND REVIEWS

- 17.1 Representations and applications for review of Premises Licence may be made by responsible authorities and interested parties.
- 17.2 The Licensing Authority can make a representation or apply for a review of a Premises Licence on the basis of any reason that it thinks is appropriate.
- 17.3 The Licensing Authority will decide if a representation or application for review is to be carried out on the basis of whether or not the request is:-
- frivolous or vexatious.
  - based on grounds that will certainly not cause the Authority to wish to alter/revoke/suspend a licence or remove, amend or attach conditions on the licence;
  - substantially the same as previous representations or requests for a review;
  - in accordance with any relevant codes of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives.

- 17.4 There is no appeal against the Licensing Authority's determination of the relevance of an application for a review.

## **18. RISK ASSESSMENTS**

- 18.1 Licensees must assess the local risks to the licensing objectives posed by the provision of the gambling facilities at that premises. The licensee must have policies, procedures and control measures in place to mitigate those risks. The local area risk assessment must be kept on site and presented to an authorised officer on request.
- 18.2 The Licensing Authority expects the local risk assessment to consider as a minimum:-
- the location of services for children such as schools, playgrounds, leisure / community centres and other areas where children gather;
  - the demographics of the area in relation to vulnerable groups;
  - whether the premises is in an area subject to high levels of crime and / or disorder; and
  - identify how vulnerable people, including people with gambling dependencies, are protected.
- 18.3 The licensee must review and update their local risk assessments regularly (at least annually) or where there has been a significant change in local circumstances or at the premises.

## **19. ADULT GAMING CENTRES**

- 19.1 An Adult Gaming Centre is defined in [Appendix B](#). Entry to these premises is age restricted.
- 19.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

## **20. LICENSED FAMILY ENTERTAINMENT CENTRES**

- 20.1 A Licensed Family Entertainment Centre is defined in [Appendix B](#). Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.
- 20.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

## **21. CASINOS**

- 21.1 Casinos are defined in [Appendix B](#). The Licensing Authority has resolved not to issue casino premises licences in the Maldon District. This decision was based on:-
- consideration of the national award of the location of the initial 17 new casinos (which did not affect the Maldon District);
  - there not being a realistic prospect of such a facility being developed in the Maldon District in the short term; and
  - the interests of clarity.
- 21.2 In making this decision, the Licensing Authority consulted widely on its draft Policy on this specific issue. Any future change to this policy will only be decided after a full consultation process.

**22. BINGO PREMISES**

- 22.1 A Bingo Premises is defined in [Appendix B](#). Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.
- 22.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.
- 22.3 Credit facilities are prohibited in premises licensed for bingo, however, this does not prevent the installation of cash dispensers (ATMs) on the premises, although the Licensing Authority may attach conditions as to the siting of such machines.

**23. BETTING PREMISES**

- 23.1 Betting Premises are defined in [Appendix B](#).
- 23.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

**24. TRACKS**

- 24.1 A Track is defined in [Appendix B](#). Entry to parts of these premises is age restricted. On race days, specific areas within the track may be age restricted dependent on the licensable activities taking place.

**25. TRAVELLING FAIRS**

- 25.1 Travelling Fairs are defined in [Appendix B](#). The Licensing Authority will determine whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at a travelling fair is met, where Category D machines and/or equal chance prize gaming without a permit are to be made available for use.

**PART C**  
**PERMITS / TEMPORARY OR OCCASIONAL USE NOTICES / REGISTRATIONS**
**26. GENERAL**

- 26.1 Forms and method of application and any additional information or documents required for permits covered by this section are shown in Appendix F.

**27. UNLICENSED FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS**

- 27.1 Where a premise does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the Licensing Authority for a permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

**27.2 Statement of Licensing Principles**

The Licensing Authority will expect applicants to show that there are written policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, where children and young persons are permitted they may include:-

- a Disclosure and Barring Service check to ensure the applicant has no relevant convictions. Where the applicant is a person who is the sole proprietor, the check will be against that person, where the applicant is a company the check will be against the person having the day to day control at the premises;
- how the applicant proposes to ensure that children will be protected from harm whilst on the premises;
- training covering how staff would deal with:-
  - unsupervised, very young children being on the premises;
  - children causing perceived problems on/around the premises; and
  - suspected truant children.

**28. ALCOHOL LICENSED PREMISES GAMING MACHINE PERMITS**

- 28.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, Categories C and/or D. The Premises Licence holder must notify the Licensing Authority at least 2 months prior to the date of expiry of the current permit.
- 28.2 Gaming machines can only be located on licensed premises that have a bar for serving customers.
- 28.3 Premises restricted to selling alcohol only with food will not be able to apply for a permit.
- 28.4 Where an application for more than 2 gaming machines is received, the Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only machines. Measures will cover such issues as:-
- adult machines being in sight of the bar;

- adult machines being in sight of staff who will monitor to ensure the machines are not being used by those under 18;
- appropriate notices and signage; and
- as regards the protection of vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes, provision of information, leaflets/help line numbers for organisations such as GamCare.

28.5 The Licensing Authority can decide to grant an application with a smaller number of machines and/or a different category of machines than that applied for but conditions other than these cannot be attached.

## **29. PRIZE GAMING PERMITS**

29.1 Where a premise does not hold a Premises Licence but wishes to provide prize gaming, an application for a Prize Gaming Permit may be made to the Licensing Authority. The applicant must specify the nature of gaming for which the permit is sought and demonstrate that they understand the limits on stakes and prizes that are set out in Regulations, and that the gaming offered is within the law.

### **29.2 Statement of Licensing Principles**

The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, these are likely to include:-

- a Disclosure and Barring Service check to ensure the applicant has no relevant convictions. Where the applicant is a person who is the sole proprietor, the check will be against that person, where the applicant is a company the check will be against the person having the day to day control at the premises;
- how the applicant proposes to ensure that children will be protected from harm whilst on the premises;
- training covering how staff would deal with:-
  - unsupervised, very young children being on the premises;
  - children causing perceived problems on/around the premises; and
  - suspected truant children.

In making its decision on an application for a Permit, the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

### 30. CLUB GAMING AND CLUB MACHINE PERMITS

- 30.1 Members' clubs and miners' welfare institutes may apply for a Club Gaming Permit and/or a Club Gaming Machine Permit, but are restricted by category and number of machines and to equal chance gaming and games of chance.
- 30.2 A fast-track procedure is available for premises that hold a Club Premises Certificate under the Licensing Act 2003.

### 31. TEMPORARY USE NOTICES (TUNs)

- 31.1 The person designated to receive TUNs and to issue objections is specified in [Appendix E](#).
- 31.2 A TUN may only be granted to a person or company holding an Operating Licence relevant to the temporary use of the premises. Regulations will be issued by the Secretary of State prescribing the activities to be covered. At present a Temporary Use Notice can only be issued for equal chance gaming.
- 31.3 For the purposes of a TUN, a set of premises is the subject of a TUN if any part of the premises is the subject of the Notice. This prevents one large premise from having a TUN in effect for more than 21 days per year by giving Notice in respect of different parts.
- 31.4 The definition of a 'set of premises' will be a question of fact in the particular circumstances of each Notice that is given. In considering whether a place falls within the definition of a 'set of premises', the Licensing Authority will consider, amongst other things, the ownership/occupation and control of the premises.
- 31.5 The Licensing Authority will object to Temporary Use Notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

### 32. OCCASIONAL USE NOTICES (OUNs)

- 32.1 Occasional Use Notices apply only to tracks which are described as being premises on any part of which a race or other sporting event takes place, or is intended to take place. Tracks need not be a permanent fixture.
- 32.2 OUNs are intended to permit licensed betting operators who have appropriate permission from the Gambling Commission to use tracks for short periods to conduct betting. The OUN dispenses with the need for a Betting Premises Licence for the track.
- 32.3 The Licensing Authority has very little discretion as regards these Notices, aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded.
- 32.4 The Licensing Authority will, however, consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.
- 32.5 The person designated to receive OUNs and to assess their validity is specified in the scheme of delegation as shown in [Appendix E](#). A copy of the notice must also be served on the local Chief of Police,

### 33. SMALL SOCIETY LOTTERIES

- 33.1 All Small Society Lotteries must be registered with the Licensing Authority.
- 33.2 Small Society Lotteries are defined in [Appendix B](#).



## Appendix A – Map of the Maldon District



## Appendix B - Definitions

For the purpose of this policy the definitions contained in this appendix are included to provide an explanation of certain terms included in the Act and the Policy. In some cases they are an abbreviation of what is stated in the Act or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Act itself.

|                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Adult Gaming Centre                | Premises in respect of which an Adult Gaming Centre Premises Licence has effect.                                                                                                                                                                                                                                                                                                                                                                                   |
| Authorised Local Authority Officer | A Licensing Authority Officer who is an authorised person for a purpose relating to premises in that Authority's area.                                                                                                                                                                                                                                                                                                                                             |
| Betting Machines                   | A machine designed or adapted for use to bet on future real events [not a gaming machine].                                                                                                                                                                                                                                                                                                                                                                         |
| Betting Premises                   | Betting is defined as making or accepting a bet on the outcome of a race, competition or other event or process or on the outcome of anything occurring or not occurring or on whether anything is or is not true. Betting premises may be off course, previously known as licensed betting offices, or on tracks where the betting office has a separate licence to the track.                                                                                    |
| Bingo                              | No statutory definition in Act. Bingo is game of equal chance and may be Cash Bingo or Prize Bingo.                                                                                                                                                                                                                                                                                                                                                                |
| Casino                             | An arrangement whereby people are given an opportunity to participate in one or more casino games.                                                                                                                                                                                                                                                                                                                                                                 |
| Casino Resolution                  | Resolution not to issue Casino Premises Licences.                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Child                              | Individual who is less than 16 years old.                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Club Gaming Machine Permit         | Permit to enable the premises to provide gaming machines [3 machines of Categories B,C or D.                                                                                                                                                                                                                                                                                                                                                                       |
| Conditions                         | <p>Conditions to be attached to licences by way of:-</p> <ul style="list-style-type: none"> <li>• Automatic provision</li> <li>• Regulations provided by Secretary of State</li> <li>• Conditions provided by Gambling Commission</li> <li>• Conditions provided by Licensing Authority</li> </ul> <p>Conditions may be general in nature [either attached to all licences or all licences of a particular nature] or may be specific to a particular licence.</p> |
| Default Conditions                 | Conditions that will apply unless the Licensing Authority decides to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances.                                                                                                                                                                                                                                                                |
| Delegated Powers                   | Decisions delegated either to a Licensing Committee, Sub-Committee or Licensing Officers.                                                                                                                                                                                                                                                                                                                                                                          |
| Disorder                           | No set interpretation. However, likely to be connected to the way gambling is being conducted. In the case of Gambling Premises' Licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance.                                                                                                                                                                                                                           |
| Equal Chance Gaming                | Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.                                                                                                                                                                                                                                                                                                                                      |
| Exempt Lotteries                   | <p>Lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission. There are four types:</p> <ul style="list-style-type: none"> <li>• Small Society Lottery required to register with Licensing</li> </ul>                                                                                                                                                                                                          |

|                                                 |                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                 | <p>Authorities.</p> <ul style="list-style-type: none"> <li>• Incidental Non Commercial Lotteries.</li> <li>• Private Lotteries.</li> <li>• Customer Lotteries.</li> </ul>                                                                                                                                                                                                |
| External Lottery Manager                        | An individual, firm or company appointed by the Small Lottery Society to manage a lottery on their behalf. They are consultants who generally take their fees from the expenses of the lottery.                                                                                                                                                                          |
| Gaming                                          | Prize Gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before the play commences.                                                                                                                                              |
| Gaming Machine                                  | Machine covering all types of gambling activity, including betting on virtual events.                                                                                                                                                                                                                                                                                    |
| Guidance to Licensing Authorities               | Guidance issued by the Gambling Commission dated May 2009.                                                                                                                                                                                                                                                                                                               |
| Human Rights Act 1998<br>Articles: 1,6,8 and 10 | <p>Article 1: Protocol 1<br/>The right to peaceful enjoyment of possessions.</p> <p>Article 6:<br/>The right to a fair hearing.</p> <p>Article 8:<br/>The right of respect for private and family life.</p> <p>Article 10:<br/>The right to freedom of expression.</p>                                                                                                   |
| Incidental Non Commercial Lottery               | A lottery promoted wholly for purposes other than private game, and which are incidental to non-commercial events [commonly charity fundraising events, lottery held at a school fete or at a social event such as a dinner dance]                                                                                                                                       |
| Exchange of Information                         | Exchanging of information with other regulatory bodies under the Gambling Act.                                                                                                                                                                                                                                                                                           |
| Interested Party                                | <p>A person who:-</p> <ul style="list-style-type: none"> <li>• Lives sufficiently close to the premises to be likely affected by the authorised activities.</li> <li>• Has business interests that might be affected by the authorised activities.</li> <li>• Represents persons in either of the above groups.</li> </ul>                                               |
| Licensed Family Entertainment Centre            | A Family Entertainment Centre operated by a person holding a gaming machine general operating licence. A Licensed FEC may make category C and D gaming machines available to its customers.                                                                                                                                                                              |
| Licensing Objectives                            | <ul style="list-style-type: none"> <li>• Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.</li> <li>• Ensuring that gambling is conducted in a fair and open way.</li> <li>• Protecting children and other vulnerable persons from being harmed or exploited by gambling.</li> </ul> |
| Lottery                                         | An arrangement which satisfies the statutory description of either a simple lottery or a complex lottery in Section 14 of the Act.                                                                                                                                                                                                                                       |

|                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Lottery Tickets             | <p>Tickets that must:-</p> <ul style="list-style-type: none"> <li>• Identify the promoting society;</li> <li>• State the price of the ticket, which must be the same for all tickets;</li> <li>• State the name and address of the member of the Society who is designated as having responsibility for the Society for the promotion of the lottery or, if there is one, the External Lottery Manager, and</li> <li>• State the date of the draw, or enable the date of the draw to be determined.</li> </ul> |
| Members' Club               | <p>A club that must:-</p> <ul style="list-style-type: none"> <li>• Have at least 25 members;</li> <li>• Be established and conducted 'wholly or mainly' for purposes other than gaming;</li> <li>• Be permanent in nature;</li> <li>• Not be established to make commercial profit;</li> <li>• Be controlled by its members equally.</li> </ul>                                                                                                                                                                |
| Occasional Use Notice       | Betting may be permitted on a 'track' without the need for a full Premises Licence.                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Off Course Betting          | Betting that takes place other than at a track, i.e. at a licensed betting shop.                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Off Course Betting - Tracks | Betting that takes place in self-contained betting premises with the track premises providing facilities for off course betting, i.e. on other events, not just those taking place on the track. Normally operates only on race days.                                                                                                                                                                                                                                                                          |
| On Course Betting - Tracks  | Betting taking place on a track while races are taking place.                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Operating Licence           | Licence to permit individuals and companies to provide facilities for certain types of gambling. It may authorise remote or non-remote gambling.                                                                                                                                                                                                                                                                                                                                                               |
| Permits                     | Authorisation to provide a gambling facility where the stakes and prizes are very low or gambling is not the main function of the premises.                                                                                                                                                                                                                                                                                                                                                                    |
| Personal Licence            | Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. Cannot be held by companies.                                                                                                                                                                                                                                                                                                                                                         |
| Pool Betting - Tracks       | Betting offered at a horse racecourse by the Tote and at a dog track by the holder of the Premises Licence for the track.                                                                                                                                                                                                                                                                                                                                                                                      |
| Premises                    | Defined as 'any place'. It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises.                                                                                                                                                                                                                                                                                                                                                 |
| Premises Licence            | Licence to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, Adult Gaming Centres and Family Entertainment Centres.                                                                                                                                                                                                                                                                                                                         |
| Private Lotteries           | <p>There are three types of Private Lotteries:</p> <ul style="list-style-type: none"> <li>• Private Society Lotteries - tickets may only be sold to members of the Society or persons who are on the premises of the Society;</li> <li>• Work Lotteries - the promoters and purchasers of tickets</li> </ul>                                                                                                                                                                                                   |

|                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                          | <p>must all work on a single set of work premises;</p> <ul style="list-style-type: none"> <li>Residents' Lotteries - promoted by, and tickets may only be sold to, people who live at the same set of premises.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Prize Gaming             | Where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Prize Gaming Permit      | A permit to authorise the provision of facilities for gaming with prizes on specific premises.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Provisional Statement    | <p>Where an applicant can make an application to the Licensing Authority in respect of premises that he:-</p> <ul style="list-style-type: none"> <li>Expects to be constructed or altered.</li> <li>Expects to acquire a right to occupy.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Relevant Representations | Representations that relate to the Gambling Licensing Objectives, or that raise issues under the Licensing Policy or the Gambling Commission's Guidance or Codes of Practice.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Responsible Authorities  | <p>Public Bodies that must be notified of all applications and who are entitled to make representations in relation to Premises Licences, as follows:-</p> <ul style="list-style-type: none"> <li>The Licensing Authority in whose area the premises is partly or wholly situated</li> <li>The Gambling Commission</li> <li>The Chief Officer of Police</li> <li>Fire and Rescue Service</li> <li>The Planning Authority for the local authority area</li> <li>Environmental Health Service for the local authority area</li> <li>The Body competent to advise on the protection of children from harm</li> <li>HM Revenue and Customs</li> <li>Authority in relation to vulnerable adults</li> <li>Vessels only - the Navigation Authority whose statutory functions are in relation to waters where the vessel is usually moored or berthed, i.e. the Environment Agency, British Waterways Board, the Maritime and Coastguard Agency</li> </ul> <p>Full details of responsible authorities for the Maldon District are contained in Appendix D to this Policy.</p> |
| Small Society Lottery    | A lottery promoted on behalf of a non-commercial society, i.e. lotteries intended to raise funds for good causes.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Society                  | The society or any separate branch of such a society, on whose behalf a lottery is to be promoted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Temporary Use Notice     | To allow the use of premises for gambling where there is no Premises Licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Tote [or Totalisator]    | Pool betting on tracks.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

**APPENDIX 3**

|                    |                                                                                                                                                                                                                                                                                                            |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Track              | Sites where races or other sporting events take place, e.g. horse racing, dog racing or any other premises on any part of which a race or other sporting event takes place or is intended to take place.                                                                                                   |
| Travelling Fair    | A fair that 'wholly or principally' provides amusements and must be on a site used for fairs for no more than 27 days per calendar year.                                                                                                                                                                   |
| Vehicles           | Defined trains, aircraft, sea planes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted.                                                                                                                                                                 |
| Vulnerable Persons | No set definition, but likely to include people who:- <ul style="list-style-type: none"><li>• gamble more than they want to</li><li>• gamble beyond their means</li><li>• who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs</li></ul> |
| Young Person       | An individual who is not a child but who is less than 18 years old.                                                                                                                                                                                                                                        |

**Appendix C - List of Consultees**

Chief Officer of Essex Police  
Essex Fire and Rescue Services  
Gambling Commission  
Maldon District Council (as the Licensing Authority)

Ladbrokes  
Madison Heights  
Mill Beach Seaside Resort  
Park Holidays  
Park Resorts  
Three Rivers Club  
Warren Golf Club

Gamble Aware

Local residents and other interested parties via Notice of Intention on the Council's notice board and website

## Appendix D - Responsible Authorities

Applications for a **Premises Licence** must be sent to the Licensing Authority and **all** the responsible authorities listed below.

Applications for a **Temporary Use Notice (TUN)** must be sent to the Licensing Authority(ies) in whose area the premises are, Essex Police and HM Commissioners of Customs and Excise.

Applications for **Occasional Use Notices (OUN)** should be sent to the Licensing Authority and Essex Police.

| ORGANISATION                                                       | ADDRESS                                                                                                                                                                                  | CONTACT                                                                                                                                                                                                            |
|--------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Maldon District Council                                            | Licensing Officer<br>Maldon District Council<br>Princes Road<br>Maldon<br>Essex CM9 5DL                                                                                                  | Tel: 01621 854477<br>E-mail: <a href="mailto:licensing@maldon.gov.uk">licensing@maldon.gov.uk</a><br>Website: <a href="http://www.maldon.gov.uk">www.maldon.gov.uk</a>                                             |
| Gambling Commission                                                | Victoria Square House<br>Victoria Square<br>Birmingham<br>B2 4BP                                                                                                                         | Tel: 0121 230 6666<br>E-mail: <a href="mailto:info@gamblingcommission.gov.uk">info@gamblingcommission.gov.uk</a><br>Website: <a href="http://www.gamblingcommission.gov.uk">www.gamblingcommission.gov.uk</a>      |
| Essex Police                                                       | Essex Police Licensing Unit<br>PO Box 12306<br>Newland Street<br>Witham<br>Essex<br>CM8 2AS                                                                                              | E-mail:<br><a href="mailto:licensing.applications@essex.pnn.police.uk">licensing.applications@essex.pnn.police.uk</a><br>Website: <a href="http://www.essex.police.uk/licensing">www.essex.police.uk/licensing</a> |
| Essex County Fire and Rescue Service                               | Chelmsford/Maldon<br>Community Command<br>Fire Station<br>Ferrers Road<br>South Woodham Ferrers<br>Essex<br>CM3 5XH                                                                      | Tel: 01245 328388<br>Email: <a href="mailto:cm.command@essex-fire.gov.uk">cm.command@essex-fire.gov.uk</a>                                                                                                         |
| Maldon District Council                                            | Director of Service Delivery<br>Maldon District Council<br>Princes Road<br>Maldon<br>Essex CM9 5DL                                                                                       | Tel: 01621 854477<br>E-mail:<br><a href="mailto:environmentservices.request@maldon.gov.uk">environmentservices.request@maldon.gov.uk</a><br>Website: <a href="http://www.maldon.gov.uk">www.maldon.gov.uk</a>      |
| Essex County Council<br>Quality Assurance and Safeguarding Service | Local Authority Designated<br>Officer (LADO)<br>FAO: Licensing<br>Quality Assurance and<br>Safeguarding Service<br>Family Operations<br>70 Duke Street<br>Chelmsford<br>Essex<br>CM1 1JP | Tel: 03330 139797<br>Email: <a href="mailto:LicenceApplications@essex.gov.uk">LicenceApplications@essex.gov.uk</a><br>Website: <a href="http://www.essexcc.gov.uk">www.essexcc.gov.uk</a>                          |
| Her Majesty' Revenue and Customs                                   | The Proper Officer<br>HMRC<br>St Mungos Road<br>Cumbernauld<br>Glasgow<br>G70 5WY                                                                                                        | Tel: 0141 5553633<br>E-mail: Website: <a href="http://www.hmrc.gov.uk">www.hmrc.gov.uk</a>                                                                                                                         |



## Appendix E - Table of Delegations

| MATTER TO BE DEALT WITH                                     | FULL COUNCIL VIA PLANNING & LICENSING COMMITTEE | PLANNING AND LICENSING, LICENSING SUB COMMITTEE              | OFFICERS                                                               |
|-------------------------------------------------------------|-------------------------------------------------|--------------------------------------------------------------|------------------------------------------------------------------------|
| Three year licensing policy                                 | X                                               |                                                              |                                                                        |
| Policy not to permit casinos                                | X                                               |                                                              |                                                                        |
| Fee Setting - when appropriate                              | X                                               |                                                              |                                                                        |
| Application for premises licences                           |                                                 | Where representations have been received and not withdrawn   | Where no representations received/ representations have been withdrawn |
| Application for a variation to a licence                    |                                                 | Where representations have been received and not withdrawn   | Where no representations received/ representations have been withdrawn |
| Application for a transfer of a licence                     |                                                 | Where representations have been received from the Commission | Where no representations received from the Commission                  |
| Application for a provisional statement                     |                                                 | Where representations have been received and not withdrawn   | Where no representations received/ representations have been withdrawn |
| Review of a premises licence                                |                                                 | X                                                            |                                                                        |
| Application for club gaming /club machine permits           |                                                 | Where representations have been received and not withdrawn   | Where no representations received/ representations have been withdrawn |
| Cancellation of club gaming/ club machine permits           |                                                 | X                                                            |                                                                        |
| Applications for other permits                              |                                                 |                                                              | X                                                                      |
| Cancellation of licensed premises gaming machine permits    |                                                 |                                                              | X                                                                      |
| Consideration of temporary use notice                       |                                                 |                                                              | X                                                                      |
| Decision to give a counter notice to a temporary use notice |                                                 | X                                                            |                                                                        |
| Consideration of an Occasional Use Notice                   |                                                 |                                                              | X                                                                      |

## Appendix F - Application Process

This appendix contains guidance that covers those aspects that are the responsibility of the Licensing Authority only; guidance on aspects dealt with by the Gambling Commission can be obtained via the following link: - [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

### PREMISES LICENCES

A Premises Licence is required for any premises where gambling activity is carried out of a type requiring Personal and Operators' Licences to have been issued by the Gambling Commission.

An application may only be made by persons having the right to occupy the premises and who have, or have applied for, an Operating Licence allowing the proposed activities to be carried out. The Premises Licence cannot be granted until the necessary Operator's Licence has been issued.

Premises Licences are issued by the Licensing Authority and are required for casinos, bingo premises, betting premises (including tracks and premises used by betting intermediaries), adult gaming centres and family entertainment centres providing category C gaming machines.

A licence is restricted to one premise only, however one set of premises may have separate licences issued in respect of different parts of the building.

Licensing Authorities are obliged to grant an application for a Premises Licence, provided the application is made in accordance with the Act, the Gambling Commission's guidance and the Licensing Authority's Gambling Licensing Policy Statement. Licences will be subject to mandatory and default conditions applied by regulations issued under the Act.

Premises Licences are valid indefinitely from the date of grant unless previously surrendered, lapsed, renewed or cancelled. An annual charge is payable to the Licensing Authority.

### BINGO, BETTING, ARCADES (Adult Gaming Centres & Licensed Family Entertainment Centres)

#### New Licences or Permissions

Applicants wishing to commence operating may apply to the Gambling Commission for an Operator's Licence and to the Licensing Authority for a Premises Licence.

### TRACKS

An Operator's Licence is not required from the Gambling Commission to operate a track but a Premises Licence from the Licensing Authority is required. A number of Premises Licences may be granted for one track, provided each is for a different part of the track.

Betting is usually divided into on-course, off-course and pool betting, the provision of which requires operators to hold either a general Betting Operator's Licence or a Pool Betting Operating Licence from the Commission.

Pool betting on tracks may only be offered by the Tote (in relation to horse tracks) and by the Premises licence holder (in relation to dog tracks). Pool betting may not be provided elsewhere.

Gaming machines, consisting of a maximum of 4 machines of categories B2 – D, may be operated at a track by the Premises licence holder provided they hold a Pool Betting Operator's Licence (for siting and other special considerations in respect of gaming machines at tracks, see *'the Gambling Commission's guidance'* at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)).

Betting machines may also be operated at tracks (see *'Betting machines'*).

The licensing process is the same as for other premises described above.

## BETTING MACHINES

Betting machines are used for accepting bets on live events such as racing, in place of making bets at a counter, e.g. in a betting shop or on a track. These machines are not classed as gaming machines. The Licensing Authority may impose a limit on the number of betting machines that may be used in conjunction with a premise's licence.

## GAMING MACHINE SUPPLY & REPAIR

These activities require Operators' Licences to be issued by the Gambling Commission. For advice on applying for licences from the Commission, see their website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)).

## GAMING MACHINES IN LICENSED PREMISES

Premises Licences issued under the Act automatically authorise the provision of gaming machines, according to the type of premises and gambling activities permitted (but see also 'Tracks').

The Act introduces new classes of gaming machines, as shown in figure 1 below. The category and number of machines that may be operated under a Premises Licence are shown in figure 2 below.

**Fig. 1**

Summary of gaming machine categories and entitlements

| Category                                                                                      | Max. Stake (from Jan 2014)                                        | Max. Prize (from Jan 2014)                           |
|-----------------------------------------------------------------------------------------------|-------------------------------------------------------------------|------------------------------------------------------|
| A                                                                                             | Unlimited – no category A gaming machines are currently permitted |                                                      |
| B1                                                                                            | £5                                                                | £10,000*                                             |
| B2                                                                                            | £100                                                              | £500                                                 |
| B3<br>B3A                                                                                     | £2                                                                | £500                                                 |
| B4                                                                                            | £2                                                                | £400                                                 |
| C                                                                                             | £1                                                                | £100                                                 |
| D – non-money prize (other than a crane grab machine or a coin pusher or penny falls machine) | 30p                                                               | £8                                                   |
| D – non-money prize (crane grab machine)                                                      | £1                                                                | £50                                                  |
| D – money prize (other than a coin pusher or penny falls machine)                             | 10p                                                               | £5                                                   |
| D – combined money and non-money prize (other than a coin pusher or penny falls machine)      | 10p                                                               | £8 (of which no more than £5 may be a money prize)   |
| D – combined money and non-money prize (coin pusher or penny falls machine)                   | 20p                                                               | £20 (of which no more than £10 may be a money prize) |

With the option of a maximum £20,000 linked progressive jackpot on a premises basis only

Fig. 2

| Premises Type                                                              | Machine Category |                                                                                                                                                                   |                                                                |                                                                                                                                           |                                                        |                                                                         |                                             |
|----------------------------------------------------------------------------|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|-------------------------------------------------------------------------|---------------------------------------------|
|                                                                            | A                | B1                                                                                                                                                                | B2                                                             | B3                                                                                                                                        | B4                                                     | C                                                                       | D                                           |
| Large casino<br>(machine / table<br>ratio of 5-1 up to<br>maximum)         |                  | Maximum 150 machines<br>Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine / table ratio)  |                                                                |                                                                                                                                           |                                                        |                                                                         |                                             |
| Small casino<br>(machine / table<br>ratio of 2-1 up to<br>maximum)         |                  | Maximum of 80 machines<br>Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine / table ratio) |                                                                |                                                                                                                                           |                                                        |                                                                         |                                             |
| Pre-2005 Act<br>casino (no machine<br>/ table ratio)                       |                  | Maximum of 20 machines categories B to D (except B3A machines),<br>or any number of C or D machines instead                                                       |                                                                |                                                                                                                                           |                                                        |                                                                         |                                             |
| Betting premises<br>and tracks<br>occupied by pool<br>betting              |                  |                                                                                                                                                                   | Maximum of 4 machines categories B2 to D (except B3A machines) |                                                                                                                                           |                                                        |                                                                         |                                             |
| Bingo Premises                                                             |                  |                                                                                                                                                                   |                                                                | Maximum of 20% of<br>the total number of<br>gaming machines<br>which are available<br>for use on the<br>premises categories<br>B3 or B4** |                                                        | No limit on category C<br>or D machines                                 |                                             |
| Adult gaming<br>centre                                                     |                  |                                                                                                                                                                   |                                                                | Maximum of 20% of<br>the total number of<br>gaming machines<br>which are available<br>for use on the<br>premises categories<br>B3 or B4** |                                                        | No limit on category C<br>or D machines                                 |                                             |
| Family<br>entertainment<br>centre (with<br>premises licence)               |                  |                                                                                                                                                                   |                                                                |                                                                                                                                           |                                                        | No limit on category C<br>or D machines                                 |                                             |
| Family<br>entertainment<br>centre (with permit)                            |                  |                                                                                                                                                                   |                                                                |                                                                                                                                           |                                                        |                                                                         | No limit<br>on<br>category<br>D<br>machines |
| Club or miners'<br>institute (with<br>gaming permits)                      |                  |                                                                                                                                                                   |                                                                |                                                                                                                                           | Maximum of 3 machines in<br>categories B3A or B4 to D* |                                                                         |                                             |
| Qualifying alcohol<br>licensed premises                                    |                  |                                                                                                                                                                   |                                                                |                                                                                                                                           |                                                        | 1 or 2 machines of<br>category C or D<br>automatic upon<br>notification |                                             |
| Qualifying alcohol<br>licensed premises<br>(with gaming<br>machine permit) |                  |                                                                                                                                                                   |                                                                |                                                                                                                                           |                                                        | Number of category C-<br>D machines as<br>specified on permit           |                                             |
| Travelling fairs                                                           |                  |                                                                                                                                                                   |                                                                |                                                                                                                                           |                                                        |                                                                         | No limit on<br>category D<br>machines       |

\* It should be noted that members' clubs and miners' welfare institutes are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement. Commercial clubs are entitled to a total of three machines in categories B4 to D.

**\*\* Adult gaming centre and bingo premises are entitled to make available a number of Category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. Premises in existence before 13 July 2011 are entitled to make available four (adult gaming centre premises) or eight (bingo premises) category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Adult gaming centre premises and bingo premises licences granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of four or eight category B gaming machines or 20% of the total number of gaming machines, whichever is the greater; from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only, but not B3A machines.**

### **TEMPORARY USE NOTICES (TUNs)**

A TUN may only be issued by a person or company holding an Operating Licence relevant to the proposed temporary use of the premises and may be issued in respect of a 'set of premises' for a maximum of 21 days in any 12 month period. (NB. A TUN may not be issued in respect of a vehicle).

A 'set of premises' is the subject of a TUN if any part of the premises is the subject of the notice. This prevents one large premise from having a TUN in effect for more than 21 days per year by giving a notice in respect to different parts.

In considering whether a place falls within the definition of 'a set of premises', the Licensing Authority will consider, amongst other things, the ownership/ occupation and control of the premises.

The Licensing Authority will generally aim to permit gambling activities under a TUN but will object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

### **Issue**

Not less than 3 months and 1 day prior to the day on which the gambling event is to take place, a TUN must be given to: -

- the Licensing Authority
- the Chief Officer of Police
- Her Majesty's Commissioners for Revenue and Customs  
and, if applicable,
- any other Licensing Authority in whose area the premises are situated

The notice must include details of: -

- the date the notice is given
- the gambling activity to be carried on
- the premises where it will take place
- the dates and times it will take place
- any periods during the preceding 12 months that a TUN has had effect for the same premises, and
- any other information prescribed by Regulations

If there are no objections, the notice will be endorsed by the Licensing Authority and returned to the issuer for display upon the premises at the time the activity takes place.

**Objections**

Having regard to the Licensing Objectives, those Authorities upon whom the TUN is served may make objections to the gambling activity taking place within 14 days of the date of the notice. Objections must be made to the Licensing Authority and TUN issuer.

Modifications to the notice may be suggested by those objecting to it. If accepted by the issuer, a new notice must be issued. It should be noted that the 3 month, 1 day time limit and a new fee will not apply to the new notice, nor may the original objector[s] object to the new notice.

A Hearing must be held before the Premises/Personal Licences Sub-Committee to hear representations from all parties, unless agreement is reached that a Hearing is unnecessary [e.g. by modification of the notice] within 6 weeks of the date of the notice.

Following a Hearing the Licensing Authority must issue a counter notice setting out whether or not the TUN will have effect, any limitations to the activities permitted, the time period when activities may take place and any conditions that are imposed.

**OCCASIONAL USE NOTICES (OUNs)**

Occasional Use Notices may only be issued in relation to tracks that are used on eight days or less in a calendar year.

A track can be any part of a premise on which a race or other sporting event takes place or is intended to take place. Tracks need not be a permanent fixture.

OUN's are intended to permit licensed betting operators who have the appropriate permission of the Gambling Commission to use tracks for short periods for conducting betting. An OUN dispenses with the need for a Betting Premises Licence for the track.

**Issue**

The notice may be issued by the person responsible for the administration of events on the track or the occupier of the track. The notice must be served on the Licensing Authority and a copy on the Chief Officer of Police.

**Objections**

Generally objections may not be made to the issue of an OUN, except that the Licensing Authority must issue a counter notice where the effect of the OUN would result in betting facilities being made available for more than 8 days in a calendar year.

## PREMISES LICENCE PROCEDURE

PREMISES WHERE AN OPERATOR'S LICENCE HAS BEEN GRANTED TO OPERATE A CASINO, BINGO PREMISES, BETTING PREMISES, ADULT GAMING CENTRE OR LICENSED FAMILY ENTERTAINMENT CENTRE



1. Attach required documentation
2. Pay prescribed fee



1. Licence lasts indefinitely unless surrendered, lapsed etc.
2. Annual charge payable to licensing authority

## GAMING PERMITS

Certain types of gambling are authorised by permits issued by the Licensing Authority. The permits generally authorise low stake gambling for small prizes by: -

- Gaming machines in alcohol-licensed premises, Members' Clubs, unlicensed Family Entertainment Centres (FEC's) and certain other premises, e.g. taxi offices (see '*Other premises*' below)
- Equal chance gaming, games of chance and gaming machines in Members' Clubs, and
- Prize gaming, e.g. at Travelling Fairs.

## GAMING MACHINES

The Act introduces new classes of gaming machines that may be operated under a permit, as shown in figure 3 below.

**Fig. 3**

| Category of machine                                                                    | Maximum Stake<br>£ | Maximum Prize<br>£                                |
|----------------------------------------------------------------------------------------|--------------------|---------------------------------------------------|
| B3A                                                                                    | 1                  | 500                                               |
| B4                                                                                     | 1                  | 250                                               |
| C                                                                                      | 1                  | 70                                                |
| D (Money prize)                                                                        | 10p                | 5                                                 |
| D Non money prize (other than a crane grab machine)                                    | 30p                | 8                                                 |
| D Non money prize (crane grab machine)                                                 | 1                  | 50                                                |
| D combined money and non-money prize (other than a coin pusher or penny falls machine) | 10p                | 8 (of which no more than 5 may be a money prize)  |
| D combined money and non-money prize (coin pusher or penny falls machine)              | 10p                | 15 (of which no more than 8 may be a money prize) |

The category and number of machines that may be operated under a premise's licence are shown in Figure 2 above.



Fig. 4

|                                                                 | Machine Category |    |    |     |                                         |    |                                                          |                               |
|-----------------------------------------------------------------|------------------|----|----|-----|-----------------------------------------|----|----------------------------------------------------------|-------------------------------|
| Premises Type                                                   | A                | B1 | B2 | B3  | B3A                                     | B4 | C                                                        | D                             |
| Clubs or Miners' Welfare Institutes with permits                |                  |    |    | B3A | Maximum of 3 category B3A to D machines |    |                                                          |                               |
| Qualifying alcohol licensed premises upon notification          |                  |    |    |     |                                         |    | Automatic entitlement of 1 or 2 category C or D machines |                               |
| Qualifying alcohol licensed premises with gaming machine permit |                  |    |    |     |                                         |    | Unlimited entitlement of 1 or 2 category C or D machines |                               |
| Family Entertainment Centre (with permit)                       |                  |    |    |     |                                         |    |                                                          | Unlimited category D machines |
| Travelling Fair                                                 |                  |    |    |     |                                         |    |                                                          | Unlimited category D machines |

### ALCOHOL-LICENSED PREMISES

Certain types of gambling may take place on alcohol-licensed premises under the Licensing Act 2003 without any authorisation being required. Generally these consist of the playing of cribbage, dominoes and other games for low stakes.

Premises holding a Premises Licence may be authorised to operate machines of Class C or D provided the Premises Licence authorises the sale and supply of alcohol for consumption on the premises without it being a condition that the sale and supply of alcohol has to be accompanied by food.

The following paragraphs apply only to those premises.

### Automatic Entitlement

The Act gives an automatic entitlement for the holder of a Premises Licence under the 2003 Act to provide up to two gaming machines on their premises.

An application for a permit is not required but Premises Licence holders must notify their Licensing Authority in writing of their intention to provide the machines and pay the prescribed fee.

The entitlement may be withdrawn if:-

- provision of the machines is not reasonably consistent with the pursuit of the Licensing Objectives
- gaming has taken place on the premises that has breached a condition of the Act, e.g. they do not comply with siting and operation requirements
- the premises are mainly used for gaming; or where an offence under the Gambling Act 2005 has been committed on the premises

The Licensing Authority may not exercise their powers to remove the entitlement without first giving the permit-holder the opportunity to make written or oral representations or both. A Hearing will be held before the Licensing Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

**New Permits:** where the holder of a Premises Licence wishes to provide more than two gaming machines, an application for a permit must be made to the Licensing Authority with the prescribed fee. There is no restriction on the number of machines that may be applied for and applications to vary the number of machines may be made at any time.

In determining an application for an increase in the number of machines, the Licensing Authority will consider: -

- the size of the premises
- the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons
- any documentary evidence [e.g. supporting statistical evidence providing details of usage, etc.]
- each application on its own merits
- the Codes of Practice or Guidance issued under the Gambling Act 2005

Where the Authority grants the application, a permit will be issued for the number of machines authorised, which will include the automatic entitlement of 2 machines.

Where the Authority intends to refuse an application, or grant it for a different number or category of machines to that requested, the applicant will be given the opportunity to make written or oral representations or both. A Hearing will be held before the Licensing Sub-Committee for this purpose, unless all parties agree that it is unnecessary

Where the Premises Licence is transferred, the gaming machine permit must also be transferred or it will lapse. In all other cases the permit will last indefinitely, unless surrendered or revoked.

Although the permit will not need to be renewed, an annual charge will have to be paid to the Licensing Authority.

### MEMBERS' CLUBS

The Gambling Act 2005 permits a Members' Club holding a Club Premises Certificate issued under the Licensing Act 2003, or Miners' Welfare Institute, to hold a Club Gaming Permit allowing participation in equal chance gaming or playing games of chance (see Appendix B for definitions of 'equal chance gaming' and 'games of chance'). In addition they may operate a maximum of 3 machines of either Class B3(A), B4, C or D.

The Act also permits a Members' Club holding a Club Premises Certificate or a Commercial Club holding a Premises Licence under the Licensing Act 2003 to operate a maximum of 3 machines of either Class B3(A), B4, C or D under a **Club Machine Permit**.

**New Permits:** applications for a permit for premises already holding a Club Premises Certificate are subject to a 'fast track' procedure that prevents the making of objections, and restricts the ability of the Licensing Authority to refuse the application.

An application under this process may be refused if the club is established primarily for gaming (other than that permitted); if, in addition to the permitted gaming, facilities are provided for other gaming; or that a club machine permit issued to the applicant within the preceding 10 years has been cancelled.

An application and payment of the prescribed fee is required. A permit has effect for 10 years unless surrendered or revoked.

Applications for a permit for premises not holding a Club Premises Certificate e.g. a Commercial Members' Club with a Premises Licence, may be refused by the Licensing Authority on the grounds that:-

- the applicant does not fulfil the requirements for a Members' or Commercial Club
- the premises are used wholly or mainly by children and/or young persons; an offence under the Act or breach of a permit has been committed by the applicant while providing gaming facilities
- a permit held by the applicant has been cancelled in the previous 10 years
- an objection has been made by the Police or Gambling Commission

Permits may be varied at any time to meet changing circumstances, other than an increase above 3 to the number of machines. Licensing Authorities may only refuse a variation if, on consideration of the proposed variation as a new application, they would refuse a permit.

A permit will lapse if the holder no longer qualifies as a Members' Club or no longer qualifies under the 'fast track' system, or the permit is surrendered. A permit may be cancelled if the premises are used wholly or mainly by children and/or young persons or where an offence under the Act or breach of a permit condition has been committed by the applicant in the course of gaming activities.

Permits are valid for 10 years from the date of grant unless previously surrendered, lapsed, renewed or cancelled. An annual charge is payable to the Licensing Authority.

### OTHER PREMISES

Premises such as taxi offices, take-away restaurants, cafes, etc. are prohibited from obtaining a gaming machine permit under the Act and will be unable to operate gaming machines of any kind.

### UNLICENSED FAMILY ENTERTAINMENT CENTRES

The Licensing Authority may grant an application for a permit for category D gaming machines in an unlicensed Family Entertainment Centre (FEC) provided it is satisfied the premises will be used as an unlicensed FEC and that the Chief Officer of Police has been consulted. There are no limits to the number of machines that may be applied for in an unlicensed FEC.

The Authority will apply its Gambling Policy Licensing Statement in consideration of an application, e.g. requiring an applicant to demonstrate they have no relevant convictions, that they have a full understanding of the maximum stakes and prizes permissible and that staff have a similar understanding.

An application for a permit will have to be accompanied by plans of the premises and a current certificate issued by the Disclosure and Barring Service or its equivalent in respect of the applicant, i.e. a certificate issued within the previous 28-day period. The requirement in respect of the DBS certificate will be satisfied, where the applicant is a person who is a sole proprietor of the premises, by submission of a certificate in respect of that person or, where an applicant is a company or partnership, by submission of a certificate in respect of the person normally having day-to-day control of the premises.

The Authority may refuse an application for renewal of a permit only on the grounds that an authorised Local Authority Officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with the pursuit of the Licensing Objectives.

Where the Authority intends to refuse an application, the applicant will be given the opportunity to make written or oral representations or both. A Hearing will be held before the Premises/Personal Licences Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

In determining an application, the Licensing Authority need not have regard to the Licensing Objectives but must have regard to any Gambling Commission guidance.

A permit will last for 10 years unless it ceases to have effect because it is surrendered, it lapses or it is renewed. There is no annual charge payable to the Licensing Authority.

Unlicensed FEC's may also offer equal chance gaming under the authority of their Gaming Machine Permit.

**New permits:** Applications for new permits may be made to the Licensing Authority.

## **PRIZE GAMING**

Prize gaming may be carried on in premises under a permit issued by the Licensing Authority. A Prize Gaming Permit will not authorise the use of gaming machines.

The Authority may apply its Gambling Licensing Policy Statement in consideration of an application, e.g. requiring an applicant to demonstrate they have no relevant convictions, that they have a full understanding of the maximum stakes and prizes permissible and that staff have a similar understanding.

The Authority may refuse an application for renewal of a permit only on the grounds that an authorised Local Authority Officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with the pursuit of the licensing objectives.

An application for a permit will have to be accompanied by plans of the premises and a current certificate issued by the Disclosure and Debarring Service or its equivalent in respect of the applicant, i.e. a certificate issued within the previous 28-day period. The requirement in respect of the DBS certificate will be satisfied, where the applicant is a person who is a sole proprietor of the premises, by submission of a certificate in respect of that person or, where an applicant is a company or partnership, by submission of a certificate in respect of the person normally having day-to-day control of the premises.

Where the Authority intends to refuse an application, the applicant must be given the opportunity to make written or oral representations or both. A Hearing will be held before the Licensing Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

In determining an application, the Licensing Authority need not have regard to the Licensing Objectives but must have regard to any Gambling Commission guidance.

A prize gaming permit will last for 10 years unless it ceases to have effect or is renewed. There is no annual charge payable to the Licensing Authority.

**New permits:** applications for new permits may be made to the Licensing Authority.

## **Prize gaming without a permit**

Prize gaming without a Prize Gaming Permit may be carried on in any premises with a Premises Licence issued under the Act, except that casinos may not offer prize bingo.

Unlicensed FEC's may also offer equal chance gaming only, under the authority of their gaming machine permit.

Travelling fairs may also offer equal chance gaming only without a permit provided the facilities for gaming are ancillary amusements to the fair.

## **TRAVELLING FAIRS**

Travelling fairs do not require a permit to provide gaming machines but must comply with codes of practice on how they are operated.

Travelling fairs may provide an unlimited number of category D machines and prize gaming in the form of equal chance gaming provided that facilities for gambling amount to no more than ancillary amusement at the fair.

## ALCOHOL LICENSED PREMISES

PREMISES WHERE THE LICENCE PERMITS THE SALE OF ALCOHOL FOR CONSUMPTION ON THE PREMISES AND THE SALE IS NOT CONDITIONAL UPON FOOD BEING SOLD MAY HAVE GAMING MACHINES OF CLASS C OR D

↓

AFTER 1 SEPTEMBER 2007

↓

### UP TO 2 MACHINES

1. Automatic entitlement to two machines
  2. Notify Licensing Authority in writing of proposed intention to operate machines.
  3. Pay prescribed fee
- ↓

### MORE THAN 2 MACHINES

- 1 Apply to Licensing Authority
  - 2 Attach statistical justification showing 'need'
  - 3 Attach plan of premises showing location of machines
  - 4 Pay prescribed fee
- ↓

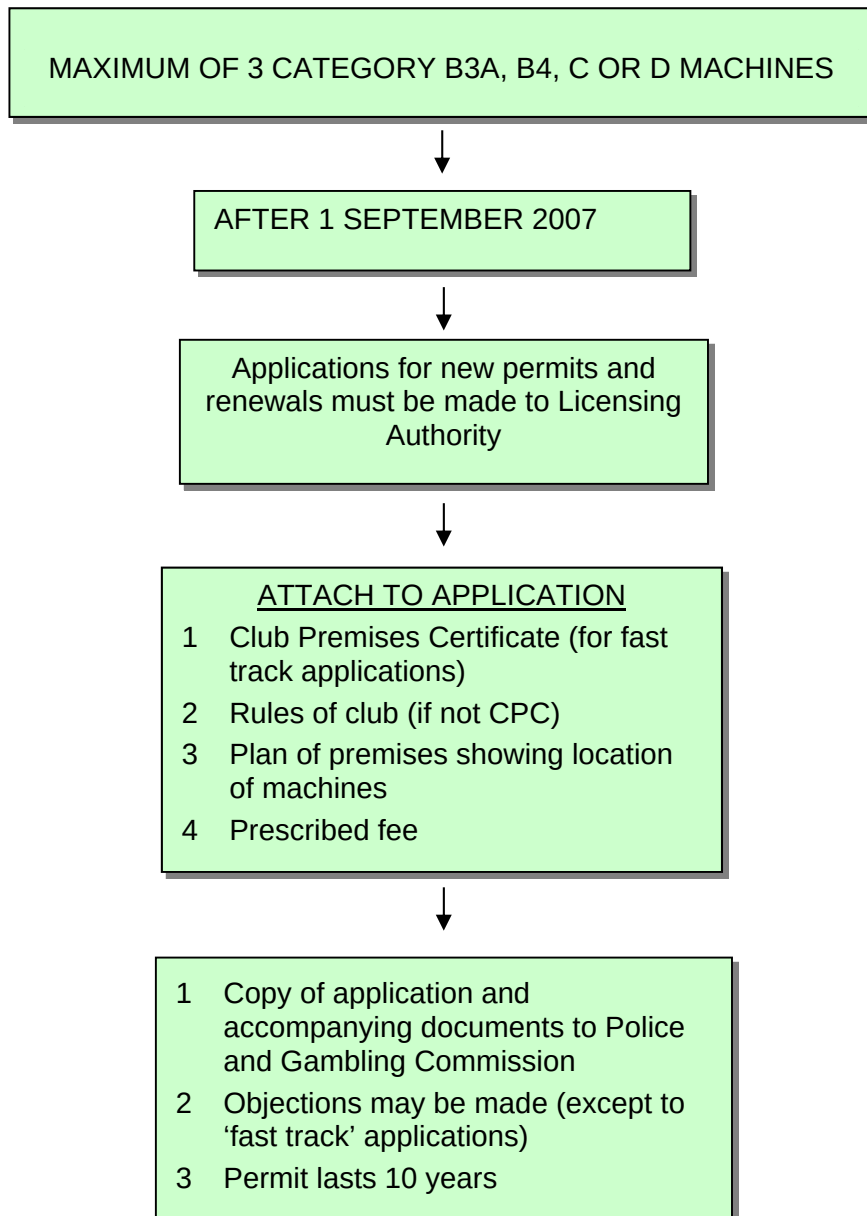
- 1 Permit has effect from date of grant unless surrendered or cancelled.
- 2 Annual charge to be paid to Licensing Authority.

### NOTE

1. Licensing Authority can withdraw entitlement for 2 machines where their provision is not consistent with Licensing Objectives; gaming has taken place in breach of a condition; premises are used mainly for gaming; an offence under the Act has been committed.
2. Licensing Authority can cancel a permit where the premises are used wholly or mainly by children or young persons or an offence under the Act has been committed.

### BUT

1. Permit holder must be given 21 days' notice of the intention to withdraw or cancel.
2. Hearing must be held if permit holder requests one.
3. Withdrawal or cancellation has no effect until 21 days has elapsed from notice being served where no hearing is requested or 21 days following a hearing or appeal.

**MEMBERS CLUBS**

Application for grant may be refused if: -

1. Applicant does not qualify as a Members' or Commercial Club or Miners' Welfare Institute.
2. The premises are used wholly or mainly by children or young persons.
3. An offence under the Act or a breach of a permit has been committed while providing gaming facilities.
4. A permit held by the applicant has been cancelled in previous 10 years.

Application for renewal must be sent to Licensing Authority with fee between 3 and 6 weeks before permit expires and may only be refused on the same grounds as for original grant.

Duration of the permit will not be curtailed while a renewal application is pending or where an appeal against a refusal to renew is outstanding.

## UNLICENSED FAMILY ENTERTAINMENT CENTRE

PERMIT MAY BE ISSUED FOR PREMISES WHOSE PRIMARY USE IS AS AN UNLICENSED FAMILY ENTERTAINMENT CENTRE TO HAVE AN UNLIMITED NUMBER OF GAMING MACHINES OF CLASS D



NEW PERMIT TO OPERATE  
AFTER 1 SEPTEMBER 2007



- 1 Attach information required by Gambling Licensing Policy Statement
- 2 Attach plan of premises showing location of machines
- 3 Consult Chief of Police
- 4 Permit lasts for 10 years

Application for grant may be refused if the grant would not be reasonably consistent with the Licensing Objectives, e.g. convictions making the applicant unsuitable, the location and type of premises being unsuitable, issues concerning disorder.

Application for renewal must be sent to Licensing Authority with fee between 2 and 6 months before permit expires and may only be refused if an Authorised Officer has been refused access to the premises without reasonable excuse, or renewal would not be reasonably consistent with the licensing objectives. Duration of the permit will not be curtailed while a renewal application is pending or where an appeal against a refusal to renew is outstanding

Permits will lapse if: -

1. Licensing Authority notifies holder premises are no longer being used as an unlicensed FEC
2. Holder no longer occupies premises
3. Holder dies, becomes mentally incapacitated, bankrupt or, in case of a company, ceases to exist or goes into liquidation
4. Court orders holder to forfeit permit
5. Holder surrenders or fails to renew

**PRIZE GAMING PERMIT**

PRIZE GAMING PERMITS MAY ONLY BE ISSUED IN RESPECT OF PREMISES FOR WHICH THERE IS NO PREMISES LICENCE OR CLUB GAMING PERMIT ISSUED UNDER THE GAMING ACT 2005



NEW PERMIT TO OPERATE  
AFTER 1 SEPTEMBER 2007



1. Attach information required by Gambling Licensing Policy Statement
2. Attach plans of premises
3. Pay prescribed fee
4. Permit lasts for 10 years

Application for grant may be refused if the grant would not be reasonably consistent with the Licensing Objectives, e.g. convictions making the applicant unsuitable, the location and type of premises being unsuitable, issues concerning disorder.

Application for renewal must be sent to Licensing Authority with fee between 2 and 6 months before permit expires and may only be refused if an Authorised Officer has been refused access to the premises without reasonable excuse, or renewal would not be reasonably consistent with the Licensing Objectives. Duration of the permit will not be curtailed while a renewal application is pending or where an appeal against a refusal to renew is outstanding.

Permits will lapse if: -

1. Holder no longer occupies premises
2. Holder dies, becomes mentally incapacitated, bankrupt or, in case of a company, ceases to exist or goes into liquidation
3. Court orders holder to forfeit permit
4. Holder surrenders or fails to renew



## LOTTERIES

A lottery is unlawful unless it is run in accordance with an Operating Licence issued by the Gambling Commission, or it is exempt. This advice covers only those categories of lottery that are exempt. For more information on the licensing requirements for lotteries, see the Gambling Commission's website on [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

The Act defines 4 categories of lottery that are exempt from needing an operating licence: -

- Incidental non-commercial lottery
- Private lottery
- Customer lottery
- Small society lottery

Only a small society lottery is required to be registered with the Licensing Authority.

Applications must be made by the promoting society to the Licensing Authority for the area in which the principal address of the society is located. The Licensing Authority must record details of the society in a register and notify the applicant and the Gambling Commission of the registration.

The Licensing Authority will require applicants to declare: -

- the purposes for which the society is established
- that they represent a bona fide non-commercial society, and
- that they have no relevant convictions

The Licensing Authority may refuse an application if: -

- it considers the applicant is not a non-commercial society
- any person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, or
- information provided in or with an application is false or misleading

An application must be refused if an Operating Licence held or applied for by the applicant has been revoked or refused in the previous 5 years.

The Licensing Authority may revoke a registration where it believes the grounds exist that would permit or require it to refuse an application for registration.

Where the Licensing Authority intends to refuse or revoke the registration application it will give the society: -

- details of the reasons,
- evidence upon which it reached the decision, and
- the opportunity to make written and/or oral representations.

An application for registration must be accompanied by the prescribed fee. The registration will be valid indefinitely with an annual fee being payable to the Licensing Authority.

### Lottery Requirements

To ensure the main purposes of the lottery are met: -

- the society must apply a minimum of 20% of the proceeds of the lottery to the purposes of the society;
- no single prize may exceed £25,000;
- rollovers may be permitted provided every lottery affected is also a small society lottery by the same society and the maximum single prize does not exceed £25,000; and
- every ticket must cost the same and must be paid for before being entered into the draw.

**Returns**

No later than 3 months after making the draw (or in the case of a rollover, the last draw), a return must be sent to the Licensing Authority that: -

- has been signed by 2 members of the society over 18 years of age who are appointed for the purpose in writing by the society or its governing body, if it has one,
- is accompanied by a copy of each member's letter of appointment, and include the following details: -
  - the dates when tickets were available for sale;
  - the dates of any draw and value of prizes, including any rollover;
  - the proceeds raised;
  - the amounts deducted for prizes and expenses incurred in organising the lottery;
  - the amount applied or to be applied to the purposes of the promoting society; and
  - whether any expenses incurred in connection with the lottery were paid for other than from the proceeds of the lottery and, if so, the amount and the source(s) from which they were paid.

**External Lottery Managers**

External Lottery Managers require Operators' Licences issued by the Gambling Commission. For more information, see the Gambling Commission's website on [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

## SMALL SOCIETY LOTTERIES

PROMOTED BY A NON-COMMERCIAL SOCIETY ESTABLISHED FOR CHARITABLE PURPOSES; FOR PURPOSE OF ENABLING PARTICIPATION IN OR OF SUPPORTING SPORT, ATHLETICS OR CULTURAL ACTIVITY; OR FOR OTHER NON –COMMERCIAL PURPOSES OTHER THAN PRIVATE GAIN

REGISTRATION TO OPERATE  
AFTER 1 SEPTEMBER 2007

1. Attach information required: -
  - Purpose for which society established
  - Confirm bona fides of society as non-commercial
  - Declare convictions, if any
2. Pay prescribed fee
3. Registration valid for life, annual fee payable to Licensing Authority

Lottery requirements: -

1. Society must apply minimum 20% of proceeds to purposes of society
2. No single prize to exceed £25000
3. Rollovers permitted provided all lotteries affected are small society lotteries & maximum single prize does not exceed £25000
4. Tickets must cost the same, be paid for before being entered in draw and include details of society, price, name and address of the person responsible for promotion of the lottery and date of draw
5. Returns, which must be made no later than 3 months after draw, must be signed by 2 members and include details of: -
6. Dates tickets were available for sale, dates of draw and value of prizes
7. Proceeds raised, amounts deducted for prizes, expenses incurred in organising lottery and where any were paid for other than from proceeds of lottery, the amount and source
8. Amount to be applied to purposes of the promoting society

Registration may be refused if: -

1. Society is not considered to be non-commercial
2. Any person connected with promotion of lottery has been convicted of relevant offence , or
3. Information provided in application is false/misleading
4. Registration must be refused if an operating licence held by or applied for by the applicant has been revoked or refused in the previous 5 years
5. Registration may be revoked where grounds exist for an application for registration to be refused.

BUT a registration will not be refused or revoked unless the society has been informed of the reasons and the evidence supporting them and been given the opportunity to make representations

**APPENDIX G****Fees**

The Gambling Act allows licensing authorities to set their own fees for premises licences, subject to maximum levels that have been specified by central government.

- The relevant fee must be sent with an application, in order for the application to be valid.
- The application fee is not refundable if the application is withdrawn or if it is unsuccessful
- A first annual fee is payable within 30 days of the date of licence issue, details regarding this payment will be provided at the time of licence issue.
- An annual fee is payable before the anniversary of the licence being granted

Non statutory fees are reviewed by the Licensing Authority on an annual basis in accordance with the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007.

Details of current fees can be obtained from the Council's website [www.maldon.gov.uk](http://www.maldon.gov.uk)

or by contacting Maldon District Council, Princes Road, Maldon, Essex, CM9 5DL

or by emailing [licensing@maldon.gov.uk](mailto:licensing@maldon.gov.uk)

## Document Control Sheet

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## 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

## **Draft Vehicle Parking Standards**

2018

**Foreword**

The previous Vehicle Parking Standards Supplementary Planning Document (SPD) was written when national policy sought to restrict the level of parking provision, particularly in new residential developments. At that time, it was thought that restricting parking provision at home and at the workplace would encourage people to use more sustainable and healthy methods of travel, particularly for shorter journeys.

This approach had some success in cities where public transport provision is good, the distance to important community services is short and plenty of local shopping is available. However, in rural communities where public transport and local services are limited, cars and other forms of private motorised transport are vital to enable residents to access employment, education and everyday services.

As a result, developments were built with inadequate off street parking, leading to indiscriminate parking on near-by roads, affecting the amenity and convenience of residents and prejudicing the safety of road users.

In recognition that restricting car parking did not result in a shift away from car use and therefore car ownership, national policy has moved away from restricting car parking towards providing adequate parking provision. The approval of the Local Development Plan in 2017 provided the opportunity to review and update the Vehicle Parking Standards SPD.

Reflecting on the growth in the number of cars and the necessity of car ownership in a rural district, the SPD now has minimum car parking standards. It recognises the importance of mobility scooters for maintaining the independence of older people and people with disabilities, by including guidance on the provision of safe and secure storage for mobility scooters. Looking forward to new technologies, for the first time Maldon District has standards for the provision of electric vehicle chargingpoints.

Read in conjunction with the Maldon District Design Guide, this SPD provides a design-led approach to the provision of car parking spaces so that they are integrated into new developments, where the streets are pedestrian, cycle and vehicle friendly.

Cllr Penny Channer  
Maldon District Council  
Chairman of Planning and Licensing Committee

## Contents

|                                                                                    |    |
|------------------------------------------------------------------------------------|----|
| Introduction .....                                                                 | 7  |
| Status of the Vehicle Parking Standards Supplementary Planning Document (SPD)..... | 8  |
| The Need to Review the Parking Standards .....                                     | 8  |
| Strategic Environmental Assessment and Equalities Impact Assessment.....           | 9  |
| Policy Context .....                                                               | 10 |
| National policy context .....                                                      | 10 |
| Essex context .....                                                                | 12 |
| Essex Local Transport Plan (LTP) 2011 .....                                        | 12 |
| Other Council's Vehicle Parking Standards.....                                     | 13 |
| Local policy context .....                                                         | 14 |
| The Development Plan .....                                                         | 14 |
| Design Guidance .....                                                              | 17 |
| Background and Evidence .....                                                      | 18 |
| Public Transport .....                                                             | 18 |
| Rail.....                                                                          | 18 |
| Bus.....                                                                           | 19 |
| Cycling.....                                                                       | 20 |
| Driving and Older People .....                                                     | 21 |
| Disability .....                                                                   | 23 |
| Mobility Scooters .....                                                            | 23 |
| Local car ownership levels .....                                                   | 24 |
| Maldon District.....                                                               | 24 |
| Comparison with Essex districts .....                                              | 27 |
| Ward level.....                                                                    | 28 |
| Maldon Town Centre ARU student project .....                                       | 29 |
| Ultra Low Emission Vehicles .....                                                  | 31 |
| Powered Two Wheeled Vehicles.....                                                  | 32 |
| Size of vehicles .....                                                             | 33 |
| Garage Usage .....                                                                 | 34 |
| Visitor parking.....                                                               | 34 |
| Method of Travel to Work .....                                                     | 35 |
| Maldon Parking Standards.....                                                      | 36 |
| When does this guidance apply? .....                                               | 36 |
| Transport Assessments and Travel Plans.....                                        | 36 |



|                                                                  |    |
|------------------------------------------------------------------|----|
| Parking bay sizes .....                                          | 38 |
| Residential parking standards .....                              | 38 |
| Garages & Car Ports .....                                        | 39 |
| Non residential parking standards .....                          | 40 |
| On-street parking.....                                           | 43 |
| Commercial vehicle, coach and emergency vehicle access .....     | 44 |
| Parking for people with disabilities .....                       | 45 |
| Mobility scooters.....                                           | 46 |
| Cycle parking.....                                               | 47 |
| Powered Two Wheelers/Motorcycles .....                           | 50 |
| Electric vehicles.....                                           | 50 |
| School Parking .....                                             | 52 |
| Delivering Maldon's Parking Standards .....                      | 53 |
| Viability .....                                                  | 53 |
| Use of planning conditions and developer contributions .....     | 53 |
| Amendment of permissions and changes of use .....                | 54 |
| Monitoring & Review .....                                        | 54 |
| Appendix 1 – Car / Van Availability by Ward 2011 .....           | 55 |
| Appendix 2: Summary of Parking Standards .....                   | 56 |
| Appendix 3: Maldon District Local Development Plan Policies..... | 68 |
| Appendix 4 Glossary.....                                         | 69 |

## Figures

|                                                                                                       |    |
|-------------------------------------------------------------------------------------------------------|----|
| Figure 1 Extract from the National Planning Policy Framework on vehicle parking.....                  | 10 |
| Figure 2: Road to Zero Strategy Policies relevant to the Vehicle Parking Standards SPD:.....          | 11 |
| Figure 3 Essex Local Transport Plan (LTP) 2011 Policy 8 Promoting Sustainable Travel Choices          | 12 |
| Figure 4: Relevant Essex County Council Development Management Policies (2011) .....                  | 13 |
| Figure 5 Maldon District Local Development Plan Extracts relating to car parking standards.....       | 14 |
| Figure 6 Burnham-on-Crouch Neighbourhood Development Plan Extracts relating to car parking            | 16 |
| Figure 7 total number of full driving licences held in Great Britain 2018 by age of licence holder .. | 22 |
| Figure 8 Total number of cars/van available in households in Maldon District 1981-2011 .....          | 25 |
| Figure 9 Growth in the numbers of households and cars in Maldon District 1981-2011 .....              | 26 |
| Figure 10 The growth in numbers of cars/vans per household 1981-2011.....                             | 27 |

## Tables

|                                                                                                                          |    |
|--------------------------------------------------------------------------------------------------------------------------|----|
| Table 1 ORR Estimates of Station Usage 2016-17 .....                                                                     | 19 |
| Table 2 Percentages of households without access to a car/van in Essex local authorities (2011)                          | 27 |
| Table 3 Car/van availability levels, comparison of Maldon District with Essex (2011).....                                | 28 |
| Table 4 Number of cars/vans per household – County-District-Ward comparison .....                                        | 29 |
| Table 5 Increases in car dimensions for the Top 5 most popular models of car.....                                        | 33 |
| Table 6 Average length and width of the top 10/20/30 most popular vehicle models and the top 10 most popular ULEVs ..... | 34 |
| Table 7 Method of travel to work Maldon District (2011 Census) .....                                                     | 35 |
| Table 8 ECC Transport Assessment (TA)/Transport Statement (TS) Guideline Thresholds: .....                               | 37 |
| Table 9 Parking Bay Sizes.....                                                                                           | 38 |
| Table 10 Residential Parking Standards.....                                                                              | 39 |
| Table 11 Garage / Carport Size Standards.....                                                                            | 39 |
| Table 12 Example of the vehicle parking requirements for a mixed use development (not in a town or local centre): .....  | 40 |
| Table 13 Non-Residential Car Parking Standards .....                                                                     | 41 |
| Table 14 Parking for People with Disabilities .....                                                                      | 45 |
| Table 15 Mobility Scooter Storage Provision .....                                                                        | 46 |
| Table 16 Cycle Parking Standards .....                                                                                   | 48 |
| Table 17 Powered Two Wheeler Parking Standards .....                                                                     | 50 |
| Table 18 Electric Vehicle Charging Points Standards .....                                                                | 51 |
| Table 19 Car/van availability by Ward, 2011 Census .....                                                                 | 55 |
| Table 20 Summary of Vehicle Parking Standards .....                                                                      | 56 |

## Introduction

1. The Council is committed to developing a well-integrated community which connects people to jobs, services and community facilities whilst minimising impacts on the environment and quality of life. Parking is a key component of this. Good quality parking has the potential of influencing the way people travel, the efficient use of land, highway safety, as well as the quality of the built environment.
2. Inadequate off-street parking provision can lead to indiscriminate parking, which not only can affect the amenity and convenience of residents but may also prejudice the safety of users of the highway or the passage of utility and emergency vehicles. This overspill parking often results in parking on footways and verges, which not only affects the appearance of the street scene, but can potentially cause damage to underground utility services and present difficulties for pedestrians, those using push chairs, and people with impaired mobility, especially if using mobility equipment.
3. It is considered that a District-wide approach to residential and non-residential parking standards provides a holistic parking strategy for new development within the District. Given that the non-residential parking standards are seeking to help facilitate travel to work by modes other than the private car, it is important that residential parking standards provide the flexibility to enable residents to leave their cars at home in a safe place on the days that they may travel by alternative modes. Given the rural character of the District, a single parking standard for development that is applied across the District is the preferred approach.
4. The need for a planned approach to parking has increased with the growth in the ownership and use of private vehicles. Since 1994, the number of cars in Great Britain has risen from 21 million to 31 million in 2017<sup>1</sup>. In 2017 there were 39,100 cars registered in Maldon District, an increase of 3,500 vehicles in eight years<sup>2</sup>.
5. The Government has recognised that car use will not be reduced by arbitrarily restricting off street parking spaces<sup>3</sup>. This is reflected in the experience in Maldon District. The previous adopted Maldon District Vehicle Parking Standards SPD (2006) complied with the national planning policy guidance at the time that required Councils to set maximum vehicle parking standards for residential development. However, over the lifetime of the 2006 Vehicle Parking Standards SPD, the numbers of cars in the District has increased by more than 10%<sup>4</sup>. Whilst the emphasis remains on promoting sustainable modes of travel and widening choice, in a district that is predominantly rural in nature and where there is higher than average car ownership<sup>5</sup>, the appropriate provision of parking on new developments is necessary. As the Government acknowledges, failure to provide adequate parking can lead to parking misery, and be to the visual detriment of otherwise well planned and designed developments. Conversely, too much parking can result in poor design and harsh urban landscapes, and reduce the amount of open space provided.

<sup>1</sup> DfT table VEH0204, <https://www.gov.uk/government/statistical-data-sets/veh02-licensed-cars>

<sup>2</sup> DfT car registration data at District level is available from 2009 onwards (DfT table VEH0105) <https://www.gov.uk/government/statistical-data-sets/all-vehicles-veh01#table-veh0122>

<sup>3</sup> DCLG/DfT Ministerial Statement published 03-01-2011, <https://www.gov.uk/government/news/pickles-and-hammond-to-end-the-war-on-motorists>

<sup>4</sup> DfT car registration data at District level is available from 2009 onwards (DfT table VEH0105) <https://www.gov.uk/government/statistical-data-sets/all-vehicles-veh01#table-veh0122>. Between 2009 and 2017 the numbers of cars registered in the District has grown by 9.8%, compared to 10.5% across Great Britain as a whole. As the numbers of cars in Great Britain has grown year on year since 1994, in the absence of District level car data for 2006-2009, it is a reasonable assumption that the numbers of cars registered in the District has grown by more than 10% since 2006.

<sup>5</sup> An average of 1.6 cars per household in Maldon District compared to 1.37 cars per household across Essex (2011 Census, car/van availability).

6. The Council's car parking standards are more generous than those in the previous SPD. This is because of the significant increase in car ownership in the last decade, to reduce the negative impact unplanned street parking can have on the townscape and safety, and taking into account the availability of public transport and residents' reliance on the car for accessing employment, everyday services and leisure. The key objective of these standards is to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This will enable people to sustainably and easily carry out their daily travel requirements without an unacceptable detrimental impact on the local road network, or the visual appearance of the development, from excessive and inconsiderate on street parking.
7. By setting out parking standards the Council is providing a clear direction on what it expects to see provided as part of new development, and these will be the basis for any negotiations over provision.

### **Status of the Vehicle Parking Standards Supplementary Planning Document (SPD)**

8. Once adopted by the Council, the Vehicle Parking Standards SPD will be a material consideration in making decisions on planning applications. It will replace the Council's adopted Vehicle Parking Standards SPD (2006). It should be noted that the Standards are not policy, but act as guidance for developers setting out the ideal level of parking that developers should provide. The material weight afforded to them as SPD is considerable and full regard should be had to the standards in the preparation of and consideration of planning applications.

### **The Need to Review the Parking Standards**

9. It is good practice to review policies and guidance to ensure that they still serve their purpose. The Maldon District Vehicle Parking Standards (VPS) were originally adopted in 2006. A policy context review was undertaken in 2011.
10. Since the VPS were adopted the policy context has changed significantly:
  - National policy shift away from maximum parking standards
  - The number of vehicles in the District has risen significantly
  - The pattern of car ownership has changed over time, with fewer households not having access to a car, and a significant increase in two-car households.
  - Advances in technology, changing government policy and public attitudes that will result in significant increases in the ownership and use of Ultra Low Emission Vehicles in the future.
  - Rise in charging points
  - Increased size of vehicles
  - Nationally, PPGs have been replaced by the NPPF, which is being revised in 2018
  - Maldon District Local Development Plan was approved in 2017
  - Maldon District Design Guide SPD was adopted 2017
11. Evidence collected to date indicates that there is a clear and compelling justification for introducing revised parking standards in the District. Maldon District has a lower proportion of car-free households and a higher proportion of households with two or more cars or vans when compared with the rest of Essex, and almost 80% of residents rely on cars or vans (whether driving or as a passenger) to travel to work.
12. The Council's 2006 parking standards, followed the national guidance of the time and implemented maximum parking standards. National policy and current research acknowledges that maximum standards for residential parking can lead to poor quality development, congested streets and has been found to have little influence in reducing car use. Other factors, such as the availability of alternative modes of transport and dwelling type

have been found to have a greater impact on reducing car use. Therefore, national policy has changed and maximum standards can no longer be set locally unless there is compelling evidence to do so.

13. As a result, these parking standards set minimum standards for residential parking to ensure appropriate levels of parking are provided.
14. In line with the NPPF, this SPD sets recommended standards for types of development based on the Town and Country Planning (Use Classes) Order 1987. Minimum cycle parking standards have been set to promote sustainable transport choices to influence a shift to non-car modes.
15. This draft SPD was subject to a 6 week public consultation between 14 June and 26 July 2018. The SPD was amended to take into account comments made during the consultation period and newly published government policy documents, in particular the National Planning Policy Framework 2018.

#### **Application of these standards**

16. The Maldon District Local Development Plan (2014-2029) was approved in 2017 and is the overarching development plan document for the District. Policies throughout the Plan refer to the Vehicle Parking Standards and that development proposals are expected to comply with them (see Appendix 3). The standards will apply to:
  - All new development proposals and those affecting parking provision within existing developments will be considered against these standards
  - Where two or more land uses apply to the same site the maximum parking provision for each land use should be assessed separately. Overlapping demand may be taken into account where it can be demonstrated that this will occur
17. The SPD is intended to:
  - Advise members of the public;
  - Assist developers in preparing plans for the development of land; and,
  - Expedite the determination of planning applications by ensuring that applications submitted include an appropriate level and location of parking provision that also contributes to the public realm.

#### **Strategic Environmental Assessment and Equalities Impact Assessment**

18. A Strategic Environmental Assessment (SEA) Screening Report has been carried out (see [www.maldon.gov.uk/spd](http://www.maldon.gov.uk/spd)) for the SPD. The Council carried out an extensive Sustainability Appraisal for the LDP and the SPD does not set new policy, it only provides detailed guidance to support the delivery of the LDP. Therefore it has been concluded that SEA of the SPD is not required. The Screening Report has been sent to the statutory consultees for comment. Once their responses are received they will be added to the Screening Report and made available on the Council's website.
19. An Equalities Impact Assessment is available at [www.maldon.gov.uk/spd](http://www.maldon.gov.uk/spd)

## Policy Context

### National policy context

#### National Planning Policy Framework (NPPF)

20. The National Planning Policy Framework (NPPF) 2018 sets out the government national planning policy for the preparation of development plans and determining planning applications. The guidance on car parking in the revised NPPF updates that in the 2012 NPPF, to recognise the changes in car technologies, specifically providing for plug-in and other ultra-low emission vehicles.
21. The previous Vehicle Parking Standards SPD was written at a time when maximum car parking standards were advocated by Government. The NPPF clearly states that maximum standards should only be set where there is a clear justification for doing so. Therefore the vehicle parking standards in this SPD are not expressed as maximums. This also recognises the availability of public transport in the District and the reliance on private vehicles for accessing employment and everyday services.

#### Figure 1 Extract from the National Planning Policy Framework on vehicle parking.

102. Transport issues should be considered from the earliest stages of plan-making and development proposals, so that: *[inter alia]*
  - b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;
  - c) opportunities to promote walking, cycling and public transport use are identified and pursued;
  - e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.
104. Planning policies should: *[inter alia]*
  - d) provide for high quality walking and cycling networks and supporting facilities such as cycle parking (drawing on Local Cycling and Walking Infrastructure Plans);
105. If setting local parking standards for residential and non-residential development, policies should take into account:
  - a) the accessibility of the development;
  - b) the type, mix and use of development;
  - c) the availability of and opportunities for public transport;
  - d) local car ownership levels; and
  - e) the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.
106. Maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport (in accordance with chapter 11 of this Framework). In town centres, local authorities should seek to improve the quality of parking so that it is convenient, safe and secure, alongside measures to promote accessibility for pedestrians and cyclists.
110. Within this context, applications for development should: *[inter alia]*
  - a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
  - b) address the needs of people with disabilities and reduced mobility in relation to all

- modes of transport;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations

Ministry of Housing Communities and Local Government (2018) National Planning Policy Framework  
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

### The NO<sub>2</sub> Plan and Road to Zero

22. As set out in the NO<sub>2</sub> Plan (2017)<sup>6</sup>, the Government will end the sale of new conventional petrol and diesel cars and vans by 2040. By then, it is expected that the majority of new cars and vans sold to be 100% zero emission and all new cars and vans will have significant zero emission capability. By 2050 the aim is that almost every car and van will be zero emission.
23. The Road to Zero Strategy (July 2018)<sup>7</sup> outlines how the government will support the transition to zero emission road transport and reduce emissions from conventional vehicles during the transition. The strategy is long term in scope and ambition to 2050 and beyond. It covers road vehicles from motorcycles to 44 tonne heavy goods vehicles (HGVs).
24. One of the key elements of the Strategy is creating a fit for purpose infrastructure network: The infrastructure network needs to be easy for current and prospective drivers to locate and use, as well as being affordable, efficient and reliable. As part of this, the Strategy actively encourages the provision of smart charging points at homes and work places, and increasing the network of publicly accessible charging points.

**Figure 2: Road to Zero Strategy Policies relevant to the Vehicle Parking Standards SPD:**

#### Road to Zero Policies

##### **We will reduce emissions from the vehicles already on our roads by:**

4. Taking steps to accelerate the adoption of fuel-efficient motoring by company car drivers, businesses operating fleets, and private motorists

##### **We will support the development of one of the best electric vehicle infrastructure**

27. Taking powers through the Automated and Electric Vehicles Bill to ensure:

- that chargepoints are available at motorway service areas and large fuel retailers;
- that chargepoints are easily accessed and used across the UK. This includes powers to provide a uniform method of accessing public chargepoints and refuelling points; make certain information publicly available in an open and transparent format and set reliability standards; and
- that chargepoints are smart ready by giving government powers to set requirements prohibiting the sale or installation of chargepoints unless they meet certain requirements.

##### **We will support the development of one of the best electric vehicle infrastructure networks in the world by:**

28. Ensuring the houses we build in the coming years are electric vehicle ready. It is our intention that all new homes, where appropriate, should have a chargepoint available. We plan to consult as soon as possible on introducing a requirement for chargepoint infrastructure for new dwellings in England where appropriate.

<sup>6</sup> Defra & DfT (2017). UK plan for tackling roadside nitrogen dioxide concentrations (The NO<sub>2</sub> Plan)(online). Available at: [www.gov.uk/government/publications/air-quality-plan-for-nitrogendioxide-no2-in-uk-2017](https://www.gov.uk/government/publications/air-quality-plan-for-nitrogendioxide-no2-in-uk-2017)

<sup>7</sup> Department for Transport, 2018, Road to Zero (online) Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/724391/road-to-zero.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/724391/road-to-zero.pdf)

29. Future-proofing our streets. We want all new street lighting columns to include charging points, where appropriately located, in areas with current on-street parking provision.
32. Reviewing the provision of residential chargepoint infrastructure for those who have communal parking facilities, or do not own their own home, as part of the Law Commission's work to review and reinvigorate the commonhold tenure in England and Wales.
34. Consulting in summer 2018 on a proposal to increase the height limit for the Permitted Development Right in England for the installation of electric vehicle chargepoints in designated off-street parking spaces.
35. Ensuring local planning policies incorporate facilities for charging electric vehicles via the National Planning Policy Framework.
36. Consulting on amending Building Regulations to require relevant charging provision in new non-residential buildings.

Department for Transport (2018) *Road to Zero Strategy*

<https://www.gov.uk/government/publications/reducing-emissions-from-road-transport-road-to-zero-strategy>

#### Further information:

- Department for Transport (9 July 2018) *Government launches Road to Zero Strategy to lead the world in zero emission vehicle technology*  
<https://www.gov.uk/government/news/government-launches-road-to-zero-strategy-to-lead-the-world-in-zero-emission-vehicle-technology>

## Essex context

### Essex Local Transport Plan (LTP) 2011

25. This is a long-term plan covering 15 years which sets out Essex County Council's aspirations, as the Highways Authority, for improving travel in the county, demonstrating the importance of our transport network to achieving sustainable long-term economic growth and enriching the lives of our residents. The LTP is a strategic level Plan that aims to:
  - Provide connectivity for Essex communities and international gateways to support sustainable economic growth and regeneration
  - Reduce carbon dioxide emissions and improve air quality through lifestyle changes, innovation and technology
  - Improve safety on the transport network and enhance and promote a safe travelling environment
  - Secure and maintain all transport assets to an appropriate standard and ensure that the network is available for use
  - Provide sustainable access and travel choice for Essex residents to help create sustainable communities.

### Figure 3 Essex Local Transport Plan (LTP) 2011 Policy 8 Promoting Sustainable Travel Choices

#### Policy 8 Promoting Sustainable Travel Choices

The County Council will encourage the use of more sustainable forms of travel by:

- consistently supporting and promoting sustainable travel;
- providing infrastructure for sustainable transport;
- working with partners and service providers to promote the use of sustainable forms of travel and to identify new ways to provide services;
- requiring effective travel planning for proposed developments in line with the Council's current development management policies;
- developing effective travel plans with existing work places, schools, and other locations that attract a significant number of people;

In accordance with the Council's Development Management Policies, proposals will therefore



need to demonstrate that adequate provision is to be made for public transport, walking and cycling, with appropriate links provided to existing networks. The Council's current parking standards will ensure that suitable facilities are provided for alternatives to the private car and that car traffic growth is minimised.

For all new residential developments, a 'Transport Information and Marketing Scheme' will be required, providing those moving in to them with information on local public transport services, walking and cycling networks and facilities and other low carbon travel opportunities. Non-residential proposals for developments which will employ more than 50 people will be required to provide a Travel Plan, setting out how the development will support access by low carbon forms of transport. (pg 72)

ECC (2011) *Essex Transport Strategy: the Local Transport Plan for Essex*, available at: [http://www.essexhighways.org/uploads/files/essex\\_ltp.pdf](http://www.essexhighways.org/uploads/files/essex_ltp.pdf)

### Essex County Council Development Management Policies (2011)

26. These policies reflect the balance between the need for new housing and employment opportunities, the regeneration and growth agenda, and protecting the transport network for the safe movement of people and goods and have the following aims:
- Protect and maintain a reliable and safe highway infrastructure.
  - Improve access to services in both rural and urban locations.
  - Offer where possible alternative travel options to the private car.
  - Support and enhance public transport provision.
  - Address the impact of commercial vehicles on the highway network and communities.
  - Support the aims and objectives of the County Council as the Highway Authority

### Figure 4: Relevant Essex County Council Development Management Policies (2011)

#### Policy DM10 Travel Plans

The Highway Authority will require the provision of a Travel Plan and monitoring fee as part of any development proposal that meets the following criteria:

- i. all non-residential development proposals with 50 employees or more;
- ii. any education establishment development which increases the number of either pupils or staff will be required to provide a School Travel Plan;
- iii. all new residential dwellings will require the provision of a Residential Travel Information Pack.

*Essex County Council Development Management Policies (2011)*, available at: [https://www.essex.gov.uk/Environment%20Planning/Development-in-Essex/Documents/Development\\_Management\\_Policies.pdf](https://www.essex.gov.uk/Environment%20Planning/Development-in-Essex/Documents/Development_Management_Policies.pdf)

#### Further information:

- ECC information for developers: <https://www.essex.gov.uk/Environment%20Planning/Development-in-Essex/Pages/Developer-information.aspx>

#### Other Council's Vehicle Parking Standards

27. The majority of the Local Planning Authorities in Essex use the ECC/EPOA Vehicle Parking Standards (2009)<sup>8</sup>. For example, the Chelmsford City Council Pre-Submission Local Plan Policy MP5 Parking Standards requires all development to comply with the Essex Parking Standards – Design and Good Practice (2009) or as subsequently amended. In the past

<sup>8</sup> [https://www.essex.gov.uk/Environment%20Planning/Development-in-Essex/Documents/Parking\\_Standards.pdf](https://www.essex.gov.uk/Environment%20Planning/Development-in-Essex/Documents/Parking_Standards.pdf)

Vehicle Parking Standards have been prepared on an Essex Wide basis. However, there is no movement to prepare Essex wide standards and so some Districts are preparing their own standards, including Maldon. For example, Uttlesford District adopted the ECC/EPOA Vehicle Parking Standards with modifications in 2013, recognising that the rural nature of Uttlesford justified a higher level of car parking provision. Each local authority has an obligation to cooperate with one another and take into account each other authority's plans.

28. Other Councils' recently approved or drafted vehicle parking standards from around the country have been reviewed, to identify examples of best practice and to sense-check the standards in this document.

## Local policy context

### The Development Plan

29. The Maldon District Local Development Plan (LDP) was approved by the Secretary of State on 21 July 2017. The LDP along with the Essex Minerals Local Plan (2014), the Essex and Southend-on-Sea Waste Local Plan (2017) and made Neighbourhood Plans form the Development Plan for the District. Planning decisions must be taken in accordance with the Development Plan. Proposed development that conflicts with the Development Plan will be refused unless other material considerations indicate otherwise.

**Figure 5 Maldon District Local Development Plan Extracts relating to car parking standards**

#### Key Policy:

##### Policy T2 - Accessibility

To create and maintain an accessible environment, development proposals should where relevant to the development involved:

- 1) Be located where there is physical and environmental capacity to accommodate the type and amount of traffic generated, or locations where the impact can be suitably mitigated, taking into account the cumulative impact of developments;
- 2) Provide safe and direct walking and cycling routes to nearby services, facilities and public transport where appropriate;
- 3) Improve accessibility to the countryside and the natural environment and to enhance and protect the provision of Public Rights of Way;
- 4) Improve accessibility to buildings, streets and public spaces, particularly for those with mobility impairments;
- 5) Provide sufficient parking facilities having regard to the Council's adopted parking standards;
- 6) Provide sufficient and safe access to service and emergency vehicles; and
- 7) Give appropriate consideration to encourage a people-oriented space within the development.

#### Policy context

7.13 Parking standards for different types of developments will need to have regard to the Council's adopted Vehicle Parking Standards SPD or successor documents

#### Policy context for Policy S5 -The Maldon and Heybridge Central Area

2.79 The public realm will need to be improved to enhance the quality of the Central Area and allow visitors to easily access the historic and tourist locations by foot. Care will be required to minimise conflicts between road users and pedestrians. Car parking spaces should be retained in the Central Area to enable visitors and tourists alike to take advantage of the key assets. Creating a well ordered public realm which reduces congestion is critical to the future success of the Central Area as a destination.

#### Policy D1 – Design & Built Environment

All development must:

- 5) Include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards.

**Policy context**

3.6 New development should have regard to the Council's adopted parking standards outlined in the Maldon District Vehicle Parking Standards SPD (or successor document) which outlines recommended cycle, motorcycle, and car parking space provision in relation to the size and use of new development.

**Policy D2 Climate Change and Environmental Impact of New Development**

All development must minimise its impact on the environment by incorporating the following principles: [inter alia]

- 6) Minimising all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation.
- 9) Maintain and enhance local air quality in accordance with national objectives
- 10) Seek to reduce the need to travel, particularly by private vehicle, by encouraging sustainable transport methods, and providing flexibility in the development to enable home working or similar facilities.

**Policy context**

3.17 National air quality objectives are largely based on European legislation within the 2008 Ambient Air Quality Directive, which became law in England through the Air Quality Standards Regulations 2010. The Regulations provide limits for major air pollutants that impact public health, such as particulate matter, nitrogen dioxide, certain toxic heavy metals and polycyclic aromatic hydrocarbons. Further ceilings on pollutants have also been developed through the National Emission Ceilings Regulations 2002. Air Quality Management Areas (AQMA) are used by DEFRA to manage areas with air pollution.

**Policy H4 Effective Use of Land Density**

All development will be design-led and will seek to optimise the use of land having regard to the following considerations:

- 1) The location and the setting of the site;
- 2) The existing character and density of the surrounding area;
- 3) Accessibility to local services and facilities;
- 4) The capacity of local infrastructure;
- 5) Parking standards;
- 6) Proximity to public transport; and...

**Policy context**

5.27 The Council will take a flexible approach to housing density by emphasising the need for all housing developments to incorporate high quality design and take into account all sustainability considerations, including parking provision, local character, specific local needs and constraints

**Policy H6 Provision for Travellers - Criterion(3).** The Council will consider applications for planning permission against the other relevant policies in this Plan, and will require sites to be:  
e) of sufficient size to provide amenities and facilities for the planned number of caravans; including parking spaces, areas for turning and servicing of vehicles, amenity blocks, play and residential amenity areas, access roads and temporary visitor areas.

**Policy context for Policy H8 Provision for Houseboats**

5.66 The small groups of houseboats in the District's rivers and estuaries provide a unique type of housing which forms part of the District's varied character. In planning terms, houseboats are considered to be a form of residential development similar to that of land based housing, requiring similar infrastructure such as car parking provision, access roads, refuse disposal points, and where possible access to main infrastructure networks.

**Policy context for Policy I 1 Infrastructure and Services**

8.2 The term 'infrastructure' includes a wide range of social, green, and physical services and facilities that are commonly required alongside new development. The following list is not exhaustive, but provides an indication of the types of infrastructure that should be considered in relation to new development in the District:

- Physical infrastructure: highways, railways, bus networks, footpaths, cycle routes, bridleways, waterways, car parking.

Maldon Local Development Plan 2017 [www.maldon.gov.uk/ldp](http://www.maldon.gov.uk/ldp)

**Figure 6 Burnham-on-Crouch Neighbourhood Development Plan Extracts relating to car parking**

5.6 Improve car parking in the town centre Car parking in Burnham-on-Crouch is split between three types;

- on-street car parking used for school drop off and high street shopping,
- the Burnham Town Council owned car park at Providence,
- Maldon District Council owned car parks at Foundry Lane (Shoppers Car Park), and Millfields.

The railway station car park is chronically underused. It is understood to have been sublet as part of a block contract between the current railway franchisee and a specialist car park operator.

On-street car parking is well used and there are problems with some car parking causing access and safety issues, particularly by railway users parking in the adjacent streets. Safe and free car parking across the whole of the Town should be promoted, including at the railway station. Whilst existing Community Protection Officers currently monitor parking in the Town, with additional resources they could also monitor parking in time restricted zones.

The existing Riverside Park Car Park would benefit from being resurfaced and marked out to an appropriate standard. This process would assist in making the most effective use of the space and presenting a positive image to visitors and local residents alike.

#### **Policy PI17– Car Park Provision**

Proposals that would deliver new or improved car parking provision within the town centre will be supported. Particular support will be given to the following proposals:

- Incorporation of parking spaces for coaches into the Burnham Yacht Harbour car park;
- The extension of the Millfields car park to the west.

#### **Policy HC.3 – Street Layout Principles**

Proposals for new residential development will be supported where they incorporate the following principles:

- A well connected network of streets;
- A street pattern that connects well with existing streets and allows for connections with future development;
- Street widths that allow for a variety of car parking e.g. within the curtilage of plots but also within the street, without impeding access for emergency vehicles and local authority services e.g. refuse collection; and
- Perimeter block layouts with clear front and back accesses.

#### **HO 8 Housing Design Principles**

Proposals for new housing development should produce high quality schemes that reflect the character and appearance of their immediate surroundings. Proposals should take account of the Housing Design Principles set out in Appendix 2 insofar as those principles apply to any particular site

Burnham-on-Crouch Neighbourhood Development Plan 2017

[https://www.maldon.gov.uk/info/20048/planning\\_policy/8112/community\\_led\\_planning\\_and\\_neighbourhood\\_plans/4](https://www.maldon.gov.uk/info/20048/planning_policy/8112/community_led_planning_and_neighbourhood_plans/4)

## Design Guidance

30. The Council recognises that whilst the provision of parking may be a functional or market-led requirement, the amount, location, arrangement and design of such spaces can have both positive and negative implications with regard to the accessibility and quality of spaces/places that are created. Consideration should be given to factors such as site constraints, the established character or context of an area, and the desire to achieve high quality places.
31. The adopted Maldon District Design Guide (SPD 2017) provides detailed guidance on the design and layout of parking spaces (in particular sections C10 and C11) . The design and layout of parking spaces in developments are expected to follow the design principles set out in the Maldon District Design Guide (see [www.maldon.gov.uk/mddg](http://www.maldon.gov.uk/mddg) for more information).
32. Housing development proposals in Burnham-on-Crouch should take account of the Housing Design Principles in the Neighbourhood Development Plan. Principles NHD 7, 8, 16 and 22 relate to car parking.
33. Within areas subject to a Strategic Masterplan Framework and/or Strategic Design Code, these documents should form the basis of the design approach. In circumstances where the Maldon District Design Guide is not consistent with these documents, the principles established in the Strategic Masterplan Frameworks or Strategic Design Codes should be considered in the first instance. If the development proposal is in the North Heybridge Garden Suburb (NHGS), South Maldon Garden Suburb (SMGS) or Maldon and Heybridge Central Area please refer to:
  - NHGS Strategic Masterplan Framework (endorsed October 2014)
  - NHGS Strategic Design Code (endorsed March 2017)
  - SMGS Strategic Masterplan Framework SPD adopted March 2018
  - SMGS Strategic Design Code (endorsed March 2016)
  - Maldon & Heybridge Central Area Masterplan SPD (adopted November 2017)

## Further information:

- Maldon District Design Guide SPD 2017 and technical documents  
[https://www.maldon.gov.uk/info/20048/planning\\_policy/9226/urban\\_design/2](https://www.maldon.gov.uk/info/20048/planning_policy/9226/urban_design/2)
- Maldon and Heybridge Central Area Masterplan SPD 2017  
[https://www.maldon.gov.uk/info/20048/planning\\_policy/9226/urban\\_design/3](https://www.maldon.gov.uk/info/20048/planning_policy/9226/urban_design/3)
- North Heybridge and South Maldon Garden Suburbs Masterplan Frameworks and Design Codes [https://www.maldon.gov.uk/info/20048/planning\\_policy/9226/urban\\_design/4](https://www.maldon.gov.uk/info/20048/planning_policy/9226/urban_design/4)
- Essex Design Guide 2018: <https://www.essexdesignguide.co.uk/>  
NOTE: Maldon District Council has not adopted the EDG, and as such it has no weight in the decision making process for planning applications in the District. It is included in the further information list as it includes a section on parking design.

## Background and Evidence

34. It is important to ensure that the Council's parking standards reflect local circumstances, and strike the right balance between providing a sufficient number of car parking spaces (to prevent vehicles from being displaced onto the public highway), promoting good design and using land efficiently.
35. The National Planning Policy Framework (NPPF draft for consultation 2018 para 106) says that if setting local parking standards for residential and non-residential development, policies should take into account:
  - a) the accessibility of the development;
  - b) the type, mix and use of development;
  - c) the availability of and opportunities for public transport;
  - d) local car ownership levels; and
  - e) the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.

## Public Transport

### Rail

36. In the 2011 census, 2,339 people travelled to work by train from the District. The Crouch Valley rail line, running from Southminster, Burnham-on-Crouch, Althorne and North Fambridge links to the mainline at Wickford into London. The majority of residents living in these settlements are within a 960m (approximately 12 minutes walk) of a train station, (except for Althorne, where the train station is some distance from the village itself). Each station has its own vehicle parking areas.
37. Residents living in Maldon/Heybridge, which does not have a station, and the north of the District are more likely to use the nearest mainline stations outside of the District at Hatfield Peverel, Witham and Chelmsford. The planned new rail station at Beaulieu in north Chelmsford will provide an additional option for accessing rail services from the north of the District. South Woodham Ferrers and Wickford provide alternative stations to those in the South of the District. However, all require car journeys and bus access is limited.
38. The Office of Rail and Road, produce station usage estimates each year<sup>9</sup>. Figures are based on ticket sales data recorded in rail industry systems and include both entries and exits at each station. These show that over half a million passenger journeys are made to and from the District's four stations annually:

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<sup>9</sup> Dec 2017, [www.orr.gov.uk/statistics/](http://www.orr.gov.uk/statistics/)

**Table 1 ORR Estimates of Station Usage 2016-17**

| <b>Station name</b>                      | <b>Estimated no. entries &amp; exits</b> |
|------------------------------------------|------------------------------------------|
| Southminster                             | 148,400                                  |
| Burnham-on-Crouch                        | 249,000                                  |
| Althorne                                 | 44,500                                   |
| North Fambridge                          | 96,400                                   |
| <b>TOTAL USAGE FOR DISTRICT STATIONS</b> | <b>538,000</b>                           |
| Chelmsford                               | 8,500,000                                |
| Witham                                   | 2,300,000                                |
| South Woodham Ferrers                    | 546,500                                  |
| Hatfield Peverel                         | 411,500                                  |
| Wickford                                 | 2,443,000                                |
|                                          |                                          |

**Bus**

39. There are limited bus services available in the District. Maldon, Heybridge, Southminster and Burnham-on-Crouch have regular<sup>10</sup> bus services to Chelmsford. Regular bus services to Colchester and Witham are available from Maldon and Heybridge. Internal bus routes through Maldon / Heybridge will be improved through enhancements provided by the new Garden Suburbs at North Heybridge and South Maldon. These will provide links from these new developments to the town centre through the extension of the existing bus network (internal and wider connections) and the provision of new routes. In the main settlements, the majority of homes are within a 640m walk (approximately eight minutes)<sup>11</sup> of a regular bus service.
40. However, the majority of the villages either only have a limited bus service (for example a bus every 2 hours) or none at all. On the Dengie, which is particularly poorly served by bus services, the Dart Bus service operates a pre-bookable service from the villages to Maldon/Heybridge and on to Broomfield Hospital in Chelmsford.
41. Outside the District, the Chelmsford Park and Ride sites at Sandon and Chelmer Valley provide a frequent bus service into Chelmsford City Centre, to the train station, Anglia Ruskin University and Broomfield Hospital.
42. In developing this SPD, the concept of having zones for car free housing and different car parking standards in different areas based on availability of public transport was considered. Due to the limited public transport options available, these options have been discounted. However, where developers can justify lower parking provision based on robust evidence, provision below the standards set out in this SPD may be acceptable.

<sup>10</sup> Approximately a half-hourly service

<sup>11</sup> Transport for London (2015) *Assessing transport connectivity in London* (p18)  
<http://content.tfl.gov.uk/connectivity-assessment-guide.pdf>



## Cycling

43. The information in this section is taken from the 2018 Maldon District Draft Cycling Action Plan (ECC Highways / Transport Planning)<sup>12</sup>.
44. All of the current off-road provision for cycling is entirely contained within the urban area of Maldon Town. The majority of this has been provided through public space or new developments; and despite some design compromises, there are a number of useful sections of cycle network that have been provided. Most notably, there is a long east-west off-road cycle link between Spital Road and Park Drive towards the south of the town. This shared segregated route does require some intervention to reach its full potential, specifically to remove barriers, improve signing and resolve various legal issues that exist. Whilst the route is important, it does not provide for journeys to the High Street.
45. In Heybridge there is a network of off road routes along the Chelmer and Blackwater Navigation and Heybridge Approach into the western half of Heybridge. This route, though, does not connect to the town centre which discourages end to end journeys.
46. Sustrans National Cycle Network (NCN) route 1 is a long distance route between Dover and the Shetland Islands, which passes through Maldon, from Chelmsford in the west to Colchester in the north, and is a popular leisure route.
47. In the more rural areas of the District, quiet and safe routes between settlements such as between Southminster and Burnham are limited due to the nature of the road network and there is a lack of off road cycle provision. Despite this, the Dengie Peninsular is well used by leisure cyclists due to its flat and rural nature.
48. There are a number locations for cycle parking in and around Maldon and Burnham High Streets. To the south of Maldon District there are four railway stations, located in North Fambridge, Althorne, Burnham-on-Crouch and Southminster. There is currently very low cycle parking demand at these stations. This is likely due to a combination of the compact nature of the settlements and rural surrounding, making walking or driving the default modes of access by most rail users.
49. Fear of personal injury is often cited as a barrier to cycling but whilst this is an important issue, it is useful to use statistics rather than just perception to direct improvements to highway infrastructure to improve the cycling environment. The location of cycling personal injury collisions also serves to identify where cyclists are travelling in higher numbers. Between August 2012 to July 2017 (5 year period), there were 58 recorded Personal Injury Collisions (PICs) involving cyclists in the District. There is an even urban/rural split but more incidents tend to have occurred on busier roads. Overall, Maldon District has one of the lowest rates of injury involving cyclists in Essex.
50. Based on the 2011 Census data, Maldon District has low levels of residents travelling to work by bicycle, when compared with some Essex Districts, equivalent to a mode share for cycling of only 1.8%. Over 98% of commuters who lived in the District in 2011 travelled to work by a mode other than the bicycle. However, in Maldon town 7% of internal journeys to work were made by bike.
51. Sport England carry out an Active People Survey annually, which involves interviewing 500 people from every District in England about their levels of physical activity. It is the largest survey of sport and active recreation in Europe. For 2010-2013, when compared to Essex, Maldon has average levels of residents cycling at least once a month (approximately 15% of residents).

<sup>12</sup> <http://www.essexhighways.org/uploads/files/Getting%20Around/Cycling/Maldon-District-Cycling-Action-Plan.pdf>



52. The Department for Transport collects vehicular flow data at various locations on the road network around the country. These counts record all vehicles using the carriageway, including cyclists. Of the 31 count sites located in Maldon, 5 sites record more than 50 cyclists per day, these are along two routes.
  - B1028 Goldhanger/Maldon Road (NCN1), east of Heybridge
  - B1021 Burnham Road, between Burnham and Southminster.
53. Commuter Flow Analysis of 2011 Census travel to work data, indicates that within Maldon Town there were 1,600 residents who made internal commuting car trips, these trips made up 20% of all journeys originating from the urban area. Of these trips, over two thirds were to the town centre which is within easy cycling distance and so could be easily be made by bike if infrastructure linking to the town centre was provided. Within Burnham-on-Crouch, there were 364 internal journeys to work by car, which could easily be made by bike if residents could be persuaded to switch modes.
54. This SPD includes cycle parking standards to support current cycling levels and encourage an increase in cycling in the District.

#### Further Information

- ECC Highways / Transport Planning, 2018, *Maldon District Draft Cycling Action Plan*, <http://www.essexhighways.org/uploads/files/Getting%20Around/Cycling/Maldon-District-Cycling-Action-Plan.pdf>

#### Driving and Older People

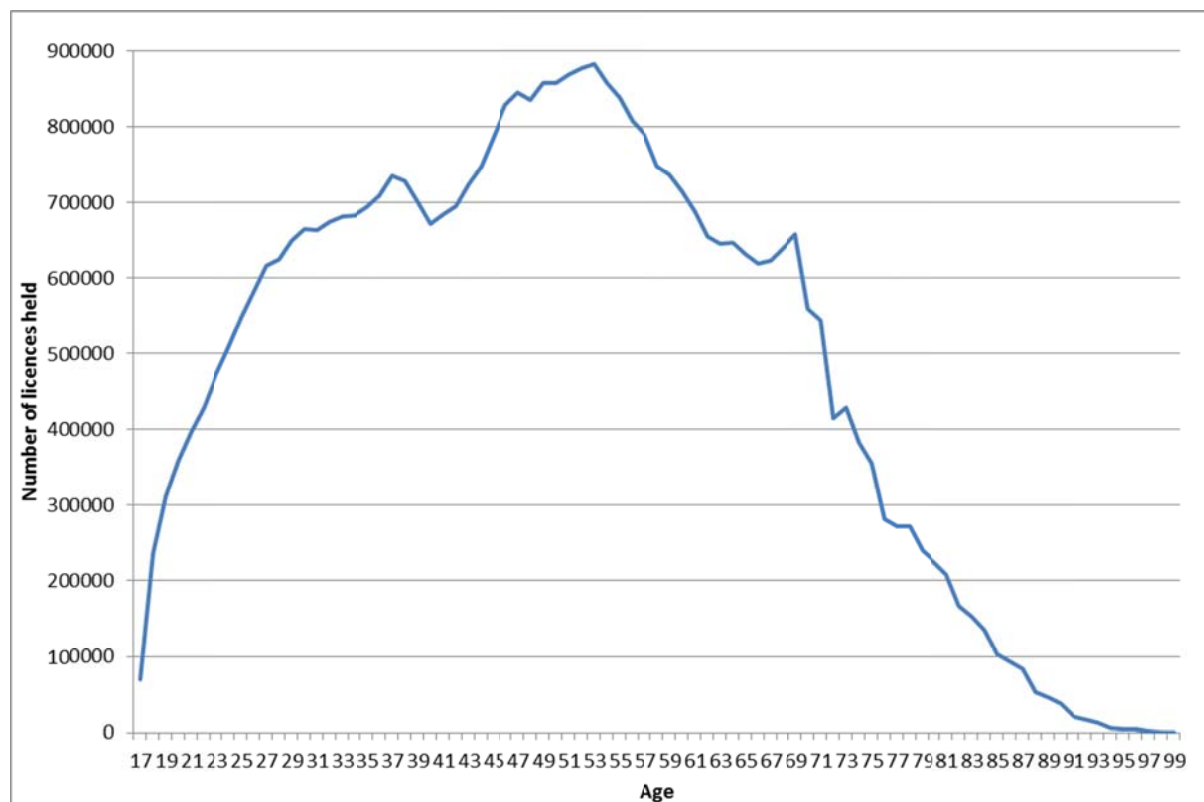
55. With an ageing population, it is important to provide the right sort of transport provision to support the independence of older people. The RAC Foundation states that
 

‘Mobility in old age is essential to an individual’s well-being. Older people, like the rest of population, rely on being able to access a wide range of services, to fulfil the requirements, and rise to the opportunities of daily life. Their need to travel is not just about accessing services. Keeping socially connected to friends and family is also important for providing a good quality of life. ... Decades of land-use planning promoting out-of-town developments has made it all the more important for people to drive and to continue driving, especially in areas not well served by public transport... Medical advances and improved health in older age is also allowing people to drive for longer and, as families are more geographically dispersed, and communities less close knit, individuals are increasingly relying on their own personal transport to meet travel needs. This is of particular concern to the increasing number of elderly people, particularly women, who live alone’<sup>13</sup>
56. The pattern of travel is different for older people. The distance travelled and the number of journeys made reduce with age. The National Travel Survey estimates that older people in England drive fewer miles than the average person: 2,045 miles per year compared to 4,137 miles for all persons. The car is the most used mode of transport for older people, accounting for 63 per cent of all trips made by those over the age of 70: 38% as a car driver and 25 % as a car passenger.
57. The DfT defines older people and older car drivers as those over 70 years old. In 2016 older people accounted for 12% of all full car driving licence holders in Great Britain, that is 4.5 million people, or 57% of over 70s. The number of older people holding full driving licences

<sup>13</sup> RAC Foundation, 2010, *Maintaining Safe Mobility for the Ageing Population – the role of the private car* <https://www.racfoundation.org/wp-content/uploads/2017/11/maintaining-safe-mobility-rac-foundation-140410-report.pdf>

has increased between 2013 and 2016 by 14%, whilst this age group itself only increased by 7%.<sup>14</sup> However, this declines dramatically from the age of 70 indicating that car use/ car ownership also reduces significantly.

**Figure 7 total number of full driving licences held in Great Britain 2018 by age of licence holder**



58. The National Travel Survey (2016) has found that 30% of older households do not have access to a car, a much higher proportion than for any other age group.<sup>15</sup> This suggests that developments specifically designed for older persons, such as independent living or care homes may not need the same level of car parking provision for residents as compared to general purpose housing, although additional car parking provision may be required for health & social care staff and visitors.

<sup>14</sup> Department for Transport, May 2018, *Older Car Drivers Road Safety Factsheet (2016)*  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/706517/older-car-drivers-factsheet.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/706517/older-car-drivers-factsheet.pdf)

<sup>15</sup> National Travel Survey, 2016, Table NTS 0108 (published 2018), <https://data.gov.uk/dataset/d0be1ed2-9907-4ec4-b552-c048f6aec16a/gb-driving-licence-data>

## Disability

59. In 2013 the Office for National Statistics<sup>16</sup> published information on the health of the population of England and Wales in respect to activity limiting health problems or disabilities, comparing the 2011 and 2011 Census data. In England 8.3% of the population reported their activity limiting health problem as 'limiting their activity a lot', with a further 9.3% 'limited a little'. In Maldon District, 17.4% of usual residents reported having activity limiting health problems or disabilities (similar to the national rate). This had risen by 1.9 % since the 2001 Census. However, the overall 'disability' rates were lower than in some other Essex districts, for example Castle Point (19%) and Tendring (25.5%). To put this into context the authorities with the highest and lowest percentages of activity limitation were East Lindsay (26%) and Wandsworth (11.2%).
60. In 2014, The Department of Work & Pensions published disability prevalence estimates for 2011/12<sup>17</sup>. These estimated that for Great Britain, 5.7% of the working age population, 5.1% of adults of state pension age and 0.8% of children were disabled.
61. Although the prevalence of disabilities is quite high, and may increase as the population ages, not all people with disabilities will need a disabled parking bay, for example, not all people with disabilities are eligible for a Blue Badge. In Essex there are currently 64,569 badges on issue by Essex County Council; of these 64,225 are individual badges and 344 are Organisational Badges. In Maldon District there are 4,845 Blue Badges on issue to individuals.<sup>18</sup> In Essex around 4.4% of the population holds a Blue Badge, compared to 7.6% in Maldon.<sup>19</sup>

## Mobility Scooters

62. Mobility scooters are divided into two categories. Class 2 mobility scooters are intended for pavement use only – they can only reach 4mph, the legal limit for use on the pavement. Class 3 mobility scooters are intended for use on the road or the pavement – they can reach up to 8mph, but must have a setting that can limit their speed to 4mph for use on the pavement. They must be fitted with lights and indicators and be registered with the DVLA to be used on the road.
63. Mobility scooters and pavement vehicles are increasingly used to replace the need drive for local trips.<sup>20</sup> There is currently little research on mobility scooter use, although it is estimated that there are 300-350,000 mobility scooter users in the UK, with approximately 80,000 new scooters sold each year, with sales increasing by 5-10% per year.<sup>21</sup> This form of transport is expected to have an increasing role to play in meeting the future transport needs of older people. The RICA study<sup>22</sup> recommended that transport and planning authorities make provision for increasing numbers of mobility scooter users of all ages when planning infrastructure developments (including roads, shopping centres and transport networks).

<sup>16</sup> ONS, 2013, *Disability in England and Wales: 2011 and comparison with 2001*  
<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/articles/disabilityinenglandandwales/2013-01-30>

<sup>17</sup> DWP, 2014, *Disability prevalence estimates 2002/03 to 2011/12*  
<https://www.gov.uk/government/statistics/disability-prevalence-estimates-200203-to-201112-apr-to-mar>

<sup>18</sup> Data from ECC; figures as of 23 May 2018.

<sup>19</sup> Based on ONS population estimates for 2016 of 1,457,910 for Essex and 63,418 for Maldon District.

<sup>20</sup> RAC Foundation, 2010, as before

<sup>21</sup> Research Institute for Consumer Affairs (RICA) (commissioned by DfT), 2014, *Mobility scooters: a market study*, <https://www.gov.uk/government/publications/mobility-scooters-a-market-study>

<sup>22</sup> *ibid*

64. Research conducted for the new London Plan<sup>23</sup> indicates that within greater London, for new build schemes 5-10% of residents were predicted to be mobility scooter users, with storage provision being made at a rate of 15% (one space per 6-7 units). In comparison, for established schemes, upto 20% of residents could be mobility scooter users, and storage provision was made for up to 1 space per 3-4 units (25-30%).
65. This SPD includes parking standards for both the size and number of disabled parking bays, the level of scooter parking facilities and car parking provision in residential developments designed for older persons.

## Local car ownership levels

### Data sources

Information from the Census<sup>24</sup> provides a helpful indicator of parking need in the District, and allows a comparison in the levels of car ownership over a number of years. The Census measures the numbers of cars or vans available to a household. This could include both cars or vans that household members own or lease, as well as company or business vehicles that are available for use by the household. For formatting and ease of reading, in the following tables, this is shortened to 'cars/vans in household'.

The DVLA / Department for Transport vehicle statistics are based on the address of the registered keeper, rather than where the vehicle is used. Therefore for District based DfT data does not include lease cars and company vehicles that are used by District residents, but are registered elsewhere.

### Maldon District

66. By mapping DVLA car ownership data and Census 2011 data, researchers have found that at a regional level the number of cars per household is inversely proportional to population density<sup>25</sup>. In particular, '*London's high urban density makes it the only region where cars do not outnumber households.*'<sup>26</sup> However, the size of this effect decreases for smaller sized towns indicating that the bigger the urban area, the more likely it is that a household does not own a car.<sup>27</sup> In simple terms, city dwellers own fewer cars than people living in the countryside. Therefore, as Maldon District is a rural area, it follows it can be expected that there will be a high level of car ownership across the District. Further, car ownership in rural areas is less sensitive to motoring costs than in urban areas<sup>28</sup>, which reflects the reliance people living in rural areas have on cars to access services and employment.

<sup>23</sup> Three Dragons, Jan 2018, *Accessible design features in specialist older persons housing - Report to the Greater London Authority - assessing potential demand for and provision of wheelchair user dwellings m4(3), and ancillary facilities in specialist older persons housing in London.*  
[https://www.london.gov.uk/sites/default/files/accessible\\_design\\_features\\_in\\_specialist\\_older\\_persons\\_housing\\_0.pdf](https://www.london.gov.uk/sites/default/files/accessible_design_features_in_specialist_older_persons_housing_0.pdf)

<sup>24</sup> Census data is available on the following websites: [www.nomisweb.co.uk](http://www.nomisweb.co.uk); [www.ons.gov.uk](http://www.ons.gov.uk); [www.essexinsight.org.uk](http://www.essexinsight.org.uk); [www.ukcensusdata.com](http://www.ukcensusdata.com)

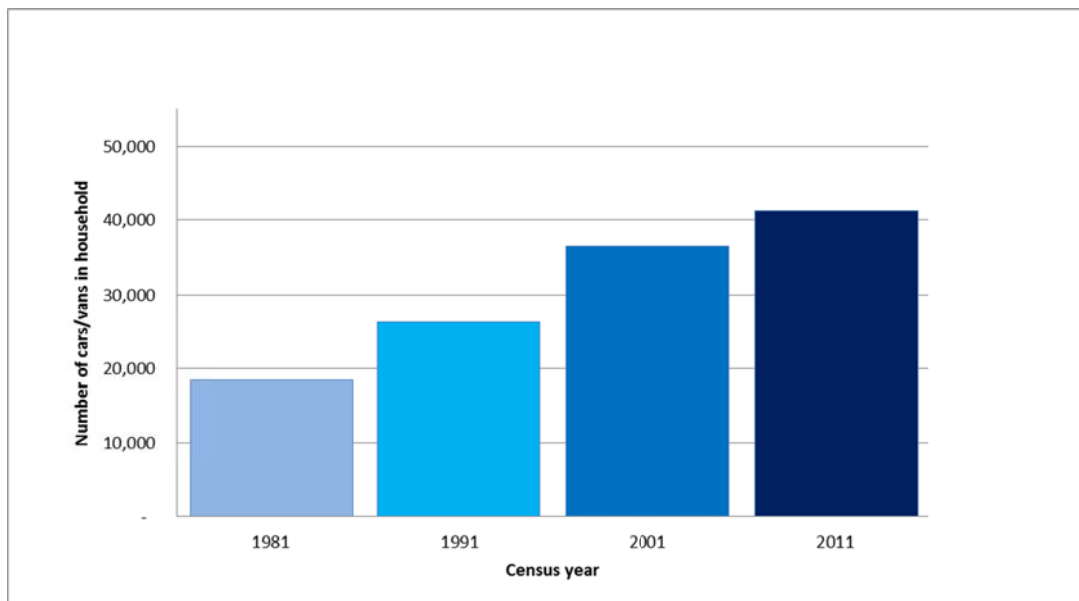
<sup>25</sup> Lansley, G (2016) Cars and socio-economics: understanding neighbourhood variations in car characteristics from administrative data, *Regional Studies, Regional Science*, 3:1, pp264-285

<sup>26</sup> Lansley, G 2016, p 271

<sup>27</sup> Lansley, G 2016, p272; Eakins J (2013)

<sup>28</sup> Zhang J (ed) (2017) *Life-Oriented Behavioral Research for Urban Policy*, Springer

**Figure 8 Total number of cars/van available in households in Maldon District 1981-2011**

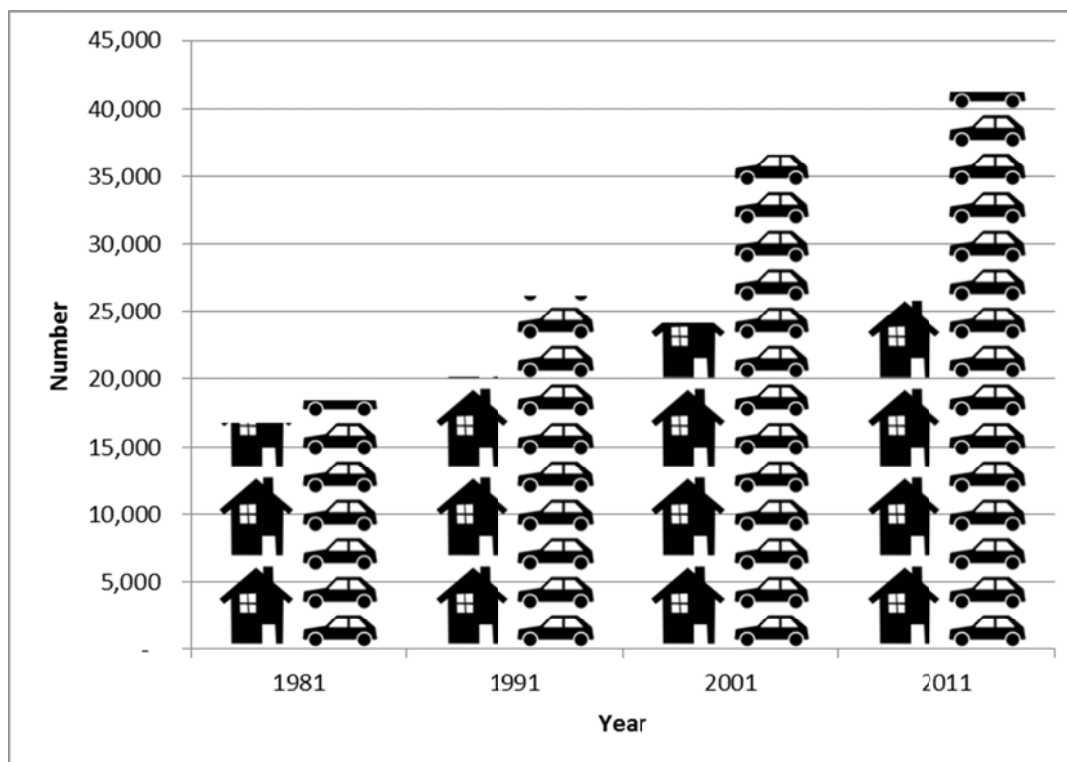


67. There are a wide range of factors affecting the decision to purchase a vehicle, and how many vehicles a household will own, including<sup>29 30 31</sup>:
- Number of workers in household (mobility for work purposes is a key driver for household car ownership)
  - Purpose of vehicle - family or business trips
  - The distance needed to be travelled on a daily basis,
  - The provision of alternative transport (such as public transport),
  - The associated costs, including purchase, maintenance and parking facilities
  - Residential location (rural households are more likely to own multiple cars, than those in cities)
  - Work place location
  - Density of services and social networks
  - Number of children in household (this particularly affects choice of size of car)
  - Age of the Head of Household (car ownership tends to increase with the age of the household head)
  - Proportion of households with members possessing free travel (eligibility for an older person's bus pass does not seem to result in a reduction in the numbers of cars owned by a household)
  - Income (the rate of car ownership may no longer vary as much across the country due to household income, but income levels do affect the age and type of vehicle purchased)
68. Using Census data, the number of car/vans available for use to households in the District has more than doubled since 1981. In 1981 there was an average of 1.09 cars/vans per household; by 2011 the figure had risen to 1.6 cars/vans per household.

<sup>29</sup> Lansley, G (2016)

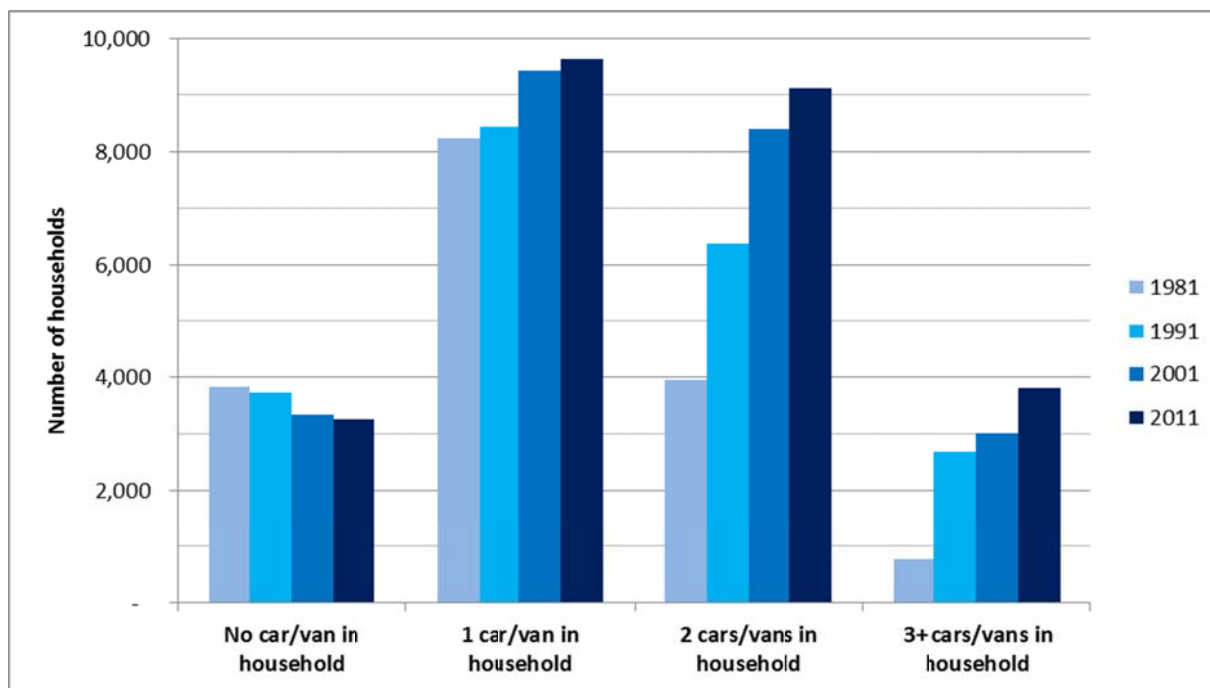
<sup>30</sup> Eakins, J (2013) *The Determinants of Household Car Ownership: Empirical Evidence from the Irish Household Budget Survey*, Surrey Energy Economics Centre (SEEC) School of Economics University of Surrey (SEEDS 144);

<sup>31</sup> Zhang J (ed) (2017)

**Figure 9 Growth in the numbers of households and cars in Maldon District 1981-2011**

69. Since 1981 there has been a distinct reduction in the number of households with no access to a car/van (600 fewer). In 2011, in the District, only 12.6% of households did not have access to a car/van. This means that over 87% of households have at least one car/van.
70. Overall, between 2001 and 2011, the number of cars/vans available to households in the District grew by 12.6%. The biggest increase has been in 2 car households; over 5,000 more households had 2 cars in 2011 than 1981. However, in 2011 less than 5% of households had 4 or more cars<sup>32</sup>.
71. 83% of households have access to 1-3 cars (2011 census), therefore the residential car parking standards will focus on this level of car parking provision.

<sup>32</sup> The 1981 and 1991 Censuses only measured the availability of 0, 1, 2, 3+ cars/vans in household; the 2001 and 2011 Censuses measured 0, 1, 2, 3 4+ cars/vans in a household. Therefore for Figure 6, the statistics for 3 and 4+ cars/vans from the 2001 and 2011 Censuses have been combined to show a comparison with the earlier Census results

**Figure 10 The growth in numbers of cars/vans per household 1981-2011**

### Comparison with Essex districts

72. When compared to the rest of Essex<sup>33</sup>, only Uttlesford District has a lower proportion of households with no car/van. This shows that residents in Maldon District are heavily reliant on cars/vans, to access employment, education and everyday services.

**Table 2 Percentages of households without access to a car/van in Essex local authorities (2011)**

| Local Authority Area | % of households with no car/van in household |
|----------------------|----------------------------------------------|
| <b>Essex</b>         | <b>18.0%</b>                                 |
| Uttlesford           | 10.1%                                        |
| <b>Maldon</b>        | <b>12.6%</b>                                 |
| Rochford             | 14.5%                                        |
| Brentwood            | 14.9%                                        |
| Epping Forest        | 15.3%                                        |
| Chelmsford           | 15.7%                                        |
| Braintree            | 16.2%                                        |
| Castle Point         | 16.8%                                        |
| Colchester           | 20.6%                                        |
| Basildon             | 21.9%                                        |
| Tendring             | 23.4%                                        |
| Harlow               | 24.9%                                        |

73. When compared to Essex overall, it is clear that in the District there are significantly fewer households with no car/van and a significantly higher proportion of households with two cars.

<sup>33</sup> Essex, excluding Thurrock and Southend-on-Sea Unitary Authorities

**Table 3 Car/van availability levels, comparison of Maldon District with Essex (2011)**

| <b>Number of vehicles</b> | <b>Essex</b> | <b>Maldon</b> |
|---------------------------|--------------|---------------|
| No car/van in household   | 18.0%        | 12.6%         |
| 1 car/van in household    | 42.1%        | 37.3%         |
| 2 cars/vans in household  | 29.6%        | 35.4%         |
| 3 cars/vans in household  | 7.4%         | 10.1%         |
| 4 cars/vans in household  | 3.0%         | 4.7%          |

**Ward level**

74. At the ward level, the three wards with the highest proportion of households with no access to a car or van are in Maldon and Burnham-on-Crouch: 28.9% of households in Maldon North do not have access to a car, as do 25.1% of households in Maldon East and 20.6% in Burnham-on-Crouch South wards. In comparison, in the rural areas fewer households do not have access to a car. The lowest proportion of households with no car/van can be found in the wards of Purleigh (3.87%), Wickham Bishops and Woodham (5.49%) and Great Totham (6.09%). The table in Appendix 1 shows the numbers of cars/vans available to households in the different Wards in Maldon District.
75. However, this urban/rural split is not reflected in the proportion of households with access to one car. Although households in Burnham-on-Crouch South have one of the highest levels of households without a car, it also has the highest proportion of households with access to one car at 46% of households. The picture is similar in Maldon North where 44.5% of households have access to one car and 43% in Maldon East.
76. Car ownership rates vary across different Wards in the District, from one car per household in Maldon North to two cars per household in Purleigh and Wickham Bishops and Woodham (rounded) (Table 4). As there are multiple influences on car ownership levels (see para 42 above), it is not possible to identify why there are fewer cars per household in one Ward compared to another.



**Table 4 Number of cars/vans per household – County-District-Ward comparison**

| 2011 Census               | Number of cars per household |                        |
|---------------------------|------------------------------|------------------------|
| Essex                     | 1.37                         |                        |
| Maldon District           | 1.60                         |                        |
| Ward                      |                              |                        |
| Maldon North              | 1.06                         | Below District Average |
| Maldon East               | 1.16                         |                        |
| Burnham-on-Crouch South   | 1.23                         |                        |
| Heybridge West            | 1.43                         |                        |
| Maldon South              | 1.49                         |                        |
| Burnham-on-Crouch North   | 1.49                         |                        |
| Southminster              | 1.56                         | District average       |
| Maldon West               | 1.57                         |                        |
| Tollesbury                | 1.62                         |                        |
| Heybridge East            | 1.63                         |                        |
| Tolleshunt D'Arcy         | 1.78                         | Above District average |
| Althorne                  | 1.83                         |                        |
| Great Totham              | 1.85                         |                        |
| Tillingham                | 1.86                         |                        |
| Mayland                   | 1.86                         |                        |
| Wickham Bishops & Woodham | 1.96                         |                        |
| Purleigh                  | 2.07                         |                        |

77. It is considered that journey destinations have the greatest influence upon the mode of transport used, which should not be confused with the desire for residential car ownership (and parking spaces at the point of residence). Due to the number of cars available to households in the 2011 Census, the increase in car ownership year on year since then<sup>34</sup>, and the reliance of residents on private cars to access employment, education and everyday services, the expectation is that all new dwellings will have at least one allocated car parking space each.
78. In exceptional circumstances, provision below the standards may be allowed, if justified by robust evidence (for example, in town centres, in areas within easy walking distance of regular public transport). In these circumstances, reduced parking provision is to be accompanied by other demand management measures, such as the provision of high quality cycling facilities and proactive Travel Plans.

### **Maldon Town Centre ARU student project**

79. In the autumn/winter 2017/18, in partnership with ARU, the District Council, hosted two groups of ARU MSc students who undertook projects into car parking in the town. The brief was to assess the impact of parking on the urban environment in the environs of Maldon Town Centre and to suggest solutions. The first project focussed on the town centre and the surrounding residential areas. The second project focussed on The Causeway, the main commercial and employment area in Maldon/Heybridge. Site surveys and data research were used to identify parking related issues in the study area. This research was combined with reviews of best practice to identify potential options that could relieve the car parking issues identified. The project groups put forward a wide range of options, from site specific

<sup>34</sup> DfT table VEH0101, <https://www.gov.uk/government/statistical-data-sets/all-vehicles-veh01#table-veh0105>

works, to improving existing public transport and cycling facilities, to car park expansion and management options. The main findings are listed below.

#### **Maldon Town Centre and surrounding residential areas<sup>35</sup>.**

##### **Town centre car parks**

- There are currently sufficient town centre car parking facilities for visitors (16% spare capacity when surveyed)
- Cost of town centre car parking is perceived as too expensive; resulting in on-street parking within residential areas
- There are inconsistencies in the design of the town centre car parks
- Maintenance issues identified; car park signposting needs improving

##### **On street parking**

- On-street parking in residential areas is one of the main issues identified
- Residents are highly car dependent
- Residential roads are narrow due to the age of the town
- The majority of Maldon was built during an era of low car ownership; there is a lack of on-plot residential parking.
- Levels of on-street parking in residential areas are exacerbated by town centre workers / visitors parking in residential areas
- The level of on-street parking affects highway safety and has an adverse visual impact on the public realm.

##### **Connectivity**

- Bus services are limited and infrequent
- Highest average public transport time in Essex
- Historic road network limits the potential for introducing cycle lanes
- Cycle parking facilities are difficult to find and require better signposting
- Causeway, Town Centre and Promenade Park are not well connected

#### **Causeway Area<sup>36</sup>.**

- There is reasonable local bus connectivity on the Causeway, however, onward routes are limited, irregular or indirect, meaning visitors from afar are likely to prefer to do so by car
- The bus stops on the Causeway are generally quite primitive and this is likely to contribute to a negative perception of using public transport
- The principal access onto the Causeway from the town centre has a significant gradient when reduces its accessibility for pedestrians
- The pavements along the Causeway are generally very narrow reducing their usability for mobility scooters and pushchairs. Choke points are common which exaggerate this narrowness even further
- There are very few pedestrian crossings available in the Causeway and the majority that do exist are traffic islands without vehicle stopping mechanisms
- There majority of roads along the Causeway are not cyclist friendly and lack designated cycle paths, meaning cyclists have to compete with vehicle drivers including a high number of HGVs
- There is a lack of safe and secure cycle parking facilities within the Causeway area which may contribute to visitor behaviour in preference of car usage
- On weekdays, there is a high level of car park usage with private car parks approaching or at

<sup>35</sup> Anderson, M., Gordon, V., Nalule, H., Wooller, H., (2018), Maldon – The role parking plays in shaping sense of place within the Town Centre & Hinterland areas. (unpublished)

<sup>36</sup> Chamberlain, N., Goodman, D., and Preston, X., (2018), Maldon Causeway Parking Study (unpublished)

capacity

- Some private car parks are inefficiently used, with areas of hard-standing dedicated to industrial storage
- High levels of car park usage contribute to on-street and illegal parking. At weekends, there is an abundance of surplus car parking available on private land, however, this is not made available to general public
- The very limited provision of electric vehicle charging points creates a considerable barrier for those wishing to access the Causeway in an electric vehicle
- High levels of on-street parking and parking on vacant land detracts from the overall quality of the public realm
- A high concentration of street-side car parks, motor sales and servicing business along the northern parts of the Causeway contribute to a cluttered and poor quality street scene
- Heavy Goods Vehicles have a tendency to mount the kerb and obstruct the free-flow of the road and pavements, detracting from the visual enjoyment of the area.

80. This research, in combination with other elements of the evidence base has helped to inform the contents of the SPD in the following ways:

- Minimum residential car parking standards
- Encouragement for electric charge point retro-fitting
- New standard for electric charge point provision
- Revision of car parking bay sizes where charging points are provided
- Improvements to cycle parking facilities
- Encouragement of shared-use of car parks
- On-site car parking provision sufficient to avoid on-street parking
- Provision for commercial deliveries within sites, to avoid loading/unloading on the highway

### Ultra Low Emission Vehicles

81. The Department for Transport uses the term 'ultra-low emission vehicles' (ULEV) to refer to vehicles with significantly lower levels of tailpipe emissions than conventional vehicles. In practice, the term currently refers to electric, plug-in hybrid and hydrogen fuel-cell vehicles, and includes all vehicles with fully electric power and cars and vans with tail-pipe emissions below 75 g/km of CO<sub>2</sub>. In 2017 the Government announced a ban on the sale of fossil fuel vehicles from 2040 onwards. It is appropriate, therefore, that the infrastructure is put in place now in new development to cater for the future demand from alternative fuel vehicles, in particular electric vehicle charging points.

82. At the end of 2011 there were only 2,315 ULEVs (all vehicles) registered in the UK. By December 2017 this had grown to 129,094 vehicles. The UK is now one of the market leaders in the take up Electric Vehicles; in Europe only Norway has more electric vehicles (2017)<sup>37</sup> Registration of new ULEVs have grown from 1,330 ULEVs in 2010; to over 53,000 registered by 2017.<sup>38</sup> It is predicted that there will be one million electric cars in the UK by the end of 2022, accounting for around 10% of all new registrations. Forecasts suggest that by 2025 25% of new cars will be electric, growing to 60% in 2030.<sup>39</sup>

<sup>37</sup> UK Power Networks, 2018, *Electric Vehicles and the Grid*, [https://www.ukpowernetworks.co.uk/internet/en/have-your-say/documents/EV%20Presentation\\_2018.03.13\\_V0.1](https://www.ukpowernetworks.co.uk/internet/en/have-your-say/documents/EV%20Presentation_2018.03.13_V0.1)

<sup>38</sup> DfT, Table VEH0170, Ultra-low emission vehicles (ULEV) registered for the first time, United Kingdom, quarterly from 2010 Q1, whole year data. Includes: Plug-in-Grant Eligible Cars, Plug-in-Non Grant Eligible Cars, Non Plug-in Cars, Quadricycles, Motor cycles & tricycles, Plug-in Grant Eligible Vans, Plug-in Non Grant Eligible Vans, Non Plug-in Vans, Heavy goods, Buses and coaches, and other vehicles. [www.gov.uk/government/collections/vehicles-statistics](http://www.gov.uk/government/collections/vehicles-statistics)

<sup>39</sup> Chargepoint, 2018, *UK on course for 60% of new cars to be electric by 2030*, <https://chargemasterplc.com/2018/01/17/uk-course-60-new-cars-electric-2030/>

83. Although the number of ULEVs registered in the District is still low (c. 100 vehicles in 2018)<sup>40</sup> with the Government's decision to phase out the manufacturing of new petrol/diesel cars, improved technology, tax/financial incentives for owning ULEVs, and changing public attitudes, it is expected that the number of ULEVs in the District will grow significantly in the future.
84. There are currently three speeds available for electric vehicle charging – trickle (3kw), fast (7kw) and rapid (40kw+). Battery prices have fallen significantly in recent years and the recent introduction of larger 40kw batteries in more affordable family cars has reduced the practicality of trickle charging, since charging times can easily exceed 12 hours. Therefore trickle charging is not recommended for use. Innovation and technology will continue to develop and battery sizes will get increasingly larger to meet the demand for longer range electric vehicles. The price of charging units has also fallen, increasing the financial viability of fast 7kw chargers, in residential and retail developments. A number of new styles of charging unit e.g. wall mounted, have increased the ease with which they can be integrated into new housing developments. This suggests that it may be more viable and practical for residents to own an electric charging vehicle in the future.
85. Therefore, this SPD includes standards for the provision of fast charging points in new developments, particular at the workplace and locations that attract short term visits.

#### Further Information

- Office for Low Emission Vehicles website – includes information on ULEVs, grant schemes and charging point installation, <https://www.gov.uk/government/organisations/office-for-low-emission-vehicles>
- UK Power Networks, 2018, *Electric Vehicles and the Grid*, [https://www.ukpowernetworks.co.uk/internet/en/have-your-say/documents/EV%20Presentation\\_2018.03.13\\_V0.1](https://www.ukpowernetworks.co.uk/internet/en/have-your-say/documents/EV%20Presentation_2018.03.13_V0.1)

#### Powered Two Wheeled Vehicles

86. Encouraging the use of powered two-wheeled vehicles (PTW)(motorcycles, scooters and mopeds) is a contentious issue, both from highway safety and public amenity viewpoints. However, the use of such vehicles for short regular journeys also creates significant benefits, most notably in the form of reduced congestion and reduced land use for parking.
87. Department for Transport statistics show that the ratio between motorcycle and car ownership is approximately 1:25<sup>41</sup>. The DfT statistical release *Vehicle Licencing Statistics: Annual 2017*<sup>42</sup> shows that in the last 20 years, the numbers of motorbikes / powered two wheelers has grown from 0.8m to 1.2m (equivalent to an increase of 20,000 vehicles pa nationally). This equates to 3.2% of all licensed vehicles in Great Britain (as at end of 2017 there were 37.7m vehicles in total). In 2017, 3.7% of all new vehicles registered were motorbikes. Therefore, providing motorbike parking at the ratio of 1 space to every 25 car parking spaces (4%) (which is in addition to the car parking provision) is appropriate.
88. Parking standards for PTWs are represented as the minimum provision required, which reflects the advantages they have over the car and single occupancy vehicles in particular. In addition to the provision of secure parking, developers will be required to demonstrate that

<sup>40</sup> DfT, Table VEH0131, Plug-in cars, vans and quadricycles licensed at the end of quarter, UK, by local authority of registered keeper from 2011 Q4, [www.gov.uk/government/collections/vehicles-statistics](http://www.gov.uk/government/collections/vehicles-statistics)

<sup>41</sup> DfT Table VEH0101, Licensed vehicles at the end of the quarter by body type, Great Britain from 1994 Q1; also United Kingdom from 2014 Q3 [www.gov.uk/government/collections/vehicles-statistics](http://www.gov.uk/government/collections/vehicles-statistics)

<sup>42</sup> Vehicle Licensing Statistics Annual 2017, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/699229/vehicle-licensing-statistics-2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/699229/vehicle-licensing-statistics-2017.pdf) )

they have considered additional needs for PTW users, such as locker, changing and shower facilities.

### Size of vehicles

89. Cars are getting larger, and drivers can find it increasingly difficult to park in older style parking bays. This increase in car dimensions can be demonstrated by looking at the Top 5 most popular models of car in 2017. For example, at 1,519,996 cars, the Fiesta is the most common licensed car in the UK. Over the 40 years since it was first introduced, it has increased in size by almost 41cm lengthwise and by 16cm in width.

**Table 5 Increases in car dimensions for the Top 5 most popular models of car**

| Make                  | Model <sup>43</sup> | Year Model Introduced | Length (mm) <sup>44</sup> | Width (mm) without door mirrors | Year (current model) | Length (mm) | Width (mm) without door mirrors | Increase Length (mm) | Increase Width (mm) |
|-----------------------|---------------------|-----------------------|---------------------------|---------------------------------|----------------------|-------------|---------------------------------|----------------------|---------------------|
| Ford                  | Fiesta              | 1977                  | 3632                      | 1574                            | 2017                 | 4040        | 1735                            | 408 (11.2%)          | 161 (10.2%)         |
| Ford                  | Focus               | 1998                  | 4152                      | 1700                            | 2015                 | 4360        | 1823                            | 208 (5.0%)           | 123 (7.2%)          |
| Vauxhall              | Corsa               | 1983                  | 3817                      | 1532                            | 2014                 | 4021        | 1736                            | 399 (11.0%)          | 204 (13.3%)         |
| Volkswagen            | Golf                | 1981                  | 3987                      | 1676                            | 2017                 | 4258        | 1790                            | 271 (6.8%)           | 114 (6.8%)          |
| Vauxhall              | Astra               | 1984                  | 3987                      | 1676                            | 2016                 | 4370        | 1809                            | 383 (9.6%)           | 133 (7.9%)          |
| Average increase (mm) |                     |                       |                           |                                 |                      |             |                                 | 334                  | 147                 |

90. In 2017 there were over 31 million cars licensed in the UK (DfT)<sup>45</sup>. The Top 30 most popular models make up 37% of cars licensed<sup>46</sup>. These range in size from the Fiat 500 to the Range Rover. Table 7 shows the average length and width of the top 10/20/30 most popular models of car. Interestingly, the average size of the Top 10 most popular ULEVs are significantly larger than the average size of the Top 30 most popular vehicle models.

<sup>43</sup> DfT - Table VEH0128 - Licensed Cars by make and generic model name in most popular order, Great Britain, annually: 1994 to 2007, quarterly from 2008 Q3; United Kingdom from 2014 Q4

[www.gov.uk/government/collections/vehicles-statistics](http://www.gov.uk/government/collections/vehicles-statistics)

<sup>44</sup> Vehicle size data from: [www.automobiledimension.com](http://www.automobiledimension.com), [www.carfolio.com](http://www.carfolio.com); [www.cars-data.com](http://www.cars-data.com)

<sup>45</sup> DfT Table Table VEH0101 Licensed vehicles at the end of the quarter by body type, Great Britain from 1994 Q1; also United Kingdom from 2014 Q3 [www.gov.uk/government/collections/vehicles-statistics](http://www.gov.uk/government/collections/vehicles-statistics)

<sup>46</sup> DfT Table Table VEH0128 [www.gov.uk/government/collections/vehicles-statistics](http://www.gov.uk/government/collections/vehicles-statistics)

**Table 6 Average length and width of the top 10/20/30 most popular vehicle models and the top 10 most popular ULEVs**

| 2017 Q3 <sup>47</sup> | Total No. Cars | Average length (mm) <sup>48</sup> | Average width (without wing mirrors)(mm) |
|-----------------------|----------------|-----------------------------------|------------------------------------------|
| Top 10 models         | 8,879,869      | 4272                              | 1771                                     |
| Top 20 models         | 12,717,331     | 4322                              | 1782                                     |
| Top 30 models         | 13,982,329     | 4326                              | 1782                                     |
| Top 10 ULEV models    | 37,476         | 4627                              | 1850                                     |

91. Due to the increase in car sizes, the preferred parking bay size has been increased in this SPD, to 2.9m x 5.5m to align with that in the EPOA Essex Vehicle Parking Standards (2009) and the Essex Design Guide (2018).

### Garage Usage

92. In 2014 the RAC<sup>49</sup> found that over 60% of motorists do not use their garage for storing their car, and estimate that half the garages in Britain are not used for their intended purpose. . In older residential developments, this may be due to inadequate internal garage dimensions, or awkward siting on the plot, resulting in difficulty in manoeuvring into and out of the garage. In some cases, this has led householders to parking at right angles across the garage doors, in order to fit an additional vehicle onto the driveway. Modern development styles, however, have meant that garages are now larger, and access is now more direct and straightforward. However, on newer developments, there are significant numbers of cars parked on driveways, or on the roadway in front of the house instead of in the garage. This may indicate that other factors are influencing parking behaviour, such as the type of vehicles owned, garage dimensions or door widths limiting the size of vehicles that can be accommodated, distance to the dwelling's front door, garages being used for alternative uses, or personal driver preference.
93. Therefore, for garages to count towards the car parking provision on new developments, garages must meet the minimum internal dimensions in this SPD. Developers will need to demonstrate that garage internal dimensions and door widths can accommodate a range of vehicle types.

### Visitor parking

94. On housing developments, visitor spaces provide options for residents to accommodate visitors (including health & social care professionals, deliveries etc), and for sites to accommodate changes in family generation cycles. The introduction of visitor parking spaces, in addition to the main parking standard requirement, can provide sufficient numbers of unallocated parking spaces to give more flexibility to the developments over the long term, which initially, can result in some spare parking capacity.
95. Designing streets so that they can accommodate on-street visitor parking can benefit residents by reducing the likelihood of anti-social parking. Visitors' parking spaces are needed most where residents have a limited number of allocated parking spaces.

<sup>47</sup> DfT Table VEH0128 & DfT Table VEH0170 Top 10 models of Ultra-low emission vehicles (ULEV)<sup>1</sup> registered for the first time, United Kingdom, 2016 Q3 to 2017 Q3

[www.gov.uk/government/collections/vehicles-statistics](http://www.gov.uk/government/collections/vehicles-statistics)

<sup>48</sup> Vehicle size data from: [www.automobiledimension.com](http://www.automobiledimension.com)

<sup>49</sup> <https://www.rac.co.uk/press-centre/press-releases/is-this-the-end-of-the-road-for-the-domestic-garag?feed=Press-Releases>



96. Therefore this SPD will include standards for the provision of visitor spaces in residential developments.

### Method of Travel to Work

97. The 2011 Census shows that in Maldon District 77.3% of working age people travelling to work<sup>50</sup> did so either as a driver or passenger in a car/van. Whilst only 8.3% commuted by train, and 1.7% did so by bus. More people travelled to work by bicycle (2%) than by bus. This highlights residents' reliance on cars/vans for accessing employment and the importance of providing adequate car / cycle parking at the work place.

**Table 7 Method of travel to work Maldon District (2011 Census)**

| Method of Travel to Work                 | Daily Number |
|------------------------------------------|--------------|
| All categories: Method of travel to work | 45,406       |
| Work mainly at or from home              | 2,230        |
| Underground, metro, light rail, tram     | 66           |
| Train                                    | 2,339        |
| Bus, minibus or coach                    | 474          |
| Taxi                                     | 79           |
| Motorcycle, scooter or moped             | 194          |
| Driving a car or van                     | 20,406       |
| Passenger in a car or van                | 1,299        |
| Bicycle                                  | 558          |
| On foot                                  | 2,453        |
| Other method of travel to work           | 194          |
| Not in employment                        | 15,114       |

98. In a rural district, where there is limited access to public transport, there is a tension between the ambition to encourage more people to use public transport to access employment, and the reality that most people use a car to get to and from work.
99. Creating functional developments that have sufficient staff and visitor car parking and cycle parking to ensure that there isn't an impact on the local road network, through on-street parking, needs to be balanced with promoting good design and using land efficiently. Employment density has been found to be more closely aligned to the type of activity undertaken within the property rather than its location or building type.<sup>51</sup> Therefore, the Homes and Communities Agency *Employment Density Guide* (2015) and has been used to sense-check the proposed levels of staff car and cycle parking in this SPD.
100. In light of the above, and the change in emphasis in the NPPF away from maximum parking standards, this SPD contains recommended parking standards for non-residential development. Car parking provision should be complemented by other demand management measures, such as the provision of high quality cycling facilities and proactive Travel Plans to encourage more use of sustainable transport.

<sup>50</sup> ie. Not working from home or not in employment

<sup>51</sup> Homes & Communities Agency, 2015, *Employment Density Guide* 3<sup>rd</sup> ed.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/484133/employment\\_density\\_guide\\_3rd\\_edition.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/484133/employment_density_guide_3rd_edition.pdf)

## Maldon Parking Standards

### When does this guidance apply?

101. The parking standards will apply to all developments for the provision of one or more residential units (gross) and all developments that result in the creation of non-residential gross external floorspace.
102. If a planning application for extension, alterations or change of use (residential and non-residential) will result in an increase in the car parking demand from the development, then the impact of the development on parking will be a material consideration, and additional parking spaces may be sought to ensure that a suitable level of parking provision is made. It is not expected that new development will rectify existing parking deficiencies, unless it is the developer's intention to do so.
103. Where mixed use, residential and commercial developments are proposed, the parking requirements for each element should be calculated individually. Where appropriate, the Council will consider the shared use of parking between residential and commercial elements where it can be demonstrated that the relevant standards are met.
104. Proposals for larger schemes will be assessed against the criteria and thresholds set out for travel plans and transport assessments.
105. A summary of the vehicle parking standards is available at Appendix 2

### Transport Assessments and Travel Plans

106. A Transport Assessment is a comprehensive and systematic process that sets out the transport issues relating to a proposed development. It identifies what measures will be taken to deal with the anticipated transport impacts of the scheme to improve accessibility and safety for all modes of travel, particularly for alternatives to the car such as walking, cycling and public transport. A Transport Statement (TS): a simplified version of a Transport Assessment (TA) for a development proposal that does not require submission of a full TA.
107. A Travel Plan is an integrated package of actions and measures aimed at reducing the role of single occupancy car journeys to and from a development. This could be through the introduction of sustainable travel information, incentives and travel demand management measures (for example, flexible working and working from home). The developer would be expected to fund the monitoring and development of the Travel Plan over time.
108. Where possible, a company or site Travel Plan should be integrated with other Travel Plans to create economies of scale and achieve greater benefits through more significant measures.
109. A Transport Assessment/Statement must be submitted with all planning applications exceeding the thresholds set out in Table 8.



**Table 8 ECC Transport Assessment (TA)/Transport Statement (TS) Guideline Thresholds:** <sup>52</sup>

| Use                                      | Threshold for Transport Statement                              | Threshold for Transport Assessment |
|------------------------------------------|----------------------------------------------------------------|------------------------------------|
| A1 Food retail                           | 250 – 800m <sup>2</sup>                                        | >800m <sup>2</sup>                 |
| A1 Non-food retail                       | 800 – 1500m <sup>2</sup>                                       | >1500m <sup>2</sup>                |
| A2 financial and professional services   | 1000 – 2500m <sup>2</sup>                                      | >2,500m <sup>2</sup>               |
| A3 restaurants and cafes                 | 300 – 2500m <sup>2</sup>                                       | >2,500m <sup>2</sup>               |
| A4 drinking establishments               | 300 – 600m <sup>2</sup>                                        | >600m <sup>2</sup>                 |
| A5 hot food takeaway                     | 250 – 500m <sup>2</sup>                                        | >500m <sup>2</sup>                 |
| B1 business                              | 1500 – 2500m <sup>2</sup>                                      | >2,500m <sup>2</sup>               |
| B2 general industry                      | 2500 – 4000m <sup>2</sup>                                      | >4,000m <sup>2</sup>               |
| B8 storage and distribution              | 3000 – 5000m <sup>2</sup>                                      | >5,000m <sup>2</sup>               |
| C1 Hotels                                | 75 – 100 bedrooms                                              | >100 bedrooms                      |
| C2 residential – hospital, nursing homes | 30 – 50 beds                                                   | >50 beds                           |
| C2 residential – education               | 50 – 150 students                                              | >150 students                      |
| C2 residential – institution hostel      | 250 – 400 residents                                            | >400 residents                     |
| C3 Residential                           | 25 – 50 units                                                  | >50 units                          |
| D1 non-residential institutions          | 500 – 1000m <sup>2</sup>                                       | >1000m <sup>2</sup>                |
| Primary and secondary education          | School TS where an increase in staff/pupil numbers is proposed | Any new school                     |
| Higher and further education             | 0 – 50 pcus                                                    | >50 pcus                           |
| Others                                   | Discuss with Local Highways Authority                          |                                    |

pcus = passenger car units

#### Further information:

- Essex County Council Sustainable Travel Plans  
<https://www.essex.gov.uk/Environment%20Planning/Development-in-Essex/Pages/Sustainable-Travel.aspx>
- ECC Development Management Policies 2011  
[https://www.essex.gov.uk/Environment%20Planning/Development-in-Essex/Documents/Development\\_Management\\_Policies.pdf](https://www.essex.gov.uk/Environment%20Planning/Development-in-Essex/Documents/Development_Management_Policies.pdf)
- Essex County Council's Sustainable Modes of Travel Strategy 2017  
[https://www.essex.gov.uk/Environment%20Planning/Development-in-Essex/Documents/Sustainable\\_Modes\\_of\\_Travel\\_Strategy.pdf](https://www.essex.gov.uk/Environment%20Planning/Development-in-Essex/Documents/Sustainable_Modes_of_Travel_Strategy.pdf)
- MHCLG, Travel Plans, Transport Assessments and Statements  
<https://www.gov.uk/guidance/travel-plans-transport-assessments-and-statements>

<sup>52</sup> ECC Development Management Policies 2011  
[https://www.essex.gov.uk/Environment%20Planning/Development-in-Essex/Documents/Development\\_Management\\_Policies.pdf](https://www.essex.gov.uk/Environment%20Planning/Development-in-Essex/Documents/Development_Management_Policies.pdf)

## Parking bay sizes

110. The preferred size of a car parking bay is 2.9m x 5.5m. This provides sufficient space to accommodate most modern cars and provides sufficient room for door opening and pedestrian access to the side. Where parking space(s) are provided in front of a garage, an additional 0.5 is required to allow the opening of a garage door. Smaller bays will not be considered a usable parking space.
111. A parking space capable of use by disabled people must be at least 3.6m wide, or adjacent to an area on the same level, such as a lowered footway, containing at least a 1.2m-wide space for getting in and out of vehicles.
112. Where a parking space includes a EV charging point within the parking bay, the length of the bay needs to be increased by 0.2m, to ensure that the length of the bay will be suitable for a range of vehicle sizes and types.

**Table 9 Parking Bay Sizes**

| Type of parking bay                                                                                         | Dimensions (width/length) |
|-------------------------------------------------------------------------------------------------------------|---------------------------|
| Parking bay                                                                                                 | 2.9m x 5.5m               |
| Parking bay that has an EV charging point located within the footprint of the bay                           | 2.9m x 5.7m               |
| Parking bay in front of a garage to allow the opening of a garage door                                      | 2.9m x 6m                 |
| Parallel parking bay - on a highway where there is a footway                                                | 2m x 6m                   |
| Parallel parking bay - on a highway where there is no footway                                               | 2.5m x 6m                 |
| A parking bay for people with disabilities (note: parking bay and transfer area must be on the same level). | 3.6m x 6m                 |
| Extended car parking space for people with disabilities using converted commercial vehicles                 | 4.8m x 8m                 |
| Parking bay for:                                                                                            |                           |
| Vans                                                                                                        | 3.5m x 8m                 |
| Rigid lorries                                                                                               | 4m x 12m                  |
| Articulated lorries                                                                                         | 5m x 18m                  |

## Residential parking standards

113. The adopted Maldon District Design Guide (SPD 2017) provides detailed guidance on the design and layout of parking spaces. The design and layout of parking spaces in developments are expected to follow the design principles set out in the Maldon District Design Guide. Where the development proposal is within an area covered by a Strategic Masterplan Framework, then that Framework and the associated Design Codes will take precedence over the Maldon District Design Guide.
114. With the exception of small residential developments, visitor parking will normally need to be incorporated within a planning proposal. Generally, unallocated visitor parking should be provided in a clearly separate group to avoid the potential for residents 'adopting' spaces near to their properties. Where a significant proportion of the total parking stock for an area is unallocated; or in locations such as town centres with good accessibility by non-car modes and where on street parking is controlled, lower levels of provision are set out in the standards.
115. For developments where clear evidence has been supplied that car ownership levels will be lower than normal, a more flexible approach to numbers of parking spaces may be taken.

**Table 10 Residential Parking Standards**

|                                                                                                                                                                                                       | <b>Number of car parking spaces (minimum)</b>                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
| • One bedroom dwelling                                                                                                                                                                                | 1                                                                                                      |
| • Two bedroom dwelling                                                                                                                                                                                | 2                                                                                                      |
| • Three bedroom dwelling                                                                                                                                                                              |                                                                                                        |
| • Four+ bedroom dwelling                                                                                                                                                                              | 3                                                                                                      |
| • Independent Living / retirement living (comprising self-contained dwellings)                                                                                                                        | Individual assessment / justification                                                                  |
| • Development with communal car parking allocated to each dwelling unit                                                                                                                               | 1 visitor space per 2 dwellings                                                                        |
| • New flats or housing incorporating communal parking which is not designated to individual housing units and is subject to a planning condition ensuring that the parking remains genuinely communal | 1 visitor space per 4 dwellings, including<br>1 disabled parking bay near the entrance to the building |
| • Housing developments >10 units                                                                                                                                                                      | 1 visitor space per 4 dwellings                                                                        |
| <b>Development in Town Centres</b>                                                                                                                                                                    |                                                                                                        |
| • Conversion of upper storeys above commercial premises for use as residential flats                                                                                                                  | May be permitted with no car parking provision                                                         |
| • New build dwellings in town centres                                                                                                                                                                 | Minimum of 1 car parking space per dwelling.                                                           |
| • Development with communal car parking allocated to each dwelling unit                                                                                                                               | 1 visitor parking space for every 4 dwellings                                                          |
| • New flats or housing incorporating communal parking which is not designated to individual housing units and is subject to a planning condition ensuring that the parking remains genuinely communal | No requirement to provide visitor spaces                                                               |

### Garages & Car Ports

116. For garages to be effective at providing, and being used as, parking spaces, they will need to be of sufficient size to accommodate a modern car and to allow room for storage, particularly for cycles. Therefore, the minimum internal size of a garage, when contributing towards parking provision is 3m x 7m. In addition, developers will need to demonstrate that garage door widths can accommodate a range of vehicle sizes.
117. Facilities should be provided for charging electric cars, mobility vehicles and other similar vehicles (where appropriate) and mains power and lighting provided.
118. Carports are less likely to be used for storage and therefore can fully count towards parking provision without including a storage allowance. This will allow room for a modern car to be parked and still allow room for access down the side of the vehicle.

**Table 11 Garage / Carport Size Standards**

| <b>Type of garage/carport</b> | <b>Internal dimensions (Width/length)</b> |
|-------------------------------|-------------------------------------------|
| 1 car garage                  | 3m x 7m                                   |
| 2 car double garage           | 6m x 7m                                   |
| 2 car tandem garage           | 3m x 13m                                  |
| Car port for 1 car            | 3m x 6m                                   |

### Non residential parking standards

119. Where non-residential development is located as follows, the expectation will be that there is sufficient parking provision for staff and visitors within the site, to ensure that the operation of the development does not negatively impact on the surrounding road network or result in on-street parking:
- Outside a town centre where there is available public car parking
  - Is not within 960m (12 minutes) walk of a train station
  - Is not within 640m (8 minutes) walk of a bus stop with a regular bus service
120. More or less parking than these standards may be justifiable and acceptable where other material considerations are taken into account, such as the need to maintain an active ground floor frontage, conservation area, the availability of alternative parking facilities, other viable modes of transport, design issues including the physical constraints of a site, the development's operational requirements, proposed Travel Plan measures and target consumers.
121. For non-residential development proposed with reduced parking provision, and where there are no suitable on-street restrictions, the applicant may be asked to undertake a parking beat survey, as part of any planning submission to support their proposal. Such surveys identify on-street and off-street parking trends, which can be used to determine lengths of stay, capacity, and usage of available parking spaces. They can also be used to measure the use of parking permits and pay and display parking bays, as well as measuring parking demand and stress in controlled and uncontrolled areas. The outputs of such surveys help demonstrate the local level of on-street parking and how development proposals' impact can be assessed accordingly.
122. For mixed use schemes, it will be necessary to calculate the amount of parking required for each element of the scheme. For example, for live-work units, the residential car parking will be as per the residential car parking standards; the employee / customer parking will be based on the car parking requirement for B1c developments.

**Table 12 Example of the vehicle parking requirements for a mixed use development (not in a town or local centre):**

| Use           | Quantity/Size  | Standard                                                     | No of spaces |
|---------------|----------------|--------------------------------------------------------------|--------------|
| Residential   | 25 2-bed flats | 2 spaces per flat, plus<br>1 visitor space for every 4 flats | 56           |
| Retail A1     | 200 sqm        | 1 space per 20 sqm                                           | 10           |
| Restaurant A3 | 200 sqm        | 1 space per 5 sqm                                            | 40           |
| Offices B1(a) | 300 sqm        | 1 space per 20sqm                                            | 15           |
| TOTAL         |                |                                                              | 121          |

123. Where there is a mixed use development which operates at different times of the day then a trade-off between the parking requirements may be made to enable a more efficient use of space e.g. shops open during the day and a theatre that is open during the evenings. This judgement will be made on a case by case basis subject to the offer of goods proposed and the on-going management arrangements.
124. The number of parking spaces for any given development is related to gross floor area (gfa), unless otherwise stated. Thus, for a development that has a gross floor space of 450m<sup>2</sup> and where the car-parking standard is 1 space per 20m<sup>2</sup> gfa, the calculation gives a nominal provision of 22.5 spaces (450/20). This figure would be rounded up for car parking to the nearest whole number, to give a provision of 23 spaces.
125. Where different uses are proposed as part of the same development (eg a pharmacy within a medical centre development) the car parking requirement for each element will be assessed

separately (ie pharmacy assessed as an A1 use; Medical Centre assessed as a D1 use) with the results added together to reach the overall parking requirement for the development.

**Table 13 Non-Residential Car Parking Standards**

| Use class | Type                                         | Description                                                                                                                                                                                             | Car parking (minimum)                                                                                                            |
|-----------|----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| A1        | <b>Shops</b>                                 | Units below 500m <sup>2</sup> within the town and district centres                                                                                                                                      | Not required to provide parking                                                                                                  |
| A1        | <b>Shops</b>                                 | Food and convenience retail                                                                                                                                                                             | 1 space per 14m <sup>2</sup>                                                                                                     |
| A1        | <b>Shops</b>                                 | All other retail developments located outside town centres NOTE: retail parking to be provided as shared use where appropriate                                                                          | 1 space per 20m <sup>2</sup>                                                                                                     |
| A2        | <b>Financial &amp; Professional Services</b> | Outside of town centre locations - Financial services such as banks and building societies, professional services (other than health and medical services) and including estate and employment agencies | 1 space per 20m <sup>2</sup>                                                                                                     |
| A3        | <b>Food &amp; Drink</b>                      | Within town / district centre locations                                                                                                                                                                 | Not required to provide parking                                                                                                  |
| A3        | <b>Food &amp; Drink</b>                      | Outside of town / district centre locations - Restaurants, snack bars and cafes, for sale & consumption on the premises                                                                                 | 1 space per 5m <sup>2</sup>                                                                                                      |
| A3        | <b>Food &amp; Drink</b>                      | Roadside Restaurants (incl Drive through outlets)                                                                                                                                                       | 1 space per 5m <sup>2</sup>                                                                                                      |
| A3        | <b>Food &amp; Drink</b>                      | Transport cafes                                                                                                                                                                                         | 1 lorry space per 2m <sup>2</sup>                                                                                                |
| A4        | <b>Drinking Establishments</b>               | Within town / district centre locations - Public houses, wine bars and other drinking establishments, but not nightclubs                                                                                | Not required to provide parking                                                                                                  |
| A4        | <b>Drinking Establishments</b>               | Outside of town centre locations - Public houses, wine bars and other drinking establishments, but not nightclubs houses,                                                                               | 1 space per 5m <sup>2</sup>                                                                                                      |
| A5        | <b>Hot food takeaways</b>                    | Within town / district centre locations - for sale & consumption of hot food off the premises                                                                                                           | Not required to provide parking                                                                                                  |
| A5        | <b>Hot food takeaways</b>                    | Outside of town / district centre locations - for sale & consumption of hot food off the premises                                                                                                       | 1 space per 20m <sup>2</sup>                                                                                                     |
| B1a       | <b>Business</b>                              | Offices                                                                                                                                                                                                 | 1 space per 20m <sup>2</sup>                                                                                                     |
| B1b       | <b>Business</b>                              | Research & development                                                                                                                                                                                  | 1 space per 50m <sup>2</sup>                                                                                                     |
| B1c       | <b>Business</b>                              | Light industry appropriate in a residential area Development restricted by planning condition to a use within Class B1 (c)                                                                              | 1 space per 50m <sup>2</sup>                                                                                                     |
| B2        | <b>General Industry</b>                      | General Industry                                                                                                                                                                                        | 1 space per 50m <sup>2</sup>                                                                                                     |
| B2        | <b>General Industry</b>                      | Office floorspace exceeding 200m <sup>2</sup> or 20% of the floorspace of the building                                                                                                                  | As per B1a                                                                                                                       |
| B8        | <b>Storage &amp; Distribution</b>            | Warehouse storage, open air storage                                                                                                                                                                     | 1 space per 150m <sup>2</sup>                                                                                                    |
| B8        | <b>Storage &amp; Distribution</b>            | Warehouse distribution                                                                                                                                                                                  | 1 car space per 100m <sup>2</sup>                                                                                                |
| B8        | <b>Storage &amp; Distribution</b>            | Office floorspace exceeding 200m <sup>2</sup> or 20% of the floorspace of the building                                                                                                                  | As per B1a                                                                                                                       |
| C1        | <b>Hotels</b>                                | Hotel with resident only restaurant facilities                                                                                                                                                          | 1 staff space per 5 bedrooms;<br>1 space per bedroom                                                                             |
| C1        | <b>Hotels</b>                                | Hotel with non-resident restaurant (outside town centres)                                                                                                                                               | 1 staff space per 5 bedrooms,<br>1 space per bedroom or 1 space per 5m <sup>2</sup> of restaurant space whichever is the greater |

| Use class   | Type                         | Description                                                         | Car parking (minimum)                                                                                                                                                                    |
|-------------|------------------------------|---------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| C2          | Residential Institutions     | Residential Care / Nursing Home                                     | 1 space per residential staff<br>1 space per 2 other staff<br>1 space per 3 bed spaces / dwelling units                                                                                  |
| C2          | Residential Institutions     | Hospitals                                                           | Individual assessment/ justification                                                                                                                                                     |
| C2          | Residential Institutions     | Residential education establishments                                | 1 space per residential staff<br>1 space per 2 other staff<br>(any parking for students with vehicles should be provided within this figure),<br>or individual assessment/ justification |
| D1          | Non-residential institutions | Medical Centre                                                      | 1 space per full-time staff<br>2 spaces per consulting room;<br>or individual assessment / justification                                                                                 |
| D1          | Non-residential institutions | Day care centres                                                    | 1 space per full time staff<br>1 space per 4 persons attending                                                                                                                           |
| D1          | Non-residential institutions | Creches/Nurseries                                                   | 1 space per full-time staff                                                                                                                                                              |
| D1          | Non-residential institutions | Schools (primary & secondary education)                             | 1 space per Full Time Equivalent (FTE) teaching staff;<br>2 spaces per 3 FTE non-teaching staff,<br>or individual assessment/ justification                                              |
| D1          | Non-residential institutions | Schools (further & higher education)                                | 1 space per daytime teaching staff;<br>1 space per 15 students;<br>or individual assessment /justification                                                                               |
| D1          | Non-residential institutions | Libraries/Art galleries/ Museums / Public Halls / Places of Worship | Within town centres - no parking requirement;<br>Outside town centres<br>1 space per 25m <sup>2</sup>                                                                                    |
| D2          | Assembly & Leisure           | Cinemas, concert halls, bingo halls, dance halls                    | Within town centres:<br>No parking requirement.<br>Outside town centres:<br>1 staff parking space per 200m <sup>2</sup><br>1 space per 5 licensed persons/ seats                         |
| D2          | Assembly & Leisure           | Other Sport & Recreational Uses included in Use Class D2            | A maximum of 1 space per 22m <sup>2</sup> of gross floor space<br>or individual assessment/ justification                                                                                |
| Sui generis |                              | Caravan Park / camping site                                         | 1 space per pitch<br>1 space per residential staff<br>1 space per 2 other staff.                                                                                                         |
| Sui generis |                              | Marina                                                              | 1 space per 2 mooring berths;<br>1 space per 2 staff                                                                                                                                     |
| Sui generis |                              | Conference Facilities & Theatres                                    | Within town centres:<br>No parking requirement.<br>Outside of town centre:<br>1 space per 2 staff;<br>1 per 5 licensed persons/seats,<br>or Individual assessment / justification        |
| Sui generis |                              | Stadia                                                              | Individual assessment / justification                                                                                                                                                    |

| Use class                                                 | Type | Description                                                    | Car parking (minimum)                                                                                       |
|-----------------------------------------------------------|------|----------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| Sui generis                                               |      | Cash & Carry and other Retail Warehouses, and Garden Centres   | 1 space per 20m <sup>2</sup> .                                                                              |
| Sui generis                                               |      | Petrol Filling Station                                         | 1 space per 14m <sup>2</sup> retail space.                                                                  |
| Sui generis                                               |      | Motor Service Centre / vehicle repair / exhaust & tyre centres | 1 space per staff<br>3 customer spaces per service / repair bay                                             |
| Sui generis                                               |      | Motor Vehicles Showroom / sales                                | 1 space per 45m <sup>2</sup> display area.                                                                  |
| Sui generis                                               |      | Taxi or Vehicle Hire                                           | 1 space per staff member permanently deployed at registered base site<br>1 space per 5 registered vehicles. |
| Sui generis                                               |      | Recycling Centre                                               | 1 space per staff<br>Waiting facilities for users of the site.                                              |
| Sui generis                                               |      | Transport Interchange                                          | On merit, in relation to location and level of service                                                      |
| <b>Sui generis and all other uses not mentioned above</b> |      |                                                                | Individual assessment / justification                                                                       |

### On-street parking

126. Car parking can dominate. Work with the ARU highlighted that in parts of Maldon on-street parking had a significant and dominant visual impact on the environment and visitor experience. It can lead to congestion and road accidents, although it also acts to a traffic calming measure.
127. It may not be appropriate to lower parking provision simply because there is capacity for parking on the immediate road network. This approach can individually or cumulatively alter and detrimentally affect the character and visual amenity of an area and may be considered unacceptable. Particular attention should be given to developments which convert dwellings into flats as although the amount of development does not increase, the intensity of use does.
128. Where residential parking schemes exist (i.e. Residential Parking Permit Zones), occupants of new developments will not be eligible for permits. Therefore, new residential development on streets covered by residential parking permits will be expected to provide adequate on-plot parking provision.
129. If on-street parking is intrinsic to the character of the area, the main concern will relate to additional capacity. If sufficient, safe, or appropriate parking is not available on-plot or within the vicinity then indiscriminate parking will occur, resulting in highway safety issues or inappropriate parking on grass verges. The general presumption is that sufficient parking should be provided within the development site and reliance should not be made of on-street parking unless it has been appropriately designed in from the start (eg unallocated visitor spaces in new large residential developments).<sup>53</sup>

<sup>53</sup> Further guidance can be found in the MDDG C10 pg 32, and in the Strategic Master Plans and Design Codes for the Garden Suburbs.

### Commercial vehicle, coach and emergency vehicle access

130. Commercial vehicles are regarded as those vehicles delivering goods to or removing goods from premises, including refuse collection vehicles. It is recognised that servicing requirements may be unique to a particular site however, with increasing use of online shopping, trips by commercial vehicles are more frequently made to residential areas. Commercial traffic varies with the type of enterprise within a given use class (e.g. the traffic serving a furniture shop may be very different in frequency and character from that supplying a supermarket).
131. The developer should analyse their site's own commercial vehicles requirements and should demonstrate that the development adequately provides for commercial vehicles; such as vehicle accommodation, loading, unloading and turning, signing and road marking. For new non-residential development, provision for loading/unloading is to be made within the site, to avoid such activities occurring on the public highway.
132. Developments likely to generate coach traffic should provide appropriate off-street parking facilities for the stopping, setting down and picking up of passengers and their luggage as well as appropriate turning facilities (avoiding the requirement for coaches to reverse in or out of a site where possible, taking into consideration pedestrian safety).
133. When considering the parking requirements for commercial and passenger carrying vehicles, applicants / developers must demonstrate that the proposed parking / drop off and pick up points will be sufficient for the planned level of activity, that the access to the site, size and number of spaces and a space available within the curtilage is adequate for the largest vehicles that might use / visit the development. The onus will be on the developer to demonstrate that the development has the appropriate level of provision.
134. Developments that attract large numbers of people (eg schools, entertainment / recreational venues, etc) or cater for people with health needs (eg health and social care facilities, residential care homes, etc) must provide sufficient manoeuvring space, close to the main building / entrance to enable ambulance access and egress in a forward gear. Designing with emergency access in mind will reduce problems associated with deliveries, removals and refuse collection. Except for schools<sup>54</sup>, drop off- pick up points should be provided near the main entrance and can be in the form of shared space with other development.
135. The applicant must demonstrate, through either a Travel Assessment or appropriate supporting documentation, that access / deliveries to the site can be made safely in terms of pedestrian safety, on site and off site highway considerations and without causing undue disruption and noise.

#### Further information:

- Maldon District Design Guide / Planning & Waste Management Technical Document [https://www.maldon.gov.uk/info/20048/planning\\_policy/9226/urban\\_design/2](https://www.maldon.gov.uk/info/20048/planning_policy/9226/urban_design/2)
- ECC Highways Technical Manual <https://www.essexdesignguide.co.uk/design-details/highways-technical-manual/>

<sup>54</sup> ECC does not encourage the provision of drop-off/pick-up points near the main entrance or within schools grounds. See the Essex County Council Developers' Guide to Infrastructure Contributions Revised Edition 2016 - <https://www.essex.gov.uk/Environment%20Planning/Development-in-Essex/Documents/Developers-guide.pdf>



## Parking for people with disabilities

136. In residential development the parking and site layout must permit access to the property for persons with mobility difficulties, using wheelchairs or mobility scooters, and for prams and cycles. Disabled spaces should usually be located as close to the entrance to the destination point as possible and dropped kerbs should be provided to enable easy access from disabled parking bays to/from the footway.
137. Residential developments for elderly persons and other developments which are likely to be used by people with disabilities (eg Independent Living, residential care homes, health care facilities.<sup>55</sup>) may require a higher provision of disabled spaces. Sufficient operational space must be provided close to the building to enable ambulance access and egress in a forward gear.
138. In non-residential development, parking should be designed and allocated for disabled users to meet demand and be located no further than 50m from an accessible entrance, (ideally the main entrance), clearly signed and preferably under cover. Where development is likely to attract visitors with disabilities (eg health and social care facilities, care homes) a higher proportion of disabled parking bays may need to be provided.

**Table 14 Parking for People with Disabilities**

| <b>Residential development</b>                                                                                                                                                                                                                        | <b>Disabled car parking spaces (minimum)</b>                                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>Individual dwelling(s) specifically designed for use by people with disabilities</li> </ul>                                                                                                                    | 1 disabled parking space per dwelling                                                                                 |
| <ul style="list-style-type: none"> <li>New flats or housing incorporating communal parking which is not designated to individual housing units and is subject to a planning condition ensuring that the parking remains genuinely communal</li> </ul> | Minimum of 1 disabled parking bay near the entrance to the building<br><br>At least 5% of parking spaces (rounded up) |
| <ul style="list-style-type: none"> <li>Independent Living, retirement living, residential care homes etc</li> </ul>                                                                                                                                   | Provision above the minimum may need to be provided, based on an individual assessment of the development             |
| <b>Non-residential</b>                                                                                                                                                                                                                                |                                                                                                                       |
| Employees and visitors to business premises<br>Car park size up to 200 bays                                                                                                                                                                           | Individual bays for each disabled employee<br>Plus<br>2 bays or 5% of total capacity, whichever is the greater        |
| Employees and visitors to business premises<br>Car park size over 200 bays                                                                                                                                                                            | 5% of car parking spaces (rounded up)                                                                                 |
| Shopping, recreation and leisure                                                                                                                                                                                                                      | 5% of car parking spaces (rounded up)                                                                                 |
| Health & Social care facilities                                                                                                                                                                                                                       | Provision above the minimum may need to be provided, based on an individual assessment of the development             |

<sup>55</sup> Department of Health, 2015, Health Technical Memorandum 07-03 NHS car-parking management: environment and sustainability 2015 edition (para 5.60) ‘...local planning conditions often stipulate a required number, and this averages around 4–6% of car-park capacity. However, NHS organisations should increase this figure, as it is likely that a higher percentage of disabled users will attend an NHS site compared with other sites’.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/481556/HTM0703NovemberUpdated.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/481556/HTM0703NovemberUpdated.pdf)

## Mobility scooters

139. In new specialist housing developments (eg Independent Living, care homes, retirement complexes, housing designed for people with disabilities) secure, undercover parking and electric charging points for mobility scooters should be provided in a convenient, accessible location at ground floor level. This particularly applies to flatted developments and older persons' housing where it may be difficult for occupants to charge scooters within the property itself.
140. Ownership of mobility scooters is hard to predict and often underestimated, but as a minimum provide for a store to house one mobility scooter per five dwellings with a maximum of one ten-scooter store per development. Developers should consider allowing additional space in the scheme for conversion to future mobility scooter storage since ownership may exceed expectations. The provision should be adaptable, to allow for changes in needs over time.
141. When designing scooter stores, allow space at the side of every parking space for residents to dismount. To facilitate the safe movement of residents from their living quarters to the scooter store, space should be provided within the store for the storage of wheelchairs/walking aids when the scooter is in use. The store should open directly to the outside or into the main entrance, and also be accessed from inside the scheme. An external door should have all the same security provisions as the main entrance door.<sup>56</sup>
142. Where parking provision for residential development includes a garage that meets the minimum dimensions set out in this SPD, additional parking provision for electric scooters will not be required.
143. For other forms of developments which are likely to be used by people with disabilities (eg health and social care facilities) adequate provision for access, parking and charging of mobility vehicles in secure, weatherproof and accessible accommodation should be made. The amount of provision will be based on an individual assessment of the development proposed, target customers and likely demand.

**Table 15 Mobility Scooter Storage Provision**

| Type of development                                                                                                         | Mobility Scooter storage                                                                                                                                                                                                                                               |
|-----------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Independent Living/ retirement complexes/ residential care home                                                             | <ul style="list-style-type: none"> <li>1 mobility scooter space per five self-contained residential units or 1 / 5 residents communal establishments</li> <li>Maximum of one 10-scooter store per development</li> <li>One charging point per scooter space</li> </ul> |
| Individual dwelling designed for older people/ people with disabilities                                                     | <ul style="list-style-type: none"> <li>Secure, adaptable space with a suitable, conveniently located charging point (eg additional internal space within the home or within a garage) to provide space for 1 scooter.</li> </ul>                                       |
| Other types development likely to be used by older people / people with disabilities (eg health and social care facilities) | <ul style="list-style-type: none"> <li>Individual assessment/justification</li> </ul>                                                                                                                                                                                  |

<sup>56</sup> For further guidance please see the MDDG, page 33

## Cycle parking

144. The cycle parking standards set out the minimum requirement for cycle parking that will normally be applied to new development. The cycle parking standards relate to the total cycle parking requirement, and the mix between long stay and short stay cycle parking spaces should be determined by the nature of the development.
145. However, it is recognised that some larger developments may result in the need for a very large number of cycle parking spaces, so their need will be considered on the basis of the specifics of the proposal. This should be justified in a statement submitted with the application.
146. Cycle storage is required to encourage cycle ownership and use, and to make cycling a safe and attractive alternative to using the private car. It is therefore important that there is adequate storage of the right type at home, and at the journey destination. Parking for cycles must be secure, weather proof and accessible. Long term cycle parking (ie for employees / overnight at home) should be provided by a secure structure within the curtilage of the property. Acceptable examples would include a garden shed, bespoke cycle store or a space within a garage that is not required for car parking. In all cases, the cycle store should be at ground level, easily accessible and should not require the bicycle to be carried through habitable accommodation. Storage within halls or other communal spaces will not be acceptable. The cycle store should be of a sufficient size to allow the requisite number of bicycles to be stored with both wheels on the ground, unless the cycle storage is of a two tier design, where the top tier slides out and lowers down to allow easy access for users.
147. For some types of development (eg blocks of flats, or non-residential developments), short stay or visitor cycle parking space should be provided. Short stay parking need not be to the same standard as long stay parking, but should usually still be covered. A popular option is a 'Sheffield Stand', which comprises of a metal frame (often an inverted 'U') secured to a fixed base. One Sheffield stand equates to two cycle spaces. Short stay cycle parking should be unallocated and located within the site so it can be accessed independently from residential properties.
148. Destinations (other forms of development such as places of work) should provide a mix of long stay and short stay cycle parking depending upon the likely mix of users. Cycle parking should be located in areas with good natural surveillance and should not be provided in locations where it is necessary to carry the bicycle through a building. Cycle parking facilities should be easy to find and as close to destinations / the main entrance as possible. Where appropriate, shower and changing facilities should be provided. These should be shown on the application floor plans and maintained in perpetuity.
149. On large sites, such as retail parks or developments with several buildings, it may be preferable to have small groups of cycle parking facilities spread around a development, rather than clustered at a central location which may prove less convenient for some users.

Table 16 Cycle Parking Standards

| Use class | Type                                         | Description                                                                                                                                                                                             | Cycle parking (minimum)                                                                                           |
|-----------|----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| A1        | <b>Shops</b>                                 | Units below 500m <sup>2</sup> within the town and district centres                                                                                                                                      | None required                                                                                                     |
| A1        | <b>Shops</b>                                 | Food and convenience retail                                                                                                                                                                             | 1 / 100m <sup>2</sup> for staff;<br>1 / 100m <sup>2</sup> for customers                                           |
| A1        | <b>Shops</b>                                 | All other retail developments located outside town centres                                                                                                                                              | 1 / 100m <sup>2</sup> for staff;<br>1 / 200m <sup>2</sup> for customers                                           |
| A2        | <b>Financial &amp; Professional Services</b> | Outside of town centre locations – Financial services such as banks and building societies, professional services (other than health and medical services) and including estate and employment agencies | 1 / 100m <sup>2</sup> for staff;<br>1 / 200m <sup>2</sup> for customers                                           |
| A3        | <b>Food &amp; Drink</b>                      | Outside of town centre locations - Restaurants, snack bars and cafes, for sale & consumption on the premises                                                                                            | 1 / 4 staff;<br>1 / 25m <sup>2</sup> for customers                                                                |
| A3        | <b>Food &amp; Drink</b>                      | Roadside Restaurants (incl Drive through outlets)                                                                                                                                                       | 1 / 4 staff;<br>1 / 25m <sup>2</sup> for customers                                                                |
| A3        | <b>Food &amp; Drink</b>                      | Transport cafes                                                                                                                                                                                         | 1 / 4 staff;<br>1 / 50m <sup>2</sup> for customers                                                                |
| A4        | <b>Drinking Establishments</b>               | Outside of town centre locations - Public houses, wine bars and other drinking establishments, but not nightclubs                                                                                       | 1 / 4 staff;<br>1 / 25m <sup>2</sup> for customers                                                                |
| A5        | <b>Hot food takeaways</b>                    | Outside of town centre locations - for sale & consumption of hot food off the premises                                                                                                                  | 1 / 4 staff;<br>1 / 25m <sup>2</sup> for customers                                                                |
| B1a       | <b>Business</b>                              | Offices                                                                                                                                                                                                 | 1 / 100m <sup>2</sup> for staff;<br>1 / 200m <sup>2</sup> for visitors                                            |
| B1b       | <b>Business</b>                              | Research & development                                                                                                                                                                                  | 1 / 100m <sup>2</sup> for staff;<br>1 / 200m <sup>2</sup> for visitors                                            |
| B1c       | <b>Business</b>                              | Light industry appropriate in a residential area<br>Development restricted by planning condition to a use within Class B1 (c)                                                                           | 1 / 100m <sup>2</sup> for staff;<br>1 / 200m <sup>2</sup> for visitors                                            |
| B2        | <b>General Industry</b>                      | General                                                                                                                                                                                                 | 1 / 100m <sup>2</sup> for staff;<br>1 / 400m <sup>2</sup> for visitors                                            |
| B2        | <b>General Industry</b>                      | Office floorspace exceeding 200m <sup>2</sup> or 20% of the floorspace of the building                                                                                                                  | As B1a                                                                                                            |
| B8        | <b>Storage &amp; Distribution</b>            | Warehouse storage, open air storage                                                                                                                                                                     | 1 / 500m <sup>2</sup> for staff;<br>1 / 1000m <sup>2</sup> for visitors                                           |
| B8        | <b>Storage &amp; Distribution</b>            | Warehouse distribution                                                                                                                                                                                  | 1 / 500m <sup>2</sup> for staff;<br>1 / 1000m <sup>2</sup> for visitors                                           |
| B8        | <b>Storage &amp; Distribution</b>            | Office floorspace exceeding 200m <sup>2</sup> or 20% of the floorspace of the building                                                                                                                  | As B1a                                                                                                            |
| C1        | <b>Hotels</b>                                | Hotel with restaurant facilities                                                                                                                                                                        | 1 / 4 staff; plus<br>1 / 10 beds or 1 / 25m <sup>2</sup> restaurant-entertainment area, whichever is the greater. |
| C2        | <b>Residential Institutions</b>              | Residential Care / Nursing Home                                                                                                                                                                         | 1 / 2 staff;<br>1 / 6beds for visitors.                                                                           |
| C2        | <b>Residential Institutions</b>              | Hospitals                                                                                                                                                                                               | 1 / 4 staff;<br>1 / 20 beds<br>or individual assessment/ justification                                            |
| C2        | <b>Residential Institutions</b>              | Residential education establishments                                                                                                                                                                    | 1 / 5 staff<br>1 / 3 pupils                                                                                       |

| Use class                                                 | Type                                | Description                                                         | Cycle parking (minimum)                                                                                                                                                                                       |
|-----------------------------------------------------------|-------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>C3</b>                                                 | <b>Dwelling houses</b>              | Residential                                                         | None if garages provided;<br>1 / dwelling (one bed);<br>2 / dwelling (2+ beds);<br>+ 1 / 8 units (for visitors)                                                                                               |
| <b>D1</b>                                                 | <b>Non-residential institutions</b> | Medical Centre                                                      | 1 / 4 staff;<br>1 / consulting room.                                                                                                                                                                          |
| <b>D1</b>                                                 | <b>Non-residential institutions</b> | Day care centres                                                    | 1 / 4 staff;<br>1 / 200m <sup>2</sup> for visitors.                                                                                                                                                           |
| <b>D1</b>                                                 | <b>Non-residential institutions</b> | Creches/Nurseries                                                   | 1 / 5 staff;<br>1 / 30 children                                                                                                                                                                               |
| <b>D1</b>                                                 | <b>Non-residential institutions</b> | Schools (primary & secondary education)                             | 1 / 20 staff;<br>1 / 20 pupils (primary);<br>1 child scooter space / 20 pupils (primary);<br>1 / 10 students (secondary)                                                                                      |
| <b>D1</b>                                                 | <b>Non-residential institutions</b> | Schools (further & higher education)                                | 1 / 20 staff;<br>1 / 20 students<br>or individual assessment/ justification                                                                                                                                   |
| <b>D1</b>                                                 | <b>Non-residential institutions</b> | Libraries/Art galleries/ Museums / Public Halls / Places of Worship | Libraries 1 / 4 staff plus 3 at branch library or 10 at main library.<br>Public assembly: 1 / 10m <sup>2</sup> .<br>Places of worship: 1 / 5 seats.<br>Cultural buildings: 1 / 4 staff + 1 / 35m <sup>2</sup> |
| <b>D2</b>                                                 | <b>Assembly &amp; Leisure</b>       | Cinemas, concert halls, bingo halls, dance halls                    | 1 / 4 staff;<br>1 / 20 seats.                                                                                                                                                                                 |
| <b>D2</b>                                                 | <b>Assembly &amp; Leisure</b>       | Other Sport & Recreational Uses included in Use Class D2            | 1 / 4 staff<br>1 / 4 visitors or players<br>Or individual assessment/ justification                                                                                                                           |
| <b>Sui generis</b>                                        |                                     | Caravan Park / camping site                                         | 1 / 4 staff;<br>1 / 10 pitches                                                                                                                                                                                |
| <b>Sui generis</b>                                        |                                     | Marina                                                              | 1 / 10 moorings                                                                                                                                                                                               |
| <b>Sui generis</b>                                        |                                     | Conference Facilities & Theatres                                    | 1 / staff<br>1 / 20 seats                                                                                                                                                                                     |
| <b>Sui generis</b>                                        |                                     | Stadia                                                              | Individual assessment / justification                                                                                                                                                                         |
| <b>Sui generis</b>                                        |                                     | Cash & Carry and other Retail Warehouses, and Garden Centres        | 1 / 100m <sup>2</sup> for staff;<br>1 / 200m <sup>2</sup> for customers.                                                                                                                                      |
| <b>Sui generis</b>                                        |                                     | Petrol Filling Station                                              | 1 / 5 staff;<br>1 / 100m <sup>2</sup> shop floor where applicable                                                                                                                                             |
| <b>Sui generis</b>                                        |                                     | Motor Service Centre / vehicle repair / exhaust & tyre centres      | 1 / 5 staff                                                                                                                                                                                                   |
| <b>Sui generis</b>                                        |                                     | Motor Vehicles Showroom / sales                                     | 1 per 100m <sup>2</sup> for staff;<br>1 per 200m <sup>2</sup> for customers                                                                                                                                   |
| <b>Sui generis</b>                                        |                                     | Taxi or Vehicle Hire                                                | 1 space per base site                                                                                                                                                                                         |
| <b>Sui generis</b>                                        |                                     | Recycling Centre                                                    | No provision required                                                                                                                                                                                         |
| <b>Sui generis</b>                                        |                                     | Transport Interchange                                               | Rail stations:<br>10 / Morning peak service.<br>Park & Ride: 1 / 10 parking spaces<br>or individual assessment/ justification                                                                                 |
| <b>Sui generis and all other uses not mentioned above</b> |                                     |                                                                     | <b>Individual assessment/justification</b>                                                                                                                                                                    |

**Further information**

- Cycle Proofing Working Group <https://www.gov.uk/government/groups/cycle-proofing-working-group#resources>
- Sustrans <https://www.sustrans.org.uk/our-services/what-we-do/route-design-and-construction/route-design-resources/best-practice-cycle>
- Maldon District Design Guide SPD 2017 and technical documents [https://www.maldon.gov.uk/info/20048/planning\\_policy/9226/urban\\_design/2](https://www.maldon.gov.uk/info/20048/planning_policy/9226/urban_design/2)
- Essex Cycling Strategy Highways/Major Projects | November 2016 <http://www.essexhighways.org/uploads/docs/ecc-cycling-strategy-novemeber-2016.pdf>

**Powered Two Wheelers/Motorcycles**

150. Based on the ratio of motorcycles to cars in the UK, at least one motorcycle/powered two wheeler (PTW) parking space will be provided for every 25 car parking spaces required in a non-residential development. Where justified, higher numbers of motorcycle parking spaces can be provided at destinations likely to attract motorcyclists. Motor cycle provision is in addition to the car parking spaces being provided.
151. Effective motor cycle parking is '*near, clear, secure and safe to use*'.<sup>57</sup> The siting and design of the motorcycle parking area should ensure that the facility is secure, for example through the use of fixed and robust features such as rails, hoops or posts which provide a simple locking-point to secure a motorcycle by chain or similar device. Long term cycle parking, for example for employees, should be undercover wherever possible.

**Table 17 Powered Two Wheeler Parking Standards**

| Type of development         | Powered Two Wheeler parking                                                                                                                                                                              |
|-----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Non-residential development | <ul style="list-style-type: none"> <li>• Minimum of 1 PTW parking space, or</li> <li>• 1 PTW parking space per 25 car parking spaces.</li> </ul> <p>This is additional to the car parking provision.</p> |

**Further information:**

- Institute of Highway Engineers, *Guidelines for Motorcycling* - <http://www.motorcycleguidelines.org.uk/the-guidelines/6-0-motorcycle-parking/>

**Electric vehicles**

152. EV charging is a developing technology and the Council will seek to ensure that connection points are installed in line with emerging technical requirements and open standards<sup>58</sup>. Connections conforming to national and/or industry standards will therefore be used. It is the responsibility of the developer to ensure that the electricity supply is sufficient to meet future demands and that any power balancing technology is in place if required.
153. To retro-fit EV charging points in existing dwellings, for charging Electric vehicles (EV) at home, normal household sockets are adequate to charge electric vehicles however a survey must be completed first to ensure the wiring is good enough to handle the high electrical draw. Alternatively, an off-street home charging point can be installed. Installation is supported by the Electric Vehicle Home Charge Scheme, which offers a grant towards installation of an approved charging point by an approved installer. These home charging

<sup>57</sup> Institute of Highway Engineers, *Guidelines for Motorcycling* - <http://www.motorcycleguidelines.org.uk/the-guidelines/6-0-motorcycle-parking/>

<sup>58</sup> Open standards give any user permission to copy, distribute and use technology freely. An open standard is one that can be freely accessed, adopted, and improved upon. The term is often used in relation to software. A vehicle related example is Volvo's 1959 'open patent' for the three-point seat belt.

points guarantee safety and can charge the car much faster than a standard UK socket. Recharging at home, at night, will be the most convenient and practical option for most drivers by using cheaper off peak tariffs.

154. For new dwellings, an external<sup>59</sup> fast charging point shall be provided adjacent to at least 1 parking space for each new dwelling. To allow for an easy upgrade to a rapid charge facility in the future, the charging points should be supplied with a suitable, independent radial circuit and external socket (with a locking and weatherproof cover) complying to the relevant national standards.
155. For communal residential parking areas, 1 charging point is required for every 20 spaces (5%). Where the parking spaces are allocated to individual dwellings, the charging point(s) can be provided on unallocated visitor parking spaces within the development.
156. 5% of all parking spaces in non-residential developments are to have a fast charging point. Appropriate cable provision shall be in place for a further 5% to meet any future increase in demand.
157. If the charging point is outside the parking bay, the bay can be the standard length of 5.5m. Where charging points are within a parking bay, that bay shall be lengthened by 0.2m to ensure that the space can accommodate a range of vehicle sizes, without the vehicle over-hanging the parking space and potentially impeding the circulation space of the car park. Where the charging point is on a pavement, adjacent to the parking bay, the pavement must be wide enough to enable people using mobility aids, or parents with push-chairs, to safely pass without the need to step off into the roadway.
158. The charging points for non-residential developments should comply with the technical specifications listed by the Office for Low Emission Vehicles. These charging points will be installed by and paid for by the developer. There are grant schemes to assist with the development of EV infrastructure, which can reduce the cost of installing charging points. Commercial land uses, particularly those with retail units, present the possibility of charging users fees for the use of fast or rapid units, creating an income stream to offset installation or running costs.
159. In order to future proof development, and avoid the digging up of hard landscaping, the Council will encourage the provision of appropriate ducting to enable future charging points to be created in non-residential developments

**Table 18 Electric Vehicle Charging Points Standards**

| Type of development                                       | Number of charging points                                                                                                                                                                                              |
|-----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Residential off-street parking (driveway/garage/car port) | <ul style="list-style-type: none"> <li>At least 1 home charging point</li> </ul>                                                                                                                                       |
| Residential communal car parking                          | <ul style="list-style-type: none"> <li>1 fast charging point for every 20 parking bays</li> <li>A further 5% of available spaces to be provided with power supply to provide additional fast charge sockets</li> </ul> |
| Non-residential development                               | <ul style="list-style-type: none"> <li>1 fast charging point for every 20 parking bays</li> <li>A further 5% of available spaces to be provided with power supply to provide additional fast charge sockets</li> </ul> |

<sup>59</sup> External in this sense means outside the house, ie an external charging point could be within a garage.

**Further information:**

- Energy Saving Trust <http://www.energysavingtrust.org.uk/transport-travel>
- Office for Low Emission Vehicles – provides information on ULEVs, grant schemes and chargen point installation, <https://www.gov.uk/government/collections/government-grants-for-low-emission-vehicles>
- Maldon District Design Guide SPD 2017 and technical documents
- [https://www.maldon.gov.uk/info/20048/planning\\_policy/9226/urban\\_design/2](https://www.maldon.gov.uk/info/20048/planning_policy/9226/urban_design/2)
- North Heybridge and South Maldon Garden Suburbs Masterplan Frameworks and Design Codes [https://www.maldon.gov.uk/info/20048/planning\\_policy/9226/urban\\_design/4](https://www.maldon.gov.uk/info/20048/planning_policy/9226/urban_design/4)

**School Parking**

160. Development proposals should have regard to the Essex County Council Developers' Guide to Infrastructure Contributions (2016). This outlines (at section 4.2) the preferred approach of the County Council to the layout of education and community facilities. Appendix D to that guide provides layouts for education and community facilities, highlighting the key issues of reducing school run traffic and providing safe drop off space.
161. New schools, or those where expansion is proposed, are expected to develop, update and monitor School Travel Plans.

**Cars**

162. Measures to discourage parking should be considered first and could include car sharing, staggered school days, parking restrictions, parking permits issued on the basis of need and other measures as appropriate.
163. A parking management plan should be prepared and submitted as an integral part of any planning application.
164. Operational requirements (broadly defined as staff and visitors) should be provided for only. Parent / student parking should not usually be provided. However, safe drop off/pick up areas could be provided, as necessary, to improve highway safety.

**Coach/Bus**

165. On all new or expanded school sites where it is likely that pupils will travel to and from school in coaches, sufficient space should be reserved to allow coaches to enter the site, drop off and pick up pupils. Where coach/bus provision cannot be accommodated within the site, appropriate, bus stops, bays, raised kerbs, seating and shelters on the highway shall be provided by the applicant off site.

**Cycles and non-motorised Scooters**

166. Provision of cycle and non-motorised scooter<sup>60</sup> parking will be a condition of any new or expanded school.

**School Drop Off areas**

167. The child drop off and collection period presents a peak of traffic close to schools. If not properly planned for and managed it can cause considerable problems for parents, staff and local residents.
168. Planning applications for new schools must demonstrate how the drop off and collect periods will impact on the local area.

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<sup>60</sup> for Pre-school and Primary School education only



**Further Information:**

- Essex County Council's Sustainable Modes of Travel Strategy 2017  
[https://www.essex.gov.uk/Environment%20Planning/Development-in-Essex/Documents/Sustainable\\_Modes\\_of\\_Travel\\_Strategy.pdf](https://www.essex.gov.uk/Environment%20Planning/Development-in-Essex/Documents/Sustainable_Modes_of_Travel_Strategy.pdf)
- School Travel Plans - <https://www.essex.gov.uk/Environment%20Planning/Development-in-Essex/Pages/Sustainable-Travel.aspx>
- The Essex County Council Developers' Guide to Infrastructure Contributions Revised Edition 2016 - <https://www.essex.gov.uk/Environment%20Planning/Development-in-Essex/Documents/Developers-guide.pdf>
- Maldon District Design Guide SPD 2017 and technical documents  
[https://www.maldon.gov.uk/info/20048/planning\\_policy/9226/urban\\_design/2](https://www.maldon.gov.uk/info/20048/planning_policy/9226/urban_design/2)
- North Heybridge and South Maldon Garden Suburbs Masterplan Frameworks and Design Codes [https://www.maldon.gov.uk/info/20048/planning\\_policy/9226/urban\\_design/4](https://www.maldon.gov.uk/info/20048/planning_policy/9226/urban_design/4)

**Delivering Maldon's Parking Standards****Viability**

169. The Council's default position is that all qualifying development should comply with the LDP, and therefore this SPD, in relation to vehicle parking requirements. Adequate, good quality vehicle parking provision helps to create functional developments and supports their long term success.
170. As the vehicle parking requirements are set out in the SPD, the Council considers that the cost of providing vehicle parking, at the policy compliant level, should be factored into any land valuation prior to an offer for the land being made. This approach avoids:
- Unrealistic land value demands and the developer having to re-negotiate the land value with the landowner at a later date;
  - Having to negotiate a lower than policy level of affordable housing; and
  - The risk of an application being refused.
171. There will be circumstances where viability is a genuine concern (for example, underground parking) and needs further consideration. Therefore, a viability assessment will need to be submitted where lower levels of vehicle parking are proposed due to viability issues. For further information about viability assessment requirements see the Council's Affordable Housing and Viability SPD.

**Use of planning conditions and developer contributions**

172. Planning conditions will be used to ensure that the proposed parking provision is provided, that communal parking provision remains genuinely communal in perpetuity and for vehicle parking maintenance as necessary.
173. Developer contributions may be sought, for example, for the long term maintenance of communal parking areas, and cycle/powered two wheeler/ULEV provision, etc.
174. A key principle of this SPD is that car parking provision for developments should be contained within the development. Therefore, only in exceptional circumstances will developer contributions be appropriate for off-site provision via a Section 106 agreement.
175. The developer will be liable for the Council's legal costs and for drafting, negotiating and signing any S106 agreement and variation agreements.

### **Amendment of permissions and changes of use**

176. Where a developer submits a planning application to amend an existing permission, the amended proposal must provide sufficient car parking for the amended elements without compromising the car parking provision for the overall scheme. For example, where the numbers of dwellings or their sizes has changed, then the car parking provision must be appropriate for the new sizes and numbers of dwellings. If the change in the number of dwellings leads to the need to provide additional visitor parking, this must be incorporated into the development.
177. Where a change in use is proposed, it is important to ensure that where a use with a low level of parking provision is changed for a use that will see the employment density on the site increase, then there should be sufficient car parking provided on site to avoid overspill car parking on the adjacent road network.
178. Development on existing car parks will be resisted if the proposal will negatively impact on the local road network or the long term function of the existing or proposed development.
179. The availability of car parking in town and district centres is a key element to maintaining the vitality and viability of our towns and villages. Development of town / district centre car parks will be resisted unless there is clear evidence that there are significant levels of excess car parking capacity in the area, or an equivalent replacement level of parking provision is provided either on site or elsewhere in the town/district centre. Any replacement provision must be of a similar capacity, accessibility and distance from the main shopping area as the car park being proposed for development.

### **Monitoring & Review**

180. A review of this SPD will be considered if:
  - There are significant changes to local circumstances, or to the Local Development Plan's evidence base
  - There is a significant change in national planning guidance.
  - The SPD is ineffective in delivering appropriate parking provision

## Appendix 1 – Car / Van Availability by Ward 2011

Table 19 Car/van availability by Ward, 2011 Census

| Wards                     | No car/van in household |              | 1 car / van in household |              | 2 cars / vans in household |              | 3 cars / vans in household |              | 4 cars / vans in household |              | Sum of all cars / vans in area |
|---------------------------|-------------------------|--------------|--------------------------|--------------|----------------------------|--------------|----------------------------|--------------|----------------------------|--------------|--------------------------------|
|                           | No. of households       | % households | No. of households        | % households | No. of households          | % households | No. of households          | % households | No. of households          | % households |                                |
| <b>Essex</b>              | <b>104,552</b>          | <b>18.0</b>  | <b>244,783</b>           | <b>42.1</b>  | <b>171,954</b>             | <b>29.6</b>  | <b>42,913</b>              | <b>7.4</b>   | <b>17,417</b>              | <b>3.0</b>   | 795,400                        |
| <b>Maldon District</b>    | <b>3,247</b>            | <b>12.6</b>  | <b>9,636</b>             | <b>37.3</b>  | <b>9,117</b>               | <b>35.3</b>  | <b>2,616</b>               | <b>10.1</b>  | <b>1,201</b>               | <b>4.7</b>   | 41,205                         |
| Althorne                  | 128                     | 7.61         | 599                      | 35.61        | 606                        | 36.02        | 209                        | 12.42        | 140                        | 8.32         | 3,080                          |
| Burnham-on-Crouch North   | 228                     | 14.40        | 649                      | 40.99        | 501                        | 31.64        | 144                        | 9.09         | 61                         | 3.85         | 2,360                          |
| Burnham-on-Crouch South   | 399                     | 20.60        | 891                      | 46.02        | 503                        | 25.98        | 110                        | 5.68         | 33                         | 1.70         | 2,380                          |
| Great Totham              | 91                      | 6.09         | 467                      | 31.27        | 649                        | 43.46        | 201                        | 13.46        | 85                         | 5.69         | 2,759                          |
| Heybridge East            | 127                     | 7.55         | 677                      | 40.29        | 641                        | 38.15        | 182                        | 10.83        | 53                         | 3.15         | 2,746                          |
| Heybridge West            | 262                     | 15.54        | 666                      | 39.52        | 591                        | 35.07        | 125                        | 7.41         | 41                         | 2.43         | 2,404                          |
| Maldon East               | 234                     | 25.16        | 400                      | 43.01        | 233                        | 25.05        | 50                         | 5.37         | 13                         | 1.39         | 1,078                          |
| Maldon North              | 616                     | 28.93        | 948                      | 44.52        | 448                        | 21.04        | 85                         | 3.99         | 32                         | 1.50         | 2,251                          |
| Maldon South              | 193                     | 12.19        | 648                      | 40.96        | 569                        | 35.96        | 126                        | 7.96         | 46                         | 2.90         | 2,354                          |
| Maldon West               | 226                     | 14.44        | 559                      | 35.71        | 548                        | 35.01        | 165                        | 10.54        | 67                         | 4.28         | 2,454                          |
| Mayland                   | 118                     | 6.74         | 561                      | 32.07        | 707                        | 40.42        | 237                        | 13.55        | 126                        | 7.20         | 3,253                          |
| Purleigh                  | 50                      | 3.87         | 338                      | 26.16        | 571                        | 44.19        | 208                        | 16.09        | 125                        | 9.67         | 2,677                          |
| Southminster              | 216                     | 12.7         | 663                      | 38.93        | 591                        | 34.70        | 156                        | 9.16         | 77                         | 4.52         | 2,658                          |
| Tillingham                | 69                      | 7.78         | 274                      | 30.92        | 364                        | 41.08        | 111                        | 12.52        | 68                         | 7.67         | 1,647                          |
| Tollesbury                | 74                      | 8.63         | 333                      | 38.85        | 335                        | 39.08        | 84                         | 9.80         | 31                         | 3.61         | 1,386                          |
| Tolleshunt D'Arcy         | 138                     | 8.48         | 555                      | 33.71        | 651                        | 39.55        | 210                        | 12.75        | 92                         | 5.58         | 2,930                          |
| Wickham Bishops & Woodham | 78                      | 5.49         | 408                      | 28.75        | 609                        | 42.91        | 213                        | 15.01        | 111                        | 7.82         | 2,788                          |

## Appendix 2: Summary of Parking Standards

**Table 20 Summary of Vehicle Parking Standards**

NOTE: Where different uses are proposed as part of the same development (eg a pharmacy within a medical centre development) the car parking requirement for each element will be assessed separately (ie pharmacy assessed as an A1 use; Medical Centre assessed as a D1 use) with the results added together to reach the overall parking requirement for the development.

| Description                                                           | Powered two Wheeler(PTW)                                                                                                     | Parking for People with Disabilities                                                                                                                                                                                                                                                                                                | Electric Vehicle Charging Points                                                                                                                                 | Operational                                                                                                                                                                                                   |
|-----------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>ALL developments</b>                                               |                                                                                                                              |                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                  | In all cases adequate provision shall be made for the parking and turning of service vehicles delivering goods to / from the premises and for emergency vehicles to access and exit the site in forward gear. |
| <b>Car Park Used For: Shopping, recreation and leisure</b>            | 1 space per 25 car parking spaces provided;<br>Minimum of 1 PTW parking space (this is in addition to car parking provision) | Standard provision is:<br>5% car parking bays                                                                                                                                                                                                                                                                                       | 1 fast charging point for every 20 parking bays<br><br>Further 5% of available spaces to be provided with power supply to provide additional fast charge sockets |                                                                                                                                                                                                               |
| <b>Car Park Used For: Employees and visitors to business premises</b> | 1 space per 25 car parking spaces provided;<br>Minimum of 1 PTW parking space (this is in addition to car parking provision) | Standard provision is:<br>Less than 200 car parking bays:<br><ul style="list-style-type: none"> <li>Individual bays for each disabled employee</li> <li>Plus 2 bays or 5% of total capacity, whichever is the greater;</li> </ul> Over 200 car parking bays:<br><ul style="list-style-type: none"> <li>5% total capacity</li> </ul> | 1 fast charging point for every 20 parking bays<br><br>Further 5% of available spaces to be provided with power supply to provide additional fast charge sockets |                                                                                                                                                                                                               |

| Use class | Type                                         | Description                                                                                                                                                                                             | Car parking                       | Cycle parking                                                        | PTW           | Parking for People with Disabilities | Operational | Comments                                                                             |
|-----------|----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|----------------------------------------------------------------------|---------------|--------------------------------------|-------------|--------------------------------------------------------------------------------------|
| A1        | <b>Shops</b>                                 | Units below 500m <sup>2</sup> within the town and district centres                                                                                                                                      | Not required to provide parking   |                                                                      |               |                                      |             |                                                                                      |
| A1        | <b>Shops</b>                                 | Food and convenience retail                                                                                                                                                                             | 1 space per 14m <sup>2</sup>      | 1 / 100m <sup>2</sup> for staff; 1 / 100m <sup>2</sup> for customers | std provision | std provision                        |             |                                                                                      |
| A1        | <b>Shops</b>                                 | All other retail developments located outside town centres<br>NOTE: retail parking to be provided as shared use where appropriate                                                                       | 1 space per 20m <sup>2</sup>      | 1 / 100m <sup>2</sup> for staff; 1 / 200m <sup>2</sup> for customers | std provision | std provision                        |             |                                                                                      |
| A2        | <b>Financial &amp; Professional Services</b> | Outside of town centre locations - Financial services such as banks and building societies, professional services (other than health and medical services) and including estate and employment agencies | 1 space per 20m <sup>2</sup>      | 1 / 100m <sup>2</sup> for staff; 1 / 200m <sup>2</sup> for customers | std provision | std provision                        |             |                                                                                      |
| A3        | <b>Food &amp; Drink</b>                      | Within town centre locations                                                                                                                                                                            | Not required to provide parking   |                                                                      |               |                                      |             |                                                                                      |
| A3        | <b>Food &amp; Drink</b>                      | Outside of town centre locations - Restaurants, snack bars and cafes, for sale & consumption on the premises                                                                                            | 1 space per 5m <sup>2</sup>       | 1 / 4 staff; 1 / 25m <sup>2</sup> for customers                      | std provision | std provision                        |             |                                                                                      |
| A3        | <b>Food &amp; Drink</b>                      | Roadside Restaurants (incl Drive through outlets)                                                                                                                                                       | 1 space per 5m <sup>2</sup>       | 1 / 4 staff; 1 / 25m <sup>2</sup> for customers                      | std provision | std provision                        |             |                                                                                      |
| A3        | <b>Food &amp; Drink</b>                      | Transport cafes                                                                                                                                                                                         | 1 lorry space per 2m <sup>2</sup> | 1 / 4 staff; 1 / 50m <sup>2</sup> for customers                      | std provision | std provision                        |             | 1. Cycle parking requirements reduced, to take into account the type of development. |

## APPENDIX 4

| Use class | Type                    | Description                                                                                                       | Car parking                     | Cycle parking                                                       | PTW           | Parking for People with Disabilities | Operational | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----------|-------------------------|-------------------------------------------------------------------------------------------------------------------|---------------------------------|---------------------------------------------------------------------|---------------|--------------------------------------|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A4        | Drinking Establishments | Within town centre locations                                                                                      | Not required to provide parking |                                                                     |               |                                      |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| A4        | Drinking Establishments | Outside of town centre locations - Public houses, wine bars and other drinking establishments, but not nightclubs | 1 space per 5m <sup>2</sup>     | 1 / 4 staff; 1 / 25m <sup>2</sup> for customers                     | std provision | std provision                        |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| A5        | Hot food takeaways      | Within town centre locations -                                                                                    | Not required to provide parking |                                                                     |               |                                      |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| A5        | Hot food takeaways      | Outside of town centre locations - for sale & consumption of hotfood off the premises                             | 1 space per 20m <sup>2</sup>    | 1 / 4 staff; 1 / 25m <sup>2</sup> for customers                     | std provision | std provision                        |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| B1a       | Business                | Offices                                                                                                           | 1 space per 20m <sup>2</sup>    | 1 / 100m <sup>2</sup> for staff; 1 / 200m <sup>2</sup> for visitors | std provision | std provision                        |             | <p>1. Previous standards were 1/30m<sup>2</sup>. Para 5.5 HCA Employment Density Guide states 'typical fit-out specification has now moved towards 10 sqm/per person for a standard office they are actually built to meet the regulatory requirements of a building that is being occupied at 8 sqm/per person. The new standard recognises that office based employment densities are increasing and reflect the level of public transport accessibility in the district.</p> <p>2. B1 Cycle parking standards have been reduced to reflect the proportion of people cycling to work. Now aligns with A2 requirements. Under the new standard, an office of 2500m<sup>2</sup> would need to provide 25 staff and 13 visitor cycle parking spaces.</p> |

## APPENDIX 4

| Use class  | Type                              | Description                                                                                                                   | Car parking                   | Cycle parking                                                        | PTW           | Parking for People with Disabilities | Operational                         | Comments                                                                                                                                                                                                                                                                                                |
|------------|-----------------------------------|-------------------------------------------------------------------------------------------------------------------------------|-------------------------------|----------------------------------------------------------------------|---------------|--------------------------------------|-------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>B1b</b> | <b>Business</b>                   | Research & development                                                                                                        | 1 space per 50m <sup>2</sup>  | 1 / 100m <sup>2</sup> for staff; 1 / 200m <sup>2</sup> for visitors  | std provision | std provision                        |                                     | 1. B1 Cycle parking standards have been reduced to reflect the proportion of people cycling to work.                                                                                                                                                                                                    |
| <b>B1c</b> | <b>Business</b>                   | Light industry appropriate in a residential area<br>Development restricted by planning condition to a use within Class B1 (c) | 1 space per 50m <sup>2</sup>  | 1 / 100m <sup>2</sup> for staff; 1 / 200m <sup>2</sup> for visitors  | std provision | std provision                        |                                     | 1. B1 Cycle parking standards have been reduced to reflect the proportion of people cycling to work.<br>2. Evidence must be provided to satisfy the Authority that the use will not be detrimental to the visual and general amenities of the area                                                      |
| <b>B2</b>  | <b>General Industry</b>           | General                                                                                                                       | 1 space per 50m <sup>2</sup>  | 1 / 100m <sup>2</sup> for staff; 1 / 400m <sup>2</sup> for visitors  | std provision | std provision                        |                                     | 1. Developments which incorporate 1 space per 50m <sup>2</sup> will be restricted by planning condition to a B2 or B1(c) use as defined by the Town and Country Planning (Use Classes) Order 1987.<br>2. Cycle parking standards have been reduced to reflect the proportion of people cycling to work. |
| <b>B2</b>  | <b>General Industry</b>           | Office floorspace exceeding 200m <sup>2</sup> or 20% of the floorspace of the building                                        | As per B1a                    | As per B1a                                                           | std provision | std provision                        |                                     | 1. Car and cycle parking aligned with standards for B1a                                                                                                                                                                                                                                                 |
| <b>B8</b>  | <b>Storage &amp; Distribution</b> | Warehouse storage, open air storage                                                                                           | 1 space per 150m <sup>2</sup> | 1 / 500m <sup>2</sup> for staff; 1 / 1000m <sup>2</sup> for visitors | std provision | std provision                        | 1 lorry space per 200m <sup>2</sup> | 1. Previous VPS had a higher cycle space than car parking requirement. Cycle parking standards have been reduced to reflect employment densities.<br>2. Warehouse storage and warehouse distribution now have separate VPS reflecting the differing employment densities of the uses.                   |

# APPENDIX 4

| Use class | Type                     | Description                                                                            | Car parking                                                                                                                        | Cycle parking                                                                                                  | PTW                                                                                                                            | Parking for People with Disabilities                                                                           | Operational                                               | Comments                                                                                                                                                                                                          |
|-----------|--------------------------|----------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| B8        | Storage & Distribution   | Warehouse distribution                                                                 | 1 car space per 100m <sup>2</sup>                                                                                                  | 1 / 500m <sup>2</sup> for staff; 1 / 1000m <sup>2</sup> for visitors                                           | std provision                                                                                                                  | std provision                                                                                                  | 1 lorry space per 200m <sup>2</sup>                       | 1. Cycle parking standards have been reduced to reflect employment densities.<br>2. Warehouse storage and warehouse distribution now have separate VPS reflecting the differing employment densities of the uses. |
| B8        | Storage & Distribution   | Office floorspace exceeding 200m <sup>2</sup> or 20% of the floorspace of the building | As per B1a                                                                                                                         | As per B1a                                                                                                     | std provision                                                                                                                  | std provision                                                                                                  |                                                           | 1. Car and cycle parking aligned with standards for B1a                                                                                                                                                           |
| C1        | Hotels                   | Hotel with resident only restaurant facilities                                         | 1 staff space per 5 bedrooms; plus 1 space per bedroom                                                                             | 1 / 4 staff; plus 1 / 10 beds or 1 / 25m <sup>2</sup> restaurant-entertainment area, whichever is the greater. | std provision                                                                                                                  | std provision                                                                                                  | 1 coach space per 100 bedrooms;                           | 1. Staff spaces based on Employment Density Guide for limited service/ budget hotel.                                                                                                                              |
| C1        | Hotels                   | Hotel with non-resident restaurant (outside town centres)                              | 1 staff space per 5 bedrooms, plus 1 space per bedroom or 1 space per 5m <sup>2</sup> of restaurant space whichever is the greater | 1 / 4 staff; plus 1 / 10 beds or 1 / 25m <sup>2</sup> restaurant-entertainment area, whichever is the greater. | std provision                                                                                                                  | std provision                                                                                                  | 1 coach space per 100 bedrooms;                           | 1. Restaurant facilities in hotels in town centres can be served by public car parks                                                                                                                              |
| C2        | Residential Institutions | Residential Care / Nursing Home                                                        | 1 space per resident staff + 1 space per 2 other staff + 1 space per 3 bed spaces / dwelling units                                 | 1 / 4 staff; 1 / 20 beds.                                                                                      | std provision plus mobility scooter storage 1 / 5 self-contained residential units or 1 / 5 residents (communal establishment) | Individual assessment based on development proposed, will be expected to be >5% of car parking spaces provided | Provision for Ambulance access and exit in a forward gear |                                                                                                                                                                                                                   |



## APPENDIX 4

| Use class | Type                     | Description                          | Car parking                                                                                                                                                                                                         | Cycle parking                                                                                                   | PTW                                                                              | Parking for People with Disabilities                                                                           | Operational                                                         | Comments                                                                                                                                                                                                                                                                                                                 |
|-----------|--------------------------|--------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| C2        | Residential Institutions | Hospitals                            | individual assessment/ justification                                                                                                                                                                                | 1 / 4 staff; 1 / 20 beds or individual assessment/ justification                                                | std provision plus mobility scooter storage to be agreed on a site by site basis | Individual assessment based on development proposed, will be expected to be >5% of car parking spaces provided | Provision for Ambulance access and exit in a forward gear           | 1. The number of employees and patients/visitors in a hospital/ healthcare setting will vary depending on the type of offer that the individual facility makes. A individual assessment/ justification will be appropriate in most cases.<br>2. The development proposal should be accompanied by an active Travel Plan. |
| C2        | Residential Institutions | Residential education establishments | 1 space per residential staff + 1 space per 2 other staff (any parking for students with vehicles should be provided within this figure), or individual assessment/ justification                                   | 1 / 5 staff plus 1 / 3 pupils                                                                                   | std provision                                                                    | std provision                                                                                                  | Provision for Ambulance and coach access and exit in a forward gear |                                                                                                                                                                                                                                                                                                                          |
| C3        | Dwelling houses          | Residential                          | Minimum 1 parking space per dwelling; 1 space/1 bed; 2 space/2-3 bed; 3 space/4+ bed; visitor parking - 1 per 4 dwellings; 1 per 2 dwellings where car parking is allocated<br>Off street parking - at least 1 home | None if garages provided;<br>1 / dwelling (one bed);<br>2 / dwelling (2+ beds);<br>+ 1 / 8 units (for visitors) | None if garages / off road parking is provided                                   |                                                                                                                |                                                                     | 1. Lower parking provision may be acceptable within town centre locations or the Garden Suburbs depending on access to alternative means of transport, subject to a minimum provision of 1 car parking space per dwelling.                                                                                               |

| Use class | Type                         | Description      | Car parking                                                                                                                                                                                                                | Cycle parking                                    | PTW                                                                        | Parking for People with Disabilities                                                                           | Operational                                                                                                            | Comments |
|-----------|------------------------------|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|----------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|----------|
|           |                              |                  | charging point per dwelling<br><br>Communal car parking - 1 fast charging point for every 20 parking bays<br><br>Further 5% of available spaces to be provided with power supply to provide additional fast charge sockets |                                                  |                                                                            |                                                                                                                |                                                                                                                        |          |
| D1        | Non-residential institutions | Medical Centre   | 1 space per full-time staff + 2 spaces per consulting room; or individual assessment / justification                                                                                                                       | 1 / 4 staff; 1 / consulting room.                | std provision plus mobility scooter storage agreed on a site by site basis | Individual assessment based on development proposed, will be expected to be >5% of car parking spaces provided | Provision for Ambulance access and exit in a forward gear                                                              |          |
| D1        | Non-residential institutions | Day care centres | 1 space per full time staff + 1 space per 4 persons attending                                                                                                                                                              | 1 / 4 staff; 1 / 200m <sup>2</sup> for visitors. | std provision                                                              | Individual assessment based on development proposed, will be expected to be >5% of car parking spaces provided | Provision for Ambulance access and exit in a forward gear plus an area reserved for collection and delivery of clients |          |

| Use class | Type                         | Description                             | Car parking                                                                                                                                | Cycle parking                                                                                                        | PTW           | Parking for People with Disabilities | Operational                                                                                  | Comments                                                                                                                                                                                                                                                                                                                                                                |
|-----------|------------------------------|-----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|---------------|--------------------------------------|----------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| D1        | Non-residential institutions | Creches/Nurseries                       | 1 space per full-time staff                                                                                                                | 1 / 5 staff; 1 / 30 children                                                                                         | std provision | std provision                        | Provision for Ambulance access and exit in a forward gear; plus pick up /drop off point      |                                                                                                                                                                                                                                                                                                                                                                         |
| D1        | Non-residential institutions | Schools (primary & secondary education) | 1 space per Full Time Equivalent (FTE) teaching staff; plus 2 spaces per 3 FTE non-teaching staff, or individual assessment/ justification | 1 / 20 staff; 1 / 20 pupils (primary); plus 1 child scooter space / 20 pupils (primary); 1 / 10 students (secondary) | std provision | std provision                        | Provision for Ambulance and coach access and exit in a forward gear; plus bus pick up point  | 1. Developments in urban locations are expected to achieve a lower maximum provision in order to promote more sustainable ways of travelling to school.<br>2. Transport Assessments and School Travel Plans (including Safer Journeys To School) are required for most applications for development.<br>3. Staff cycle parking to be located in separate non-pupil area |
| D1        | Non-residential institutions | Schools (further & higher education)    | 1 space per daytime teaching staff; 1 space per 15 students; or individual assessment /justification                                       | 1 / 20 staff; 1 / 20 students or individual assessment/ justification                                                | std provision | std provision                        | Provision for Ambulance and coach access and exit in a forward gear ; plus bus pick up point | 1. Developments in urban locations are expected to achieve a lower maximum provision in order to promote more sustainable ways of travelling to school.<br>2. Transport Assessments and Travel Plans are required for most applications for development.<br>3. Staff cycle parking to be located in separate non-pupil area.                                            |

| Use class   | Type                         | Description                                                         | Car parking                                                                                                                                              | Cycle parking                                                                                                                                                                                   | PTW           | Parking for People with Disabilities | Operational                                                                                  | Comments                                                                                                                                                                                                                                                                    |
|-------------|------------------------------|---------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|--------------------------------------|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| D1          | Non-residential institutions | Libraries/Art galleries/ Museums / Public Halls / Places of Worship | Within town centres - no parking requirement; Outside town centres 1 space per 25m <sup>2</sup>                                                          | Libraries 1 / 4 staff plus 3 at Branch Library or 10 at main library. Public assembly: 1 / 10m <sup>2</sup> . Places of worship: 1 / 5 seats. Cultural blgs: 1 / 4 staff + 1 / 35m <sup>2</sup> | std provision | std provision                        | Provision for Ambulance access and exit in a forward gear;                                   | 1. Within a town centre location means within 960m/12 minute walk of town centre public car park                                                                                                                                                                            |
| D2          | Assembly & Leisure           | Cinemas, concert halls, bingo halls, dance halls                    | Within town centres: No parking requirement. Outside town centres: 1 staff parking space per 200m <sup>2</sup> plus 1 space per 5 licensed persons/seats | Public entertainment: 1 / 4 staff; 1 / 20 seats.                                                                                                                                                | std provision | std provision                        | Provision for Ambulance and coach access and exit in a forward gear ; plus bus pick up point | 1. Within a town centre location means within 960m/12 minute of town centre public car park<br>2. Staff parking based on Employment Density Guide for cinemas; staff parking for other uses may be increased based on the individual employment density of the development. |
| D2          | Assembly & Leisure           | Other Sport & Recreational Uses included in Use Class D2            | A maximum of 1 space per 22m <sup>2</sup> of gross floor space or individual assessment/ justification                                                   | 1 / 4 staff plus 1 / 4 visitors or players                                                                                                                                                      | std provision | std provision                        | Provision for Ambulance and coach access and exit in a forward gear ; plus bus pick up point |                                                                                                                                                                                                                                                                             |
| Sui generis |                              | Caravan Park / camping site                                         | 1 space per pitch + 1 space per residential staff +1 space per 2 other staff.                                                                            | 1 / 4 staff; 1 / 10 pitches                                                                                                                                                                     | std provision | std provision                        | Provision for Ambulance access and exit in a forward gear;                                   |                                                                                                                                                                                                                                                                             |

| Use class   | Type | Description                                                  | Car parking                                                                                                                                                        | Cycle parking                                                         | PTW           | Parking for People with Disabilities | Operational                                                                                                                    | Comments                                                                                                                                                          |
|-------------|------|--------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|---------------|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Sui generis |      | Marina                                                       | 1 space per 2 mooring berths;<br>1 space per 2 staff                                                                                                               | 1 / 10 moorings                                                       | std provision | std provision                        | Provision for Ambulance access and exit in a forward gear;                                                                     | 1. Marinas, due to their coastal location may not be within walking distance of public transport; therefore car parking for staff has been added to the standard. |
| Sui generis |      | Conference Facilities & Theatres                             | Within town centres: No parking requirement. Outside of town centre: 1 space per 2 staff; 1 per 5 licensed persons/seats, or Individual assessment / justification | 1 / staff plus 1 / 20 seats                                           | std provision | std provision                        | 1 coach space per 100 seats; plus bus pick up point; Provision for Ambulance and coach access and exit in a forward gear       | 1. Within a town centre location means within 960m/12 minute walk of town centre public car park. 2. Shared-use car parking provision is encouraged.              |
| Sui generis |      | Stadia                                                       | Individual assessment / justification                                                                                                                              | Individual assessment / justification                                 | std provision | std provision                        | 1 coach space per 100 seats plus bus pick up point; Provision for Ambulance and coach access and exit in a forward gear;       | 1. A Transport Assessment and Travel Plan will be required                                                                                                        |
| Sui generis |      | Cash & Carry and other Retail Warehouses, and Garden Centres | 1 space per 20m <sup>2</sup> .                                                                                                                                     | 1 / 100m <sup>2</sup> for staff; 1 / 200m <sup>2</sup> for customers. | std provision | std provision                        | 1 lorry space per 200m <sup>2</sup><br>Adequate space should be provided for the requirements of servicing / delivery vehicles |                                                                                                                                                                   |

| Use class   | Type | Description                                                    | Car parking                                                                                                  | Cycle parking                                                            | PTW           | Parking for People with Disabilities | Operational | Comments                                                                                                                                                                                                                                     |
|-------------|------|----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|---------------|--------------------------------------|-------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Sui generis |      | Petrol Filling Station                                         | 1 space per 14m <sup>2</sup> retail space.                                                                   | 1 / 5 staff; 1 / 100m <sup>2</sup> shop floor where applicable           | std provision | std provision                        |             | 1. Petrol filling stations with retail floor space will be considered under A1 provision for car parking requirement. Each pump space counts as one space. The canopy over the petrol pumps / car wash is not counted as retail floor space. |
| Sui generis |      | Motor Service Centre / vehicle repair / exhaust & tyre centres | 1 space per staff + 3 customer spaces per service / repair bay                                               | 1 / 5 staff                                                              | std provision | std provision                        |             | 1. Sufficient car parking to be provided on site to avoid over spill onto nearby roads                                                                                                                                                       |
| Sui generis |      | Motor Vehicles Showroom / sales                                | 1 space per 45m <sup>2</sup> display area.                                                                   | 1 per 100m <sup>2</sup> for staff; 1 per 200m <sup>2</sup> for customers | std provision | std provision                        |             | 1. Sufficient car parking to be provided on site to avoid over spill onto nearby roads. 2. Higher proportion of disabled parking spaces may be required for Motability scheme showroom/sales                                                 |
| Sui generis |      | Taxi or Vehicle Hire                                           | 1 space per staff member permanently deployed at registered base site + one space per 5 registered vehicles. | 1 space per base site                                                    | std provision | std provision                        |             |                                                                                                                                                                                                                                              |
| Sui generis |      | Recycling Centre                                               | 1 space per staff + waiting facilities for users of the site.                                                | No provision required                                                    | std provision | std provision                        |             |                                                                                                                                                                                                                                              |

## APPENDIX 4

| Use class                                                 | Type | Description           | Car parking                                            | Cycle parking                                                                                                        | PTW           | Parking for People with Disabilities | Operational | Comments                                                                                                                                               |
|-----------------------------------------------------------|------|-----------------------|--------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|---------------|--------------------------------------|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Sui generis</b>                                        |      | Transport Interchange | On merit, in relation to location and level of service | Rail stations: 10 / Morning peak service. Park & Ride: 1 / 10 parking spaces or individual assessment/ justification | std provision | std provision                        |             | 1. Potential for future increases in cycle parking provision and electric charging points should be designed into the scheme's layout from the outset. |
| <b>Sui generis and all other uses not mentioned above</b> |      |                       | Individual assessment / justification                  |                                                                                                                      |               |                                      |             |                                                                                                                                                        |

## Appendix 3: Maldon District Local Development Plan Policies

Key policy:

### Policy T2 Accessibility

To create and maintain an accessible environment, development proposals should where relevant to the development involved:

- 1) Be located where there is physical and environmental capacity to accommodate the type and amount of traffic generated, or locations where the impact can be suitably mitigated, taking into account the cumulative impact of developments;
- 2) Provide safe and direct walking and cycling routes to nearby services, facilities and public transport where appropriate;
- 3) Improve accessibility to the countryside and the natural environment and to enhance and protect the provision of Public Rights of Way;
- 4) Improve accessibility to buildings, streets and public spaces, particularly for those with mobility impairments;
- 5) Provide sufficient parking facilities having regard to the Council's adopted parking standards;
- 6) Provide sufficient and safe access to service and emergency vehicles; and
- 7) Give appropriate consideration to encourage a people-oriented space within the development.

### Other relevant policies:

Policy S5 The Maldon and Heybridge Central Area

Policy D1 Design Quality and Built Environment

Policy D2 Climate Change & Environmental Impact of New Development

Policy H4 Effective Use of Land

Policy H6 Provision for Travellers

Policy H8 Provision for Houseboats

T1 Sustainable Transport

Policy I1 Infrastructure and Services



## Appendix 4 Glossary

|                                              |      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|----------------------------------------------|------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Accessible</b>                            |      | Accessible – When people are able to move around an area and reach places and facilities, including the elderly and disabled, those with young children and those encumbered with luggage or shopping.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Adaptability</b>                          |      | Adaptability – The ability of a building to respond to changing social, technological, economic and market conditions.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Anglia Ruskin University</b>              | ARU  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Care Home / Residential Care Home</b>     |      | Use for the provision of residential accommodation and care to people in need of care. Within C2 use                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Character</b>                             |      | The appearance of any urban or rural location in terms of its landscape or the layout of streets and open space, often giving places their own distinct identity.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Conservation Area</b>                     |      | A Conservation Area is an area of special architectural or historic interest, with a character or appearance which is considered to be desirable to preserve or enhance.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Community Infrastructure Levy</b>         | CIL  | A levy allowing local authorities to raise funds from owners or developers of land undertaking new building projects in their area.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Department for Transport</b>              | DfT  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Driver &amp; Vehicle Licensing Agency</b> | DVLA |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Developer contributions</b>               |      | Developer contributions, also known as planning obligations, can be secured via a Section 106 legal agreement or planning condition attached to a planning permission. They help mitigate any adverse impacts generated by new development on infrastructure and facilities.                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Equality Impact Assessment</b>            | EqIA | An Equality Impact Assessment (EqIA) involves assessing the impact of new or revised policies, practices or services against the requirements of the public sector equality duty. The duty requires all public authorities to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. It covers people in respect of all aspects of equality (age, disability, sex, race, religion or belief, sexual orientation, gender reassignment and pregnancy and maternity). It helps to ensure the needs of people are taken into account during the development and implementation of a new policy or service or when a change is made to a current policy or service |
| <b>Essex County Council</b>                  | ECC  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Essex Planning Officers' Association</b>  | EPOA | The EPOA represents 12 Local Planning Authorities in Essex, as well as two unitary authorities (Thurrock and Southend-on-Sea). The EPOA produce planning guidance documents and work on pan-Essex research projects to support Local Plan preparation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Extra Care Housing</b>                    |      | Self-contained accommodation designated for older people in a setting where care and support can be provided as required from an on-site care provider.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Electric Vehicle</b>                      | EV   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Garden Suburbs</b>                        |      | Large scale development planned in a holistic and comprehensive way, including extensions to existing settlements based on the 'garden city' principles. They aim to improve quality of life by providing high quality design; infrastructure appropriate for the needs of the society including public transport, public services, education, health and community facilities plus provision of green spaces, open spaces and a network of routes and connections for all users                                                                                                                                                                                                                                                    |
| <b>Habitats Regulations Assessment (HRA)</b> | HRA  | HRA tests the impacts of a proposal on nature conservation sites of European importance and is a requirement under EU legislation for land use plans and projects.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Independent Living</b>                    | IL   | Self-contained accommodation designated for older people (usually aged over 55) with local connection who receive at least 6 hours of care and support each week.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

|                                                  |           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|--------------------------------------------------|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Listed Building</b>                           |           | A building of special architectural or historic interest as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended. Listed Buildings are listed in three grades, GII, GII* and GI depending on their age, rarity and special features. Listing includes the interior as well as the exterior of the building, and any buildings or permanent structures in its curtilage. Demolition, in whole or in part, of a listed building or any works of alteration or extension that would affect the character of the building will require Listed Building Consent. |
| <b>Live-work unit</b>                            |           | Live-Work is a property that is designed from the outset for two purposes – living and working. The building is designed to create a professional workspace that can be used comfortably and by more than one person to run a business.                                                                                                                                                                                                                                                                                                                                                      |
| <b>Local Development Plan</b>                    | LDP       | The plan for the future development of the local area, drawn up by the Local Planning Authority in consultation with the community. This is described as a Development Plan Document adopted under the Planning and Compulsory Purchase Act 2004.                                                                                                                                                                                                                                                                                                                                            |
| <b>Mobility Scooter</b>                          |           | An electrically powered scooter designed for people with restricted mobility, typically those who are elderly or disabled. A mobility scooter has a seat over two rear wheels, a flat area for the feet, and handlebars in front to turn one or two steerable wheels. Mobility scooters are usually battery powered.                                                                                                                                                                                                                                                                         |
| <b>National Planning Policy Framework</b>        | NPPF      | Sets out the Governments planning policies for England and how these are expected to be applied.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>National Planning Practice Guidance (PPG)</b> | NPPG/ PPG | A web-based resource provides more detailed guidance on the contents of the NPPF.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>National Travel Survey</b>                    | NTS       | National Travel Survey (NTS) is a household survey designed to monitor long-term trends in personal travel and to inform the development of government policy. It is the primary source of data on personal travel patterns by residents of England within Great Britain. The survey collects information on how, why, when and where people travel as well as factors affecting travel.                                                                                                                                                                                                     |
| <b>Neighbourhood Planning</b>                    |           | Formally introduced under the Localism Act 2011, neighbourhood planning and, specifically the preparation of 'Neighbourhood Development Plans' is a community-led initiative for guiding the future development, regeneration and conservation of an area.                                                                                                                                                                                                                                                                                                                                   |
| <b>Office for Low Emission Vehicles</b>          | OLEV      | The Office for Low Emission Vehicles (OLEV) is a governmental cross-departmental team supporting the early market for ultra-low emission vehicles (ULEV). It is part of the DfT and the Department for Business, Energy & Industrial Strategy (BEIS)                                                                                                                                                                                                                                                                                                                                         |
| <b>Office of Road and Rail</b>                   | ORR       | The Office of Rail and Road (ORR) is the independent safety and economic regulator for Britain's railways and monitor of Highways England                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Older People</b>                              |           | People over retirement age, including the active, newly-retired through to the very frail elderly, whose housing needs can encompass accessible, adaptable general needs housing for those looking to downsize from family housing and the full range of retirement and specialised housing for those with support or care needs.<br><br>DfT define older drivers as those over 70 years of age                                                                                                                                                                                              |
| <b>Open Standards</b>                            |           | Open standards give any user permission to copy, distribute and use technology freely. An open standard is one that can be freely accessed, adopted and improved upon.                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>People with Disabilities</b>                  |           | People have a disability if they have a physical or mental impairment, and that impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. These persons include, but are not limited to, people with ambulatory difficulties, blindness, learning difficulties, autism and mental health needs.                                                                                                                                                                                                                                  |
| <b>Powered Two Wheeler</b>                       | PTW       | Includes motorcycles, scooters and mopeds                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Residential Home</b>                          |           | Facility that provides private or shared en-suite rooms. All residents will receive domestic care and some degree of personal care. In C2 use.                                                                                                                                                                                                                                                                                                                                                                                                                                               |

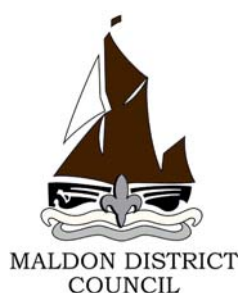
|                                                     |         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------------------------------------|---------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Section 106 Agreement</b>                        | S106    | A legal agreement entered into by the Council and the developer or applicant and Registered Provider which outlines the details of a planning obligation(s), such as affordable housing required to make an application acceptable in planning terms.                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Sheltered Housing</b>                            |         | Self-contained accommodation designated for older people (usually aged over 55) with local connection. On-site warden service.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Special Area of Conservation</b>                 | SAC     | Special Area of Conservation (SACS) are a selection of very important Sites of Special Scientific Interest (SSSIs) that entered in the Register of European Sites as part of the Natura 2000 network. SACs are established to protect wild birds under the Birds Directive.                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Sport England</b>                                |         | Sport England is public body, whose role is to build the foundations of a community sport system by working with national governing bodies of sport, and other funded partners, to grow the number of people doing sport; sustain participation levels; and help more talented people from all diverse backgrounds excel by identifying them early, nurturing them, and helping them move up to the elite level.                                                                                                                                                                                                                                                                           |
| <b>Strategic Environmental Assessment</b>           | SEA     | Required under European legislation, an assessment of the environmental effects of plans and programmes to be carried out as they are being developed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Supplementary Planning Document</b>              | SPD     | Provide supplementary information to support policies in Development Plan Documents but do not form part of the Development Plan. They carry weight in planning decisions but have less weight than Development Plan Documents. They are prepared in accordance with the Town and Country Planning (Local Planning)(England) Regulations 2012.                                                                                                                                                                                                                                                                                                                                             |
| <b>Sustainable Development</b>                      |         | Meets the economic, environmental and community needs of the present, without compromising the ability of future generations to meet their own needs.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Sustainable Transport</b>                        |         | Efficient, safe and accessible means of transport with overall low impact on the environment, including walking and cycling, low and ultra-low emission vehicles, car sharing and public transport.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Sustrans</b>                                     |         | Is a charity that makes it easier for people to walk and cycle. It connects people and places. Its flagship project is the National Cycle Network.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Travel Assessment (TA) Travel Statement (TS)</b> | TA / TS | <p>Transport Assessments and Statements are ways of assessing the potential transport impacts of developments (and they may propose mitigation measures to promote sustainable development. Where that mitigation relates to matters that can be addressed by management measures, the mitigation may inform the preparation of Travel Plans).</p> <p>Transport Assessments are thorough assessments of the transport implications of development, and Transport Statements are a 'lighter-touch' evaluation to be used where this would be more proportionate to the potential impact of the development (ie in the case of developments with anticipated limited transport impacts).</p> |
| <b>Travel Plan</b>                                  |         | Travel Plans are long-term management strategies for integrating proposals for sustainable travel into the planning process. They are based on evidence of the anticipated transport impacts of development and set measures to promote and encourage sustainable travel (such as promoting walking and cycling).                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Ultra Low Emission Vehicles</b>                  | ULEV    | Ultra low emission vehicles (ULEVs) are usually defined as vehicles that emit less than 75g of carbon dioxide (CO2) for every kilometre travelled. They will typically include an electric powertrain.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Viability assessment</b>                         |         | An assessment of all development costs including central and local government policy requirements, regulatory costs and the cost and availability of finance, to determine whether a scheme provides a competitive return to the developer and generates a land value sufficient to persuade the landowner to sell for the development proposed.                                                                                                                                                                                                                                                                                                                                           |

## Document Control Sheet

|                                           |                                                                                           |
|-------------------------------------------|-------------------------------------------------------------------------------------------|
| <b>Document title</b>                     | Maldon District Affordable Housing and viability<br>Supplementary Planning Document (SPD) |
| <b>Summary of purpose</b>                 |                                                                                           |
| <b>Prepared by</b>                        | Karen Johnson                                                                             |
|                                           |                                                                                           |
| <b>Status</b>                             | Draft                                                                                     |
| <b>Version number</b>                     | 1                                                                                         |
| <b>Approved by</b>                        |                                                                                           |
| <b>Approval date</b>                      | September 2018                                                                            |
|                                           |                                                                                           |
| <b>Date of implementation</b>             |                                                                                           |
| <b>Review frequency</b>                   |                                                                                           |
| <b>Next review date</b>                   |                                                                                           |
| <b>Circulation</b>                        | Public document                                                                           |
| <b>Published on the Council's website</b> |                                                                                           |

## 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  
Affordable Housing and Viability Supplementary  
Planning Document (SPD)**

**September 2018**



## **Foreword**

I am delighted to be introducing the Council's new Affordable Housing and Viability SPD.

This important Supplementary Planning Document (SPD) provides more detailed guidance about key Local Development Plan Policy H1: Affordable Housing, as well as Policy H2: Housing Mix and Policy H5: Rural Exception Sites.

Maldon District like many parts of the country has a significant need for affordable housing. Generally, affordable housing is for people that may struggle to afford to buy a property or may have difficulty in affording to rent in the Private Rented market.

Traditionally, affordable housing has been thought of as rented housing or as shared ownership, but the type of housing products available continues to grow and evolve. Affordable housing is typically provided through planning obligations resulting from new development but can also be provided in a variety of other ways such as by Registered Providers or by community groups. This SPD applies to all types of affordable housing in the District.

The District has one of the largest gaps between local income and wages in Essex. This means that it is more likely that homes for sale will be less affordable to those who live and work in the District. Ensuring the District's housing market offers enough decent homes at a price which local people can afford is a high priority for the Council. In order to achieve this objective, it is very important to have in place a robust planning policy framework.

The policies in the Local Development Plan, together with this Affordable Housing and Viability SPD, will be the key mechanisms used to deliver suitable, quality affordable housing on sites identified by the Local Development Plan and in other appropriate locations.

But affordable housing can add to the cost of new development. Negotiations around the impact affordable housing will have on the economics of a development can delay new development and affect the amount and type of affordable housing provided. The Council has responded positively, by providing this new SPD to help landowners, developers, providers, agents and planners develop the right amount and type of affordable housing that meets local needs but as part of viable development.

The Council hope that this SPD will encourage a wide range of quality affordable homes to be delivered so that our residents continue to enjoy living in the District.

Cllr Mrs PA Channer CC  
Chairman, Planning and Licensing Committee,  
Maldon District Council

## **Contents**

|                   |                                                  |    |
|-------------------|--------------------------------------------------|----|
| <b>1.0</b>        | Introduction                                     | 4  |
| <b>2.0</b>        | Policy Context                                   | 7  |
| <b>3.0</b>        | Maldon's Affordable Housing Needs and Priorities | 12 |
| <b>4.0</b>        | When will Affordable Housing be sought?          | 14 |
| <b>5.0</b>        | Providing Affordable Housing                     | 22 |
| <b>6.0</b>        | Rural Exception Sites                            | 28 |
| <b>7.0</b>        | Procedure for Negotiating Affordable Housing     | 32 |
| <b>8.0</b>        | Viability Assessments                            | 36 |
| <b>9.0</b>        | Monitoring and Review                            | 42 |
|                   | Glossary                                         | 43 |
| <b>APPENDICES</b> |                                                  |    |
| Appendix 1        | References                                       | 47 |
| Appendix 2        | Key Local Development Plan Policies              | 48 |
| Appendix 3        | Affordable Housing Dwelling Mix                  | 49 |
| Appendix 4        | Summary Proforma                                 | 51 |
| Appendix 5        | Review Mechanism: Formulas and Methodology       | 52 |

## 1.0 INTRODUCTION

### Why is this document important?

- 1.1 The Maldon District Local Development Plan (LDP) (2017)<sup>1</sup> seeks to deliver sustainable, quality affordable housing over the plan period (2014-2029). Specifically, this SPD is guided by the policy framework of key LDP Policy H1: Affordable Housing, as well as Policy H2: Housing Mix and Policy H5: Rural Exception Sites.
- 1.2 There is a significant need in the District for affordable housing: average incomes have fallen below the levels needed to access the owner-occupation market; many current and newly forming households struggle to afford to rent in the private rented sector; Right to Buy impacts on the number of properties available; and, there remains the risk of homelessness when private sector tenancies end.
- 1.3 The District has one of the largest gaps between local incomes and local wages in Essex. This means that it is more likely that homes on the open market will be affordable to those who work outside the District, than to those who live and work in the District. Demand for affordable housing in the District therefore outstrips existing and planned supply, particularly for local people who live and work in the area.
- 1.4 There is an identified need for 130 affordable units each year, for the next 15 years<sup>2</sup>. Since 2014, only 71 affordable units have been developed, significantly less than the 390 units required (for the first three years of the plan period). This demonstrates an acute need for affordable housing in the District and an urgent need for this SPD to be adopted to enable delivery through new development.
- 1.5 This SPD provides additional detailed guidance to developers, Registered Providers and the community on the Council's approach to affordable housing provision, ensuring that approved LDP policies H1, H2 and H5<sup>1</sup> are as effective as possible in delivering affordable housing. This includes:
  - Providing greater clarity about what affordable housing mix and tenure the Council seeks as part of residential development;
  - Providing more guidance about financial contributions;
  - Explaining the approach to be taken to Exception Site applications;
  - Providing more guidance about the supporting information that is likely to be sought for different affordable housing proposals.
- 1.6 This SPD is set within the context of national policy including the revised National Planning Policy Framework<sup>3</sup>, local housing needs and the Council's strategic housing objectives. This SPD does not and cannot introduce new planning policy. Once adopted, this SPD will be a material consideration in determining planning applications. The SPD will then replace the Council's Affordable Housing Guide<sup>4</sup>.

### Viability and Affordable Housing

- 1.7 The expectation is that all new housing development should comply with the level of affordable housing set out in LDP Policy H1<sup>1</sup>. This is not always the case – negotiations to reduce affordable housing requirements and other obligations based on site-specific viability assessments should only be necessary where the site circumstances indicate



that exceptional costs that will make policy compliance unviable. This SPD provides further guidance on when a viability assessment may be required, how the Council will take viability into account when considering planning applications and what supporting information will be required. This will embed the requirement for affordable housing into land values, making the viability process consistent and transparent.

- 1.8 In those cases where the Council acknowledges that an application is unable to be LDP policy compliant, more should be done to increase the affordable housing contributions during the implementation of the scheme should viability improve. This is an increasingly important part of the development management process. Detailed guidance in this SPD will explain the Council's approach to assessing financial viability through review mechanisms, if considered necessary by the Council and the applicant.

### What is affordable housing?

- 1.9 The Government<sup>3</sup> defines affordable housing as:

*'Affordable housing is housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers) and complies with one or more of the following definitions:*

- **Affordable housing for rent:** *meets all of the following conditions: a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); b) the landlord is a Registered Provider, except where part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and in this context is known as Affordable Private Rent).*
- **Starter homes:** *is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan preparation or decision making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.*
- **Discounted market sales housing:** *is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.*
- **Other affordable routes to home ownership:** *is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for*

*alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.*<sup>3</sup>

- 1.10 Homes that do not meet the above definition of affordable housing, such as 'low cost market' housing will not be considered as affordable housing in the District.
- 1.11 But the housing market is evolving: as new products become available the Council may consider other forms of housing as affordable provided that they meet local needs for those who live and work in the District.
- 1.12 LDP policy H1 is silent on the inclusion of starter homes, discount market housing and several of the other routes to affordable homes ownership: relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy, as an affordable housing product. The Council will have regard to the NPPF<sup>3</sup> and the consideration of these products in new applications where it can be demonstrated that it addresses an affordable housing need in the District. This SPD cannot change approved Policy H1, but it can highlight how these products will be considered.

### **Strategic Environmental Assessment and Equalities Impact Assessment**

- 1.13 A Strategic Environmental Assessment (SEA) Screening Report<sup>5</sup> has been carried out (see [www.maldon.gov.uk/spd](http://www.maldon.gov.uk/spd)) for the SPD. The Council carried out an extensive Sustainability Appraisal for the LDP and this SPD only provides detailed guidance to support the delivery of the LDP, and does not set new policy. Therefore it has been concluded that SEA of the SPD is not required.
- 1.14 An Equalities Impact Assessment<sup>6</sup> is available at [www.maldon.gov.uk/spd](http://www.maldon.gov.uk/spd)

## **2.0 POLICY CONTEXT**

## National policy context

### National Planning Policy Framework (NPPF)<sup>3</sup>

- 2.1 The National Planning Policy Framework 2018 sets out the Government's planning policies for England and how these are expected to be applied. Paragraph 61 of the NPPF aims to promote the delivery of a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities by: *'Ensuring the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes).'*
- 2.2 Specifically for affordable housing, the NPPF<sup>3</sup> expects *'affordable housing to be provided on site unless off-site provision or an appropriate financial contribution in lieu can be robustly justified; and that the agreed approach contributes to the objective of creating mixed and balanced communities.'*
- 2.3 The NPPF<sup>3</sup> introduces a new policy requirement:
- 'Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership [as part of the overall affordable housing contribution from the site], unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:*
- a) provides solely for Build to Rent homes;*
  - b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);*
  - c) is proposed to be developed by people who wish to build or commission their own homes; or*
  - d) is exclusively for affordable housing, an entry level exception site or a rural exception site.'*
- 2.4 Paragraph 77 adds that in rural areas, housing should respond to local needs particularly for affordable housing, including through rural exception sites, where appropriate. Consideration should be given to allowing some market housing where it would facilitate the provision of significant additional affordable housing to meet local needs.
- 2.5 The NPPF<sup>3</sup> introduces entry level exception sites which are: *'suitable for first time buyers (or those looking to rent their first home), unless the need for such homes is already being met within the authority's area. These sites should:*
- a) Comprise of entry level homes that offer one or more types of affordable housing as defined by the NPPF; and*
  - b) be adjacent to existing settlements, proportionate in size to them [not be larger than one hectare or exceed 5% of the size of the existing settlement], not*

*compromise the protection given to areas or assets of particular importance in the NPPF and comply with design policies and standards.'*

- 2.6 LDP policy H1 is silent on the inclusion of 10% of affordable homes on site being for ownership and also entry level exception sites. The Council will have regard to the NPPF and the consideration of these products in new applications. This SPD cannot change approved Policy H1, but it can highlight how these products will be considered.

**Planning Practice Guidance (PPG)<sup>7</sup>**

- 2.7 The Government's Planning Practice Guidance provides more detail on a range of planning matters identified by the NPPF<sup>3</sup>. First published in 2014, this web-based resource is regularly updated to reflect the current policy position.
- 2.8 As part of the NPPF<sup>3</sup> review, the Government has also revised parts of the Planning Practice Guidance. Regard has been had to these changes in the production of this SPD.
- 2.9 Paragraphs 011-018 (Viability PPG, 2018) set out the key factors to be taken into account when undertaking a viability assessment. These include gross development value, current costs, land value, abnormal costs, site specific infrastructure costs and professional site fees and recent market evidence.
- 2.10 The Viability PPG (013) recognises that an allowance should be made for a landowner premium. A viable and deliverable development should *'provide a reasonable incentive for a landowner to bring forward land for development while allowing a sufficient contribution to comply with policy requirements'*. As such, the Viability PPG considers contributions for affordable housing should not impede the viability and delivery of development. The Council acknowledges that a premium will vary between projects but considers that the profit margin should be commensurate with the level of risk for each scheme. This SPD provides the basis for discussions with the Council. However, developers are expected to use the assumptions identified in Section 8.0 to inform the value of land.
- 2.11 The Viability PPG (018) also provides guidance on the level of developer return. It is clear that *'it is the role of developers, not plan makers or decision makers, to mitigate [any] risk. The cost of complying with policy requirements should be accounted for in benchmark land value. Under no circumstances will the price paid for land be relevant justification for failing to accord with relevant policies in the plan.'* On this basis the Council considers that affordable housing and other policy requirements should be taken into account when land is purchased or an option is agreed.
- 2.12 For schemes requiring phasing over the medium and longer term, changes in the value of development and costs may be considered: these forecasts should be based on relevant market data and agreed with the Council as early as possible in the application process.

**Local Planning Policy**

**Maldon District Local Development Plan (LDP)<sup>1</sup>**

- 2.13 The LDP was approved by the Secretary of State in July 2017. This is part of the development plan for the District, covering the period 2014-2029. Policy H1 sets out the

overarching framework for enabling affordable housing. Other policies in the LDP set out more specific requirements on matters such as Housing Mix (Policy H2) and Rural Exceptions Schemes (Policy H5). **These key policies are re-produced in Appendix 2.** See [www.maldon.gov.uk/LDP](http://www.maldon.gov.uk/LDP) for further information.

### **Neighbourhood plans**

- 2.14 Neighbourhood plans that are 'made' are part of the development plan for the District. All planning applications should be in accordance with the development plan, unless material considerations indicate otherwise. Neighbourhood plans may contain policies relating to affordable housing and/or housing needs in a particular area. Further information on the status and content of neighbourhood plans is available at [www.maldon.gov.uk](http://www.maldon.gov.uk).

### **Maldon District Design Guide SPD<sup>8</sup>**

- 2.15 The SPD (2017) provides further details on LDP Policy D1, identifying the principles that should be followed to deliver good quality design of new development in the District. These principles apply equally to affordable housing and market housing.
- 2.16 Where sites or areas are subject to other guidance prepared by the Council e.g. a master plan or strategic design codes, developers must consider affordable housing requirements carefully to reflect all appropriate guidance. Further information is available at [www.maldon.gov.uk/mddg](http://www.maldon.gov.uk/mddg)

### **Maldon District Specialist Needs Housing SPD<sup>9</sup>**

- 2.17 The SPD is expected to be adopted in September 2018. This covers all matters relating to specialist needs housing for older people and those with other specialist housing needs. See [www.maldon.gov.uk/spd](http://www.maldon.gov.uk/spd)

### **Maldon Strategic Housing Market Assessment (SHMA)<sup>2</sup>**

- 2.18 LDP Policy S2 identifies a need for a minimum of 4,650 dwellings from 2014-2029 (310 dwellings per annum). However, the LDP plans for a higher target of 5,108 dwellings to provide for a better mix and choice and to enable the delivery of affordable housing, housing for older people and housing for other specialist needs.
- 2.19 The SHMA (2014) indicates that the annual level of net new affordable housing is 130 units over 15 years, 44% of the potential annual housing delivery figure, close to the LDP affordable target level of 40%. The expectation is that the majority of the affordable housing will be delivered through the Garden Suburbs and Strategic Sites (in Policy S2) and through qualifying housing sites in LDP Policy H1.
- 2.20 Other key SHMA findings are:
- The existing supply of affordable housing in the District is significantly below national and regional averages;
  - Owner occupation is beyond the reach of the majority of households who do not already own their own home; a range of housing products should be considered to meet needs;
  - There is a shortfall of all sizes of affordable accommodation, with the largest shortfall being for one and two-bedroom homes;
  - There is an oversupply of larger, market homes compared to local need;

- In terms of tenure the greatest need is for affordable rented properties, although demand exists for intermediate housing particularly for family-sized properties;
- A significant increase in the number of older people is expected, there is a need for Extra Care/Independent Living and sheltered accommodation;
- Providing a better supply of affordable homes for older people could improve the availability of existing general needs, affordable homes.

- 2.21 The SHMA<sup>2</sup> suggests an affordable housing tenure mix of 80% Affordable Rent: 20% Intermediate Housing. However, to effectively balance the housing market over the plan period and over the housing market area, to improve viability and allow for the development of social rented homes by those Registered Providers who are unable to develop Affordable Rented Homes as part of the Homes England development programme the Council prefers to secure a mix of 70% affordable rent: 30% intermediate housing. This mix has been successfully secured in Section 106 agreements so will continue to be the Council's preferred approach.
- 2.22 The SHMA<sup>2</sup> is silent on the new affordable housing products introduced by the NPPF<sup>3</sup>. However, the Council considers that discounted market sales housing and starter homes are a type of intermediate housing, and affordable build to rent is a type of affordable rented housing. The Council will have regard to these new products when considering the tenure mix of new development.
- 2.23 The SHMA<sup>2</sup> suggests a housing mix, but to achieve maximum viability and delivery of affordable units, and meet as far as possible need, a different mix has been used for recent Section 106 agreements (see paragraph 4.20 for more information).

### **Local Housing Policy**

- 2.24 Affordable housing has a significant role to play in meeting the Council's corporate goal of 'meeting housing needs' and preventing and relieving homelessness – co-ordinating work with Registered Providers and developers to provide affordable housing in the District continues to be a priority. Increasing the range of housing products available to people in housing need and providing quality alternatives to homelessness will help to deliver this goal.

### **Maldon District Draft Housing Strategy<sup>10</sup>**

- 2.25 Maldon's draft Housing Strategy (2018-23) enables a step-change in the provision of affordable housing by setting out plans to manage growth and meet the changing needs and aspirations of local residents over their lifetime. This will be achieved by facilitating choice and providing ways of helping residents move through different types of tenure as their circumstances change. The Strategy also seeks to secure viable affordable housing to meet identified local needs to help achieve a more balanced, sustainable housing market and make best use of the existing housing stock.

### **Maldon District Tenancy Strategy<sup>11</sup>**

- 2.26 The Maldon Tenancy Strategy (2017) sets out how the Council expects Registered Providers and other approved providers should operate affordable housing tenancies, and how affordable homes should be managed in future. All new affordable homes must be delivered in accordance with this guidance.

### **3.0 MALDON'S AFFORDABLE HOUSING NEEDS AND PRIORITIES**

- 3.1 The LDP<sup>1</sup> plans for a target of 5,108 dwellings from 2014 to 2029. Informed by need and demand, the SHMA<sup>2</sup> indicates that 130 affordable units are required each year over the same period, 44% of the potential annual housing delivery figure, close to the LDP affordable target level of 40%. Since 2014, only 71 affordable units have been developed, significantly less than the 390 units required by the SHMA<sup>2</sup> for the first three years of the plan period, with only 21 being delivered in 2016/17. The expectation is

that the majority of the significant affordable housing shortfall will be delivered through the Garden Suburbs and Strategic Sites identified by LDP Policy S2 and through those market housing sites where LDP Policy H1 applies.

- 3.2 Securing the level of affordable housing identified by the LDP is essential to ensure that local people are able to afford to live in the District. The average income of those who live and work in the District is £511.30 (£26,572), lower than the regional level and that of other neighbouring authorities. The average price of a small flat/maisonette in Maldon is £190,000, assuming a mortgage of 3.5 times the annual income, properties are out of reach of most residents who live and work in the District. There are however, many residents who live in Maldon but work elsewhere, their income is noticeably different and are unlikely to be in need of affordable housing to the same extent.
- 3.3 This significant affordable housing shortage has increased the demand for temporary accommodation, and seen a rise in overcrowded conditions and people living in unsuitable properties. Those considered to be homeless has also increased in recent years (and is expected to rise further) partly due to an increase in the cost of private rented accommodation and home ownership, and because of the anticipated consequences of the Homelessness Reduction Act 2018. Providing the right number and type of affordable housing should help minimise homelessness and the impact that this has on public services and the local community.
- 3.4 The District has a rising ageing population, providing the right type of housing is important to meet the changing needs of older people over time: the SHMA<sup>2</sup> identifies that providing smaller affordable homes that meet their needs and aspirations, such as 1 and 2 bed bungalows and supported housing, will widen housing choice, and help people move and downsize to homes that are more appropriate to their needs. This helps improve the overall supply of affordable housing in the District in the short and long term by 'freeing up' larger, general affordable homes for families.
- 3.5 Adapting homes to meet the needs of those who are elderly or disabled can help people retain their independence in their own homes, but there will still be occasions where affordable homes designed to a specific standard are required to meet identified needs.
- 3.6 Starter Homes are identified by national policy<sup>3</sup> as a type of affordable housing, but in the District even with a 20% discount applied through the Starter Homes initiative, properties would only be affordable for a very small number of those identified as being in need of affordable homes who live in the District. Securing affordable housing that meets the needs of the majority living and working in the District is a priority.
- 3.7 To address current housing stock imbalances and to plan for long term population and household formation changes, and reduce the amount and risk of homelessness in the District, the priority is to secure the right amount and type of affordable housing to meet local housing needs. With funding for affordable housing through Government grants reducing, the introduction of the Local Housing Allowance cap, and Registered Providers losing revenue through the imposition of rent reductions and other welfare reforms, delivery of affordable housing as part of market housing schemes is essential to sustaining output and meeting identified needs.



- 3.8 A range of housing products are available but not all will suit the District's specific housing needs: looking at local household incomes, the most appropriate type of tenure is affordable rent. These benefit local residents because rents do not exceed Local Housing Allowance levels, although even with rent restrictions larger homes at affordable rent levels may not be affordable to some families on welfare benefit. To help redress this, some homes may be required for social rent. Although a range of properties are required over the LDP plan period, the immediate priority is to secure affordable rented one and two bed units to meet identified needs<sup>2</sup>. There is also a small need for three/four bed units to help address the scale of need for family units and reduce the number of overcrowded properties<sup>2</sup>.
- 3.9 To help improve viability and to promote a better mix of housing products, intermediate housing is also supported e.g. shared ownership or affordable rent to buy, as long as they would be affordable to someone earning the average local wage.
- 3.10 The affordable housing market is evolving: Other new and/or innovative options such as rent-to-buy may be considered if they provide an affordable route to home-ownership, with the security of renting in the medium to long term. Community-led affordable housing schemes can also help address specific locality needs or the needs of specific groups. National policy<sup>3</sup> has introduced discounted market housing and affordable private rent products within Build to Rent schemes. These are relatively new products but may be appropriate for the District - the Council will have regard to them in new developments where they can meet local needs.
- 3.11 It is important that affordable homes are made available to local people in need. Securing nomination rights is important for the Council when first built and then when re-letting in the future.

## 4.0 WHEN WILL AFFORDABLE HOUSING BE SOUGHT?

### **Which developments may require affordable housing?**

- 4.1 LDP Policy H1 states that affordable housing will be sought from residential developments of more than 10 units or which have a combined gross floorspace of more than 1,000 sqm<sup>1</sup>.
- 4.2 To ensure consistency with the Community Infrastructure Levy, the gross internal area (GIA) will be assessed using the RICS Property Measurement<sup>12</sup>. Gross Internal Area of a

building measures the internal face of the perimeter walls at each floor level, including all rooms, circulation and service space, including lifts, corridors, toilets and ancillary floorspace (e.g. underground parking), as well as conversions, garages and any other buildings ancillary to residential use. In flatted developments, it should include communal entrances, landings etc, and any related internal parking.

- 4.3 For schemes that involve demolition, the floorspace that is to be demolished will be deducted from the total provided by the new development. If a development has been demolished in the last three years, the figures from the previous development will be used.

### **Exemptions**

- 4.4 The Planning Obligations PPG (2016, para 031)<sup>7</sup> identify the circumstances where affordable housing will not normally be sought:
- householder applications (e.g. house extension or a garage) and self-build development as defined by the CIL Regulations 2014;
  - exclusively affordable housing and starter homes schemes, or the affordable housing element of a market housing scheme (other than the provision of the affordable homes themselves);
  - residential annex, staff accommodation or extension to an existing home which is incidental to the main dwelling;

In addition in the District the following other types of proposals will not usually require affordable housing:

- listed building, conservation area, advertising or tree preservation order applications (although contributions may be sought from the overarching scheme);
- replacement dwellings;
- residential institutions providing specialist housing for the elderly in Use Class C2 (excluding self-contained units – like Sheltered or Extra Care schemes). For more information see paragraphs 4.25-4.27 and the Specialist Needs Housing SPD<sup>9</sup>;
- purpose built hostel or holiday accommodation which are incapable of occupation for general residential purposes because of their layout, ownership, management or occupancy restrictions;
- Gypsy and Traveller accommodation.

### **Artificial sub-division of sites**

- 4.5 LDP Policy H1<sup>1</sup> seeks to maximise the amount of affordable housing delivered in the District, and Policy H4: Effective Use of Land requires proposals to use developable land efficiently. As such, proposals which seek to circumvent the Policy H1 affordable housing requirement by developing at a low density, through a phased or piecemeal development, by re-drawing the boundary of a larger site or by sub-dividing land will not be acceptable.
- 4.6 The Council will base the affordable housing requirement on the gross number of dwellings that can be accommodated on a site. In reaching a view on this, the Council will take into account such issues as land ownership, planning history, topography, site constraints and the natural boundaries of the site.

**Vacant Building Credit**

- 4.7 The Planning Obligations PPG (2016, paras 021-023)<sup>7</sup> state that a vacant building credit (VBC) can apply to sites where a vacant building is brought back into lawful use, or is demolished to be replaced by a new building. VBC would then reduce the requirement for affordable housing based on the amount of vacant floor space being brought back into use or being redeveloped.
- 4.8 VBC will not be automatically applied: the intention of VBC is to '*incentivise brownfield development*'<sup>7</sup> and the re-use of vacant buildings so only relevant buildings will be considered as being able to generate VBC. For example, a brownfield site containing a scrap yard with few buildings would not be relevant because the amount of credit that could be applied would be limited and would do little to incentivise development.
- 4.9 Where a proposal provides a reasonable return to the landowner, a competitive profit to a developer and is policy compliant, VBC should not be applied as the development would be sufficiently incentivised and viable. Applying VBC at the outset would reduce the affordable housing contributions and potentially increase the financial returns to both landowner and developer. If a developer considers VBC should be applied, sufficient evidence will be required to ensure that an application can be considered appropriately. This may include a viability assessment (see Section 8.0). The VBC will be taken from the residual land value.
- 4.10 The Council is expecting to implement the Community Infrastructure Levy (CIL) in 2019. To enable the Council to assess VBC and CIL claims consistently, and to ensure that an applicant cannot claim that a scheme qualifies for VBC and CIL relief, a building will be considered vacant if it has been in lawful use for a continuous period of fewer than six months, within the past three years ending on the day planning permission first permits the chargeable development (to be eligible for CIL relief a building must '*be in lawful use for a continuous period of at least six months within the past three years ending on the day planning permission first permits the chargeable development*' CIL (Amendment) Regulations 2014). Until CIL is adopted the three year period will end on the day the planning application is registered. If CIL is delayed this is consistent with national legislation so is considered appropriate.
- 4.11 It is important that VBC is used appropriately, is applied to genuinely vacant buildings, so should not be covered by an extant or recently expired planning permission and should not be protected for an alternative land use in the LDP<sup>1</sup> or in another planning policy document.
- 4.12 National policy<sup>7</sup> states that VBC should not apply to every vacant building, therefore the Council will be mindful to a building being made vacant for the sole purposes of re-development and/or the wilful neglect of properties with the intention of securing redevelopment. Therefore, applicants must demonstrate that the relevant vacant buildings have been actively marketed on realistic terms based on the current or any permitted use for at least 12 months continuously in the previous two years. The Council may also use Council Tax, Business Rates or Electoral Register records in their VBC assessment.

- 4.13 VBC does not apply to abandoned buildings<sup>7</sup>. A building will be treated as ‘abandoned’ rather than ‘vacant’ where the lawful planning use of the building has been abandoned for a period of five years. Cessation of a use does not necessarily mean abandonment.
- 4.14 Where the Council considers VBC applies the developer will be offered a financial credit equivalent to the existing GIA of the vacant buildings (see paragraph 4.2). This will be deducted from the overall affordable housing contribution, either the number of affordable units sought or the financial contribution required. A worked example is set out below.

| Elements of the scheme (GIA)         | Floorspace (sqm) |
|--------------------------------------|------------------|
| <b>Existing</b>                      | <b>500</b>       |
| Existing floorspace to be retained   | 250              |
| Existing floorspace to be demolished | 250              |
| <b>Proposed</b>                      | <b>2390</b>      |
| <b>Increase in floorspace</b>        | <b>1890</b>      |

#### VBC Calculation

40%\* of 30 units = 12 units

1890sqm as percentage of the overall development of 2390 = 79.07%

12 units x 79.07% = 9.48 units

\*Policy H1 sub-area affordable housing requirement

In this case the Council will require 9 units on site and the 0.48 as a financial contribution.

- 4.15 For outline planning applications it may not be clear how many dwellings are proposed or the size of those dwellings. In these cases, it will be difficult to identify the VBC. A S106 agreement will ensure that the issue can be dealt with at Reserved Matters stage. All requests for VBC will be included in the Planning Committee report.

#### Affordable Housing Requirement

- 4.16 The affordable housing requirement will vary to reflect a site’s location in the District and local need. LDP Policy H1<sup>1</sup> divides the District into the following sub-areas (see Figure 1 on page 17):

| Sub-area                                                         | Requirement |
|------------------------------------------------------------------|-------------|
| North Heybridge Garden Suburb:                                   |             |
| S2 (d): North of Heybridge                                       | 30%         |
| S2 (e): North of Holloway Road                                   | 40%         |
| S2 (f): West of Broad Street Green Road                          | 40%         |
| South Maldon Garden Suburb                                       | 30%         |
| Strategic allocations at Maldon, Heybridge and Burnham-on-Crouch | 40%         |
| All other developments:                                          |             |
| Northern Rural, Maldon Central and South and                     | 40%         |

| Sub-area                                  | Requirement |
|-------------------------------------------|-------------|
| Rural South*                              |             |
| Maldon North and Rural South East Higher* | 30%         |
| Rural South East Lower*                   | 25%         |

Table 1: Affordable Housing Sub-Area Requirements

\*as shown in Figure 1

- 4.17 In those cases where the requirement does not generate a whole number, a financial contribution will be sought equal to the value of the partial unit (see paragraph 5.24).

### **Affordable Housing Tenure**

- 4.18 The SHMA<sup>2</sup> suggests an affordable housing tenure mix of 80% Affordable Rent: 20% Intermediate Housing. However, to effectively balance the housing market over the plan period and over the housing market area, to improve viability and allow for the development of social rented homes by those Registered Providers who are unable to develop Affordable Rented Homes as part of the Homes England development programme, the Council prefers to secure a mix of 70% affordable rent: 30% intermediate housing. This mix has been successfully secured in Section 106 agreements so will continue to be the Council's preferred approach.
- 4.19 The SHMA<sup>2</sup> is silent on the new affordable housing products introduced by the NPPF<sup>3</sup>. However, the Council considers that discounted market sales housing and starter homes are a type of intermediate housing, and affordable build to rent is a type of affordable rented housing. The Council will have regard to these new products when considering the tenure mix of new development.
- 4.20 When assessing the viability of a development, the total number of affordable units provided by each scheme should be policy compliant for the location and, unless otherwise agreed with the Council, should have a preferred tenure split of:
- No lower than 70% social rented/affordable rented: Generally in the District, affordable rented housing is acceptable as the preferred option; and
  - No higher than 30% intermediate housing (as defined in paragraph 1.9). Generally in the District shared ownership (Homebuy) is considered the preferred option. Rent to buy and fixed equity, and other intermediate products may be appropriate if agreed with the Council's Housing Services.

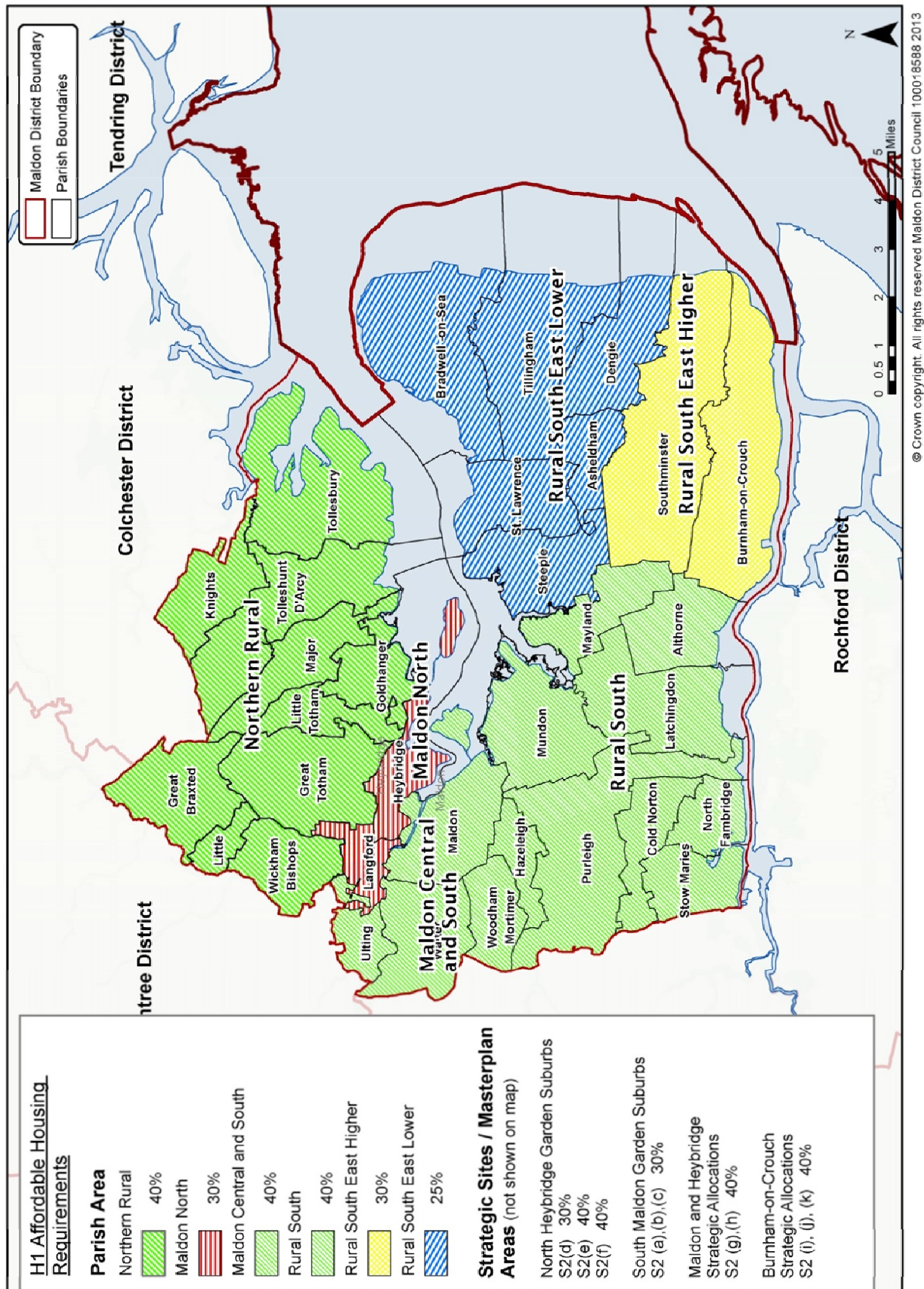


Figure 1: H1 Affordable Housing Requirements

**Affordable Housing Mix**

- 4.21 There is a demand for a wide range of property sizes in the District. LDP Policy H2<sup>1</sup> expects a suitable mix of housing in both the market and affordable sectors to enable a better flow of existing housing stock and to meet the identified housing needs for different demographic groups in the District.
- 4.22 The SHMA<sup>2</sup> suggests a mix, but to achieve maximum benefits: to better meet unmet need and to achieve other SHMA recommendations, such as, to achieve a balance of homes that would stimulate additional supply from existing stock, maximise viability (by providing slightly more low cost home ownership), the Council considers the example mixes in Appendix 3 are more appropriate - these have been successfully secured in Section 106 agreements - and will be the starting point for discussion.
- 4.23 However, the Council may consider a different mix, for example, if local housing needs would benefit from an alternative, the location does not support the delivery of a particular size or type of homes or a revised mix would help to redress the balance of existing affordable homes in an area. This should be discussed with the Council's Housing Services at pre-application stage.
- 4.24 Schemes providing for only one age group, for example, for older people will only be expected to provide affordable housing for that age group.

**Specialist Accommodation**

- 4.25 Policy H3<sup>1</sup> supports specialist or supported accommodation where there is an identified need in the District, such as for older people and people with disabilities. This may be provided as solely affordable housing or sought as part of a market housing scheme in line with Policy H1.
- 4.26 All applications for specialist and/or supported housing should be consistent with Policy H3, and be accompanied by a business case demonstrating the financial feasibility of providing housing-related support for the relevant client group (to fulfil Policy H3 (7)). The Council will consult other relevant agencies to ensure that the provision does not place any unnecessary burdens upon the District's infrastructure, such as health and social care.
- 4.27 Over time, specialist affordable housing may no longer be viable, for example due to a lack of revenue funding or lack of demand. To ensure the District does not lose affordable housing, sufficient evidence will be required as part of the planning application (which may include a viability assessment) to demonstrate that the specialist use is no longer viable. If this is the case then a variation to the S106 agreement for the scheme will be required so that the properties can be converted to general needs affordable housing. Further details are provided in the Council's Specialist Needs Housing SPD<sup>9</sup> at [www.maldon.gov.uk/spd](http://www.maldon.gov.uk/spd).
- 4.28 Provision of specialist accommodation should not exclude provision of affordable housing. Some proposals may include a mix of Class C2 and Class C3 housing. Provision of affordable housing will only be sought from Class C3 housing: such as Sheltered and Extra-Care schemes, and individual, self-contained C3 units, even where the occupants



receive care and/or are restricted to occupancy over a particular age and/or are located within a complex which includes some C2 (nursing home) rooms.

- 4.29 It is not always appropriate for design or financial viability reasons for affordable units within a specialist housing scheme to be located on site. In these cases a financial contribution may be acceptable. This should be agreed with the Council at pre-application stage.

### **Community-led affordable housing**

- 4.30 Community-led housing is a way for local community groups to deliver good quality homes and/or specialist homes, in settlements or as exception sites in the rural area (see Section 6.0 for details) to meet local needs in perpetuity. These homes must be affordable. Community-led housing can be developed and/or managed by local people or residents, by not for profit organisations, such as locally based charities or almshouse providers. It can also be provided by Registered Providers and owned and managed by them on behalf of a community group.
- 4.31 This type of housing can take a variety of forms: current models include self-help housing, co-housing, co-operatives, community land trusts and community self-build. It can also include the re-use of existing buildings. Community-led housing can also be delivered through Community Right to Bid or the Community Right to Build processes.
- 4.32 Promoters should contact the Council at an early stage if community-led housing is being proposed. Evidence of the need for affordable housing in that community will be required including that affordable housing is unlikely to be accommodated through planned development in the locality. The Neighbourhood Plan process provides an opportunity to identify appropriate sites and get community buy-in early for community-led housing. Promoters must agree their nominations policy and future management approach with the Council. This will be set out in a S106 agreement (see paragraphs 5.14-5.22).

### **Mixed-use schemes**

- 4.33 Where a scheme proposes non-residential development alongside an element of housing, affordable housing will be required for all qualifying residential development. Mixed-use schemes that are not policy compliant will need to be justified by appropriate evidence, which may include a viability assessment.
- 4.34 Where planning permission is granted for a mixed-use scheme and there is a proposal to change the use of the non-residential element to residential, a full re-assessment of the affordable housing provision will be required (see Section 8.0).

### **Loss of affordable housing**

- 4.35 Given the acute demand for affordable housing in the District, the loss of affordable housing will not normally be acceptable unless this is to enable the provision of an equivalent or greater number of replacement affordable homes. The only exceptions would be where wider housing benefits would outweigh the loss of units in that location by providing the type of affordable housing that cannot be provided elsewhere, the condition of stock is so poor that it is not viable to refurbish and it is not feasible to develop the same amount, for example, for design reasons. In these cases, to



compensate for any loss, it is expected that the Council would require the on site affordable housing tenure and mix to meet identified local needs. The approach should be agreed at pre-application stage.

**Amendments to planning permission**

- 4.36 When affordable housing is being provided and amendments to a planning permission increase the number of market houses/floorspace, the affordable housing requirement sought will be a percentage of the revised total number of homes across the application site. This includes those applications where amendments increase the number of market housing/floorspace so that the threshold identified by Policy H1<sup>1</sup> is exceeded.
- 4.37 Where amendments are sought to a planning permission that is being delivered in phases, the affordable housing requirement will be re-assessed and applied to the total number of units proposed in the remaining phases. If the number of dwellings is increased the Council will expect an increase in affordable housing in accordance with the requirements set out in LDP Policy H1<sup>1</sup>.

## 5.0 PROVIDING AFFORDABLE HOUSING

### On Site Provision

- 5.1 Consistent with national policy, the preferred approach in the District identified by Policy H1<sup>1</sup> is for the on-site provision of good quality affordable housing. Where it can be demonstrated that the requirement and/or tenure mix is not viable on site, the starting point for negotiation will be the content of 4.16-4.24 above. The requirement and/or tenure mix may be re-considered to improve viability along with the possibility of providing grant or other forms of public subsidy. Only in exceptional circumstances where, a viability assessment shows that it is not feasible to deliver all, or part of the provision on-site and no grant subsidy is likely, will consideration be given to an equivalent financial contribution or the provision of free-serviced land transferred to a Registered Provider. Policy H1 does not promote the provision of developer owned land, off site in lieu of affordable housing.
- 5.2 Where some, but not all the affordable housing requirement is provided on site, an equivalent financial contribution will be sought (see paragraph 5.24).

### Public Subsidy

- 5.3 So that high quality, affordable homes can be delivered that meet identified needs, the Council expects developers to cover the cost of the affordable homes so that there is no need for public subsidy (including grants, public loans and public land). The expectation is that policy compliant schemes will be viable without the need for grant or other forms of subsidy.
- 5.4 Where only a proportion of the required number of affordable homes can be secured as part of a viable scheme, a review mechanism will be incorporated in the S106 agreement to ensure that if grant, subsidy or other investment become available at a later date a review of the affordable housing provision can be secured (see Section 8.0) in accordance with a policy compliant scheme.

### Design of Affordable Housing

- 5.5 To promote integrated communities, affordable housing should be designed to meet the requirements set out in the Maldon District Design Guide SPD<sup>8</sup> and be indistinguishable from market housing, in terms of quality of the homes provided, the adequacy of internal living and the location and quality of outdoor amenity space and parking provision.
- 5.6 It is important that all dwellings have adequate living space to ensure that the changing needs of a household can be addressed. Good size properties also mean that the Council and Registered Providers are able to manage their stock easily as they can be allocated to a wider range of households. The size of bedrooms is important, particularly as same sex siblings may be required to share a bedroom until 16 under the new housing welfare reforms.
- 5.7 As a guide, all 2 bed properties should be designed for 4 people. This ensures that 2 bed properties can be let to 2, 3 or 4 person households. All properties with 3 or more bedrooms should include one double and one twin room to maximise the property's

potential use. All one bed properties must be designed for 2 people (i.e. have a double room). Therefore the upper limits of the Nationally Described Space Standard<sup>13</sup> will be the starting point for discussion. Further guidance is set out in the Council's Housing Strategy<sup>10</sup>.

- 5.8 The District has an identified need for older persons housing. In these cases, additional space may be required to accommodate people down-sizing from larger homes and who in future may need space for aids and adaptations. The Maldon Design Guide Appendix A: Older Persons Housing<sup>8</sup> and the Specialist Needs Housing SPD<sup>9</sup> expects these proposals to be compliant with Building Regulations and any relevant guidance by Housing our Ageing Population: Panel for Innovation (HAPPI).
- 5.9 All new residential units will be expected to have direct access to an area of private amenity space. The form of amenity space will be dependent on the form of housing and could include a private garden, balcony or ground-level patio with defensible space from any shared amenity areas.
- 5.10 The design and layout of affordable housing will largely be addressed through the Maldon District Design Guide SPD (at [www.maldon.gov.uk/mddg](http://www.maldon.gov.uk/mddg))<sup>8</sup>. The location of affordable plots should be clearly identified on submitted plans: Homes should be spread across the site in small groups of no more than 15 to 20 homes to achieve an appropriate mix with market homes, or in self-contained flatted blocks for ease of management. Clustering of affordable homes in this way avoids large concentrations of single tenure dwellings and achieves mixed and sustainable communities.
- 5.11 Dwellings designed to achieve high standards of energy efficiency will be supported. Reference should be made to the Council's Renewable Energy and Low Carbon Technologies SPD ([www.maldon.gov.uk/spd](http://www.maldon.gov.uk/spd))<sup>14</sup>.
- 5.12 It may also be appropriate to consider increasing the density of development to enable the delivery of additional affordable housing where this meets exemplary design standards. This will be assessed on a site-by-site basis.
- 5.13 The total number of car parking spaces for affordable homes and/or the management of the car parking arrangements should be negotiated at the pre-application stage and reflect the Vehicle Parking Standards SPD<sup>15</sup>. The capital cost of parking provision should be borne by the developer so that the designated parking results in no additional cost to the occupants.

#### **Management**

- 5.14 In general, affordable housing should be developed in conjunction with a Registered Provider, approved by Homes England. In exceptional cases, where an alternative provider is involved, they will need to be approved by the Council and will be expected to deliver affordable housing in the same way as a Registered Provider. Evidence of equivalent accountability, funding for the scheme and long-term management and maintenance arrangements will be required.
- 5.15 A S106 agreement will be used to confirm the approach and to ensure, where appropriate, that the dwellings will remain available in perpetuity for those in housing

need. There may be legitimate circumstances where affordable housing can be sold, for example, through right to buy or staircasing out of shared ownership. The provider will be expected to make every reasonable effort to recycle any subsidy for affordable housing in the District.

- 5.16 In setting affordable rents, Registered Providers should be guided by the Local Housing Allowance (LHA) rates for the District, as these rates will limit the amount of Housing Benefit available to households. Registered Providers are expected to use these rates as the upper limit in setting affordable rent levels. See the Council's Tenancy Strategy<sup>11</sup> at [www.maldon.gov.uk](http://www.maldon.gov.uk).
- 5.17 The location, size and number of bedrooms, occupancy capacity and the tenure and phasing of affordable housing should be agreed at an early stage with the Council and the Registered Provider who will purchase and manage the affordable housing. So that the affordable housing meets all planning requirements, and the rents, service charges and maintenance are affordable to future residents, as indicated by the SHMA<sup>2</sup> annual housing costs are affordable if they do not exceed 30% of relevant local income:
  - For intermediate affordable housing: based on the gross median local wage of a household in the District; and
  - For affordable rented homes: based on the gross lower quartile LHA household income.
- 5.18 Developers must ensure the affordable dwellings are transferred as completed units at a price agreed with the Registered Provider, reflecting what they can pay for the dwellings without the need for other public subsidy. LDP Policy H1<sup>1</sup> expects that delivery of affordable housing will be based upon the provision of free serviced land plus the cost of construction of the units and a reasonable margin based upon current recognised standards. Developers may seek to obtain a value for affordable homes that is higher than this but in so doing should not use the expectation of these higher values as a minimum threshold.
- 5.19 Appropriate occupancy and management arrangements should be put in place: a nominations agreement must be signed for affordable rented properties with the Registered Provider or other affordable housing provider so that the Council has 100% nomination rights on the first let of all affordable homes in the District, and no less than 95% of any subsequent occupancy nominations.
- 5.20 Where a Registered Provider is unable to offer the Council this proportion of nominations for some types of intermediate housing (as a result of funding agreements for example) this should be agreed with the Council at planning application stage. The agreed nominations provision will then be identified in the S106 agreement.
- 5.21 Applicants are nominated according to housing need, in accordance with that Council's current allocations policy. In some cases, such as for specialist housing, exception sites or Community-Led housing, the Council may request that nomination rights are granted to another appropriate authority nominated by the Council.

- 5.22 The NPPF<sup>3</sup> defines Build to Rent housing as *‘a wider tenure development comprising either flats or houses, but should be on the same site and/or contiguous with the main development. Schemes will usually offer longer tenancy agreements of three years or more, and will typically being professionally managed stock in single ownership and management control’*. This means that a registered provider would not be involved. The Council would welcome discussion with a developer on any such proposals and the long term sustainability of that type of management arrangement. The process for managing affordable private rent units will be set out in a S106 agreement. This would include details of the lettings agreement, the rent levels, split of homes across the development and a management and service agreement.

**Delivery of Affordable Housing**

- 5.23 The expectation is that no more than 50% of the market housing on the application site should be completed before all affordable housing has been constructed, transferred or leased to the Registered Provider. Where land is being transferred the same approach will be used. This will be set out in the Heads of Terms for the S106 agreement.

**Financial Contribution in Lieu of Affordable Housing**

- 5.24 A financial contribution will only be acceptable where:
- a) An LDP policy compliant scheme<sup>1</sup> does not generate a whole number. For example, if the percentage requirement generates 3.5 properties, 3 properties should be provided on site and a contribution would be required equivalent to the 0.5; or
  - b) The scheme proposes a small number of properties but exceeds the Policy H1<sup>1</sup> floorspace threshold; or
  - c) To create a better quality development there are justifiable design and housing reasons for affordable housing to be located off-site. For example, if the site size would result in a design and/or type of homes that would not meet the housing requirements identified by the Council; or
  - d) Provision of any affordable homes on site would make a development financially unviable but there is sufficient value from the development to make a financial contribution; or
  - e) The Council agree that the need for affordable homes could be better served through the receipt of financial payment.
- 5.25 The percentage target will be applied to the total number of market dwellings to be provided on the application site, including any increase in market units on the application site resulting from the provision of a financial contribution. Unless the type of affordable housing provided on site indicates otherwise, it should be assumed that this will be for a 2 bedroom, 4 person terraced house: this is the most common type of affordable housing required in the District.
- 5.26 The contribution will be based upon the average benchmark price to a Registered Provider for a home of that size and tenure (at the time of the application). The Council’s Housing Services will provide this information - these values are monitored at least twice a year.
- 5.27 All contributions will be based upon the formula below:

***Developer contribution:  $A = B \times C$*** 

**A:** the affordable dwelling payment

**B:** the average price for an affordable dwelling (by size and tenure)

**C:** policy requirement number of units

For example if 0.1 of a two bed property is required, which a Registered Provider is paying £100,000 for, then the financial contribution would be £10,000 = 100,000 x 0.1.

- 5.28 This approach has been used in the District since 2015 and is considered to be consistent with the three tests set out in national legislation relating to the use of planning obligations. The cost is a generally accepted value between Registered Providers and developers because it is directly linked to the cost of providing equivalent affordable homes in the District without including the cost of land which would be a disproportionate level of contribution for schemes which are struggling with viability. The costs are proportionate and can also be easily updated to take account of any changes in market conditions so the approach will remain relevant in the long term.
- 5.29 Where a developer considers that the financial contribution will make a scheme unviable, the Council will expect that evidence is submitted to ensure that the planning application can be considered effectively. This could include a viability assessment.

**Payment of Contributions**

- 5.30 Timing of delivery is important and the structure of the S106 agreement will reflect this. No less than 50% of the contribution should be paid prior to the commencement of the construction of any housing on the application site. The remaining contribution shall be paid by the date 50% of the market units on the site, or in the phase have been completed. This should be in accordance with a scheme of works to be submitted to the Council for approval. Where a development is being constructed in phases, this will apply to each phase unless it is agreed that the provision of affordable homes can be addressed in subsequent phases. In the case of large financial contributions, it may be possible to negotiate phased payments, particularly where it helps to improve scheme viability.
- 5.31 So that a financial contribution keeps its value and reflects changes in inflation costs arising between the date of planning permission and payment, financial contributions will be adjusted in line with an index of inflation, usually the Royal Institute of Chartered Surveyors (RICS) and Building Cost Information Service (BCIS) indices. This will be set out in a S106 agreement.
- 5.32 The contribution will be ring-fenced and - because affordable housing is not capable of being funded by the Community Infrastructure Levy - if necessary, pooled, to provide or increase the proportion of affordable housing in the District; alter the tenure of affordable homes to help deliver affordable housing; or, make changes to the existing housing stock to meet an identified housing need; or, adjust tenures to meet the need of the District. In some cases, contributions may be sought to enable the provision of affordable housing - e.g. to provide infrastructure, remediation or re-provision of open space to allow the release of a suitable site for affordable housing where this will be the most cost-effective solution and an additional affordable homes will be provided.

- 5.33 All contributions will be allocated within 10 years of receipt of the funding. This is considered to be a reasonable timescale for the delivery of affordable housing. However, where a more strategic or complex intervention is needed, or resources need to be pooled from several large scale developments, then a longer time period may be sought (up to a maximum of 15 years). If the contribution is not spent at the end of the agreed contribution period, if requested by the payee, it will be returned.

## **6.0 EXCEPTION SITES**

- 6.1 The NPPF<sup>3</sup> defines exception sites as *‘small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion of market homes may be allowed on the site at the local planning authority’s*

*discretion, for example where essential to enable the delivery of affordable units without grant funding.'*

6.2 Entry level exception sites have been introduced by the NPPF<sup>3</sup>: '*a site that provides entry level homes suitable for first time buyers (or equivalent for those looking to rent)*'. These should not be larger than one hectare in size or exceed 5% of the size of the existing settlement. Although the LDP is silent on entry level exception sites, the Council consider that the following guidance should apply to all exception sites.

6.3 LDP Policy H5<sup>1</sup> sets out the following process all applicants for Rural Exception Sites must use:

**Stage 1: Getting Started**

6.4 The best way to deliver affordable housing in rural areas is by working in partnership with key stakeholders, in particular with local communities. This includes Neighbourhood Forums who should lead on any needs identified in a Neighbourhood Plan. The Council will seek to achieve Exception Sites where the local community has given its support.

6.5 Registered Providers are encouraged to share information about potential development opportunities and local housing needs. Advice on housing and planning issues can be provided at pre-application stage.

**Stage 2: Local Housing Needs Assessment**

6.6 Exception sites should only be brought forward if there is a proven unmet local need for affordable housing in the area (see LDP Policy H5<sup>1</sup>). For a community to be eligible for an exceptions site, a Housing Needs Assessment will be required. This should identify the level of affordable housing need in the Parish or relevant local area. A key part of the assessment is the Housing Needs Survey. The scope and methodology should be agreed with the Council. The survey should be widely distributed in the parish or local area, be in accordance with recognised guidelines and should address the housing need of each relevant household, including:

- Local connection information (e.g. length of time lived in the parish/area, close family living in the parish/area, employed in the parish/area, grown up in the parish/area);
- Reasons for housing need;
- Income and expenditure;
- Tenure appropriate to meet housing needs and aspirations;
- Household size, age and composition;
- Specific housing requirements such as need for adaptations, level access, need for housing related support.

6.7 The Council should be contacted for available information about housing need. Information relating to consented residential development schemes in the locality should be assessed, particularly relating to housing mix. The survey results should identify an affordable housing need and the type of that need, and that the need can be delivered through a viable development.



- 6.8 Information about household size and tenure will inform scheme design, dwelling size and tenure mix. Income information in relation to their needs and local housing costs will be assessed against the housing need criteria for the Council's housing register and will help determine whether affordable housing is needed.
- 6.9 The survey results and assessment should be discussed with the Council and the Registered Provider, if known. Only if it is clear from the survey that there are people living in the parish who are in housing need and are unable to compete in the housing market (to buy or rent) because of the level of their income, is an exception site a possibility. The survey will give an indication of the number, type and tenure of affordable homes that are needed by people with a local connection to ensure that the proposal is meeting a genuine housing need and is not providing an over concentration of a particular type of housing in an area of the District. Individual responses will be kept confidential.

### **Stage 3: Selecting a Registered Provider**

- 6.10 It may be useful to select and work with a Registered Provider at an early stage so that guidance can be provided on the feasibility of a possible development. To ensure that the housing is developed and managed appropriately, it is important that the provider is either approved by Homes England or operates in the same way as a Registered Provider (see 5.14 for further details) and is approved by the Council's Housing Service.
- 6.11 Exceptions sites are those which are 'exceptions' to adopted planning policy. Although landowners should expect a fair return for their land the value will not be the same as that generated by a policy compliant development taking into account alternate use as well as existing use value (see Section 8). The Council may refer to other similar developments to provide a benchmark.

### **Stage 4: Site Selection**

- 6.12 Rural exception sites should be small scale, preferably adjacent to the defined settlement boundaries and outside the strategic growth areas. Entry level exception sites should be consistent with national policy<sup>3</sup>. Applicants should consider a number of potential sites in a locality to ensure that the most sustainable is selected. This is important to justify site selection particularly if the proposed site is detached from a settlement boundary. Previously developed land and conversion of buildings should be considered: the Council's Brownfield Land Register is a good starting point (see [www.maldon.gov.uk](http://www.maldon.gov.uk) for more details).
- 6.13 The assessment for each site should include information on:
- Relationship to the built form of the existing settlement;
  - Highway, pedestrian and cycle access and safety;
  - Ability of local infrastructure to accommodate the development;
  - Accessibility to key local shops and services;
  - Environmental constraints: including landscape character, flood risk, heritage assets, ecology assets, agricultural land quality; and
  - Implications of any relevant planning policy

Information is available in the LDP evidence base (see [www.maldon.gov.uk/LDP](http://www.maldon.gov.uk/LDP)).

- 6.14 Site availability is a key factor: The willingness of the landowner to make a site available for development at the correct time, on acceptable terms and at fair value will be a key factor in determining viability and deliverability.

**Stage 5: Identifying Amount and Mix of Housing**

- 6.15 Once the preferred site has been selected, detailed proposals will need to be worked out with the Council's Housing Officers and the Registered Provider/enabler. The number, size and tenure mix of dwellings will vary according to the level of local need identified by the Housing Needs Survey, the nature of the site identified and the size of the existing settlement. But, the amount and type of housing proposed should be in keeping with the role, function and sustainability status of that settlement.
- 6.16 National policy<sup>3</sup> states that an element of market housing may be appropriate on a rural exception site. The Council consider this should be the minimum needed to cross subsidise a viable affordable housing scheme, without public subsidy, to ensure the focus of the scheme remains affordable housing delivery (and keeping the land value at a level sufficient to allow a Registered Provider to be able to deliver a viable scheme).
- 6.17 All schemes must be deliverable: Viability should be confirmed, (taking account of any planning and financial constraints which exist) this could in the form of a viability assessment (see section 8.0). Where market housing is proposed the evidence will need to show that the proportion of market housing is essential to deliver the agreed amount of affordable housing identified in the Housing Needs Survey.
- 6.18 It is important that a pre-application consultation is undertaken. This provides the Registered Provider and the local community with the opportunity to clarify and confirm local expectations and modify the scheme prior to submitting a planning application.

**Stage 6: Submit Planning Application**

- 6.19 The Registered Provider will progress the site through the consultation, planning and development process. The design should minimise the impact on the character and appearance of the adjoining townscape and the wider countryside.
- 6.20 All exception sites are subject to a S106 agreement to ensure that the properties (or where there is a market element, the affordable units) will be available for people in housing need and prioritised for those with a local connection to the parish or group of adjacent parishes, in perpetuity. The draft Heads of Terms should be agreed at planning application stage.

**Stage 7: Delivery and Management**

- 6.21 Applicants will be required to show that the type of housing and the nominations rights set out in the S106 agreement (see paragraphs 5.14-5.21) meet the needs and requirements of that local community. Amendments may be sought to the nominations rights, including the prioritisation of intended nominees where this does not adequately reflect the outcome of the public consultation. The eligibility requirements should comply with the Housing Act 1996 Part VI – the Allocation of Housing Accommodation.

## **7.0 PROCEDURE FOR NEGOTIATING AFFORDABLE HOUSING**

- 7.1 Developers are expected to be familiar with the content of the LDP<sup>1</sup> and the guidance contained in this SPD before a planning application is submitted. Therefore all schemes should be policy compliant. To make sure that planning applications requiring affordable housing are dealt with in a consistent and transparent way a clear process will be used.

### **Pre-application and application negotiations**

- 7.2 Developers should discuss their proposals with the Council before submitting a planning application. Pre-application discussions enable developers to positively discuss appropriate provision and justify their approach. This is particularly important in those

exceptional circumstances where a scheme is not expected to be policy compliant. Pre-application discussions will highlight the likely impact of development, the amount and type of affordable housing required, and level of other developer contributions likely to be sought. This service is intended to help speed up the development process and avoid unacceptable proposals. Further information on the pre-application and planning application process is available on the Council's website [www.maldon.gov.uk](http://www.maldon.gov.uk)

7.3 For pre-application discussions to be productive developers need to ensure that as much information as possible is supplied. This should include, where known, information on:

- Total amount of affordable housing proposed;
- Total amount of housing proposed in terms of units and habitable rooms;
- Amount of affordable rented and intermediate housing proposed;
- Number of bedrooms, floor areas and number of people able to occupy affordable rented and intermediate housing units;
- For each tenure, the numbers of dwellings of different sizes (i.e. number of bedrooms);
- The weekly cost to the occupier of the proposed affordable units including realistic and affordable service charges;
- Details of the affordability and tenure of the intermediate homes and how these will provide for a range of income groups;
- Assumptions on cost of transfer to a Registered Provider;
- Phasing of delivery and the mechanism for handover of affordable homes;
- Nomination rights;
- Mechanisms for ensuring adequate management of the properties.

This information will form the basis of the draft Heads of Terms.

7.4 If pre-application discussions are not sought, affordable housing requirements will be identified when a planning application is submitted. To reflect current Government thinking the Council will expect all relevant applications to submit draft Heads of Terms containing the information identified in paragraph 7.3 and proof of title. The applicants' solicitor's details should also be provided. Applications that do not include this information will not be validated.

7.5 At outline planning application stage it may not be clear how many dwellings are proposed, and potentially this number could change at reserved matters stage. Where the housing mix has not been determined in an outline planning application, the Council will append a planning condition which stipulates that the details of the housing mix are submitted as part of the Reserved Matters application and should be in accordance with the SHMA<sup>2</sup>.

7.6 CIL will only be applied to market housing.

### **Section 106 agreements**

7.7 Provision of affordable housing will be secured by Section 106 (S106) agreement. This is a deed entered into by the Council and the landowner and/or applicant which outlines

the details of a planning obligation, such as affordable housing. It is made under the provisions of Section 106 of the Town and Country Planning Act 1990.

- 7.8 S106 agreements run with the land so will bind successive owners. It is recorded as a land charge. If the applicant does not own the land the landowner and any third parties of the mortgage will need to be party to the agreement. A S106 agreement may contain a number of planning obligations depending on the complexity and scale of the development and what would be necessary in order to grant planning permission.
- 7.9 It is advisable to involve a solicitor because the deed and its undertakings can restrict the use of the property or land in the future. Alternatively, some applicants may choose to use their agent or planning consultant. However a solicitor will be required to confirm title to the land concerned.
- 7.10 The length of time taken to complete a S106 agreement will vary. However, to ensure the S106 agreement process is efficient, draft Heads of Terms should be submitted with the planning application to enable the Council to finalise the agreement as soon as possible after the planning permission has been granted (subject to a S106 agreement) by Planning Committee. But this will depend on the agreement being substantially completed (and where necessary that Committee is aware of its substantive contents) and being capable of being signed by all parties soon after the decision is made. A completed S106 agreement must be agreed and in place before planning permission can be granted.
- 7.11 The Council uses a standard S106 template, with standard clauses for affordable housing. S106 agreements can be lengthy and complex: An executive summary should be provided which sets out details of the development, *‘what is to be provided by each planning obligation, including any affordable housing to be provided and any trigger points for contributions’* (Viability PPG, 023). Triggers will be used to enable delivery of affordable housing or a financial contribution. Appropriate clauses will be included to secure interest for late payment from the relevant trigger point in the agreement. In exceptional cases, the original Registered Provider may be unable to fulfil their agreement to deliver the housing. To prevent the housing being lost from the affordable stock a standard clause will be used to require the developer to secure a second Provider.
- 7.12 Legal agreements should incorporate mortgagee in possession clauses appropriately, to protect the lender’s investment. Where a Registered Provider fails to repay a mortgage and the lender takes possession of the property(s), the lender can then sell the homes as market housing.
- 7.13 The developer will be expected to pay the Council’s legal costs for the preparation of a S106 agreement and any deed of variation.

#### **Re-negotiation of a S106 Agreement**

- 7.14 The Council will work with developers to find solutions in cases where the viability of the scheme has been proven to have substantially changed and there is difficulty in meeting the affordable housing trigger set out in a S106 agreement or complying with other terms in the deed. Such circumstances could include: where the development is

proposed on unallocated sites of a wholly different type to those used in the Whole Plan Viability Assessment<sup>16</sup>; *‘where further information on infrastructure or site costs is required; where particular types of development are proposed which may significantly vary from the standard models of development for sale; or where a recession or similar significant economic changes have occurred since the LDP was approved’* (Viability PPG, 007). An option to improve viability could be through agreeing provision at a later stage of the development, or agreeing payments by instalments. In these cases the guidance in Section 8.0 will apply.

- 7.15 A S106 agreement can be re-negotiated at any point, where both the Council and the developer/landowner wish to do so. If there is no agreement to voluntarily re-negotiate, and the S106 agreement predates April 2010 or is over 5 years old, an application will be required to change the obligation where *‘it no longer serves a useful purpose’* or would *‘continue to serve a useful purpose in a modified way’* (Planning Obligations PPG, 2016, 009). Guidance concerning applications received before the end of April 2016 still applies and can be found at [www.gov.uk](http://www.gov.uk)
- 7.16 Where a S106 agreement is amended a Deed of Variation will be required to ensure any relevant changes to the planning obligation are captured. The Council will not adjust the affordable housing provision downwards through the use of a Deed of Variation but will consider varying the tenure of the affordable housing (without reducing the number of units) in this way if it is agreed that viability will be improved.
- 7.17 Affordable housing is required to make a scheme policy compliant. Therefore, in those exceptional cases where it is agreed by all parties that a reduction in the level of affordable housing is required, a new or modified planning permission will be required.

### **Administration and Enforcement**

- 7.18 The developer will be liable for the Council and the Registered Provider’s legal costs and for drafting, negotiating and signing any S106 agreement and variation agreements.
- 7.19 Monitoring of obligations will be undertaken by the Council’s S106 Monitoring Officer. This will ensure all obligations are secured at the right time and are delivered within the right timeframe by the Council, the developer and the Registered Provider.
- 7.20 If a S106 agreement is not being complied with, the Council will enforce obligations through the relevant legal channels once all other reasonable approaches have been exhausted. In such cases, the Council will seek to retrieve its legal costs against the party that is in breach of its obligations. The Council also has the power to enter land and carry out any works that are required and, if necessary, recover costs from the developer or landowner.
- 7.21 A regular S106 Monitoring Report to the Council’s Overview and Scrutiny Committee will provide transparency: this will identify affordable housing/financial contributions negotiated and affordable housing delivered in the previous financial year, as well as those planned for the coming year. Progress with S106 agreements and expenditure in general will be reported annually in the Council’s Infrastructure Funding Statement to be submitted to Government and in the Maldon District Authority Monitoring Report.

|

## 8.0 VIABILITY ASSESSMENTS

- 8.1 A viability assessment is an appraisal of the economics of a development. It can be used to determine what level of affordable housing an applicant could provide that would not prevent the delivery of a development.
- 8.2 It is essential that developers and agents manage the expectations of landowners. It is not acceptable for land values to be based on the price paid for land, an aspirational sum sought by a landowner, assumptions of low affordable housing delivery, excessive densities, or predicted value growth as these will lead to inflated site values. This undermines the implementation of the LDP and the ability of the Council to deliver affordable housing.
- 8.3 A viability assessment includes calculating the uplift in land value arising as a result of planning permission being granted for a proposed development. The Viability PPG (013) states that *'to define land value for a viability assessment, a benchmark land value should be calculated on the basis of the existing use value (EUV) of the land, plus a premium for the land owner. The premium for the landowner should reflect the minimum return at which a reasonable landowner would be willing to sell their land.'* This is also known as Existing Use Value Plus (EUV+). If the residual land value is below the benchmark land value for the site, the applicant should provide evidence to justify the uplift to existing and alternative use values.
- 8.4 Therefore, a viability assessment should be based on the benchmark land value for a policy compliant scheme, which should allow for the landowners premium, abnormal costs and be informed by current market evidence.
- 8.5 The Viability PPG (014) states that the benchmark land value should *'be informed by market evidence including current uses, costs and values'*. It adds that *'this evidence should be based on developments which are compliant with policies, including for affordable housing... This is so that historic benchmark land values of non-policy compliant developments are not used to inflate values over time.'* RICS adds that *'if market value is based on comparable evidence without proper adjustment to reflect policy compliant planning obligations, this introduces a circularity, which encourages developers to overpay for site and try to recover some or all of this overpayment via reductions in planning obligations'* (Financial Viability in Planning, 2012<sup>17</sup>). A market value approach will therefore not be accepted.
- 8.6 The Viability PPG (014) states that *'the cost implications of all relevant policy requirements including planning obligations, and where relevant, any Community Infrastructure Levy (CIL) charge should be taken into account.'* Affordable housing should be identified as a development cost because it will influence the level of uplift in land value once planning permission is granted. The Council agrees that benchmark land values that are not based on appropriate evidence do not necessarily deliver the maximum amount of affordable housing. The Council will work with developers to agree a model which does deliver the maximum affordable housing, taking into account all other aspects of the development.



8.7 As such, the Council's default position is that all qualifying development should comply with LDP Policy H1<sup>1</sup>. As the affordable housing requirements are set out in the approved LDP the Council considers that the cost of providing affordable housing, at the policy compliant level, should be factored into any land valuation prior to an offer for the land being made. The Viability PPG (014) reinforces this *'under no circumstances will the price paid for land be relevant justification for failing to accord with relevant policies in the plan. Local authorities can request data on the price paid for land (or the price expected to be paid through an option agreement).'* This approach avoids:

- Unrealistic land value demands and the developer having to re-negotiate the land value with the landowner at a later date;
- Having to negotiate a lower than policy level of affordable housing; and
- The risk of an application being refused.

8.8 But, there will be circumstances where viability is a genuine concern and needs further consideration. A viability assessment will help the Council determine whether the proposed level of affordable housing (and other developer contributions) is the maximum that can be reasonably delivered, or whether there is scope for further contributions to be made as part of a viable scheme. The Council will use the process overleaf to assess viability. A standard toolkit may also be introduced to allow comparison of sites.

8.9 To ensure the planning application process is open and transparent the Viability PPG (021) requires that any *'viability assessment should be prepared on the basis that it will be made publicly available other than in exceptional circumstances. Even in those circumstances an executive summary should be made available'*. This is consistent with the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 that all information should be publicly accessible. These are qualified by a public interest test and recent tribunal decisions (e.g. Royal Borough of Greenwich vs ICO & Shane Brownie EA/2014/0122; RB and Clyne vs ICO & Lambeth EA/2016/0012): demonstrating that the public interest in keeping confidentiality rarely outweighs the public interest in disclosing information. As a result, the majority of information submitted as part of, and in support of a viability assessment, including any review or assessment of the appraisal undertaken for the Council, will be published for comment.

8.10 National legislation allows for limited exceptions, *such as information relating to ongoing negotiations over land purchase, information relating to compensation that may be due to individuals* (Viability PPG, 021). Developers will be required to demonstrate why disclosure of specific information would cause an 'adverse effect' and harm to the public interest. The Council will assess all exceptions against the adverse effect and public interest tests set out in national legislation. If these exceptional circumstances are likely to arise, these should be identified at pre-application stage.

#### **Pre-Application Stage**

8.11 At this stage, the level of detail required in a viability assessment will depend on the scale of the proposal and how much detail it contains. But if there are likely to be policy compliance issues, it is recommended that detailed viability information is provided to give the Council the opportunity to provide applicants with relevant advice. Failure to provide an assessment which has been prepared in accordance with this SPD will limit

the advice the Council are able to provide, and may slow the planning process once an application is submitted.

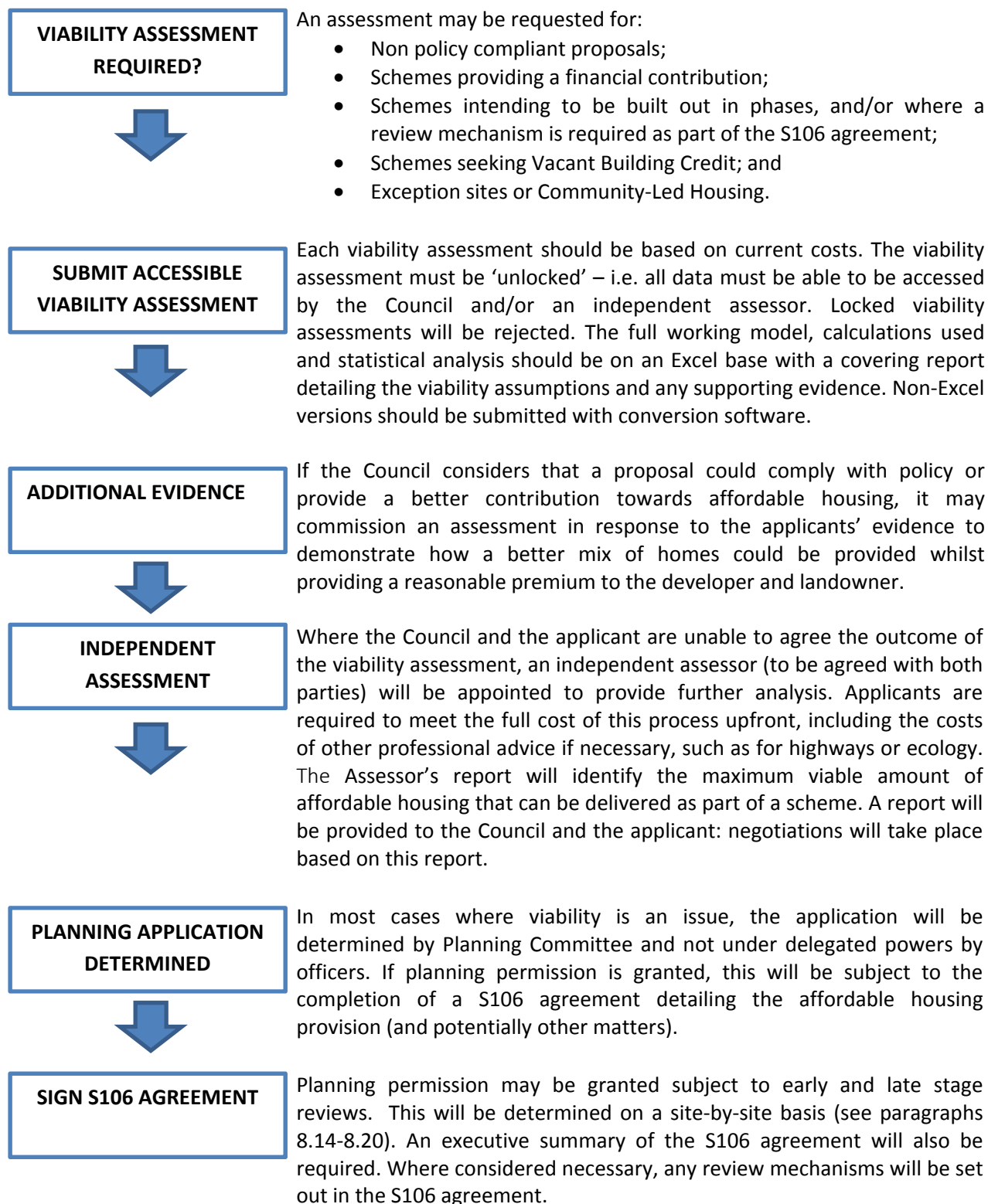


Figure 2: Viability Assessment Process

**Policy Compliant Scheme**

- 8.12 The Viability PPG (007) states that *‘where up to date policies have set out contributions expected from development, planning applications that comply with them should be assumed to be viable.’* However, the Council may request that the developer demonstrates how the affordable housing will be delivered as part of a viable scheme. Should the applicant then seek to change the affordable housing provision because of viability, this information will be used as a benchmark for any negotiations. In these cases, applicants should first engage with the Council to see if the original affordable housing can be achieved with grant.

**Varying planning conditions**

- 8.13 Where an application is made to vary a planning condition that will have an adverse impact on the provision of affordable housing, a viability assessment may be sought as evidence to support the planning application. This includes:
- To increase or decrease the number of residential units in a scheme; and/or
  - To vary the tenure mix, or there is a change of use of units to residential; and/or
  - To change the use of any non-residential units; and /or
  - To change the development, that in the opinion of the Council could alter the viability position. Any application to amend or vary a planning condition might also require a Deed of Variation to the original planning permission to ensure that the originally agreed terms are applicable to the new permission.

**Review Mechanism**

- 8.14 Development values within a viability assessment should be based on current values at the time the planning application is submitted. But, there is normally a time lag between granting planning permission and building out the development. Planning permissions allow three years within which to start construction and the development period can lead to further delays. During this time, significant changes can occur to viability.
- 8.15 There may also be circumstances where the Council acknowledges that at the point an application is being assessed a policy compliant scheme is not possible, but the position could change due to reductions in costs, increases in values and reduced risk. Any improvements in viability over the development period should benefit the community as well as the developer.
- 8.16 The Viability PPG (009) states that *‘Plans should set out the circumstances where review mechanisms may be appropriate, as well as clear process and terms of engagement regarding how and when viability will be reassessed over the lifetime of the development to ensure policy compliance and optimal public benefits through economic cycles’.* However, the Council may request that review mechanisms be used in the following cases:
- For an approved scheme with a policy non-compliant affordable housing offer: the S106 agreement will provide for a re-appraisal of viability based on time or unit number triggers;
  - For phased, larger scale developments: it may be that the total affordable housing requirement cannot be secured at the planning application stage but there may be an opportunity later, usually as a result of increased sales values in relation to

construction costs, or positive changes in market conditions, that allows a positive re-assessment that demonstrates additional viability. This would allow funding for additional affordable housing to be secured, whilst maintaining the viability of the overall development;

- For developments that have abnormal costs, such as site remediation or infrastructure, where funding becomes available to reduce these costs.

8.17 Should a review mechanism be considered appropriate, the Council will expect:

- Full disclosure of all relevant information. All development expenditure should be reasonably and properly attributed to the development;
- Inputs to the assessment to be in line with this SPD;
- Where there is a non-standard transaction, the figure to be included in the assessment; and
- Re-assessment to be the open market value of the market dwelling(s) as at the date of the transaction.

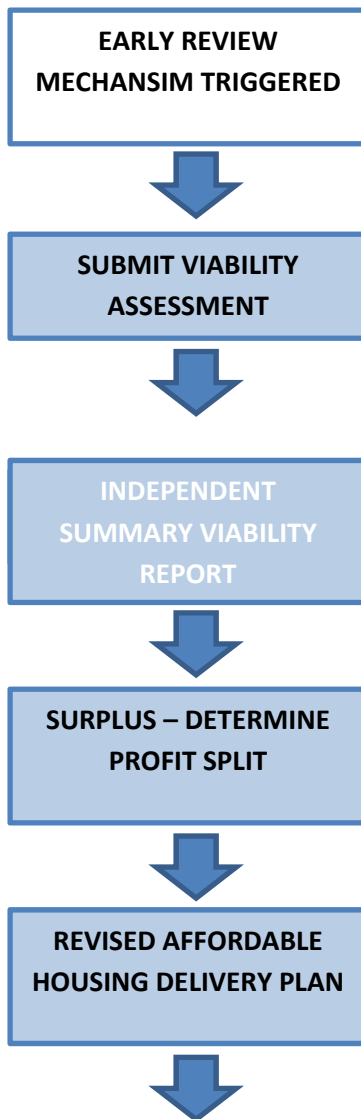
8.18 The timing of a review will be determined on a site-by-site basis to reflect the number of homes being developed and the development timetable. But all reviews must take place before the sale of the whole development to ensure that the review and any additional contribution arising from this are enforceable. The Council's review mechanism process is set out overleaf.

#### **Terms of review mechanisms**

8.19 Where review mechanisms are used the S106 agreement will:

- Identify the point(s) at which the review(s) should take place;
- Establish a threshold level of viability at which additional affordable housing and/or developer contributions will be required based on the target profit agreed at the application stage and the developer's cash flow over the development timetable;
- Establish that the review will assess changes to costs, values and reasonableness of margins;
- Be based on the current 'actual' data from the development – the price paid or rental value for the completed unit benchmarked against similar schemes. This will depend on the timing and specifics of the review;
- Establish a cap for additional provision as that for a policy compliant scheme;
- Identify whether the affordable housing provision will be sought on-site or as a financial contribution;
- Make provision for the full costs of the Council of negotiating, undertaking and assessing a viability review which should be borne by the applicant.

8.20 The Council will use this approach at each review stage until the later review. If a late review is required (when 75% of units have been completed) a financial contribution will be sought to deliver the additional affordable housing. The viability assessment undertaken to inform any previous reviews should inform any subsequent assessments. See Appendix 5 for formulas used to secure affordable housing.



Timing of the review will be set out in the S106 agreement. This will vary on a site-by-site basis to reflect the type, size and scale of the development e.g. after occupation of the 50<sup>th</sup> unit. For larger or phased developments there may be more than one review (see overleaf for information on later review).

Within 10 days of the trigger the developer/owner will be expected to have submitted their viability assessment to the Council. The assessment will compare the GDV and costs at the review date, with the GDV and costs submitted in the viability assessment for the planning permission. This means that the review can be based on values achieved and costs incurred. Appendix 4 sets out the pro-forma for submissions.

MDC will send the assessment to an independent assessor for analysis. This will be at the developers' expense. The assessor will produce a Summary Viability Report and return it to MDC. If a meeting is required all parties should attend to discuss the content.

If the viability assessment and/or the Summary Viability Report identify a development surplus the profit split between MDC and the owner/developer will need to be determined. This will be carried out on a site-by-site basis. If the Summary Viability Report produces no surplus the developers/owners should continue with the consented scheme.

Where there is a surplus, the developers/owners will be required to submit a Revised Affordable Housing Delivery Plan within a month of receipt of the Viability Report. The formula in Appendix 5 will provide the basis for determining how the surplus will be spent. This could include altering:

- The percentage of residential units to be provided as affordable housing; and/or
- The affordable housing tenure mix; and/or
- The housing mix.

Plans should identify the affordable housing on the development site. This may involve identifying which market homes will be converted to affordable housing. A schedule should be provided setting out the tenure and mix. The proposed units and the secured affordable housing units should equate to the affordable housing target for the site. In all cases, the LDP Policy H1 percentage requirement will not be exceeded and the level of affordable housing should not go below that in the S106 agreement. Provision could be delivered over subsequent phases of the development: this would need to be set out in the S106 agreement.



The developers/owners will deliver the affordable housing in accordance with the Revised Affordable Housing Delivery Plan. All homes should be connected to the highways and utilities network and be provided in accordance with a nominations agreement.



MDC



Developer



Both

Figure 3: Review Mechanism process

**9.0 MONITORING AND REVIEW**

9.1 The delivery of affordable housing through new development will be monitored annually in the Council's Infrastructure Funding Statement and also in the Maldon District Authority Monitoring Report. It will enable the Council to identify and monitor the number of developments that meet identified standards across the District.

9.2 A review of this SPD will be considered if:

- The AMR identifies that Policies H1, H2 and H5 are not effective in delivering the identified level of affordable housing;
- There are significant changes to the Local Development Plan's evidence base that indicate the LDP is unable to deliver the identified level of affordable housing;
- There is a significant change in national planning guidance; or
- The SPD is insufficiently effective in enabling affordable housing.

## Glossary

|                                    |     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|------------------------------------|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Abandoned Building</b>          |     | Where the lawful planning use of the building has been abandoned for a continuous period of five years.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Affordable Housing</b>          |     | <p><b>Affordable housing:</b> housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:</p> <p>a) <b>Affordable housing for rent:</b> meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).</p> <p>b) <b>Starter homes:</b> is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.</p> <p>c) <b>Discounted market sales housing:</b> is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.</p> <p>d) <b>Other affordable routes to home ownership:</b> is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.</p> |
| <b>Alternative Use Value</b>       | AUV | The comparison of the proposed use to the value of a permissible or feasible alternative use.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Authority Monitoring Report</b> | AMR | A mechanism for assessing performance of policies contained within the Local Development Plan.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Benchmark Land Value</b>        | BLV | The value below which a reasonable land owner is unlikely to release a site for redevelopment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Build to Rent</b>               |     | Purpose built housing that is typically 100% rented out. It can form part of a wider multi-tenure development scheme comprising either flats or houses, but should be on the same site and/or contiguous with the main development. Schemes will usually offer longer tenancy agreements of three years or more, and will typically be professionally managed stock in single ownership and management control.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Co-housing</b>                  |     | Intentional, self-managed community, made up of single private dwellings and additional shared communal facilities such as a common house with a community kitchen and dining room. Cohousing communities can be mixed tenure.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Community</b>                   | CIL | A levy allowing local authorities to raise funds from owners or developers                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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|-------------------------------------------|------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Infrastructure Levy</b>                |      | of land undertaking new building projects in their area.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Community Land Trust</b>               | CLT  | Independent local organisations established to tackle housing market issues and create permanently affordable intermediate housing for purchase and for rent. CLTs sometimes own other facilities on behalf of the community.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Community-Led Housing</b>              |      | Development of affordable homes led by local community groups. Can take a number of forms and routes, such as self-build, Community Land Trusts or exception sites. Development must be in addition to developments allocated by the Local Plan.                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Community Right to Bid</b>             |      | Community groups can nominate both privately and publicly owned assets to be included on a list of assets of community value. This list is managed by the council. If a landowner wants to sell a registered property, they must tell the council. If a community group wants to buy the asset, they can trigger a 6 month moratorium to give them a chance to prepare a bid for it. During this period, the owner cannot sell their property on the open market. This gives community groups an opportunity to develop a proposal and raise the required capital. At the end of the 6-months, the owner is free to sell the asset to whoever they wish and at any price. Also known as Assets of Community Value. |
| <b>Community Right to Build</b>           |      | An Order made by the local planning authority (under the Town and Country Planning Act 1990) that grants planning permission for a site-specific development proposal or classes of development.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Cooperative housing</b>                |      | A housing organisation where tenants democratically control and manage their homes.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Developer contributions</b>            |      | Developer contributions, also known as planning obligations, can be secured via a Section 106 legal agreement or planning condition attached to a planning permission. They help mitigate any adverse impacts generated by new development on infrastructure and facilities.                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>Developer profit</b>                   |      | A factor of gross development cost or gross development value and is the price at which a reasonable landowner would be willing to sell their land for the development.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Entry Level Exception Site</b>         |      | A site that provides entry level homes suitable for first time buyers (or equivalent for those looking to rent)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Existing Use Value Plus Premium</b>    | EUV+ | The current use value of a site plus an appropriate site premium added to provide the landowner with an additional incentive to release the site.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Greenfield sites</b>                   |      | Land that has not previously been developed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>Gross Development Value</b>            | GDV  | All values that contribute to the overall value of a scheme.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>Gross Internal Area</b>                | GIA  | The area of a building measured to the internal face of the perimeter walls at each floor level.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Habitats Regulations Assessment</b>    | HRA  | A Local Plan evidence base document that tests the impacts of a Local Plan or development proposal on nature conservation sites of European importance and is a requirement under EU legislation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Local Development Plan</b>             | LDP  | The plan for the future development of the local area, drawn up by the Local Planning Authority in consultation with the community. This is described as a Development Plan Documents adopted under the Planning and Compulsory Purchase Act 2004.                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Local Housing Allowance</b>            | LHA  | Welfare payment for those on low incomes or reliant on benefits to meet the cost of housing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>Major Development</b>                  |      | A proposal of 10 or more dwellings or a site area of 0.5 hectares or more, or non residential development is for 1,000 square metres or more of floorspace, or has a site area of 1 hectare or more.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>National Planning Policy Framework</b> | NPPF | Sets out the Governments planning policies for England and how these are expected to be applied.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Planning Practice Guidance</b>         | PPG  | A web-based resource provides more detailed guidance on the contents of the NPPF.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Neighbourhood Plan</b>                 |      | Formally introduced under the Localism Act 2011, a neighbourhood plan                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |



|                                            |      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|--------------------------------------------|------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                            |      | is prepared by a parish council or neighbourhood forum for a designated neighbourhood area. In law this is described as a neighbourhood development plan in the Planning and Compulsory Purchase Act 2004.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Previously Developed Land</b>           | PDL  | Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time. |
| <b>Public Subsidy</b>                      |      | Grant, public loans and public land.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>RAMSAR Site</b>                         |      | Wetlands of international importance designated under the 1971 Ramsar Convention.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Registered Provider</b>                 | RP   | Technical name for a body registered with Homes England so are approved to deliver affordable to deliver affordable housing in England. Most Housing Associations are RPs.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Residual Land Value</b>                 | RLV  | A method used to determine the value and potential profitability of land or property based on gross development value minus any expenses related to the development of the land.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Review Mechanism</b>                    |      | Clause(s) in a S106 agreement designed to trigger changes in development values and build costs within a viability assessment as a result of development starting.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Rural Exception Site</b>                |      | Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion of market homes may be allowed at the local authority's discretion, for example where essential to enable the delivery of affordable units without grant subsidy.                                                                                                                                                                                                                                                                                                                    |
| <b>Section 106 Agreement</b>               | S106 | A legal agreement entered into by the Council and the developer or applicant and Registered Provider which outlines the details of a planning obligation(s), such as affordable housing required to make an application acceptable in planning terms.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Self-help housing</b>                   |      | Involves groups of local people bringing empty properties back into residential use. Use varies from long term tenancies to short life housing to meet immediate needs such as move on accommodation and supported housing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Special Area of Conservation</b>        | SAC  | Areas defined by regulation 3 of the Conservation of Habitats and Species Regulations 2017 which have been given special protection as important conservation sites.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Special Protection Area</b>             | SPA  | Areas classified under regulation 15 of the Conservation of Habitats and Species Regulations 2017 which have been identified as being of international importance for the breeding, feeding, wintering or the migration of rare and vulnerable species of birds.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Strategic Environmental Assessment</b>  | SEA  | A procedure (set out in the Environmental Assessment of Plans and Programmes Regulations 2004) which requires the formal environmental assessment of certain plans and programmes which are likely to have significant effects on the environment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Strategic Housing Market Assessment</b> | SHMA | Assessment of the Council's housing requirements based upon the local housing market, which studies the supply and demand of housing, housing and planning policies, the need for affordable housing and the affordability of the local housing market.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Supplementary Planning Document</b>     | SPD  | Documents which add further detail to the policies in the development plan. They can be used to provide further guidance for development on                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

## APPENDIX 5

### Maldon District Affordable Housing and Viability SPD - September 2018

|                                   |     |                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------------------|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                   |     | specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan.                                                                                                                                          |
| <b>Vacant Building Credit</b>     | VBC | Allows the floorspace of existing buildings that are to be redeveloped to be offset against the calculations for section 106 affordable housing requirements (whether financial contribution or provision).                                                                                                                                      |
| <b>Viability assessment</b>       |     | An assessment of all development costs including central and local government policy requirements, regulatory costs and the cost and availability of finance, to determine whether a scheme provides a competitive return to the developer and generates a land value sufficient to persuade the landowner to sell for the development proposed. |
| <b>Whole Plan Viability Study</b> |     | Identifies the costs that the Local Development Plan policies will impose on development, and considers what impact those costs will have on financial viability of a development scheme.                                                                                                                                                        |

**APPENDIX 1: REFERENCES**

| <b>Reference Number</b> | <b>Document</b>                                                   | <b>Author</b>                    | <b>Publication Date</b> |
|-------------------------|-------------------------------------------------------------------|----------------------------------|-------------------------|
| 1                       | Maldon District Local Development Plan                            | Maldon District Council          | July 2017               |
| 2                       | Maldon District Strategic Housing Market Assessment Update        | DCA                              | 2014                    |
| 3                       | National Planning Policy Framework                                | MHCLG                            | July 2018               |
| 4                       | Maldon Affordable Housing Guide                                   | MDC                              | December 2005           |
| 5                       | Strategic Environmental Assessment Screening Report               | MDC                              | 2017                    |
| 6                       | Equalities Impact Assessment                                      | MDC                              | 2017                    |
| 7                       | Planning Practice Guidance                                        | MDCLG                            |                         |
| 8                       | Maldon District Design Guide SPD                                  | MDC                              | December 2017           |
| 9                       | Maldon District Specialist Needs Housing SPD                      | MDC                              | September 2018          |
| 10                      | Maldon District Draft Housing Strategy                            | MDC                              | 2017                    |
| 11                      | Maldon District Tenancy Strategy                                  | MDC                              | 2017                    |
| 12                      | RICS Property Measurement                                         | RICS                             | 2015                    |
| 13                      | Technical housing standards – nationally described space standard | DCLG                             | 2015                    |
| 14                      | Maldon District Renewable and Low Carbon Technology SPD           | MDC                              | 2018                    |
| 15                      | Maldon District Vehicle Parking Standards SPD                     | MDC                              | September 2018          |
| 16                      | Local Plan and Community Infrastructure Levy Viability Study      | HDH Planning and Development Ltd | August 2013             |
| 17                      | Financial Viability in Planning                                   | RICS                             | 2012                    |

## APPENDIX 2: KEY LOCAL DEVELOPMENT PLAN POLICIES

### Policy H1: Affordable Housing

All housing developments of more than 10 units or 1,000 sqm will be expected to contribute towards affordable housing provision to meet the identified need in the locality and address the Council's strategic objectives on affordable housing.

The affordable housing requirements for each sub-area in the District are as follows:

|                                                                  |     |
|------------------------------------------------------------------|-----|
| Sub-area requirements                                            |     |
| North Heybridge Garden Suburb:                                   |     |
| North of Heybridge - S2(d)                                       | 30% |
| North of Holloway Road - S2(e)                                   | 40% |
| West of Broad Street Green Road - S2(f)                          | 40% |
| South Maldon Garden Suburb                                       | 30% |
| Strategic Allocations at Maldon, Heybridge and Burnham-on-Crouch | 40% |
| All other developments:                                          |     |
| Northern Rural, Maldon Central and South and Rural South*        | 40% |
| Maldon North and Rural South East Higher                         | 30% |
| Rural South East Lower                                           | 25% |

\*As indicated in FIGURE 1 of this SPD

Any relaxation of the above requirements will only be considered where the Council is satisfied, on a site by site basis, that such requirement will render any development proposals unviable.

Affordable housing should be provided on-site, either through free serviced land provided to a registered provider or constructed affordable dwellings to be sold to a registered provider upon completion to provide the number, size, type and tenure of affordable homes required by the Council's policies having regard to the SHMA, the Council's adopted Affordable Housing Guide, and the Council's Housing Strategy.

In exceptional circumstances the Council may consider accepting financial contribution from the developer where it is justified that affordable housing cannot be delivered on-site, or that the District's need for affordable housing can be better satisfied through this route. Commuted sums will also be charged for an incomplete number of affordable units provided on site.

The development of any affordable housing and the calculation of any financial contributions should be in conformity with the details set out in the Maldon District Strategic Housing SPD.

### Policy H2: Housing Mix

All developments will be expected to provide a suitable mix and range of housing in terms of size, type and tenure to reflect local housing need and demand in both the market and affordable sector, particularly the need for an ageing population.

Wherever possible affordable housing should be located in a way that ensures the homes are integrated with the rest of the development; in most cases this will mean in clusters of no more than 15 to 25 homes in one part of a development. The design and appearance of affordable housing should also be indistinguishable from those built for the open market, meet standards detailed in the Maldon District Strategic Housing SPD, and be of a tenure recognised by the National Planning Policy Framework.

Where appropriate, the Council will work with developers, registered providers, landowners and relevant individuals (or groups of individuals) to address identified local need for Self Build housing. Any relaxation of the above requirements will only be considered where the Council is satisfied, on a site by site basis, that such requirements will render any development proposals unviable.

### **Policy H5: Rural Exception Schemes**

Outside of the defined settlement boundaries and strategic growth areas, land which may not otherwise be considered appropriate for residential development may be released for a Rural Exception Scheme for affordable housing development where there is an identified need within that parish or community for affordable housing.

Any Rural Exception Scheme must adhere to the following process:

- 1) Engagement with local community and the undertaking of a local needs assessment in accordance with recognised guidelines; and then
- 2) Selection and appointment of a suitable Registered Provider of affordable housing in association with the Council; and then
- 3) Agreement with the Council on the quantum and composition of development most suitable to the locality based on an identified need, site availability, and an 'open book' viability assessment; and then
- 4) Identification of a number of potential sites in the locality and selection of the most sustainable site, taking into consideration site availability, condition and capacity of existing infrastructure servicing the proposed scheme.

The Council will normally expect Rural Exception Schemes to provide 100% affordable housing for local needs. Any other types of tenure, for example market housing, will only be considered where it can be demonstrated, through a viability assessment, that this is essential to facilitate the affordable housing scheme to meet the identified local need.

## APPENDIX 3: AFFORDABLE HOUSING DWELLING MIX

The following example mixes are set out to reflect the sub-area requirements in Policy H1.

### Sub Area Requirement of 40%

Example of 100 homes: 40 affordable of which:

30% general needs 1bed: – one third low cost home ownership = 12 1 bed homes (8 for rent and 4 low cost home ownership)

10% 1 bed bungalows for rent = 4 1 bed bungalows

10% 2 bed bungalows for rent = 4 2 bed bungalows

40% 2 bed general needs housing – 80% for rent = 16 2 bed homes (13 for rent and 3 low cost home ownership)

10% 3 bed+ - at least 50% for rent = 4 3 bed homes, at least 2 for rent

### Sub Area Requirement of 30%

Example of 100 homes: 30 affordable of which

30% 1 bed – one third low cost home ownership = 9 1 bed homes (6 for rent and 3 low cost home ownership)

10% 1 bed bungalows for rent = 3 1 bed bungalows

10% 2 bed bungalows for rent = 3 2 bed bungalows

40% 2 bed = 12 2bed homes (10 for rent and 2 low cost home ownership)

10% 3 bed+ = 3 3 bed+ homes, at least two for rent.

### Sub Area Requirement of 25%

Example of 100 homes: 25 affordable of which:

30% 1 bed – one third low cost home ownership = 7.5 1 bed (5 for rent, 2 low cost home ownership) contribution for 0.5

10% 1 bed bungalows for rent = 2.5 1 bed bungalows – 2 for rent, contribution for 0.5

10% 2 bed bungalows for rent = 2.5 2 bed bungalows – 2 for rent, contribution for 0.5

40% 2 bed = 10 2 bed homes (8 for rent and 2 low cost home ownership)

10% 3 bed+ = 2.5 3 bed+ - 2 for rent and contribution for 0.5

Financial contribution required for two units (0.5 x 2) alternately two additional bungalows.

## APPENDIX 4: SUMMARY PRO-FORMA WORKSHEET

When a developer is preparing evidence to inform a review of affordable housing the Summary Pro-Forma should be based on the following:

| Development Revenue                                                                        | Costs (£) |
|--------------------------------------------------------------------------------------------|-----------|
| Actual Market Revenue                                                                      |           |
| Forecast Market Revenue                                                                    |           |
| Actual Affordable Revenue                                                                  |           |
| Forecast Affordable Revenue                                                                |           |
| Actual Commercial Revenue                                                                  |           |
| Forecast Commercial Revenue                                                                |           |
| Grant                                                                                      |           |
| Actual and Forecast Other Revenue or Receipts                                              |           |
| <b>TOTAL REVENUES</b>                                                                      |           |
|                                                                                            |           |
| <b>Development Costs</b> (split between market housing, affordable housing and commercial) |           |
| Actual Build Costs                                                                         |           |
| Forecast Build Costs                                                                       |           |
| Actual Infrastructure, Abnormals and S106 works                                            |           |
| Actual s106 contributions                                                                  |           |
| Forecast s106 contributions                                                                |           |
| Affordable housing transfer fees                                                           |           |
| [Incentives]                                                                               |           |
| Professional Fees                                                                          |           |
| Finance Costs                                                                              |           |
| Marketing Fees                                                                             |           |
| <b>TOTAL COSTS</b>                                                                         |           |
|                                                                                            |           |
| Market housing Developer Profit on market housing development costs                        |           |
| Affordable housing developer profit on affordable housing development costs                |           |
| Commercial development developer profit on commercial development costs                    |           |
| Land cost                                                                                  |           |
| SDLT                                                                                       |           |
| Land agent and Legal fees                                                                  |           |
| <b>TOTAL COSTS</b>                                                                         |           |

For the purposes of the proforma only the following definitions should be used:

- **Actual market revenues:** actual revenues based on land registry data [except shared equity (developer cash income only to be used)]
- **Forecast Market Revenues:** based on the last 6 months of Land Registry evidence to have regard to prevailing property market

- **Actual Affordable Revenues:** actual received affordable sales.
- **Forecast Affordable Revenue:** based on affordable sales from preceding phase
- **Actual Commercial Revenue:** actual achieved sales or appropriate evidence
- **Forecast Commercial Revenue:** based on appropriate evidence or preceding phase
- **Grant:** any additional third party funding for any aspect of the development unless it has been taken into account in order to determine the affordable housing revenue and the market housing revenue or other revenue or receipts
- **Actual and Forecast Other Revenue or Receipts:** any revenues received by the developer other than Affordable Housing Revenue, market revenue, and commercial revenue
- **Actual Build Costs:** build costs incurred or to be incurred, where known, of completed property, completed works, and contract prices of works underway or for which contracts have been let. Includes all contractor costs on open book basis
- **Forecast Build Costs:** for remaining works (not included in Actual Build Costs), excluding S106 costs, in the Remaining Development not under contract on open book basis  
[Actual Infrastructure, abnormals and S106 works costs: based on actuals – excluding contingency where spent. Forecasts would contain a contingency on open book basis  
[Forecast Infrastructure, abnormals and remaining S106 works: updated estimates with appropriate contingency. Consideration will need to be given where infrastructure works straddle the respective phases to ensure no-double counting or missing of costs].
- **Actual S106 contributions:** based on amount spent, with indexation, and any anticipated remaining S106
- **Forecast S106 Contributions:** based on updated estimates reflecting indexation for remaining scheme
- **Affordable transfer fees:** cost allowance for transferring the affordable housing units to the approved provider at 0.75% of the Affordable Housing Revenue verified by RPs
- **Incentives:** cost to the developer of any independently verifiable incentives that it provides to the buyer of a market unit which are justifiable and usual in the market at the date of the sale of the said market unit applies to forecast only on open book basis
- **Professional Fees:** allowance for costs incurred by the Developer for professional consultancy advice (excluding land) at 7% of building costs
- **Finance Costs:** an allowance for the cost of borrowing incurred by the developer of 6% of Total Revenue
- **Marketing Fees:** the cost allowance for agency and marketing fees incurred by the developer at an agreed % of market housing revenue and Non-Residential Revenue
- **Market Developer Profit:** an allowance of 20% of market housing Revenue
- **Affordable Developer Profit:** an allowance of 6% of Affordable Housing Revenue
- **Commercial Developer Profit:** an allowance of an agreed % of Commercial Revenues
- **Land Cost:** based on actual purchase price. Where only a proportion of the site is acquired upfront, this amount should be adjusted pro-rata for the balance of the scheme based on the number of dwellings per phase, and the land value within the 2nd Phase should be indexed at twice the rate of the Halifax HPI.
- **Stamp Duty Land Tax:** the prevailing stamp duty land tax rate applied to the actual land costs at the date of the purchase of the site or any part thereof or any other land required to perform the obligations containing in this agreement (including any modification, variation, amendment or replacement thereof)
- **Land Agents and Legal Fees:** cost allowance for agents and legal fees at 1.75% of Actual Land Cost



## APPENDIX 5: Review Mechanism Formulas and Methodology

For more information on the definitions see Appendix 4.

### Formula: Early Review: Identifying surplus profit

The Gross Development Value and actual build costs as agreed for the planning permission will be used. An updated scheme valuation will be required at the time the review is undertaken with actual build costs for the scheme. This will be used to work out the difference in GDV from the time planning permission was granted to the review. Any changes in build costs and an allowance for developer profit will be deducted from the additional scheme value. This will identify whether there is a surplus scheme profit. The remaining surplus scheme profit will be available for additional on-site affordable housing.

$$(A - B) - (C - D) - P = X$$

(A - B) = Difference in GDV from the date of planning permission to the date of review (£)

A = Gross development value at time of review (£)

B = Gross development value as agreed for the planning permission (£)

(C - D) = Difference in actual build costs from the date of planning permission to the date of review (£)

C = Actual build costs at the time of review (£)

D = Actual build costs as agreed for the planning permission (£)

P = (A-B) \* Y = Developer profit on difference in Gross development values (£)

Y = Developer profit as agreed for the planning permission (£)

X = Surplus (£)

### Formula: Early review: Identifying additional amount of affordable housing to be provided

Calculates the level of additional affordable floorspace based on the difference in average value of the market housing and for each tenure. This will be converted into habitable rooms based on the average habitable room size for the scheme.

$$\text{Additional affordable rent housing requirement (habitable rooms)} = ((E * F) \div (A - B)) \div D$$

(A - B) = Difference in average value of market housing (m<sup>2</sup>) and average value of low cost rent housing (m<sup>2</sup>) (£)

(E \* F) = Policy surplus to be used for low cost rent housing (£)

(E \* F) ÷ (A - B) = Additional affordable rent housing requirement (m<sup>2</sup>) (£)

A = Average value of market housing per m<sup>2</sup> (£)

B = Average value of local cost rent housing per m<sup>2</sup> (£)

D = Average habitable room size for scheme (m<sup>2</sup>)

E = Surplus profit available for additional affordable housing (as determined in the early review) (£)

F = Percentage of surplus profit available for additional affordable housing to be used for affordable rent housing (%) (as per the preferred tenure split)

$$\text{Additional intermediate housing requirement (habitable rooms)} = ((E * G) \div (A - C)) \div D$$

(A - C) = Difference in average value of market housing (m<sup>2</sup>) and average value of intermediate housing (m<sup>2</sup>) (£)

$(E * G)$  = Policy surplus to be used for intermediate housing (£)

$(E * G) \div (A - C)$  = Additional intermediate housing requirement ( $m^2$ ) (£)

A = Average value of market housing per  $m^2$  (£)

C = Average value of intermediate housing per  $m^2$  (£)

D = Average habitable room size for scheme ( $m^2$ )

E = Surplus profit available for additional affordable housing (as determined in the early review) (£)

G = Percentage of surplus profit available for additional affordable housing to be used for intermediate housing (%) (as per the preferred tenure split)

### **Formula: Late Stage Review Contribution**

Contributions are based on the difference in the average value of market housing and average intermediate housing value, per habitable room. This is multiplied by the shortfall in the relevant tenure of affordable housing by habitable room in the consented scheme, when compared with the LDP sub-area requirement and preferred tenure split.

$$((A + B) - C) - ((D + E) - F) - P * ? = Z$$

$(A + B) - C$  = change in GDV from the grant of planning permission (or previous review) to the late stage review (£)

A = GDV achieved on sale/ lease of x % of residential units and GDV from other parts of the development sold / let and other income receipts (£)

B = Forecast GDV for parts of the development that are yet to be sold/ let and other income sources (£)

C = GDV agreed at the time planning permission was granted (or previous review) (£)

$(D + E) - F$  = change in actual build costs from the grant of planning permission (or previous review) to the late stage review (£)

D = Actual Build costs incurred at the time of review (£)

E = Forecast build costs for remainder of the development (£)

F = Actual build costs as agreed at the time planning permission was granted (or previous review) (£)

$P = (A + B - C) * Y$  = Developer profit on change in GDV (£)

P = Developer profit on difference in GDV (£)

Y = Developer profit as a percentage of GDV as agreed at the time planning permission was granted (%)

? = Any surplus profit will be agreed on a site-by-site basis. It will deduct the developer profit (P), and will be shared between the LPA and the developer with a % used for additional affordable housing.



## **Guidance Note**

### **Mechanism for the Consideration of Unmet Housing Need**

This Guidance Note was approved by the Essex Planning Officers' Association at its meeting on 7 September 2017.

## Essex Planning Officers' Association (EPOA)

### Mechanism for the Consideration of Unmet Housing Need – September 2017

#### 1 Introduction

- 1.1 At a Duty to Co-operate meeting for Chelmsford's Local Plan in May 2017, it was identified by participants that there was a need for a high-level process or mechanism to be agreed to guide how potential unmet housing needs are considered by all Essex authorities. Other requests by individual local authorities to potentially accommodate their 'unmet' housing need have been made in responding to recent Local Plan consultations. It was considered important to address this matter, as the lack of such a mechanism was identified as key issue by the Inspector at the Castle Point Local Plan Examination.
- 1.2 The EPOA Policy Forum discussed the matter at its meeting on 6 June and a Task Finish Group with membership from each of the Essex HMAs was established.



**Housing Market Areas in Essex**

1. West Essex - Epping Forest, Harlow and Uttlesford (+East Hertfordshire)
2. South Essex - Basildon, Castle Point, Rochford, Southend-on-Sea and Thurrock
3. North and Central Essex - Braintree, Chelmsford, Colchester and Tendring

4. Maldon
5. Brentwood

#### 2 Policy Context

- 2.1 **Housing Need** - Paragraphs 47 and 159 of the NPPF states the full, objectively assessed needs for market and affordable housing are assessed for the housing market area (FOAHN). Jointly prepared Strategic Housing Market Assessments (SHMAs) identify the 'policy off' demographic derived need, making further adjustments for employment projections, affordability, the needs of specific groups in the community and wider market signals.

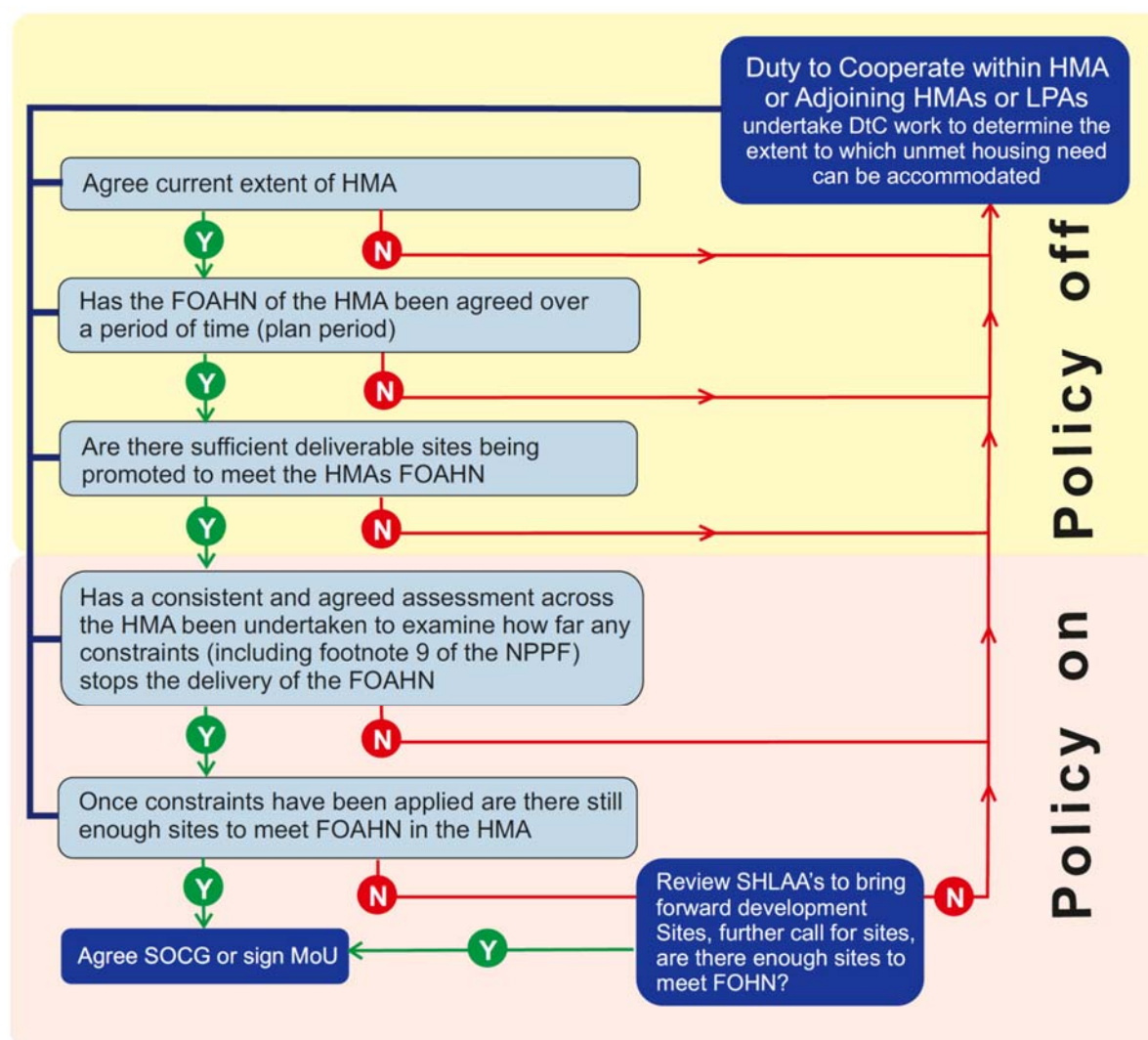
- 2.2 **Housing Supply** – Paragraph 159 of the NPPF identified the need to prepare a Strategic Housing Land Availability Assessment which identifies the potential supply of housing sites.

### 3 Process

- 3.1 To have a clear understanding of the housing needs in their HMA, local planning authorities, in partnership with neighbouring authorities and HMAs, should:

- 1) Agree their full objectively assessed housing number
- 2) Irrespective of policy constraints, assess whether there are sufficient available and achievable housing sites to deliver the identified housing need
- 3) Agree a consistent approach and methodology for assessing policy constraints across the HMA
- 4) If there is an unmet housing requirement – reassess SHLAA, potentially re-distribute within HMA and then consider request to adjoining HMA.

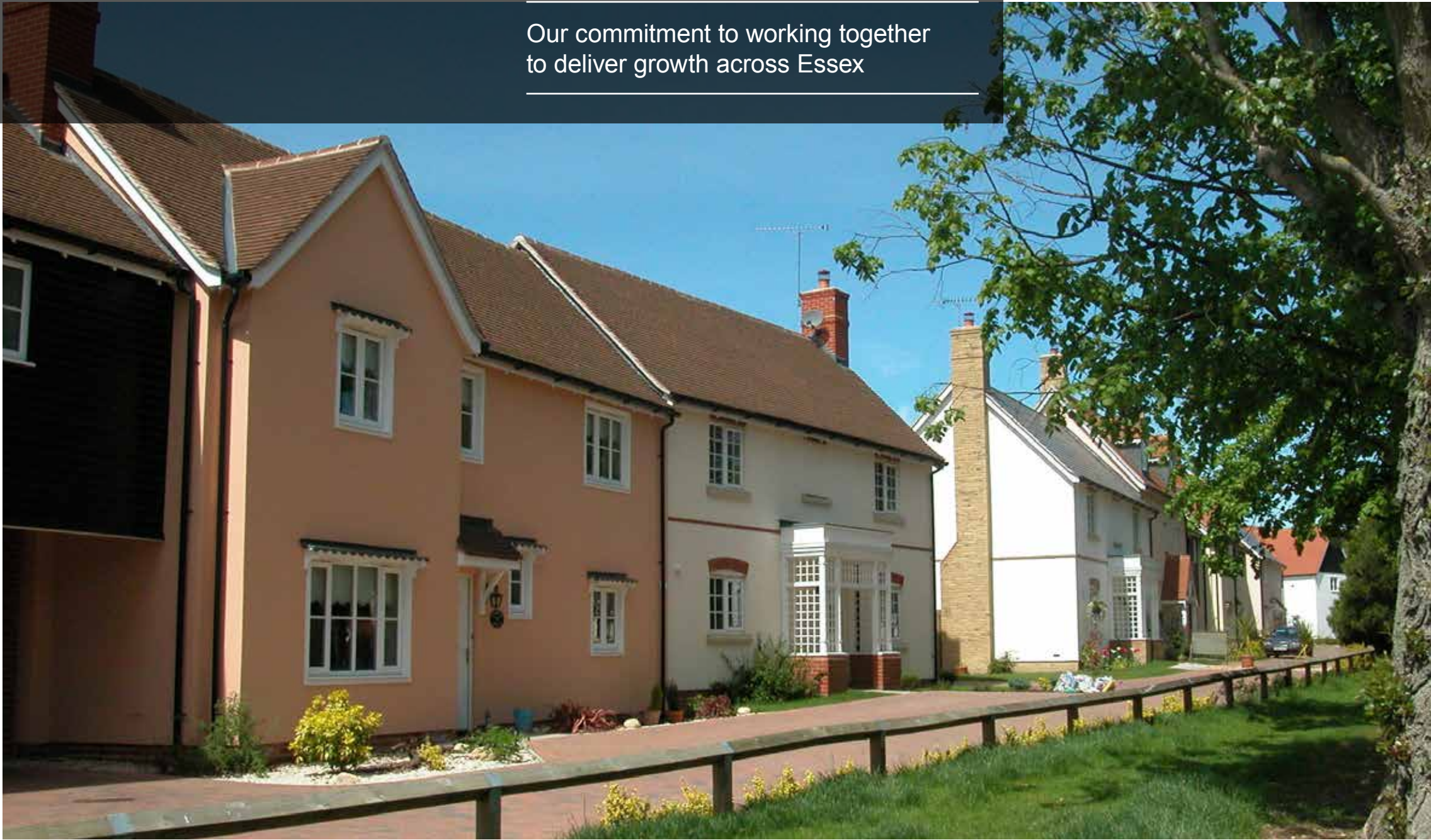
- 3.2 Consideration will be given to the use of third parties such as the Planning Advisory Service (PAS) or Planning Officers Society (POS) in the case of disputes over this process.





# ESSEX PLANNING PROTOCOL

Our commitment to working together  
to deliver growth across Essex





Contents

|                                                                                                               |   |
|---------------------------------------------------------------------------------------------------------------|---|
| INTRODUCTION                                                                                                  | 1 |
| OUR GOALS                                                                                                     | 2 |
| COMMITMENT 1:<br>Effective communication                                                                      | 3 |
| COMMITMENT 2:<br>Ensuring certainty and consistency                                                           | 4 |
| COMMITMENT 3:<br>Provision of appropriate resources to deliver<br>an efficient, high-quality planning service | 5 |
| COMMITMENT 4:<br>Opportunities for training                                                                   | 6 |
| APPENDIX:                                                                                                     | 7 |

Endorsed by **Mark Curle, Chairman of the Essex Developer Group** and **Graham Thomas, Chairman of the Essex Planning Officers Association** on 1 May 2018.



**Graham Thomas**  
Chairman  
EPOA

**Mark Curle**  
Chairman  
Essex Developers  
Group

INTRODUCTION

Together, local authorities, developers and infrastructure providers are vital to the delivery of quality, sustainable development: this Protocol is our shared commitment.

1. Figures taken from the Greater Essex Growth & Infrastructure Framework (2017) excluding Thurrock and MHCLG housing need methodology (2017).

Up to 160,000 new homes are being planned for through Local Plans in Greater Essex<sup>1</sup>. Between 2016 and 2036, our population is predicted to rise by almost 300,000 – an increase of more than 16%.

In line with national trends in recent years delivery in some areas has failed to keep pace with demand. Over the past decade we have only built around 46,000 homes a year at a national level.

We must therefore plan strategically for growth. We will strive to meet projected demand and build resilient, sustainable communities for the future. Good progress is being made across the county in producing Local Plans to support growth.

But only through collaborative working between councils, communities and developers will we secure the right growth for Essex. This Protocol sets out our commitment to working together.





# OUR GOALS

Together we aim to:

- Deliver, through the planning process, the environment for quality and sustainable growth in Essex to strive to meet the county’s employment and housing needs.
- Provide increased efficiency and certainty in the planning process for communities and developers.



# COMMITMENT 1: Effective communication

Local planning authorities and developers will positively engage through the pre-application process to allow early identification and resolution of key issues.

There is commitment to involve councillors in the development planning process where possible. There will be an increased opportunity for engagement with councillors, through briefings at the pre-application stage. This will ensure that community issues and needs are highlighted for consideration early in the process and that councillors will have a better understanding of developers’ proposals throughout the process.

High quality and consistent pre-application advice will be provided, with service standards published on the website of each council. This will include clear advice on consultation requirements and the information to be submitted with a formal planning application.

Developers will engage early, openly and collaboratively with community and amenity groups and where relevant, town and parish councils before and when planning applications are made. Through any subsequent planning application, developers will demonstrate how the responses to this engagement have been taken into account and have shaped the scheme.

Developers will engage positively and directly with planners and provide the required, high quality, information in a clear and accessible format within a reasonable timescale, including at pre-application stage. This will include provision of information at least five working days before meetings with council officers/councillors to allow meaningful discussion of issues and resolutions.

Council officers will keep applicants updated with information about their applications to facilitate greater common understanding and consensus on planning matters. This should progress to applicants and councils continuing to liaise regarding implementation and discharge of conditions.





COMMITMENT 2:  
Ensuring certainty  
and consistency

The use of Planning Performance Agreements (PPAs) will be encouraged to achieve a more efficient and effective application process. Every encouragement should be made for highway teams, lead local flood authority/strategic urban drainage systems teams, legal departments and other relevant parties to be included in PPAs, which should be established and set up at pre-application stage. A template PPA has been included as an appendix to this Protocol as a guide to users.

Developers and councils will seek buy-in from the statutory consultees to the principles of this agreement.

Local authority officers including housing enabling officers will provide planners with

clear and consistent advice at an early stage in the planning process and will maintain dialogue throughout the application process, including the heads of terms of the section 106 agreement.

To avoid commencement delays, developers will seek to closely align their implementation teams with designers/planners – to ensure that permitted schemes can be built as intended and avoid delays caused when new material/alternative layouts are suggested after permission has been granted. Front loading of detail can avoid the need for planning conditions.

Registered providers will be involved at the earliest possible stage in the planning process where affordable housing is required or proposed. However, it must be recognised that the affordable housing type and mix will be specified by the local authority.

Developers will provide draft heads of terms for section 106 agreements in advance of applications and at the earliest opportunity to ensure that all necessary information about the proposed development is available to decision makers. LPAs will report schemes to their development teams at the earliest opportunity to clarify the range and size of any contributions or obligations that may be sought.

All parties will seek to negotiate and conclude section 106 agreements as early as practicable so that planning permissions can be granted without unreasonable delay.

All parties will seek to minimise the number of pre-commencement conditions requiring the submission of further details. To this end, LPAs will seek to circulate a schedule of draft conditions for discussion with applicants prior to the application being taken to committee and a decision issued.

All parties will seek to develop a better shared understanding of design quality standards, with reference to adopted design policies, the Essex Design Guide and, where appropriate, to engage in a design review at the earliest stage.

COMMITMENT 3:  
Provision of appropriate  
resources to deliver  
an efficient, high-quality  
planning service

All parties will seek to ensure that there are sufficient planners and built/natural/historic environment specialists with the right skills and qualifications to incubate and deliver schemes.

They will work collaboratively and pro-actively to manage development proposals through the planning system, and facilitate sustainable development.

Developers will ensure sufficient resources to make clear, evidenced, quality applications. Developers commit to responding in a timely manner to matters arising through the consultation period. This will ensure that development proposals are made with sufficient and accurate supporting information and are well-presented, enabling planners to efficiently manage the application through the planning system for determination within the statutory period.

Developers, where appropriate, will provide financial support to authorities to secure resources via Planning Performance Agreements, to assist in the efficient management of larger and more complex schemes.

Charges for pre-application advice will be sufficient to support a high quality pre-application advice service, maximising the availability of planning officers to provide advice to developers and developers should utilise this service at the earliest opportunity. Councils will ensure that sufficient resources are available to support this service.

Developers will provide the requisite background information to support pre-application processes well in advance of programmed meetings to support an informed exchange of ideas and suitable guidance from the council.





# COMMITMENT 4: Opportunities for training

Councils will work with developers and other bodies to provide training opportunities for their staff and other groups, including councillors, to build capacity and to promote a common understanding of issues, approaches and good practice.

Councils commit to offering regular training on planning issues and developers will support opportunities for site visits including completed schemes.

**Monitoring success**  
This protocol sets out a shared approach to new development between councils and developers. Essex Developers Group, Essex Housing Officers Group and Essex Planning Officers Association will periodically review the implementation and effectiveness of the Protocol and share best practice that emerges from such reviews.

# APPENDIX:

## EXAMPLE PLANNING PERFORMANCE AGREEMENT TEMPLATE

### DATED

- (1) **NAME OF LPA**  
-and-  
(2) **INSERT NAME OF APPLICANT**

### PLANNING PERFORMANCE AGREEMENT

### INSERT SITE ADDRESS

- CONTENTS**  
1. **DEFINITIONS AND INTERPRETATIONS**  
2. **TERM**  
3. **FUNCTIONS**  
4. **RESOURCE CONTRIBUTION**  
5. **JOINT WORKING**  
6. **PLANNING OFFICERS**  
7. **DEVELOPER'S OBLIGATIONS**  
8. **JOINT WORKING MEETINGS**  
9. **BREACHES AND TERMINATION**  
10. **NATURE OF AGREEMENT**  
11. **RESOLUTION OF DISPUTES**

**SCHEDULE 1**  
XXXXX Council Service Standards

**SCHEDULE 2**  
Developers' Obligations

**SCHEDULE 3**  
Project Plan

THIS AGREEMENT is made on INSERT DATE

- BETWEEN**  
(1) **NAME OF COUNCIL** of INSERT ADDRESS  
(the "**Councils or Councils**")  
  
(2) INSERT APPLICANT'S NAME AND ADDRESS (the "**Developer**")

Herein individually referred to as a "**Party**" and jointly as the "**Parties**"

**BACKGROUND**  
A) The Council is the local planning authority (LPA) for developments falling

within the XXXX Authority Area. In two tier areas, the County Council may also be a signatory to the PPA.

- B) The parties desire that the application be dealt with as efficiently as possible as set out in the Project Plan, the Developer's Obligations and the XXXX Council Service Standards included in this agreement.
- C) The Developer agrees to pay to the Council(s) the cost of backfilling to meet the demands of the Council(s) in providing a dedicated Planning Officer(s) and associated specialist officer engaged to process the application from pre-submission to its determination.
- D) The parties are, prior to the submission of the application, agreeing to enter into this agreement in respect of the development and will work in accordance with the Project Plan, the Developer's Obligations and XXXX Council Service Standards, which will be formalised upon the completion of this agreement.

IT IS AGREED as follows:

**1.0 DEFINITIONS AND INTERPRETATIONS**  
"**Act**" means the Town and Country Planning Act 1990 (as amended)

"**Application**" means the planning application made by the Developer in respect of the Development

"**Commencement Date**" means the date of this agreement

"**Developer Coordinator**" means INSERT NAME AND ADDRESS OF PLANNING AGENT

"**Developer Obligations**" means those obligations set out in **clause 7** and **Schedule 2** to this agreement

"**Development**" means INSERT DESCRIPTION OF DEVELOPMENT



“**Head of Planning**” means the Council’s Head of Planning and/or any successor in title to that post or a duly nominated representative

“**Expert**” means the person appointed in accordance with **clause 11.3** of this agreement

“**External Consultant**” means a consultant appointed by the Council who, in the opinion of the Council, has the requisite expertise to advise in respect of the applications

“**Functions**” means the discharge by the Council of its statutory functions including (without limitation) all aspects of the processing of the applications to be carried out by the Council to ensure the determination of the application in accordance with the project plan and all the Council’s obligations under this agreement

“**Joint Working Meetings**” has the meaning given to it in **clause 8**

“**XXXX Council Service Standards**” means the service standards set out in **Schedule 1** to this agreement

“**XXXX Authority Area**” means the development area for which the Council is (subject to certain exceptions) the local planning authority for the purposes of Part III of the Town and Country Planning Act 1990 (as amended)

“**Parties**” means the Council(s) and the Developer and their successors in title

“**Planning Officer(s)**” means the person or persons or relevant team appointed by the Council in accordance with **clause 6** of this agreement in order to discharge the functions, or their successors

“**Planning Decision**” means planning decision issued pursuant to the applications

“**Planning Officer Contribution**” means the sum of INSERT SUM payable by the Developer to the Council(s) in accordance with **clause 4**

of this agreement which represents the cost of backfilling to meet the demands of the Council providing dedicated a Planning Officer(s) to process the application from its pre submission to its determination, including planning officer time in respect of negotiating the Section 106 agreement THIS CAN BE EXPANDED TO INCLUDE CONDITION CLEARANCE

“**Project Plan**” means the delivery programme in relation to the determination of the application set out in **Schedule 3** (as may be amended from time to time in accordance with the provisions of this agreement)

“**Section 106 Agreement**” means any agreement made under Section 106 of the Act between the Parties in respect of the Development

“**Statutory Consultees**” means those consultees identified as a requirement in processing applications in the appropriate Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) and the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

“**Submission Date**” means INSERT DATE, being the date upon which the Developer will submit the application to the Council;

“**Term**” has the meaning given to it in **clause 2**.

**2.0 TERM**

**2.1** This agreement will apply from and the functions will be deemed to have commenced on the commencement date and (subject to earlier determination as hereinafter provided) shall remain in force for a period of six (6) months (such period of six (6) months and any consultation thereof referred to in this agreement as the “Term”) and upon the expiry of such period this agreement shall cease and determine but without prejudice to the rights of the parties in respect of any antecedent breach of the terms and conditions hereof.

**3.0 FUNCTIONS**

**3.1** The Council will use all reasonable endeavours to carry out the functions at all times in accordance with the Council Service Standards.

**4.0 OFFICER CONTRIBUTION**

**4.1** The Developer shall pay to the Council(s) the entire Planning Officer Contribution and any additional necessary specialists support required, within fourteen (14) days of the Commencement Date. And this payment will be made directly to the relevant authority providing the officer support.

**4.2** For the avoidance of doubt the Planning Officer Contribution represents the entire consideration required by the Council in order to determine the applications in accordance with this agreement. This includes presentations to members, pre-application meetings and the council’s planning officer costs in dealing with drafting the Section 106 agreement. It excludes the statutory planning application fee and any legal costs by the Council’s legal team.

**4.3** All travel, subsistence and other out of pocket expenses incurred by the Planning Officer or otherwise.

**5.0 JOINT WORKING**

**5.1** All parties shall act with the utmost fairness and good faith towards each other in respect of all matters in relation to the applications and the development.

**6.0 PLANNING OFFICERS**

**6.1** Without prejudice to its other obligations the Council shall designate a Planning Officer(s), namely INSERT NAME OF OFFICER, who shall be the Council’s lead officer and who will form and lead a development team within the Council and who shall give on-going priority to the performance of the functions as necessary for the Council to carry out the functions in accordance with this agreement.

**6.2** The Council shall ensure that the Planning Officer(s), and other members of the development team have sufficient experience of relevant planning matters of a type and scale commensurate with the Development and that he or she and the relevant team have a clear understanding of the terms of this agreement and the functions.

**6.3** In addition to the Planning Officer(s), the Council shall use all reasonable endeavours to make available at their cost such other of its employees and where appropriate the specialist services of the County Council as is necessary in the circumstances for the Council to comply with its obligations under this agreement.

**6.4** Nothing in this agreement shall affect the terms of the Planning Officer(s) contracts of employment or the Planning Officer(s) rights pursuant to them or any contracts with consultants or other third parties employed by the Council.

**7.0 DEVELOPERS OBLIGATIONS**

**7.1** The Developer agrees to use all reasonable endeavours to comply with its obligations set out in **Schedule 2** of this agreement.

**7.2** The Developer will identify a Developer Coordinator who shall be responsible for managing the submission of the Applications and for working with the Planning Officer(s) to progress the applications up to their determination.

**8.0 JOINT WORKING MEETINGS**

**8.1** The parties shall attend a minimum of two meetings, unless otherwise agreed by both parties, during the period of determination. These are to be held after the consultation period of the application and will be to discuss the outcome of the consultation period and any outstanding issues. The latter meeting will also discuss Heads of Terms for the Section 106 agreement.

- 8.2** Attend further meetings as may be agreed as necessary by the parties in order to discuss and attempt to resolve any specific issues that may arise from consultation responses and the processing of the application.
- 8.3** The joint working meetings (unless otherwise agreed by the parties) shall be held at the District Council offices to discuss any matters and issues outstanding at that time arising from the application including any consultation response, letter or any other communication received by the Council and circulated to the Developer Coordinator. Each matter and issue will be evaluated and discussed with the parties and a method of resolution agreed by the Parties.

**9.0 BREACH AND TERMINATION**

- 9.1** If any party commits any breach of its obligations under this agreement and does not remedy the breach within ten (10) working days of written notice from the other Party to do so, the other Party may notify the Party in breach that it wishes to terminate this agreement. In these circumstances, the agreement will be terminated immediately upon the giving of written notice to this effect to the Party in breach provided always the breach is within the control of the Party that is in breach and is capable of being remedied.

**10.0 NATURE OF AGREEMENT**

- 10.1** The Council(s) enters into this agreement on the basis that it is without prejudice to its determination of the application subject to this agreement.

**11.0 RESOLUTION OF DISPUTES**

- 11.1** In the event of any dispute or difference arising between the parties concerning any matter arising out of this agreement the parties shall work together to endeavour to resolve the dispute or difference by mutual agreement and the parties jointly enter into discussions in good faith to settle any dispute as soon as reasonably practicable.

- 11.2** In the event that the parties are unable to resolve the dispute or difference within 20 working days any party to the dispute may refer the dispute or difference to the nominated officer or employee of the parties as follows:
- In respect of the Developer
  - In respect of the Council, the Head of Planning

Or such other person of appropriate seniority within each party as a party may nominate for the purposes of this clause from time to time.

- 11.3** In the event that the parties are unable to resolve the dispute or difference within 30 working days from the date of reference under **clause 11.2**, any party to the dispute may refer the dispute or difference to an expert being an independent and fit person holding appropriate professional qualifications in the nature of the dispute to be appointed (in the absence of agreement) by the president (or equivalent person) of the professional body chiefly relevant in England to such qualifications.

- 11.4** For the avoidance of doubt where there is a dispute as to the meaning or construction of this agreement, the parties may refer the dispute to an independent expert for determination in accordance with this **clause 11**.

- 11.5** In the event that a dispute is referred to an expert pursuant to **clause 11.3** all parties shall continue working together in good faith until the dispute has been resolved.

- 11.6** Each party shall bear its own costs in relation to any reference to an expert under **clause 11.3**.

- 11.7** The costs of engaging the expert shall be borne by the unsuccessful party to the dispute or as the expert shall otherwise determine.

- 11.8** Nothing in this clause shall prevent any party to this agreement from serving a notice of termination under the relevant provision of this agreement.

**SCHEDULE 1**

**XXXX Council Service Standards**

In addition to the Council’s statutory obligations, it shall use all reasonable endeavours to carry out the functions of this agreement at all times in accordance with the following service standards.

The Council shall use all reasonable endeavours to:

- Respond substantively to all urgent emails, letters and telephone calls from the Developer Co-ordinator within two (2) working days of receipt and, in the case of non-urgent correspondence from the Developer Coordinator, within five (5) working days of receipt. Where circumstances beyond the reasonable control of the Council prevent its compliance with this Service Standard, the Council shall in each case notify the Developer of such circumstances immediately in which case the Council shall respond substantively no later than ten (10) working days after receipt of any communication.
- Circulate to the Development Coordinator statutory and non-statutory consultee comments received by letter, email or online within two (2) working days of receipt.
- Notify the Developer no later than five (5) working days prior to the publication of any agenda for any meeting of the Council’s Planning Committee or other relevant Committee at which any report or matter relevant to the application will be discussed and or considered, and to provide the Developer with a copy of any report to the relevant Council Committee or other pertinent details at the earliest reasonable opportunity.
- Provide to the Developer at least five (5) working days prior to any meeting all substantive and relevant documents which are relevant to that meeting and which relate to any relevant action or agenda points identified.
- Where minutes or action points are prepared by the Development Coordinator, agree or comment on the minutes or action points arising from the minutes within three (3) working days of receipt.

SCHEDULE 2

Developer’s Obligations

The Development agrees on commencement of this agreement to:

- Engage with the Council in accordance with the Project Plan
- Use all reasonable endeavours to consider any reasonable concerns raised by statutory consultees prior to the submission of the application to the Council.
- Respond substantively to all urgent emails, letters and telephone calls from the Planning Officer(s) within two (2) working days of receipt and, in the case of non-urgent correspondence, within five (5) working days of receipt.
- Provide the Council(s) with such reasonable additional information as may be requested by the Planning Officer(s) within ten (10) working days of such written request from the Council (or such other time period as may be agreed) in order to enable the Council to discharge their functions for the avoidance of doubt this does not require the Developer to provide any information that would not ordinarily be provided for a similar development.
- Provide to the Council(s) at least five (5) working days prior to any meeting all substantive and relevant documents which are relevant to that meeting and which relate to any relevant action points or agenda identified.
- Minute the joint working meetings and to provide minutes or action points arising from the meeting within three (3) working days of any meeting and to provide them to the Planning Officer(s) for comment.

SCHEDULE 3

Project Plan

The parties shall use all reasonable endeavours to ensure that the application is progressed in accordance with the Project Plan (unless subsequently varied as agreed by the parties.) Dates are timetabled on the basis of a confirmed submission date, and may require amendment to accommodate committee cycles.

| ACTION                                                                                                                             | RESPONSIBILITY                           | TARGET DATE |
|------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|-------------|
| Pre-Application Discussions                                                                                                        |                                          |             |
| Submission of pre-application request                                                                                              | Developer Coordinator                    |             |
| Arrange meeting and provide pre-application advice                                                                                 | Planning Officer                         |             |
| Processing of Application                                                                                                          |                                          |             |
| Submission of application                                                                                                          | Developer Coordinator                    |             |
| Registration and validation of the application                                                                                     | Planning Officer                         |             |
| Consultation in respect on the application                                                                                         | Planning Officer                         |             |
| Consideration of consultation responses received and of application submission                                                     | Planning Officer                         |             |
| Meeting to discuss consultation responses and application                                                                          | Planning Officer & Developer Coordinator |             |
| Negotiation of S106 agreement (if applicable)                                                                                      | Planning Officer & Developer Coordinator |             |
| Meeting to discuss draft planning conditions                                                                                       | Planning Officer & Developer Coordinator |             |
| Decision Stage                                                                                                                     |                                          |             |
| Preparation and submission of delegated or committee report                                                                        | Planning Officer                         |             |
| Consideration of application by Planning Manager or Planning Committee                                                             | Planning Committee or Planning Manager   |             |
| Issue of Decision                                                                                                                  |                                          |             |
| Completion of S106 agreement (if applicable)                                                                                       | Planning Officer & Developer Coordinator |             |
| Issue decision notice                                                                                                              | Planning Officer                         |             |
| Condition Clearance                                                                                                                |                                          |             |
| Submission of condition discharge application(s)                                                                                   |                                          |             |
| Specialist Officers                                                                                                                |                                          |             |
| Various specialist officers may be involved at different stages of the process and will be identified and determined at the outset |                                          |             |

## Document Control Sheet

|                                           |                                                            |
|-------------------------------------------|------------------------------------------------------------|
| <b>Document title</b>                     | Maldon District Council Statement of Community Involvement |
| <b>Summary of purpose</b>                 |                                                            |
| <b>Prepared by</b>                        | Karen Johnson                                              |
|                                           |                                                            |
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| <b>Next review date</b>                   |                                                            |
| <b>Circulation</b>                        | Public document                                            |
| <b>Published on the Council's website</b> |                                                            |

## 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 Statement of Community Involvement September 2018**



**Foreword**

I am delighted to introduce Maldon District Council's new Statement of Community Involvement.

This important document outlines how the Council will engage residents, groups, organisations, and businesses in the planning process by explaining who will be consulted, when and how. It describes how the Council will involve the community and relevant stakeholders in the preparation and review of planning policy documents and the consideration of planning applications. It has been informed by a six week formal consultation where the views of local residents and other stakeholders were sought.

Local people and local businesses are often the best source of information about their local area and better decisions can be made by accessing to this wealth of knowledge. By involving the whole community in the planning process Maldon District Council can ensure that a strategy for development of the area is created that meets the community's aspirations.

The Council want residents and businesses to know that their ideas and concerns have been listened to and considered. Although getting involved does not guarantee that the Council will make changes or decisions that reflect everyone's views, the Council aims to ensure that it explains appropriately why they have made those decisions. The Council looks forward to working with all parties to help shape planning decisions in the future.

Cllr Penny Channer

Chairman

Planning and Licensing Committee



| <b>Contents</b>                                                      | <b>Page</b> |
|----------------------------------------------------------------------|-------------|
| 1. Introduction                                                      | 1           |
| I. Background                                                        | 1           |
| II. Setting the context                                              | 1           |
| III. Our vision and standards for public consultation                | 2           |
| 2. The Planning System and Policy Framework                          | 3           |
| i. National Policy                                                   | 3           |
| ii. Local Planning Policy                                            |             |
| Maldon District Approved Local Development Plan 2014-2029            | 4           |
| Essex Mineral Plan 2014                                              | 6           |
| Essex and Southend-on-Sea Waste Local Plan 2017                      | 6           |
| Burnham-on-Crouch Neighbourhood Development Plan 2017                | 6           |
| iii. Other Planning Policy Documents                                 | 7           |
| Supplementary Planning Documents (SPD's)                             | 7           |
| Supplementary Planning Documents in preparation                      | 8           |
| Sustainability Appraisal                                             | 9           |
| Local Development Scheme                                             | 9           |
| Statement of Community Involvement                                   | 9           |
| Annual Monitoring Report                                             | 9           |
| Community Infrastructure Levy                                        | 10          |
| iv Other Documents                                                   | 10          |
| 3. Community Involvement in Planning Policy                          | 10          |
| I. Who will we consult                                               | 10          |
| II. 'Hard to Reach' groups                                           | 11          |
| III. Methods of communication                                        | 12          |
| Local Plans/Development Plan Documents                               | 14          |
| Consultation on neighbouring authority plans                         | 16          |
| Supplementary Planning Documents                                     | 16          |
| Community Infrastructure Levy                                        | 17          |
| IV. Duty to cooperate                                                | 17          |
| V. Using the results of consultation and feedback                    | 18          |
| VI. Council Committees and procedure                                 | 18          |
| VII. Availability of documents                                       | 18          |
| 4. Community Involvement in Neighbourhood Planning                   | 18          |
| I. Maldon District Council Statutory Support for Neighbourhood Plans | 20          |
| II. Other support offered by the Council                             | 21          |
| 5. Community Involvement in Planning Applications                    | 21          |
| I. Pre-application                                                   | 22          |

## Maldon District Statement of Community Involvement September 2018 FINAL

|                   |                                 |    |
|-------------------|---------------------------------|----|
| II.               | Planning Performance Agreements | 24 |
| III.              | Planning advice and information | 24 |
| IV.               | Planning application stage      | 25 |
| V.                | Notification of a Decision      | 29 |
| VI.               | Appeals                         | 29 |
| 6.                | Permission in Principle         | 29 |
| 7.                | Monitoring and Review           | 30 |
| I.                | Annual Monitoring Report        | 31 |
| II.               | Data protection                 | 31 |
| <b>Appendix 1</b> |                                 |    |
|                   | Community led planning guidance | 32 |
| <b>Glossary</b>   |                                 | 37 |

**List of Acronyms**

|        |                                                                   |
|--------|-------------------------------------------------------------------|
| AMR    | – Authority Monitoring Report                                     |
| BREEAM | – Building Research Establishment Environmental Assessment Method |
| CIL    | – Community Infrastructure Levy                                   |
| DPD    | – Development Planning Document                                   |
| GDPR   | – General Data Protection Regulation                              |
| HRA    | – Habitats Regulations Assessment                                 |
| LDD    | – Local Development Document                                      |
| LDP    | – Local Development Plan                                          |
| LDS    | – Local Development Scheme                                        |
| NDP    | – Neighbourhood Development Plan                                  |
| NGO    | – Non-Governmental Organisation                                   |
| NHS    | – National Health Service                                         |
| NPPF   | – National Planning Policy Framework                              |
| PPG    | – Planning Practice Guidance                                      |
| SA     | – Sustainability Appraisal                                        |
| SCI    | – Statement of Community Involvement                              |
| SEA    | – Strategic Environmental Assessment                              |
| SPD    | – Supplementary Planning Document                                 |

## 1. Introduction

### Background

- 1.1 This Statement of Community Involvement (SCI) provides a comprehensive vision and commitment that seeks to ensure that communities and stakeholders are consulted in planning and development matters. The planning system within the UK, which aspires to balance the need for providing homes, employment and transport under the principles that encompass sustainable development, affects all communities and individuals in one way or another. It is therefore crucial that local people are given the ability to understand the planning process and also the opportunity to participate in the decision making process, offering their ideas and influencing the path of development.
- 1.2 The SCI aims to ensure a continued commitment towards the engagement and involvement of local communities and stakeholders by being active, positive and consistent in its approach throughout the planning process. In addition, it is vital that developers and investors know what to expect when they engage with Maldon District Council so that they are reassured of what service they will receive, how the Council will engage with the local communities and what is expected from them.
- 1.3 Maldon District Council adopted its first Statement of Community Involvement in 2007, and an addendum was approved in 2012. This document has been produced to comply with new regulations and align with updated channels of communication between the Council and the residents of the District it serves. Once adopted, this SCI will replace the 2007 SCI and its addendum.
- 1.4 The Town and County Planning (Local Planning) (England) (Amendment) Regulations 2017 requires Local Authorities to update their SCI every five years. Therefore, the Council will review the SCI on a regular basis to ensure its approach to community involvement remains both efficient and effective.

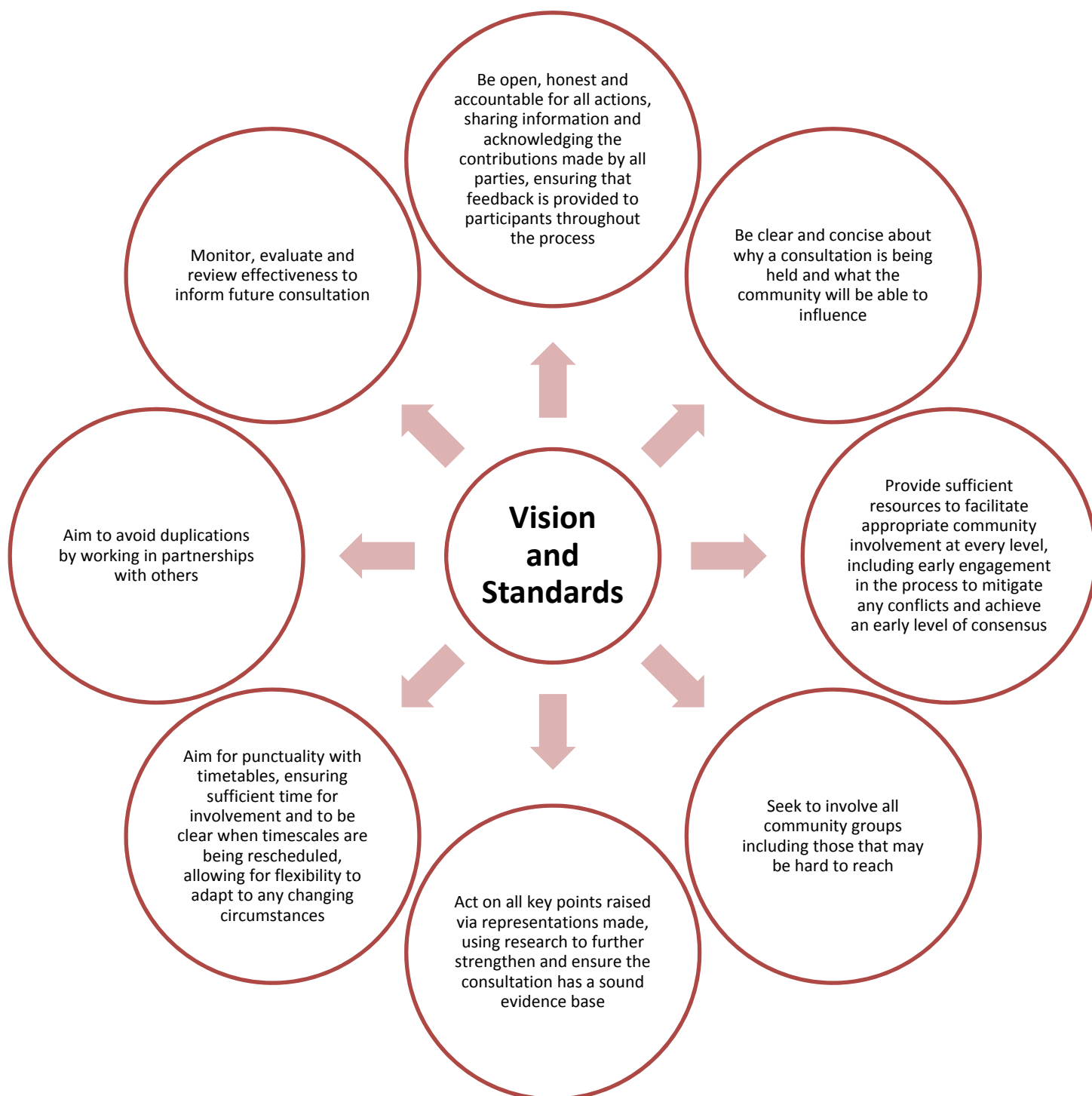
### Setting the Context

- 1.5 The planning system will not achieve sustainable development without effective engagement and involvement of the local community, development industry and interested parties and organisations throughout the planning process. Community and stakeholder involvement is an essential requirement in shaping and steering the District's unique identity and legacy, thus an underlying principle to sustainable development.
- 1.6 This SCI will enable efficient engagement with community groups and stakeholders on a wide range of local planning matters working as a partnership which benefits all and is transparent, accountable and clear.
- 1.7 Specifically, the community can get involved in local planning matters via the following:
  - Planning applications;
  - During consultation periods on Planning Policy documents; and
  - Contributing towards the creation of a Neighbourhood Plan.

- 1.8 The SCI will be used as a framework for consultations by the Council to help guide approaches to consultation for the production of planning policy documents, planning applications as well as other non-planning matters.

**Our Vision and Standards for Public Consultation**

- 1.9 The benefits of consultation and involvement are a better informed Council and community, leading to healthy and open relationships. Decision making should become more relevant, as a result there will likely be resource savings as the correct services become more frequently targeted and precise approaches are taken.
- 1.10 The Council will seek to work to high standards of public consultation by committing to the following vision and principles outlined below.



## 2. The Planning System and Policy Framework

### National planning policy

- 2.1 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. It provides a framework within which local communities and local authorities could plan and produce unique and distinctive local and neighbourhood plans, which reflect both the needs and priorities of their communities. The NPPF was revised in July 2018, this replaces the NPPF 2012. The 2018 NPPF has informed the production of this SCI. More information can be found at:

<https://www.gov.uk/government/collections/revised-national-planning-policy-framework>

- 2.2 Planning Practice Guidance (PPG) provides more detail on a range of planning matters identified by the NPPF. First published in 2014, this web-based resource is regularly updated to reflect the current policy position.

As part of the NPPF review, the Government has also revised parts of the Planning Practice Guidance. Regard has been had to these changes in the production of this SCI.

Further information can be found at:

<https://www.gov.uk/government/collections/planning-practice-guidance>.

- 2.3 Written Ministerial Statements enable Ministers to bring important matters to the attention of the House of Commons. Ministerial Statements can be issued to support or supplement existing policy guidance or to provide amendments and updates to current national policies set out by Government. The guidance provided in Ministerial Statements can be viewed at [www.gov.uk](http://www.gov.uk)

### Local planning policy

- 2.4 The Maldon District Local Development Plan (LDP) 2014-2029 was approved by the Secretary of State on 21 July 2017. The Approved Local Development Plan can be viewed on the Council's website: [www.maldon.gov.uk/LDP](http://www.maldon.gov.uk/LDP)
- 2.5 The LDP along with the Essex Minerals Local Plan and the Essex and Southend on Sea Waste Local Plan and any 'made' Neighbourhood Plans form the Development Plan for the District. Applications for planning permission must be in accordance with the Development Plan unless there is a very good reason not to do so. These reasons are known as material considerations.
- 2.6 The District's Development Plan consists of a suite of documents listed below:

- Maldon District Approved Local Development Plan (2014-2029) (LDP)

The Secretary of State approved the Maldon District Local Development Plan on 21 July 2017. The Local Development Plan (LDP) has been prepared under the legislative provision of the Planning and Compulsory Act 2004 and the Localism Act 2011 and in accordance with the Town and Country Planning (Local Planning)

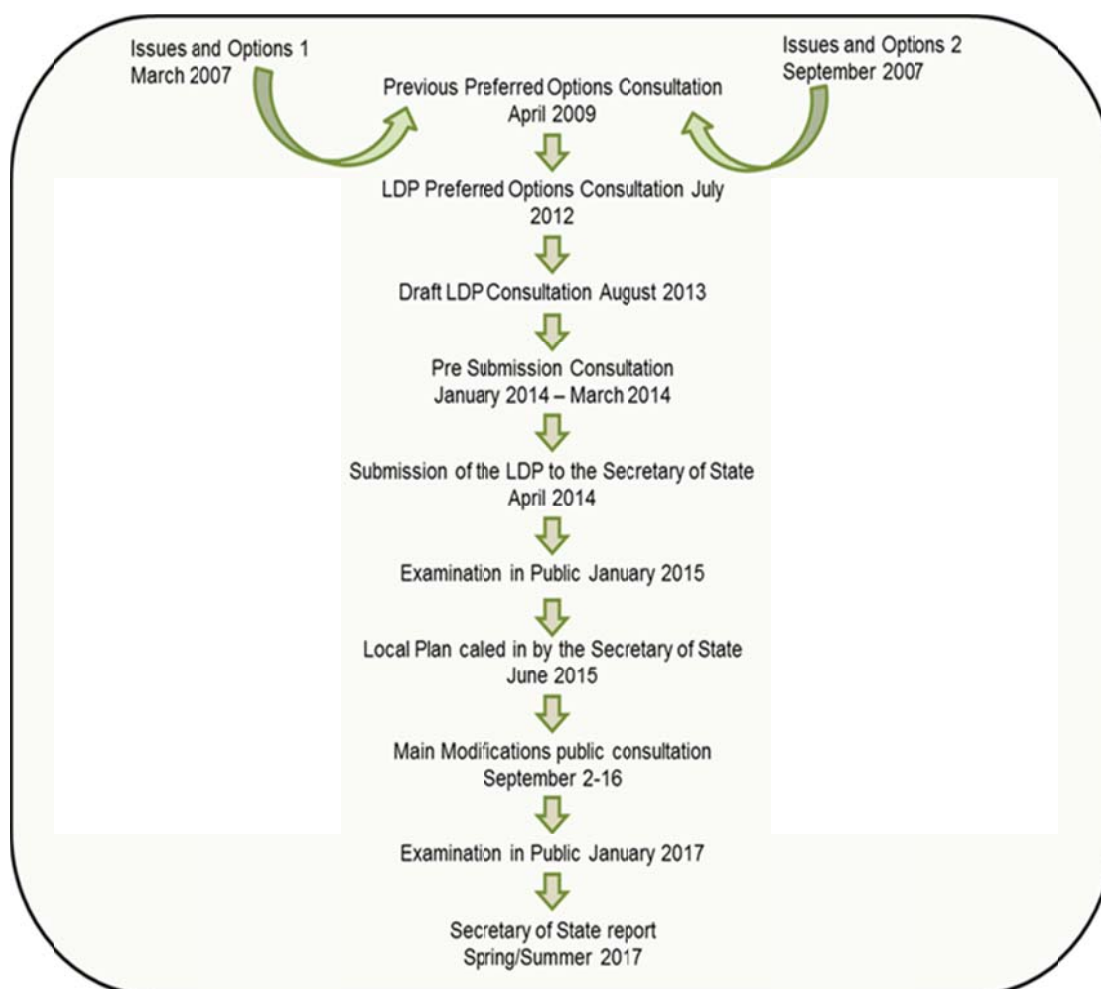
(England) Regulations 2012 and the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017.

The LDP sets out the planning strategy for the future growth and development of the District for 2014-2029. It is the main planning policy document produced by the Council and is also classified as a Development Plan Document (DPD). It provides a spatial strategy for the delivery of future homes, employment, retail, community facilities and infrastructure. It also includes a range of strategic and non strategic policies to guide the sustainable development of the District.

The LDP responds to local ambitions, aspirations and priorities for the District. The LDP was developed following consultation and dialogue with a wide range of individuals, organisations and interest groups. Consultation began in 2006 as part of the Maldon Core Strategy process. Whilst the Council decided not to pursue a Core Strategy, the outcomes of these consultation stages were important in developing the spatial vision, strategy and development management policies within the LDP.

The key stages of the plan preparation process are outlined in Figure 2.2.

*Figure 2.2: Local Development Plan Preparation Process*





The NPPF 2018 (Para 33) requires the Council to review the effectiveness of the LDP every 5 years to establish whether the LDP is working as intended or whether a full or partial review may be required. This legal requirement is set down under Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012).

- Essex Minerals Local Plan 2014 (MLP)

Produced by Essex County Council, the role of the MLP is to ensure a steady and adequate supply of mineral resources to facilitate development over the Plan period and beyond. Covering Essex, the MLP includes a Minerals Safeguarding policy and Mineral Consultation Areas which requires the County Council to be consulted on all non-mineral related development proposals in these areas.

- Essex and Southend-on-Sea Waste Local Plan 2017 - 2032 (ESWLP)

Also produced by Essex County Council, the ESWLP sets out where and how waste management developments can occur, and contains the policies against which waste management planning applications are assessed in Essex, including Waste Consultation Areas.

- Burnham-on-Crouch Neighbourhood Development Plan

The Localism Act 2011 has enabled local people to establish their own plans for their communities by writing Neighbourhood Development Plans (NDP) that can include a wide range of topics, and address a variety of issues and opportunities. However, there are limits on what NDPs can do and it must be 'in broad conformity' with the adopted strategic policies of the Local Planning Authority's Development Plan.

The Burnham-on-Crouch Neighbourhood Development Plan was made by Maldon District Council on 7 September 2017, following community engagement activities, consultation periods, an Independent Examination and a local referendum. The Neighbourhood Development Plan (NDP) covers the whole of the Burnham-on-Crouch Parish and provides guidance for the future of the town, for the plan period 2014 to 2029.

The Burnham-on-Crouch Neighbourhood Development plan can be viewed at:

[www.maldon.gov.uk/info/20048/planning\\_policy/8112/community\\_led\\_planning\\_and\\_neighbourhood\\_plans/4](http://www.maldon.gov.uk/info/20048/planning_policy/8112/community_led_planning_and_neighbourhood_plans/4)

All neighbourhood plans made by the Council will become part of the Development Plan for the District.

Further information in relation to the production and preparation of Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Orders can be found at Section 4 and Appendix 1

## 2.7 Other Planning Policy Documents

### (i) Supplementary Planning Documents (SPDs)

Supplementary Planning Documents (SPDs) provide further guidance relating to LDP policies for development on specific sites, or on particular issues, such as design. They cannot introduce new policy.

The Council has adopted a range of SPDs. Those adopted from 2005-2007 under the Replacement Local Plan. Those adopted from 2017 onwards supplement policies within the Local Development Plan (2014-2029). Both are material considerations when planning applications are considered.

Adopted SPDs:

- Affordable Housing Guide 2005 – sets out the Council's co-ordinated approach to the provision of affordable housing. This will be replaced by the Affordable Housing and Viability SPD (see ii below).
- Developers Contribution Guide 2005 – sets out the Council's approach to seeking developer contributions when considering planning applications.
- Vehicle Parking Standards (2006) - The application of car parking standards to new or extended development is a key tool to contributing to reduced levels of traffic. A revised SPD is being produced; on adoption this will replace the 2006 SPD (see ii below).
- Children's Play Spaces (2006) – Sets out a formula that allows a developer contribution to be calculated for new housing development. On adoption, this SPD will be superseded by the Green Infrastructure Strategy SPD (see ii below).
- Accessibility to Buildings (2006) – Encourages all parties involved in the planning and development process to recognise the benefits of inclusive design.
- Sadd's Wharf (2007) – Prepared for the regeneration of Sadd's Wharf, Maldon for mixed office, residential and leisure uses.
- Heybridge Basin Timber Yard (2007) – Provides guidance for the District Council to assist in the determination of any future planning application at this site.
- Maldon District Design Guide (2017) – Provides guidance to delivering high quality design in the District and with regard to the principles of sustainable design in all development. The Design Guide supplements LDP Policy D1: Design Quality and Built Environment.
- Maldon and Heybridge Central Area Master Plan (2017) – The document supplements LDP Policy S5: the Maldon and Heybridge Central Area Master plan

area and sets out a spatial framework for development and regeneration in the Master plan Area.

- South Maldon Garden Suburb Strategic Master Plan (2018) – This document sets out the strategic master plan framework and design parameters for the garden suburb within Maldon. The SPD supplements LDP Policy S4: Maldon and Heybridge Strategic Growth.
- Maldon District Renewable and Low Carbon Technologies (2018) – This document offers technical guidance on matters needing to be addressed in order for renewable and low carbon technology applications to be submitted successfully. The technical guidance is to be used also as a tool for decision makers when assessing the suitability of proposals. The SPD supplements LDP Policy D4 Renewable and Low Carbon Energy Generation.

(ii) SPDs in Preparation

- Maldon District Affordable Housing and Viability (2018) – The SPD provides further detailed guidance to support the delivery of affordable housing as required by Policies H1, H2 and H5 of the Approved Maldon District Local Development Plan 2014-2029. This document is expected to be adopted in Autumn 2018.
- Maldon District Specialist Needs Housing (2018) – The SPD provides information about the Council's approach to delivering specialist housing, such as for older people and those with disabilities, through Local Development Plan policies H1, H2 and H3. This includes clarifying the different types of specialist housing required in the District, the locational and accessibility requirements for specialist housing schemes and what supporting information will be required. This is expected to be adopted in Autumn 2018.
- Maldon District Vehicle Parking Standards (2018) – The key objective of these standards is to help create functional developments, whilst maximising opportunities for use of sustainable modes of transport. This is expected to be adopted in Autumn 2018.
- Essex Coastal Recreation Avoidance Mitigation Strategy (RAMS) – the purpose of this SPD is to set out how the Council will secure financial contributions from new development that is expected to have an adverse recreational impact upon Natura 2000 sites in the Essex Coastal Area.
- Green Infrastructure Strategy – the purpose of this SPD is to provide a vision statement, concept plan, core principles and priority action plan to enhance the District's green infrastructure network, in accordance with LDP Policies N1-N3.

(iii) Sustainability Appraisal (SA)

Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA) – These will appraise the social, environmental and economic effects of the

strategies, policies or proposals within the Local Development Plan and other DPDs and will be subjected to consultation. SEA screening opinions will be sought for SPDs.

(iv) Local Development Scheme

The Council prepares a Local Development Scheme (LDS), which is a project plan setting out the timetable for planning policy documents to be undertaken on an annual basis. It sets out details of the documents that will be given priority during that period. The LDS is prepared having regard to the Localism Act 2011, the National Planning Policy Framework (NPPF), the Town and Country Planning (Local Planning) (England) Regulations 2012 and the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017.

There is no requirement for the Council to consult on the LDS.

The LDS is available at: [www.maldon.gov.uk/lds](http://www.maldon.gov.uk/lds)

(v) Statement of Community Involvement

The Statement of Community Involvement sets out how the community will be engaged in the preparation of the planning policy documents and in determining planning applications in the District. This will be subject to consultation.

(vi) Authority Monitoring Report

The Council monitors the effectiveness of the policies within the LDP annually through the Authority Monitoring Report (AMR). This document is publicly available and reports on the delivery of key targets, including a statement relating to the Council's annual Five Year Housing Land Supply. The Council aims to publish the Authority Monitoring Report in September each year.

The AMR will also include:

- A statement on the progress of each document in the LDS project plan;
- An analysis of how or whether the policies of the LDP are delivering their objectives, including key targets, such as the number of net additional dwellings, the number of net additional affordable dwellings for the last monitoring year, and since 21 July 2017 (the date the LDP was approved);
- Details relating to any neighbourhood plans that have been made in the last monitoring year; and
- Progress on the Community Infrastructure Levy and other planning documents.

The AMR is available to be viewed at [www.maldon.gov.uk](http://www.maldon.gov.uk)

There is no requirement for the Council to consult on the AMR.

(vii) Community Infrastructure Levy (CIL)

- CIL is a locally set charge on new development based on the size and type of development. Once set in an area it is mandatory to be paid and non-negotiable. Funds raised will be used to provide infrastructure which is required to support new development across the area. CIL will be subject to consultation and examination by an independent Inspector.

## **2.10 Other Documents**

These documents have been endorsed by the Council and are also material considerations when assessing planning applications:

- North Heybridge Garden Suburb Strategic Master Plan
- Design Codes
- Conservation Area Appraisals
- Village Design Statements

## **3. Community Involvement in Planning Policy**

3.1 This section will set out how the Council involves the community in preparing planning policy documents, based on the vision and standards outlined in Section 1 in addition to the statutory requirements for consultation.

3.2 Information on the Council's programme for preparing all future policy documents is contained within the approved Local Development Scheme (LDS) which is available online or can be requested by contacting the Council. Details can be found at:

[www.maldon.gov.uk/LDS](http://www.maldon.gov.uk/LDS)

### **Who Will We Consult**

3.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 requires Local Planning Authorities to consult "specific consultation bodies" and other interest groups which cover a variety of voluntary, community, special interest, Non-Governmental Organisations (NGOs), amenity groups, local business interests and other bodies, referred to as "general consultation bodies".

3.4 "Specific consultation bodies" (or statutory consultees), as stipulated within the regulations, include:

- Essex County Council
- Neighbouring Authorities
- Local Parish and Town Councils (including those adjoining the District, but in neighbouring Districts)
- Local Enterprise Partnerships
- Relevant utilities companies
- Relevant sewage and water undertakers
- Relevant telecommunications companies
- The Coal Authority
- Homes England
- Primary Care Trust (NHS Mid and South Essex Sustainability and Transformation Partnership)
- Network Rail Infrastructure Ltd

- Local Policing body
- Marine Management Organisations
- Civil Aviation Authority
- Government bodies; Environment Agency, Historic England (<https://historicengland.org.uk>), Natural England ([www.gov.uk/government/organisations/natural-england](http://www.gov.uk/government/organisations/natural-england)) and Highways England

3.5 The Council is committed to comprehensive and thorough consultation, involving as many people and organisations as possible. “General consultation bodies” will include:

- Voluntary bodies who have an interest or whose activities benefit any part of the local planning authority’s area; Community transport services;
- Special interest groups representing the interests of different racial, ethnic, religious and national groups and disabled groups in the District;
- Non-Governmental Organisations including wildlife groups and environmental organisations;
- Local business groups which represent the interests of the business community in the area;
- Developers, landowners and professional planning organisations such as BREEAM;
- Other bodies, including; educational providers, health organisations and so forth;
- The general public;
- Council elected members who provide important channels of communication to and advocate on behalf of their local communities.

#### **‘Hard to Reach’ Groups**

3.6 Community involvement is essential to the planning system and whilst the Council attempts to engage with the entire community, there are groups that have been traditionally under-represented. The Home Office Development and Practice Report 15 identified minorities, those slipping through the net and the service resistant as hard to reach groups. The Council must ensure that all groups within the community have the opportunity to participate, in particular ‘hard to reach’ groups. It may be easier for us to reach some such groups by working with representative organisations. Hard to reach groups are more likely to be engaged if more ‘proactive’ measures are taken to improve levels of involvement. We will therefore be positive in our approach to ensure everybody has the opportunity to be involved and encourage their participation.

3.7 As a Local Planning Authority, the Council must comply with the Public Sector Equality Duty under Section 149 of the Equality Act 2010. The three aims of the general equality duty that the Council will have due regard to include:

- Removing or minimising disadvantages suffered by people due to their protected characteristics;
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people;
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

- 3.8 The Council has a legal obligation to undertake an Equalities Impact Assessment (EqIA) on all of its policies to ensure that all of the community is treated fairly in the preparation and implementation of the policy document. In addition, all planning policy documents are or can be made available in large copy print, audio cassette, braille or languages other than English on request. If you require the document in one of these formats please contact the Planning Policy Team: 01621 876278 via email: [Policy@maldon.gov.uk](mailto:Policy@maldon.gov.uk).

### Methods of Communication

- 3.9 The Council intends to maintain a level of continuity with regard to all aspects of community involvement and aims to encourage early engagement in the preparation of every document, in line with the vision and standards of public consultation set out by the Council.
- 3.10 The channels of communication to be used by the Council during public consultation are detailed below. The different engagement methods used will determine whether the level of community involvement is for information, consultation, participation or feedback.

|             | Engagement Method                                               | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------|-----------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Information | Local media<br>(Newspaper/Press Releases, paper and electronic) | Wide reaching, local media resources such as Newspapers and press releases are an effective method of communication and provide information within the District. There is only a requirement by legislation to publish notices for DPDs, however the Council intends to ensure that information regarding public consultations is as far reaching within the District as possible. Therefore all appropriate resources will be utilised in order for that to happen. |
|             | Letters/E-mails to specific and general consultation bodies     | The Town and Country Planning (Local Planning) (England) Regulations 2012 states that, as a minimum requirement, Local Planning Authorities must notify the relevant consultation bodies, both statutory and general.                                                                                                                                                                                                                                                |
|             | Posters, leaflets and displays in public locations              | Public displays and leaflets will enable information to be targeted locally and offer direct interaction with the reader. Additionally, the information is publically available on a continued basis and therefore provides flexibility on behalf of those that may not have the ability to use alternate channels.                                                                                                                                                  |

|              |                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|--------------|----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|              | Inspection points                | <p>The Town and Country Planning (Local Planning) (England) Regulations 2012 state that, as a minimum requirement, Local Planning Authorities provide available copies of planning documents for public view at the Council Offices and all local libraries within the District (please check Essex County Council's website <a href="http://www.essex.gov.uk">www.essex.gov.uk</a> for opening hours).</p> <p>The Council will, in every instance, provide both electronic and hard copies of any consultation document. The location of those hard copies will always be indicated prior to consultation via letter, email or through the Council's website.</p> |
|              | Social media platforms           | Maldon District Council will use social media platforms such as Twitter and Facebook to promote awareness and encourage participation in giving feedback to consultations taking place.                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|              |                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|              | <b>Engagement Method</b>         | <b>Description</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Consultation | Parish and Town Council Meetings | Maldon District Council officers are able to attend Parish and Town Council meetings or a collective on request, such as the Dengie Hundred meeting. Additionally, Officers attend Parish Clerk Forums for the dissemination of information.                                                                                                                                                                                                                                                                                                                                                                                                                       |
|              | Stakeholder meetings             | Stakeholder meetings will enable the engagement of those with specialist/local knowledge and the sharing of unique and alternative insights that benefit the document and its content. Meetings can range from group meetings to one to one meetings                                                                                                                                                                                                                                                                                                                                                                                                               |
|              | Public meetings                  | Public meetings provide the opportunity to inform, promote and debate any particular issues that arises through representations made during a public consultation exercise.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|              | Council meetings                 | Council meetings will provide an appropriate opportunity for Councillors to give their view with regard to planning documents that are taken through the consultation process.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|              | Response form                    | Some consultation exercises will provide response forms to provide representations. These provide the opportunity for responses to be detailed into a legible format that benefits both the respondent and the Council.                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|              | Questionnaires                   | Questionnaires provide a method of data collection where representations can be made on specific planning issues.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |



|               |                       |                                                                                                                                                                                                                                                                                                                                     |
|---------------|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Participation | Internet              | <p>The Council has a dedicated consultation webpage and portal, designed for ease of access and usability for those wishing to submit representations to planning applications and planning policy documents.</p> <p>All consultation exercises will be advertised on the Council's website throughout the consultation period.</p> |
|               | Exhibitions/roadshows | Public exhibitions and displays can be placed in locations that are easily accessible for participation. Considerations will be given to the time of display and location to maximise inclusivity.                                                                                                                                  |
|               | Workshops             | Workshops provide a means to bring together relevant stakeholders and discuss key thematic topics and allows for sharing of identified key issues. Additionally, workshops can allow for specific groups to be engaged such as 'hard to reach' stakeholders.                                                                        |

- 3.11 How the Council involves the local community and statutory consultees varies dependent on the type of planning policy document being produced.
- 3.12 This section will outline the process of engagement and involvement used at each stage of the Local Plan process and how the participation of community stakeholders will help influence and shape policy documents.

#### **Local Plans/Development Plan Document**

- 3.13 The preparation of a Local Plan (or Local Development Plan) is governed by [The Town and Country Planning \(Local Planning\) Regulation 2012](#) and the [Town and Country Planning \(Local Planning\) \(England\) \(Amendment\) Regulations 2017](#). These set out the legal requirements which must be followed. There are two principle consultation stages, although this does not prohibit the Council undertaking more if it feels it should do so.

#### **Stage 1 'Preparation of Local Plan (Regulation 18)' or Development Plan Document**

- 3.14 Community engagement is vitally important to the plan preparation process. Participation will be encouraged and extensive consultation be conducted to identify and understand the issues relating to the future of the District. A range of policy options will be consulted upon through 'Issues and Options' consultation exercise which will run for a minimum of 6 weeks.
- 3.15 The Council may also consult under Regulation 18 for a 'Preferred Option' or draft of the Plan. This will take account of the representations made during the Issues and Options stage and provide the opportunity to comment on the Council's preferred

approach before it commits to that approach at the next formal stage of plan-making. A Preferred Options consultation will last for a minimum of 6 weeks.

### **Stage 2 'Publication of proposed Local Plan (Regulation 19)'**

- 3.16 The Council will undertake a final consultation (for 6 weeks) for the draft Local Development Plan before submitting the Plan (the Pre-Submission Plan) and the representations made to the Secretary of State for examination, who will then appoint a Planning Inspector. Following the consultation exercise, representations will be published and responses provided. All responses will be considered and where appropriate amendments to the document will be recommended to the Inspector. A Statement of Consultation will also be published on the Council's website outlining the representations received and any potential modifications to the plan the Council wishes to propose to the Inspector.

### **Stage 3 Examination**

- 3.17 The Inspector will then hold an Examination. Once the Planning Inspector has reviewed the submitted Plan, a series of matters, issues and questions (MIQs) in relation to the Plan will be put to the Council and sent to everyone who has made a representation. The Inspector will give all parties time to respond in the form of a pre-examination statement which is sent to the Inspector. All pre-examination statements are published on the Council's website.
- 3.18 The Examination will take into account the submitted Local Development Plan, supporting evidence, representations and written statements. This enables the Inspector to judge if the Plan is 'sound' and meets the legal and procedural requirements of the Town and Country Planning (Local Planning) (England) Regulations 2012, the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017.
- 3.19 The Inspector has the right to call respondents to give evidence at the Examination. Examinations are not subject to cross examination by barristers and questions are asked by the Inspector to the Council and other representatives and discussions held. If you are invited to attend, advice on the Examination will be provided by the Programme Officer, who represents the Inspector and coordinates all correspondence relating to the Examination
- 3.20 To be sound the NPPF states that a Plan must be:
- a) **Positively prepared** – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs<sup>19</sup>; and is informed by agreements with other authorities, so development;*
  - b) **Justified** – an appropriate that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable strategy, taking into account the reasonable alternatives, and based on proportionate evidence;*

c) **Effective** – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and

d) **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in this Framework.

#### **Stage 4 Adoption**

- 3.21 The recommendations of the Inspector are set out in their Report to the Secretary of State. Provided that the Inspector finds the Plan sound, the Council will be able to adopt the Local Plan. However, the Inspector may also make recommendations for further modifications to the Plan to make the Plan sound. If the raised matters have not previously been considered at the Examination, they will be subject to a 6 week consultation. Any representations made will be considered by the Inspector in their final Report.
- 3.22 As soon as reasonably possible once the Council adopts the Local Development Plan, an adoption statement, sustainability appraisal report and consultation statement shall be published (Regulation 26).
- 3.23 In respect of the Local Development Plan, a review must be completed every five years, starting from the date of its adoption, in accordance with section 23 of The Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017 to consider whether the Plan remains effective or if a full or partial review is required.

#### **Consultation on neighbouring authority plans**

- 3.24 Each Local Planning Authority has a requirement to undertake consultation on their Development Plan Documents and Supplementary Planning Documents, plus any other guidance. This includes consultation with adjoining District Councils, Essex County Council and Parish and Town Councils.
- 3.25 The Council cannot be held responsible for consultation undertaken by other Local Planning Authorities.

#### **Supplementary Planning Documents (SPDs)**

- 3.26 These documents provide more detailed advice and guidance on policies in the Local Plan, covering a range of issues, specific subjects or individual sites. SPDs are not subject to independent examination, but are subject to public consultation lasting a minimum of 6 weeks. Once the consultation exercise has finished, the Council will consider all responses, provide feedback and where appropriate amendments will be made to the document.
- 3.27 On adoption, the Council will make available as soon as reasonably possible an adoption statement and consultation statement which sets out how the Council engaged stakeholders and the community on the SPD. All relevant documents will be available on the Council's website [www.maldon.gov.uk/SPD](http://www.maldon.gov.uk/SPD). Once adopted, SPDs will have material weight in decision-making on planning applications.

- 3.28 The Council may also prepare other planning guidance such as master plans, design codes, planning and development briefs. In some instances these may be prepared in consultation with the local community or be subject to public consultation. Where the local community is to be engaged in the preparation this could be in the form of a collaborative workshop, for instance.

### **Community Infrastructure Levy (CIL)**

- 3.29 The Community Infrastructure Levy is a charge on new development in the District. Introducing CIL is optional. Should the Council introduce CIL it will need to prepare a Draft Charging Schedule supported by appropriate viability evidence and an Infrastructure Delivery Plan. The CIL (Amendment) Regulations 2018 identify two stages of consultation to be undertaken: Following the first stage of CIL consultation (the Preliminary Draft Charging Schedule) the Council will consider all representations made, amendments will be made to the charging schedule and/or its evidence where appropriate. The second stage, (the Draft Charging Schedule), presents the CIL rates, the Council's response to the representations made during the first consultation and the evidence base. The outcome will then be submitted for Examination by a Planning Inspector. The Inspector will decide, in a report, whether the CIL rates are appropriate and can be introduced in the District.

### **Duty to Co-operate**

- 3.30 Created through the Localism Act 2011, Duty to Co-operate requires local planning authorities and other public bodies, such as Historic England, the Environment Agency and Natural England, to engage constructively, actively and on an on-going basis to maximise the effectiveness of strategic development. There are a number of strategic matters that have impacts that cross boundaries, including housing, transport, education, waste management, marine, estuary and other environmental matters.
- 3.31 The NPPF (Para 27) requires local planning authorities to produce and maintain one or more Statement(s) of Common Ground to demonstrate how they have co-operated effectively and agreed on cross-boundary planning policy issues.
- 3.32 As such, the Council will secure the necessary cooperation on strategic cross boundary matters before they submit their Local Development Plan/Development Plan Documents for examination and seek a statement of common ground with neighbouring authorities.
- 3.33 The NPPF also requires Local Planning Authorities to produce an Annual Statement(s) of Common Ground. This will outline how the Council has actively and positively sought to comply with the duty to cooperate with the neighbouring authorities on all strategic cross boundary matters. The Council will work with neighbouring authorities to ensure this is in place.

### **Using the results of consultation and feedback**

- 3.34 All consultation responses will be analysed carefully. Using the local knowledge, experiences and views of respondents will enable more effective and efficient

policy. All representations will be considered and used to inform decisions and/or shape the documents, alongside Government legislation, planning policy and other evidence.

- 3.35 Representations made during formal consultation periods will be acknowledged, recorded and summarised on our consultation database. All representations will be published on our website once the consultation exercise has ended. All representations made must include contact details. Representations that are marked confidential, anonymous or late in submission cannot be accepted.

### **Council Committees and Procedures**

- 3.36 Planning policy documents, including consultation documents, the results of formal consultation and documents for adoption are considered by the Members of the Council at the following Council committees:

- Planning and Licensing Committee
- Full Council

- 3.37 The Council's core values include a commitment to transparency and accountability in decision making, therefore access to council meetings and meeting documents are publically available. This enables the workings of the Council, its committees and sub committees to be transparent and accessible to the communities it serves.

- 3.38 In addition, the Council's Overview and Scrutiny Committee provides opportunities for appropriate review and challenge.

### **Availability of Documents**

- 3.39 Adopted Statutory Development Plan Documents, Supplementary Planning Documents and other documents such as the Local Development Scheme and the SCI will be made available on the Council's website at [www.maldon.gov.uk](http://www.maldon.gov.uk).

## **4. Community Involvement in Neighbourhood Planning**

- 4.1 Neighbourhood planning, which was introduced by the Localism Act 2011, enables communities to develop a shared vision through collective decision making for their neighbourhood. A fundamental element of localism, neighbourhood planning addresses future opportunities and challenges that local residents believe are most significant to the areas they live in. Neighbourhood Plans can focus on a wide range of topics, tailored to the aspirations and concerns of the communities it will serve. It is vital that all Neighbourhood Plans are in general conformity with the Local Plan.

- 4.2 Neighbourhood Plans are prepared by Parish/Town Councils or Neighbourhood Forum. But the Council recognises the important role of neighbourhood planning and will support communities throughout the development of Plans. This section will outline the stages of development with regard to Neighbourhood Plans and the roles of both the community and Maldon District Council in their preparation.

- 4.3 It is the parish/town council's responsibility to ensure that the local community is kept informed of progress on the Plan. This may require a combination of paper and electronic materials to ensure that the whole of the community can access the information. As part of this, it is recommended that a Neighbourhood Plan section is created on the parish/town council's website, or a standalone Neighbourhood Plan website is set up.
- 4.4 Early engagement with relevant stakeholders, particularly the District Council, is important throughout the Plan's preparation, to ensure the plan meets the 'Basic Conditions'. The 'Basic Conditions' are a set of legal requirements which a Neighbourhood Plan must meet if it is to be successful at the Independent Examination, set out within The Neighbourhood Planning (General) Regulations 2012 (as amended).
- 4.5 Statutory consultees, such as Historic England and Natural England will be consulted on proposed Neighbourhood Areas (where consultation is required by the regulations) and draft Neighbourhood Plans where their interests are considered to be affected. The statutory consultees may be consulted informally, if issues raised in a draft Neighbourhood Plan could benefit from their early involvement.
- Historic England's guidance on neighbourhood planning can be found at:  
<https://historicengland.org.uk/advice/planning/plan-making/improve-your-neighbourhood/>
- 4.6 Throughout the Plan's preparation, each consultation event or activity needs to be summarised and included in a 'Consultation Statement'. This is a key document for the Neighbourhood Plan, and will demonstrate to the Examiner that the Plan has been prepared with a good degree of community involvement.
- 4.7 Maldon District Council has produced a guidance note for parish and town councils ([https://www.maldon.gov.uk/info/20048/planning\\_policy/8112/community\\_led\\_planning\\_and\\_neighbourhood\\_plans/2](https://www.maldon.gov.uk/info/20048/planning_policy/8112/community_led_planning_and_neighbourhood_plans/2)), outlining the process for undertaking a Neighbourhood Plan and the various stages which need to be completed for a Neighbourhood Plan to be effectively and efficiently created.
- 4.8 The emerging Essex County Council 'Neighbourhood Planning Guide: Information, Help and Support' will signpost relevant County Council services and information sources for groups preparing Neighbourhood Plans. Once finalised, it will be available on the County Council website [www.essex.gov.uk](http://www.essex.gov.uk).
- 4.9 The preparation of Neighbourhood Plans is governed by The Neighbourhood Planning (General) Regulations 2012 (as amended). There are eight key stages in producing a Neighbourhood Plan. Further details can be found in Appendix 1. The Council's role is set out below.

### **Maldon District Council statutory support for Neighbourhood Plans**

#### **Publication of proposals and final decision on applications for the designation of a Neighbourhood Area**

- 4.10 Before a Neighbourhood Plan can be produced, the group proposing the production of a Plan must apply to the Council for designation as a Neighbourhood Area. If the Neighbourhood Area is the same as the parish/town area, the District Council must designate the Area. If the Neighbourhood Area is not the same as the parish/town area, the District Council will publicise the application for 6 weeks and make a decision on the appropriateness of the proposed Neighbourhood Area having considered any consultation responses received. The District Council will publicise the decision made on the application.

#### **Provide comments and advice as a consultee in the production of a Neighbourhood Plan.**

- 4.11 The neighbourhood planning group must undertake a consultation on a draft Neighbourhood Plan with the local community, interested parties, and the Council (the Regulation 14 consultation). As part of this process, the District Council will provide advice on the conformity of the plan with local planning policy and the appropriateness of the plan in meeting its initial aims. On request, the District Council can arrange for the Habitats Regulations Assessment (HRA) screening opinion to be undertaken.

#### **Publication and Examination of a Neighbourhood Plan**

- 4.12 Following the submission of a Neighbourhood Plan, the District Council will publicise the Plan to bring it to the attention of people that live and work in the area it applies to, for a six week consultation period (the Regulation 16 consultation). The Council will write a formal opinion on the consultation statement, as required by the Regulations and publish this alongside the submitted documents. The Council will consult with the statutory bodies on the HRA screening opinion on the Plan. The Council will collate the consultation responses, and in partnership with the parish/town council will produce a summary of the responses received for the Independent Examiner.
- 4.13 The Council will organise and finance the Neighbourhood Plan Examination. The District Council will jointly appoint an Examiner with the town/parish council. The Planning Policy Team will act as liaison between the Examiner and parish/town council.
- 4.14 Following the completion of the Examination, the Council will publish the Examiner's Report and their recommendations. The District Council will follow the recommendations made by the Examiner and will modify the plan as required. The reasons behind any modifications will be explained to the parish/town council.

### **Referendum, publication of final outcome, and ‘making’ of a neighbourhood plan.**

- 4.15 Following the Examination, the Neighbourhood Plan is subject to a local Referendum. It is the responsibility of the District Council to finance, organise and manage the referendum process, and publicise the results.
- 4.16 Where a Neighbourhood Plan has gained over 50% of the votes cast, the Council will immediately give it full weight in the determination of planning applications within the Neighbourhood Area. The District Council will formally ‘make’ the Plan following a positive referendum result. The document will then have statutory status and form part of the Maldon District Development Plan. The District Council will publicise the making of the Plan.

### **Other support offered by the Council**

- 4.17 In addition to the statutory requirements outlined above, the Council will provide up to 10 days of support time and attendance at a maximum of 4 meetings for each Neighbourhood Plan. The level of support provided will vary depending on the types of proposals in a Plan, and the requirements of the community group. Support provided during the production of a Neighbourhood Plan may include:
- Advice and assistance on the process of producing Neighbourhood Plans;
  - Basic assessment and review of work produced by a neighbourhood group throughout the development of a Plan. This will include providing ‘critical friend’ assistance to ensure that the emerging work is in conformity with Council planning documents and the National Planning Policy Framework;
  - Written responses to community groups outlining assessment and review work undertaken on emerging Neighbourhood Plans; and
  - Attendance at meetings with neighbourhood groups to present the views of the Council on an emerging plan, and provide advice and assistance as required.

## **5. Community Involvement in Planning Applications**

- 5.1 As a Local Planning Authority, Maldon District Council is responsible for the management of development within the District. Therefore, this SCI identifies how we will involve the community in the consideration of planning applications, ranging from household proposals to major applications. The SCI will outline the Council's approach to involving statutory bodies and the community in the various stages of the planning application process.
- 5.2 This section will outline the existing procedures used by the Council, and specifically the Development Management team when advertising and consulting on planning applications.



**Pre-application**

- 5.4 We are committed to providing an effective planning service which delivers good quality sustainable development within the District, in conformity with the policies and principles set out in the Local Development Plan and related policy. Early discussion between applicants and the planning authority is a valuable and essential stage of the planning application process.
- 5.5 The NPPF stipulates at Para 39:
- Early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community.*
- 5.6 The pre-application process between the applicant and the Council is confidential, and the Council will not undertake any public consultation at this stage. It may, however, consult with some of its partners, such as Essex County Council Highways team, for technical advice that feeds into the discussions with developers.
- 5.7 The development management process regulates development within the District in accordance with local and national planning policies. The local planning policy context is provided within the Maldon District Local Development Plan (2014-2029). The national planning policy context is set within the National Planning Policy Framework, Planning Practice Guidance and any other relevant national planning documents.
- 5.8 We will usually engage in pre-application discussions with developers through our Pre-Application Service. The purpose of such early discussion will be to inform, discuss, encourage agreement and aim to reach an early consensus on the type, design and form that schemes might take. This will benefit the local community by potentially influencing the design process and decisions made by applicants before they submit an application. It will also benefit developers, by ensuring local concerns are addressed at an early stage thereby saving time and expenditure later in the process.
- 5.9 The Council will provide a detailed response identifying the primary planning issues for the proposal. The level of detail provided in the response will reflect the level of accuracy and detail of the information that is provided by the applicant; the more information you can provide about your proposal, the more accurate and in-depth our feedback will be. The response will also provide a clear position on relevant planning policy issues and any other documents it should refer to, such as Masterplans or Neighbourhood Plans.
- 5.10 In relation to the scale and nature of development, in October 2011 the Council introduced a new procedure requiring pre-application engagement for strategic development proposals. All strategic proposals must be presented to a meeting of both members and officers in order to commence early member engagement. Strategic development proposals comprise:
- Any mixed use tenure residential scheme of 50 plus dwellings;
  - 100% affordable housing schemes of 6 or more dwellings;

- New build retail and/or food supermarket proposed for a site outside of the defined Town Centres;
- Non-residential development over 2500m<sup>2</sup> floor space or for sites 2 hectares or more;
- Residential and non-residential sites either in, or seeking to be promoted through the Local Development Plan.

Further information is found in sections 61W and 61X of the [Town and Country Planning Act 1990](#) and article 4 of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015, including the amendments set out in Part 2 of the Town and Country Planning (Local Authority Consultations etc) (England) Order 2018.

- 5.11 For the most significant major infrastructure projects which are of national importance, the Council is a statutory consultee rather than the Local Planning Authority. For these Nationally Significant Infrastructure Projects (NSIPs), Central Government have an established infrastructure planning team within the Planning Inspectorate, who will be responsible for determining these applications. However, the pre-application process and planning application process remain vitally important to community engagement and consultation. Any individual wishing to participate in the examination of an application for development consent for a national infrastructure project (NSIP) is required to register with the Planning Inspectorate, and not the local planning authority, and make a relevant representation about the application. Further information can be found at: <http://infrastructure.planningportal.gov.uk/application-process/participating-in-the-process/>
- 5.12 Before Submitting a Planning Application PPG, 2018, 010 states that for planning applications concerning 2 or more wind turbines or where the hub height of any turbine exceeds 15 metres, it is mandatory to carry out pre-application consultation with the local community.
- 5.13 There is a Development Management Protocol for Member engagement in pre-application discussions. This sets out a structured process that engages Members without prejudicing their decisions or the integrity of the planning process. All pre-application discussions will be held in private and therefore confidentiality will apply.
- 5.14 Members that attend the meeting will have an opportunity to ask questions and seek clarification. Members may alert the developer to what they perceive as the likely view of their constituents, but this must be in the context of the LDP or alternative policy framework.
- 5.15 Fees are applied for the Pre-application Service. These vary dependent on the application and type of advice being sought. The type of advice could be in the form of a single meeting, or multiple meetings, with or without follow up letters. Details of the fees can be found at:

[https://www.maldon.gov.uk/info/20046/development\\_management/9227/planning\\_advice\\_and\\_information](https://www.maldon.gov.uk/info/20046/development_management/9227/planning_advice_and_information)

The fee schedule for pre-application advice relates to the Council's services only. ECC apply their own charges for attending pre-application meetings.

### **Planning Performance Agreements**

- 5.15 As an alternative to a pre-application fee an applicant may enter into a Planning Performance Agreement (PPA) with the Council. These set out the level of service the applicant will receive from the Council, who they will deal with and how that person will coordinate all of the Council's and partners activities, the length that the PPA will apply and the fee. They allow for a wider range of meetings, often topic based, so that the Council can provide maximum influence on the developers' scheme and ensure that it is, as far possible, policy compliant and deliverable.
- 5.16 PPAs are usually entered into before a planning application is submitted and last until the date of the applications submission. For strategic developments the Council will recommend that a long term PPA is entered into which takes into account not only the initial planning application, but any follow up applications such as reserved matters or discharge of conditions. Definition of 'strategic' developments can be found within the Council's Scheme of Delegation: Section 9-Terms of Reference and can be viewed at [https://www.maldon.gov.uk/downloads/download/8082/terms\\_of\\_reference](https://www.maldon.gov.uk/downloads/download/8082/terms_of_reference)
- 5.17 In all instances PPAs are clear in that they are entered into without prejudice to the formal consideration of all planning applications.

### **Planning Advice and Information**

- 5.18 The Council offers householder application planning advice via a Duty Planning Officer, who will be available by telephone or in person at the Council offices. For times and availability, refer to the Council's website at [www.maldon.gov.uk](http://www.maldon.gov.uk).
- 5.19 The duty planning officer will be able to provide informal advice:
- Whether planning permission is required or if permitted development rights apply (should you require a formal written response then you will need to apply for a Lawful Development Certificate); and
  - General information and advice on national and local planning policy and processes.

They will not:

- Provide an opinion on whether planning permission would or would not be granted (this would be chargeable pre-application advice);
- Discuss the detail of current large or complex proposals (such enquiries should be referred to the case officer);
- Discuss the technical merit of applications, refusals or appeals;
- Agree to any minor amendments to planning permissions;
- Discuss enforcement enquiries (such enquiries should be referred to the Enforcement team);
- Discharge any planning conditions of a decision notice; and

- Grant immunity from enforcement.

### Planning Application Stage

- 5.20 In addition to the specific consultation measures identified above for large-scale development proposals, all planning applications are recorded by the Council as the Local Planning Authority. Details of all planning applications from approximately 2004 are available to view via the Council's planning application search facility at:

<https://publicaccess.maldon.gov.uk/online-applications/>,

This includes the application documents, planning decisions, important dates and contact details. Decision notices from approximately 1992 are also available to view via this facility. Decision notices dated pre-1992 can be viewed upon request to the Council.

- 5.21 The Council's website also contains weekly lists of all planning applications and decisions made, committee agendas and reports, and a list of appeals and appeal decisions at:

<https://publicaccess.maldon.gov.uk/online-applications/search.do?action=weeklyList>.

- 5.22 Weekly lists of applications are provided for publicity purposes to:

- Amenity societies;
- Local newspapers;
- Local radio;
- Parish and Town Councils
- Other interested parties are consulted at the discretion of the LPA. Any interested parties can request to receive a weekly list of planning applications

- 5.23 Once an application has been received by the planning service, it will be verified for validation purposes. To make a valid application, there are statutory and local information requirements which apply to each application type. A valid application must consist of:

- Information requested on the standard application form;
- Statutory national information requirements, including a design and access statement if required; and
- National and local application requirements.

- 5.24 Upon receipt of applications, the Local Planning Authority is obliged to undertake a publicly and statutorily required consultation. Statutory and specialist bodies are consulted as set out in Schedule 4 of [The Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#).

Such statutory consultees include neighbouring authorities, Natural England (<https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>), and

Historic England (<https://historicengland.org.uk>) and other organisations.

5.25 The Town and Country Planning (Development Management Procedure) Order 2015, including the amendments set out in Part 2 of the Town and Country Planning (Local Authority Consultations etc) (England) Order 2018, sets out the publicity and notification requirements for planning applications and is supplemented by other legislation in some cases.

5.26 Statutory and local publicity requirements for planning and heritage applications include the following:

| Type of development                                                                                                                                                       | Site notice | Site notice or neighbour notification letter | Newspaper advertisement                                                                             | Website |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|----------------------------------------------|-----------------------------------------------------------------------------------------------------|---------|
| Applications for major development as defined in Article 2 of the Development Management Procedure Order                                                                  | -           | X                                            | X                                                                                                   | X       |
| Nationally Significant Infrastructure Projects (NSIPs) (to be determined at a Central Government level by the Planning Inspectorate)                                      | -           | -                                            | X                                                                                                   | X       |
| Application subject to Environmental Impact Assessment which are accompanied by an Environmental Statement                                                                | X           | -                                            | X                                                                                                   | X       |
| Applications which do not accord with the Local Development Plan                                                                                                          | X           | -                                            | X                                                                                                   | X       |
| Applications which would affect a right of way to which Part 3 of the Wildlife and Countryside Act 1981 applied                                                           | X           | -                                            | X                                                                                                   | X       |
| Applications for planning permission not covered in the entries above e.g. non-major development                                                                          | X           | -                                            | X                                                                                                   | X       |
| Certain prior notification for telecommunication installations under the terms of Part 16 of the Town and Country (General Permitted Development) Order 2015 (as amended) | -           | X                                            | X (Only if Article 8 applies e.g. affects a public right of way or development exceeding 1 hectare) | X       |
| Prior notification for larger householder extensions under the terms of Class A                                                                                           | -           | X                                            | -                                                                                                   | -       |

|                                                                                                                                                                                                                                                                                                              |   |   |   |   |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|
| <b>Part 1 of the Town and Country (General Permitted Development) Order 2015 (as amended)</b>                                                                                                                                                                                                                |   |   |   |   |
| <b>Prior approval applications for the change of use of buildings under the terms of Part 3 of the Town and Country (General Permitted Development) Order 2015 (as amended)</b>                                                                                                                              | - | X | - | - |
| <b>Applications for listed building consent where works to the exterior of the building are proposed</b>                                                                                                                                                                                                     | - | X | X | X |
| <b>Applications to vary or discharge conditions attached to a listed building consent or involving exterior works to a listed building</b>                                                                                                                                                                   | X | - | X | X |
| <b>Applications for development which would affect the setting of a listed building, or affect the character or appearance of a conservation area.</b>                                                                                                                                                       | X | - | X | X |
| <b>Lawful Development Certificate, Works to Trees in Conservation Areas or covered by a Tree Preservation Order, Certificates of Appropriate Alternative Development, Hazardous Substances Consent, Prior Notifications for Agricultural Works and Buildings, Demolitions or Railways and County Matters</b> | - | - | - | - |

Table 5.1 Statutory and Local Notification Requirements for Planning Applications

- 5.27 Whilst the above represents the statutory requirement, the Local Planning Authority will normally notify all neighbouring properties by letter of planning applications where the neighbouring property abuts an application site, regardless of whether this is statutorily required or not. Additionally, other properties where development has potentially wider impacts may be notified, this will be dependent on the type and scale of development and its cumulative impact on the surrounding areas and will be applied at the discretion of the Local Planning Authority.
- 5.28 The Council will send notifications of planning applications via a letter, outlining the address of the development, a description of the proposed development, information on how to make a representation and the contact information and name of the planning

officer in charge of the application. Representations will be accepted for 21 days after the date on which notice is given, (discounting Public Holidays from those 21 days, in most cases) although any representation received after this date will usually be accepted if received before the application is determined. Representations can be submitted by:

- Writing to us at: Planning Services, Maldon District Council, Princes Road, Maldon CM9 5DL;
- Email: [Planning@maldon.gov.uk](mailto:Planning@maldon.gov.uk); or
- Online: <https://publicaccess.maldon.gov.uk/online-applications>

The use of the online facility is the preferred method of receiving representations with respect to planning applications. To be accepted, all representations made to the Council must include contact details of the respondent.

5.29 For representations to be given weight when an application is assessed they must relate directly to planning matters known as material considerations. For example, this might include:

- Any harm to the amenities of residents caused by noise, smell, loss of light and overlooking
- The visual impact of the proposed development
- The effect of the proposal upon the enjoyment of your home or garden
- The impact on the appearance of the surrounding area and upon highway safety

It should be noted that comments made in relation to property values are not able to be given weight and that the Local Planning Authority has no ability to act in relation to neighbour disputes or The Party Wall Act 1996.

5.30 All representations submitted will be kept as part of the public record and will be made available to view by any person on request. The Local Planning Authority may use its discretion to make representations available to view on the Council's website, either in full, redacted or summarised.

5.31 Under delegated powers, the Director of Planning and Regulatory Services is able to make decisions on certain categories of planning application. Additionally, Members can ask for particular applications affecting their Ward to be referred to a committee for decision.

5.32 Members of the public have the opportunity to put their views on planning applications direct to meetings of the Planning and Licensing Committee and the three Area Planning Committees. For more information on public speaking at Area Planning committee meetings, see:

<https://democracy.maldon.gov.uk/documents/s4350/Public%20Speaking%20Guidelines%20-%20Planning%20Committee%20Meetings%20November%202106.pdf>

**Notification of a Decision**

- 5.33 Unless agreed in writing by the Local Planning Authority, all non-major planning applications are to be decided within eight weeks, whilst major applications have an increased time frame of up to 13 weeks. Applications that are accompanied by an Environmental Statement as required by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 should be decided within 16 weeks.
- 5.34 Once a decision has been made on a planning application, an Officer's report will be published. The report will provide information on the following:
- A description of the application and site;
  - A review of local and national planning policies, which the application has been held against;
  - An analysis of representations made through public consultation; and
  - The Officer's recommendation for approval or refusal.
- 5.35 When a decision is reached, those making representations are advised of the decision within 10 days by letter or email. This will state whether the application has been approved or refused and will advise that the full decision may be viewed on the Council's website.

**Appeals**

- 5.36 Only applicants may appeal against a decision made by the Local Planning Authority. Appeals can relate to a decision to refuse a planning application or against the non-determination of any application within 8 weeks (for minor applications) and 13 weeks for major applications. It is not possible for 'third party' observers to appeal a decision. Should an appeal be made against the decision, all representations are forwarded to the Planning Inspectorate.
- 5.37 All those making representations are advised of the appeal and that further representation may be made direct to the Planning Inspectorate. For further details, please consult the Council's website ([www.maldon.gov.uk](http://www.maldon.gov.uk)) or seek advice from the Planning and Regulatory Services.
- 5.38 The Planning Inspectorate will consider all written evidence that is made available and a decision is expected to be made within 19 weeks from the date of the notice of the decision or determination giving rise to the appeal.

**6 Permission in Principle**

- 6.1 Permission in principle is an alternative two stage process for obtaining planning permission for housing-led development. It separates the first 'permission in principle' stage - which establishes whether a site is suitable in-principle - and the second 'technical details consent' stage when the detailed development proposals are assessed.



- 6.2 There are two types of permission in principle, via the Council's Brownfield Land Register (see [www.maldon.gov.uk/BLR](http://www.maldon.gov.uk/BLR)) or via application. All consultations, notifications, publicity requirements and procedures to be undertaken for Brownfield Land Register applications is set out in the Town and Country Planning (Brownfield Land Register) Regulations 2017, and the Town and Country Planning (Permission in Principle) Order 2017 (as amended) sets out the relevant information for other types of application. But in general, the Local Planning Authority must consult the same consultees as they would for comparable planning applications (see paragraph 5.24).
- 6.3 Permission in principle only applies to the types of development set out in the Permission in Principle PPG, 2018, 004. Applications should be consistent with the other parts of the PPG and national policy and the requirements of national legislation identified above. All applications must be in accordance with the development plan unless material considerations indicate otherwise.
- 6.4 The Council will grant permission in principle for a valid application within 5 weeks of receipt or by entering a valid site in Part 2 of its Brownfield Land Register (see [www.maldon.gov.uk](http://www.maldon.gov.uk)). Permission in principle covers the location, land use and amount of development. A technical details consent (which covers all other matters) must still be approved, before development can begin. The Local Planning Authority will consider all applications for technical details consent in accordance with the permission in principle granted for that site.
- 6.5 Should permission in principle be granted the permission will last 3 years, unless the site is added to the Brownfield Land Register, where the permission will last for 5 years. Applications for technical details consent must be determined by the Local Planning Authority within the planning permission period.
- 6.6 The Council will grant technical details consent within 10 weeks of receipt for a major development and 5 weeks for other forms of development.
- 6.7 Where the Council decides not to enter a site in Part 2 of the Brownfield Land Register, the applicant is unable to appeal. But an applicant can appeal the refusal of permission in principle sought via a valid application. An application for technical details consent may also be appealed on grounds of non-determination, refusal or against any condition imposed. The same process for appeals against other types of planning application will be used (see paragraph 5.36).

## **7 Monitoring and Review**

- 7.1 The Town and County Planning (Local Planning) (England) (Amendments) Regulations 2017 requires the Council to undertake an assessment of the SCI every five years, starting from the date of adoption, to see whether it is being effective. This could result in a partial or full review of the SCI. Changes in national legislation or guidance, and/or a review of the LDP may trigger a review of the SCI.

Should a review be required stakeholder and community engagement will take place on the draft SCI.

**Data Protection**

- 7.2 Maldon District Council takes data protection seriously and takes all appropriate measures to protect your personal information and comply with data protection law, including the General Data Protection Regulations (GDPR). We do not share any personal data with marketing companies.
- 7.3 When we collect your data, we will provide you with a Privacy Notice which details the lawful basis that we will use to collect your data, who we will share it with (if appropriate), your rights, and how you can contact us about your data.
- 7.4 If you have any questions about how we use personal data, please contact our Data Protection Officer, [dpo@maldon.gov.uk](mailto:dpo@maldon.gov.uk) or see our website [www.maldon.gov.uk/terms](http://www.maldon.gov.uk/terms).

**APPENDIX 1****Community-Led Planning Guidance**

There are eight key stages in producing a Neighbourhood Plan:

**1. Designating a Neighbourhood Area**

The first formal step in neighbourhood planning is the submission of the proposed Neighbourhood Area to the local planning authority for designation. For town or parish councils, there is a strong presumption that the Neighbourhood Area will be the same as the town/parish boundary. However, they may choose a smaller and more focused area, such as a town or village centre, or adjacent parish/town councils may agree to work together to produce a joint Neighbourhood Plan. If the Neighbourhood Area is the same as the parish/town council area, it is designated without needing a public consultation. If the proposed Neighbourhood Area is not the same area as the parish/town boundary, then there will be a 6 week public consultation.

**2. Neighbourhood Plan Steering Group**

Due to the amount of work involved in producing a Neighbourhood Plan, parish/town councils are advised to set up a steering group to undertake the project. A successful steering group should question, provide ideas and have a useful distance and perspective to assist the community in preparing the Neighbourhood Plan.

There is no required size for a steering group but it is advisable for the group to include a wide range of people with different skills and experience from across the community, and may include local councillors, residents, local businesses and community organisations. The parish/ town council is ultimately responsible for the production of the Neighbourhood Plan and the steering group must report to the parish/town council on a regular basis and receive ongoing endorsement.

**3. Gathering Baseline Information**

Once the Neighbourhood Area has been designated, it is time to begin the initial research. It is important to be aware that in preparing the Plan, any planning policies and proposals need to be based on a proper understanding of the place and community they relate to, if they are to address local issues effectively. It is therefore important that Neighbourhood Plans are based on robust evidence.

The District Council has a number of evidence base studies for the Local Development Plan which may be useful for a Neighbourhood Plan, and can give advice on which documents would be relevant. A review of these documents and existing evidence should be undertaken at the beginning of the process as it may be necessary to develop new evidence (or update existing evidence) at the neighbourhood level. This could include:

- **Economic:** business surveys, viability, vacancy/floor space survey, available sites survey, land values, employment need survey, etc.
- **Social/Community:** housing needs survey, audit of community facilities, 'Building for Life' assessment of housing, etc.

- **Environmental:** heritage audit, conservation area appraisals, review of local heritage assets lists, urban design analysis, open space survey & analysis, etc.
- **Infrastructure:** transport linkages, schools' capacity, transport capacity analysis, traffic/ pedestrian flow surveys, etc.

After the evidence base is reviewed, parish/town councils can start to identify potential policy directions and issues for the Neighbourhood Plan to address. It is recommended at this stage there is an initial public consultation event to identify the issues the community would like to see included in the Plan. For this consultation, it may be useful to use the issues already identified to spark the discussion, as well as suggesting some options which the community can comment on and build on. This early engagement with the community will help to define an overall vision of the Plan, identify local issues and to start to create a sense of wider ownership for the Plan. It may also identify whether there is sufficient support locally for a Neighbourhood Plan.

Once this initial stage is completed, the information should be compiled into a Baseline Report which will show the consultation process to date and the issues identified through research and community consultation.

If the research identifies that the Neighbourhood Plan needs to allocate land for development, a 'call for sites' must be held. This is a local consultation that enables local landowners or developers with a land interest to put forward sites they wish to be considered for development in the future. The resulting list of sites can then be objectively assessed to identify which sites are appropriate for allocation. The Council can provide advice on the assessment process. The results of the call for sites consultation need to be collated and made publicly available. A summary of the call for sites consultation needs to be included in the consultation statement. Once the sites have been assessed, the results are collated into a report that is published with the draft Plan.

#### **4. Ensuring that consideration of environmental effects are part of the process**

Planning Practice Guidance (<https://www.gov.uk/guidance/neighbourhood-planning--2>) (last updated 22 February 2018) makes it clear that a sustainability appraisal should be an integral part of the plan preparation process, including Neighbourhood Plans. This will form part of the evidence base supporting the policies and allocations in a Neighbourhood Plan.

A Habitats Regulations Assessment (HRA) screening opinion will need to be sought for an early draft of the Plan, as well as at the pre-submission and submission consultation stages. The screening opinion will establish, at an early stage of plan-making, whether any of the policies or proposals in the emerging Plan are likely to cause significant environmental effects. This exercise involves consulting the three statutory agencies (Natural England, Historic England, Environment Agency) (5 week consultation period) on the screening opinion and publicising its findings on whether or not a further environmental assessment is required. This consultation can be undertaken by the parish/town council, or on request, the District Council. If the District Council undertakes this, the outcome of the process will be reported to the steering

group. The HRA screening opinion is a key element that goes towards demonstrating that the Plan meets the basic conditions. Further information of the HRA process can be found at [www.gov.uk](http://www.gov.uk)

## 5. Writing the plan

Policies in the Neighbourhood Plan must be planning related and should provide a practical framework within which decisions on planning applications can be made. It is important that any policies are local in nature, do not conflict with the District Council's Local Development Plan, are based on evidence and are able to be funded and delivered. The plan period will normally be 15 years.

If the parish/town council wishes to cover issues which are not planning related, such as speed restrictions, road widening and/or other more aspirational projects where no delivery mechanism can be identified at this stage, they can be included in a separate section in the Plan, but cannot form local policy.

There is considerable flexibility over how a Plan can be structured and written. The following are suggestions:

- **Vision and Aims** - These can relate to a wide range of planning and regeneration matters – social, economic and environmental. The vision and aims of the plan can then be translated into detailed policies, guidance and proposals
- **Planning Policies** – Planning applications will be determined in accordance with the Local Development Plan's policies unless material considerations indicate otherwise, for example, local evidence. The policies in the plan are usually supplemented by explanatory text. Illustrations can be used to help explain the policies and give the plan local context.
- **Site Allocations and Community Proposals** – Although not a requirement, Neighbourhood Plans are encouraged to identify key sites for specific kinds of new development, such as housing, community facilities, retail, employment or mixed uses.

It is strongly advised that an early draft is sent to the District Council's planning policy team who can provide advice and guidance regarding the policies. It is this point that a request for a screening opinion can be made.

## 6. Pre-submission (Regulation 14) consultation

It is a legal requirement that the proposed Neighbourhood Plan, as well as the screening opinion and an environment report (if required), are subject to a six week public consultation. It is recommended that the consultation statement is published alongside the draft Plan. It may be useful to produce a concise summary of the draft Plan for those who do not wish to read the full document.

After the consultation, a report must be produced summarising the comments received, issues raised by those comments and describing if and how the Plan has

been modified in response to the issues raised. This information is added to the 'Consultation Statement' which is a legal requirement for all Neighbourhood Plans.

## **7. Submission, examination and modifications**

Following any amendments resulting from the pre-submission consultation, the Neighbourhood Plan is submitted to Maldon District Council. This is the version of the Plan the parish/town council want to be adopted. The submission to the local planning authority must include:

- A map or statement, which identifies the neighbourhood area
- A consultation statement
- The proposed neighbourhood plan
- A statement on how the plan fulfils the basic conditions

The submission can also include any other supporting documents, such as the site assessment results, sustainability appraisal, etc, that the parish/town council want the Examiner to consider at the Examination.

The District Council, will consult the statutory bodies on the screening opinion for this version of the plan, and organise the six week Regulation 16 consultation. All the responses and a summary of the responses are collated for the Examiner.

An Independent Examiner will be appointed by the District Council, in agreement with the parish/town council, to undertake the Examination. The Examination will consider the submitted documents and any comments made during the Regulation 16 consultation. The Examiner will assess whether the Plan meets the 'basic conditions' and other relevant legal requirements (e.g. consultation). Neighbourhood Plan Examinations rarely need to have hearing sessions.

The Examiner will decide:

- whether the Plan can proceed to Referendum or not. If the Plan meets the basic conditions, the Examiner will recommend that the Plan proceeds to the Referendum;
- whether the Plan does not meet the basic conditions, but modifications can be made to rectify this, they will recommend that modifications are made, and once made, the Plan can proceed to Referendum: or
- whether the plan does not meet the relevant legal requirements, and these cannot be rectified through making modifications to the Plan, then they will recommend that it does not proceed to the Referendum.

If modifications are needed, the District Council must make modifications to the Plan if it will enable the Plan to comply with the 'basic conditions'. The parish or town council may withdraw the Plan if it is unhappy with the modifications being made.

## 8. Referendum and adoption

If the plan complies with the key legal requirements, with modifications if necessary, then the District Council will arrange for a local Referendum to take place. At least 28 working days' notice of the Referendum will be given.

Good consultation at all Plan stages will ensure that the electorate know about the Plan and the Referendum and are able to make an informed choice on the day of the vote.

If more than 50% of those voting in the Referendum vote 'yes', then the Plan immediately comes 'into force' and will be used to determine planning applications and guide planning decisions within the Neighbourhood Area. Soon after the Referendum the District Council will 'make' the Plan, publishing it and any supporting documents as required by the Regulations. These will be provided to the parish/town council electronically for inclusion on the parish/town council or Neighbourhood Plan website. Following a positive referendum result, a Neighbourhood Plan becomes part of the development plan for the District and has the same legal status as a Local Plan.

Further information can be found at

[www.legislation.gov.uk](http://www.legislation.gov.uk)

Localism Act 2011

The Neighbourhood Planning (General) Regulations 2012 (as amended 2015, 2016, 2017)

The Neighbourhood Planning (referendum) Regulations 2012 (as amended 2013, 2014, 2016)

Neighbourhood Planning Act 2017

Neighbourhood Planning PPG: [www.gov.uk/guidance/neighbourhood-planning—2](http://www.gov.uk/guidance/neighbourhood-planning—2)

## GLOSSARY

|                                                                        |        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|------------------------------------------------------------------------|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Affordable Housing</b>                                              |        | <p><b>Affordable housing:</b> housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:</p> <p>a) <b>Affordable housing for rent:</b> meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).</p> <p>b) <b>Starter homes:</b> is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.</p> <p>c) <b>Discounted market sales housing:</b> is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.</p> <p>d) <b>Other affordable routes to home ownership:</b> is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.</p> |
| <b>Authority Monitoring Report</b>                                     | AMR    | A mechanism for assessing performance of policies contained within the Local Development Plan.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Building Research Establishment Environmental Assessment Method</b> | BREEAM | An environmental assessment and rating method for buildings recognised nationally and abroad. The assessment evaluates a buildings specification, design, construction and use and aims to encourage low carbon and low impact design, to minimise energy use and maximise the use of low carbon technologies.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Community Infrastructure Levy</b>                                   | CIL    | A levy allowing local authorities to raise funds from owners or developers of land undertaking new building projects in their                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |



## Maldon District Statement of Community Involvement September 2018 FINAL

|                                            |      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|--------------------------------------------|------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                            |      | area.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Community Right to Bid</b>              |      | Community groups can nominate both privately and publicly owned assets to be included on a list of assets of community value. This list is managed by the council. If a landowner wants to sell a registered property, they must tell the council. If a community group wants to buy the asset, they can trigger a 6 month moratorium to give them a chance to prepare a bid for it. During this period, the owner cannot sell their property on the open market. This gives community groups an opportunity to develop a proposal and raise the required capital. At the end of the 6-months, the owner is free to sell the asset to whoever they wish and at any price. Also known as Assets of Community Value. |
| <b>Community Right to Build</b>            |      | An Order made by the local planning authority (under the Town and Country Planning Act 1990) that grants planning permission for a site-specific development proposal or classes of development.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Development Planning Document              | DPD  | A planning policy document which make up the Development Plan. They help to guide development within a local planning authority area by setting out planning policies, which are use to allocate land and make decisions on planning applications.                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Developer contributions</b>             |      | Developer contributions, also known as planning obligations, can be secured via a Section 106 legal agreement or planning condition attached to a planning permission. They help mitigate any adverse impacts generated by new development on infrastructure and facilities.                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Habitats Regulations Assessment            | HRA  | A Local Plan evidence base document that tests the impacts of a Local Plan or development proposal on nature conservation sites of European importance and is a requirement under EU legislation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Local Development Plan</b>              | LDP  | The plan for the future development of the local area, drawn up by the Local Planning Authority in consultation with the community. This is described as a Development Plan Documents adopted under the Planning and Compulsory Purchase Act 2004.                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Local Development Scheme                   | LDS  | A project plan setting out the planning policy documents the Council will produce in the next year.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Major Development</b>                   |      | A proposal of 10 or more dwellings or a site area of 0.5 hectares or more, or non residential development is for 1,000 square metres or more of floorspace, or has a site area of 1 hectare or more.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>National Planning Policy Framework</b>  | NPPF | Sets out the Governments planning policies for England and how these are expected to be applied.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>National Planning Practice Guidance</b> | PPG  | A web-based resource provides more detailed guidance on the contents of the NPPF.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Neighbourhood Plan</b>                  |      | Formally introduced under the Localism Act 2011, a neighbourhood plan is prepared by a parish council or neighbourhood forum for a designated neighbourhood area. In law this is described as a neighbourhood development plan in the Planning and Compulsory Purchase Act 2004.                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Sustainability Appraisal</b>            | SA   | A document which assesses the social, environmental and economic effects of the strategies and policies in a Development Plan Document from the outset of the process.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Statement of Community Involvement</b>  | SCI  | A document which sets out the standards to be achieved by the Council in involving the community in the preparation, alteration and review of planning policy documents and                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

Maldon District Statement of Community Involvement September 2018 FINAL

|                                           |     |                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------------|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                           |     | planning applications.                                                                                                                                                                                                                                                                                                                              |
| <b>Strategic Environmental Assessment</b> | SEA | A procedure (set out in the Environmental Assessment of Plans and Programmes Regulations 2004) which requires the formal environmental assessment of certain plans and programmes which are likely to have significant effects on the environment.                                                                                                  |
| <b>Supplementary Planning Document</b>    | SPD | Documents which add further detail to the policies in the development plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan. |



**MINUTES of  
FINANCE AND CORPORATE SERVICES COMMITTEE  
25 SEPTEMBER 2018**

---

**PRESENT**

|                                  |                                                                              |
|----------------------------------|------------------------------------------------------------------------------|
| Chairman                         | Councillor D M Sismey                                                        |
| Vice-Chairman                    | Councillor I E Dobson                                                        |
| Councillors                      | P G L Elliott, A S Fluker, B E Harker, M S Heard and<br>Rev. A E J Shrimpton |
| Ex-Officio Non-<br>Voting Member | Councillor B S Beale MBE                                                     |
| In attendance                    | Councillor R G Boyce MBE                                                     |

**453. CHAIRMAN'S NOTICES**

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

**454. APOLOGIES FOR ABSENCE**

There were none.

**455. MINUTES OF THE LAST MEETING**

**RESOLVED** that the Minutes of the meeting of the Committee held on 31 July 2018 be approved and confirmed.

**456. DISCLOSURE OF INTEREST**

There were none.

**457. PUBLIC PARTICIPATION**

No requests had been received.

#### **458. SUPERFAST BROADBAND IN MALDON DISTRICT**

The Committee considered the report of the Director of Service Delivery updating Members on progress of delivery of the Superfast Essex Broadband Programme in Maldon District.

The report provided background information regarding the Superfast Essex Broadband Programme and an update on progress to date. Members were reminded of the funding agreement between the Council and Essex County Council agreed in 2014 and then renegotiated in 2016.

It was noted that the latest figures showed that Maldon District was current at 81.5% coverage and this was detailed in Appendix 2 to the report. As part of the Phase 2a rollout the Maldon District was due to receive a further 15% increase in connectivity (from a baseline of 77% at the end of Phase 1), ensuring that up to 92% of homes and businesses in the District could access superfast broadband. Appendix 1 to the report detailed premises that would benefit from Phase 2a. Phase 3 was planned to start in 2019, with both Phases 2 and 3 due for completion by December 2019.

Members' were advised that the £45,000 contribution (paid over three years of the duration of Phase 2A) had not yet been transferred to Essex County Council (ECC). ECC was drawing up a bilateral funding agreement to cover the delivery of Phase 2a in the Maldon District, this would include trigger points for payment and suggested points were set out in the report.

Some Members expressed concern as to whether it was still worth investing in this project. Councillor A S Fluker commented that living in a remote location he had been advised that he would never receive high speed broadband and felt that this was something BT would roll out whether the Council funded it or not. He proposed that under the six month rule, the Committee recommend to the Council that the offer (the Council's contribution of £45,000 over three years to contribute to the delivery of Phase 2a) be withdrawn. This was duly seconded.

In response to a question regarding consequences to the Council if this proposal was agreed, the Economic Development and Partnerships Manager advised that in his opinion this would risk damaging the Council's reputation in respect of financial commitment.

Councillor Sismey reminded Members that when making the decision to contribute to the Superfast Broadband programme the Council had been clear that monies would only be committed if there was an incremental delivery of the programme. The Chairman referred to the proposal in the name of Councillor Fluker which highlighted how Members were not confident with the incremental delivery of superfast broadband. He then put the proposal to the Committee and upon a vote being taken this was unanimously agreed.

Councillor B S Beale commented that Devonshire and Crown Roads in Southminster had not been included in Appendix 1 to the report. In response the Director of Resources advised that she would pass this information on accordingly.

**RECOMMENDED** that the Council's contribution of £45,000 over three years to contribute to the delivery of Phase 2a of the Superfast Essex Broadband Programme in the Maldon District be withdrawn.

**459. SUPPLEMENTARY ESTIMATES, VIREMENTS AND USE OF RESERVES: 28 JUNE - 31 AUGUST**

The Committee considered the report of the Director of Resources, reporting to the Committee virements and supplementary estimates agreed under delegated powers. The report also reported on procurement exemptions granted during the period.

Members noted that there had been one procurement exemption for the upgrade of the Land Charges software. This was only available from once supplier, hence the exemption request.

**RESOLVED** that the procurement exemption detailed in the report be noted.

**460. MEDIUM TERM FINANCIAL STRATEGY UPDATE**

The Committee considered the report of the Director of Resources updating Members on the Medium Term Financial Strategy (MTFS) and seeking approval of principles to be adopted for the 2019 / 20 budget setting process.

Members were advised that a review of the MTFS had taken place and savings of £2.0m were required to close the budget gap to the end of the period 2022 / 23. It was noted following a review the negative Revenue Support Grant (RSG) had been eliminated for 2019 / 20 and therefore removed from the MTFS.

The Corporate Leadership Team (CLT) were working with Ignite to deliver the Council's Future model which was anticipated to deliver £1.489m of savings. The Finance Team were currently working on a zero based budget with no growth items and would be scrutinising the current budget for underspends to inform this.

A number of principles for the 2019 / 20 budget process were proposed and set out in the report. Members were reminded that they were not making any policy decision at this time but being asked to consider these principles which would be used to calculate the MTFS.

In response to a question regarding retrospective funding, the Director of Resources advised that this would not be allowed. Councillor A S Fluker referred to a specific matter where additional funding had been approved and in response, the Director of Resources agreed to provide Members with an update in respect of this.

**RESOLVED** that the following principles be adopted for the 2019 / 20 budget setting process:

- The budget process will be carried out on a business as usual basis, with updates being made for the future model, as and when they are confirmed.
- No additional budget growth (including one-offs growths) will be added save for exceptional circumstances;

- The principle of zero based budgeting will apply for the 2019 / 20 budgets onwards;
- The Council is to improve income generated through fees and charges following a review of the existing fees and charges policy;
- Review the Policy on Reserves and Balances to ensure that it supports the delivery of the corporate priorities;
- Capital funding will only be allocated if essential, value for money is demonstrated and the project is fully deliverable;
- All support service budgets will be centralised (i.e. legal), and,
- Key projects will be progressed for the commercialisation agenda through the Full Council Transformation.

#### **461. HUMAN RESOURCES STATISTICS - QUARTER ONE 2018 / 19**

The Committee received and noted the report of the Director of Resources presenting Human Resources statistics for the period 1 April to 30 June 2018.

Statistics and updates relating to the following areas were detailed in the report:

- Labour Turnover;
- Recruitment;
- Job Vacancies;
- Staff Sickness Levels;
- Attendance Management Compliance;
- Workforce Statistics – attached as Appendix 1 to the report.

It was noted that as a consequence of the implementation of the Future Model, a hold had been placed on all non-essential recruitment and therefore there had been a low level of recruitment during Quarter One. Human Resources (HR) continued to work with the Corporate Leadership Team and Ignite regarding implementation of the people, culture and change work streams under the Future Model.

Members noted that the overall staff sickness levels were 2.13 days per Full Time Equivalent and this was the lowest they had been since Quarter One 2014 / 15.

**RESOLVED** that the contents of the report be noted.

#### **462. EXCLUSION OF THE PUBLIC AND PRESS**

**RESOLVED** that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Act, and that this satisfies the public interest test.

#### **463. CREMATORIUM PROJECT UPDATE**

The Committee considered the report of the Director of Service Delivery providing Members with an overview of the work carried out to assess the commercial viability of a crematorium within the Maldon District.

The report provided background information to this project along with current crematoria provision across Essex. Detailed financial modelling had been undertaken and the report detailed this along with potential operating costs, land acquisition & build costs, research carried out on the likely crematorium throughput and sensitivity and the outcomes of these.

Members were advised that following completion of the business case it had been concluded that there was no benefit in exploring the viability of a crematorium within the Maldon District as demand would not be sufficient to generate surplus income.

A lengthy discussion ensued, during which further clarification was provided by Officers in respect of some of the detail set out in the business case. It was agreed that Officers would circulate to Members of the Committee the financial data within the business case. The Chairman advised that should Members have further concerns, on receipt of this information, these could be brought forward to a future meeting of the Committee.

Councillor D M Sismey proposed that the recommendation as set out in the report be amended to read "...should not be taken forward *for now*". This amendment was duly agreed and upon a vote being taken the amended recommendation was agreed by the Committee.

#### **RESOLVED**

- (i) that the outcome of initial investigations be noted;
- (ii) that further work on the Crematorium project not be taken forward for now.

#### **464. DISPOSAL OF LAND AT SPRINGFIELD ROAD, BURNHAM-ON-CROUCH**

The Committee considered the report of the Director of Resources presenting a proposal received to purchase a plot of land in the Council's ownership at Springfield Road, Burnham-on-Crouch.

The report provided background information following receipt of the request to purchase land. Members were advised that a valuation report had been obtained and this was attached at Appendix 1 to the report and a map of the area in question was detailed at Appendix 2.

It was noted that the name of the interested party, detailed in the report, was incorrect and Members were advised of what this should be amended to.

Councillors P G L Elliott and A S Fluker declared interests in this item of business as they were a casual acquaintance of the interested party.

Councillor Fluker proposed that the Chairman and Vice-Chairman of the Finance and Corporate Services Committee in conjunction with the Section 151 Officer negotiate on behalf of the Council in respect of the disposal of land and report back to this Committee for decision. This proposal was duly seconded and agreed.

**RESOLVED** that the Director of Resources, in conjunction with the Chairman and Vice-Chairman of the Finance and Corporate Services Committee negotiate on behalf of the Council in respect of the disposal of land at Springfield Road, Burnham-on-Crouch and report back to a future meeting of this Committee for decision.

There being no further items of business the Chairman closed the meeting at 8.28 pm.

D M SISMEY  
CHAIRMAN





**MINUTES of  
AUDIT COMMITTEE  
27 SEPTEMBER 2018**

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**PRESENT**

|               |                                                                                             |
|---------------|---------------------------------------------------------------------------------------------|
| Chairman      | Councillor P G L Elliott                                                                    |
| Vice-Chairman | Councillor E L Bamford                                                                      |
| Councillors   | A S Fluker, B E Harker, M S Heard, Miss M R Lewis,<br>A K M St. Joseph and Mrs M E Thompson |
| In attendance | Councillor R G Boyce MBE                                                                    |

**465. CHAIRMAN'S NOTICES**

The Chairman advised that Agenda Items 5 – Action Plan of Flood Mitigation Project Across the District and 6 – Quarterly Review of Corporate Risk would be considered later on the agenda as the Officer presenting these items had been delayed.

**466. APOLOGIES FOR ABSENCE**

There were none.

**467. MINUTES OF THE LAST MEETING**

**RESOLVED** that the Minutes of the meeting of the Committee held on 26 July 2018 be approved and confirmed.

**468. DISCLOSURE OF INTEREST**

There were none.

**469. EXTERNAL AUDIT - ANNUAL AUDIT LETTER 2017 / 18**

The Committee received the report of the Director of Resources presenting the External Auditor's Annual Audit Letter (AAL) 2017 / 18 (attached as Appendix 1 to the report).

The Annual Audit Letter (AAL) summarised the key issues which arose from the work carried out by the external auditor for the Council for 2014 / 15, and communicated the significant issues to Members, key stakeholders and members of the public.

**RESOLVED** that the content of the External Auditor's Annual Audit Letter 2017 / 18 be noted.

#### **470. PERFORMANCE AGAINST 2018/19 INTERNAL AUDIT PLAN REPORT**

The Committee received the report of the Director of Resources reporting progress to date with regards to work completed and any deviances to, or slippage, on the Internal Audit Plan 2018 / 19 (attached as Appendix 1 to the report).

Mr Greg Rubins, Partner from BDO LLP (the Council's Internal Auditors) presented the report. He advised that following a discussion with the Section 151 Officer regarding transformation work they were proposing that days scheduled for audit work in relation to Office 365, which was not a priority, be used to focus on the Council's commercialisation plan. This was duly agreed by Members.

**RESOLVED** that the progress against the 2018 / 19 Internal Audit Plan be noted.

#### **471. INTERNAL AUDIT - FOLLOW UP OF RECOMMENDATIONS REPORT**

The Committee considered the report of the Director of Resources reporting progress to date with regards to the implementation of recommendations raised by Internal Audit and set out in Appendix 1 to the report.

Ms Emma Donnelly, from BDO LLP, presented the report and advised that a more up to date position would be brought to the December meeting of the Committee.

It was noted that the report from BDO had been updated by the Director of Resources to reflect information as at 18 September 2018. Some concern was expressed by Members in relation to Officers updating the report from Internal Audit and some alternative wording to 'completed' were suggested if Officers were to amend this report in the future.

Councillor Miss M R Lewis requested it be Minuted that she did not like that the Council were saying something was completed when the Auditors had not given the go ahead that it was complete.

In response the Director of Resources advised that any revisions had been made to ensure that Members were presented with up to date information and the changes had been made using tracked changes to allow Members to see what had changed. She advised that if this was not what Members wanted she would ensure it did not happen again. Mr Rubins (BDO) clarified the process Internal Audit went through to ascertain, from the Council, the information contained within their report. Mr Rubins advised that he did not have any concerns with the updates made by the Director of Resources to the report.

Members were advised of changes to the process for gathering information with the Performance and Risk Officer ensuring that the TEN (Performance and Risk Management) system was updated prior to the Audit Committee therefore ensuring that the information which fed into this report was more up to date.

In response to a question regarding the recommendation '16/17 Information Governance / PCI-DSS' the Director of Resources advised that she had today confirmed with the Technology Implementation Manager that this had been built into the plan as part of transformation.

**RESOLVED** that the Internal Audit Follow-Up Recommendations be noted.

The Chairman advised the Committee that as the Officer presenting the Flood Mitigation report the Committee would consider the Quarterly Review of Corporate Risk report next.

#### **472. QUARTERLY REVIEW OF CORPORATE RISK**

The Committee considered the report of the Director of Resources providing an update on the position as at the end of Quarter One (30 June 2018) on the corporate risks included within the Corporate Risk Register 2018 / 19.

Appendix 1 to the report provided further information on the individual risks including comments by the risk owners outlining the rationale for the current scoring and, where applicable, any movement in the risk scores.

Members commented on the delays in reporting Quarter One risk to the Committee. The Performance and Risk Officer provided some information regarding this and detailed the process for consideration of the risk information prior to it being brought before the Committee. In response to a comment regarding the timeline for Risk reports being brought to the Committee, how adjustments could be made to quarters and / or when Audit Committees took place, the Director of Resources advised that she would raise this as part of strategy planning to be taken into consideration.

The Performance and Risk Officer explained that comments attributed to the risks were based on the position of the risk, along with any mitigating actions at the end of the quarter being reported. Comments were not rolled over from one quarter to the next.

In response to a question as to whether she was happy that corporate risk was being managed effectively, the Director of Resources (Section 151 Officer) advised of the importance for resilience especially during major transformation and how the TEN system pulled all risk information together. She suggested that the Corporate Leadership Team (CLT) bring a short presentation to the next meeting of the Committee as an opportunity to share some of the concerns and thought processes that the CLT go through each quarter when scoring risks.

Councillor A K M St. Joseph made reference to Risk 6 and the comments attributed to it. He proposed that having not considered Agenda Item 5 that the comment regarding this risk not be accepted. This proposal was not supported. The Performance Management Officer reported that it was the intention for the Flood Mitigation Project report to be considered prior to this report.

In response to questions from Members, the following updates were provided:

- Community Infrastructure Levy (CIL) – The Planning Policy Manager reported that the comments within the report reflected anticipation that the Government

would announce new CIL regulations shortly after the National Planning Policy Framework (NPPF) was launched. This had not materialised and the Council's Section 106 Officer had contacted the ministry of Housing, Communities and Local Government and been advised that there was no fixed timetable for introducing the new CIL regulations. Officers would be taking a report to the CLT for consideration of a way forward in terms of CIL.

- Five Year Housing Land Supply – The work on this was nearly completed and publication was anticipated in early October.
- The NPPF and subsequent Planning Policy Guidance had come out and changed the way that the Housing Land Supply was calculated and impacted on the way the Council's was calculated. Members were also informed that there was now a housing delivery test which the Five Year Housing Land Supply fed into and all of these changes had been reported to the Planning and Licensing Committee.
- The General Data Protection Regulations had been implemented, along with a lot of governance arrangements and the report reflected the position at the end of June 2018. Since then reporting mechanisms, new ways of working etc. had been in place for a few months.

## **RESOLVED**

- (i) that the information set out in the report and the Corporate Risk Register 2018 / 19, as agreed by the Corporate Leadership Team, be noted;
- (ii) that in undertaking this review Members were assured that corporate risk was being managed effectively.

### **473. ACTION PLAN OF FLOOD MITIGATION PROJECTS ACROSS THE DISTRICT**

The Committee considered the report of the Director of Strategy, Performance and Governance providing a detailed action plan (attached at Appendix 1 to the report) on the various flood management projects being undertaken across the District, including key strategic areas, by partner agencies.

It was noted that the Council, alongside other partners, was a Risk Management Authority as designated by the Flood and Water Management Act 2010 (FWMA). The report set out the Council's duty under the FWMA.

The Council's framework established to monitor the action plan was detailed in the report and Members advised that along with effective monitoring the framework would ensure that the Maldon District remained a priority.

Members were advised that in light of the Action Plan being developed and the process which had been put in place to review that plan it was suggested that consideration be given to reducing the risk score.

In response to a number of comments and questions from Members, the following information was provided in relation to the Action Plan (Appendix 1):

- It was acknowledged that the information within the Action Plan was out of date and required updating.
- Analysis of flood risk on the Causeway was now funded and being undertaken;
- The action plan included Essex County Council (ECC) and also took on board land owner issues;
- The Environment Agency oversaw the Action Plan but it was often the responsibility of land owners to maintain defences and waterways. The Director of Strategy, Performance and Governance acknowledged that this needed to be incorporated into the Action Plan.
- The Action Plan would be reviewed at the next six monthly operational meeting with partners and all comments raised by Members would be taken on board accordingly. A report would then be brought back to this Committee following this meeting.
- The Director of Strategy, Performance and Governance advised that the Crouch Valley Line should be added to the Action Plan. It was however necessary to be clear that the Action Plan did not just identify the activity of projects taking place but also those that needed to be highlighted and the mechanism being put in place to bring them forward as well as picking up on the activity. It was noted that the Council had facilitated discussions including getting the County Council (as the planning authority for waste) to make sure that applications were addressed and dealt with as a clear way forward.
- It was agreed that the Action Plan should reflect any facilitation especially in relation to land owners and business units as these were key areas which would affect the authority.
- Involvement of private partners should also be included within the Action Plan.
- The Director of Strategy, Performance and Governance agreed to ensure that the Action Plan was clear in terms of outcomes as well as detailing schemes and projects.

The Chairman asked the Director of Strategy, Performance and Governance to update the Action Plan and bring it to the next meeting of the Committee.

**RESOLVED** that the Action Plan on the various flood management projects being undertaken across the District, including key strategic areas, by partner agencies be updated and brought back to a future meeting of this Committee.

#### **474. EXCLUSION OF THE PUBLIC AND PRESS**

**RESOLVED** that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Act, and that this satisfies the public interest test.

#### **475. ELECTION SERVICES**

The Committee considered the report of the Director of Resources presenting an update in respect of the Internal Audit progress report (July 2018) – Elections Improvement Plan.

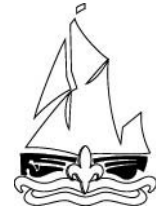
The report reminded Members of the purpose of the Internal Audit review and the areas it identified for action. It was noted that all of the areas for action had been addressed and the report and its related appendices provided an update in respect of this.

In response to comments from Members the Director of Resources provided a detailed explanation of the changes that had been made to processes and how these had been implemented. It was noted that further improvements had been made in preparation for the May 2019 elections and these would build added resilience for the Council.

**RESOLVED** that the contents of the report be noted.

There being no further items of business the Chairman closed the meeting at 4.38 pm.

P G L ELLIOTT  
CHAIRMAN



## **REPORT of DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

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**to  
COUNCIL  
8 NOVEMBER 2018**

### **CORPORATE ENFORCEMENT POLICY**

#### **1. PURPOSE OF THE REPORT**

- 1.1 To seek the adoption of the Corporate Enforcement Policy.

#### **2. RECOMMENDATION**

That the Corporate Enforcement Policy (**APPENDIX 1**) be adopted.

#### **3. SUMMARY OF KEY ISSUES**

- 3.1 Maldon District Council has a responsibility to enforce a range of legislation. Enforcement includes any actions carried out by officers aimed at ensuring that individuals or businesses comply with the law. This is not limited to formal action including the service of statutory notices or starting prosecutions, but includes investigation of potential infringements, inspections, giving advice and informal steps taken to ensure compliance with Acts of parliament, regulations and approved Code of Practice.
- 3.2 The purpose of adopting a Corporate Enforcement Policy (**APPENDIX 1**) is to create one overarching policy encompassing the key factors and principles common to all aspects of enforcement undertaken by the Council.
- 3.3 The policy is intended to create a framework to ensure that there is a fair and consistent approach to the way enforcement activity is carried out.
- 3.4 This policy applies to all areas where enforcement action is taken by the Council. Although specific guidance on the particular approach taken by certain areas is also be provided through additional specific guidance. These specific forms of guidance will be more detailed and provide a more thorough approach taking in to account the specialist legislative framework, case law and appropriate guidance.

#### 4. CONCLUSION

- 4.1 The provision of a Corporate Enforcement Policy ensures a consistent and overarching approach to enforcement across the Council. It is a key document for ensuring that a fair and proportionate approach is undertaken through the enforcement process and is augmented by specific policies and guidance for various services.

#### 5. IMPACT ON CORPORATE GOALS

- 5.1 Having an effective enforcement policy 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 this policy.
- (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 could result in an increase in activity in conflict with legislative and legal restrictions.

Background Papers: None.

Enquiries to:

Paul Dodson, Director of Strategy, Performance and Governance, (Tel: 01621 875791).





## **Maldon District Council**

# **Corporate Enforcement Policy**

**October 2018**

## Contents Page

|         |                                      |
|---------|--------------------------------------|
| Page 3  | Scope                                |
| Page 4  | Introduction                         |
| Page 5  | Objectives                           |
| Page 6  | Enforcement Activity                 |
| Page 7  | Delegation of Authority              |
| Page 8  | Principles of Good Regulation        |
| Page 9  | Other Policy Considerations          |
| Page 10 | Informal Enforcement Action          |
| Page 11 | Enforcement Action                   |
| Page 12 | Formal Enforcement Action            |
| Page 14 | Prosecutions                         |
| Page 15 | Proceeds of Crime                    |
| Page 16 | Civil Claims                         |
| Page 17 | Training and Appointment of Officers |
| Page 18 | Publication and Review               |

## **1.0 Scope**

- 1.1. This Policy covers all enforcement activities carried out by the Council. It applies to all officers with delegated authority to undertake such enforcement action.
- 1.2. This Policy is implemented by officers in accordance with the Council's Constitution. Subsidiary policy and protocols may however exist in specific service areas of the Council. All officers undertaking enforcement activity will be suitably authorised and qualified and/or experienced to do so.
- 1.3 This document supersedes any previous corporate policy statements on enforcement.

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## 2.0 Introduction

- 2.1. In April 2014 The Regulators Code of Compliance (“the Code”) was published by The Better Regulation Delivery Office, made under section 23 of the Legislative and Regulatory Reform Act 2006 (“the Act”).
- 2.2. Regulators whose functions are specified by the Act **must** have regard to the Code when developing policies and operational procedures that guide their regulatory activities.
- 2.4. Section 6 of the Code sets out the Government’s expectation that local authorities will ensure that their approach to their regulatory activities are published in a clear set of service standards, setting out what those they regulate should expect from them and how they respond to non-compliance.
- 2.5. The enforcement policy (“the Policy”) aims to provide consistency of approach within Maldon District Council (“the Council”).
- 2.6. The Policy has been prepared having regard to:
  - The Enforcement Concordat: Good Practice Guide for England and Wales
  - The Police and Criminal Evidence Act 1984
  - The Human Rights Act 1998
  - The Code for Crown Prosecutors
  - The Legislative and Regulatory Reforms Act 2006 (LRRRA)
  - The Regulatory Enforcement and Sanctions Act 2008
  - The Regulators’ Compliance Code Human Rights Act 1998, the European Convention on Human Rights
  - The Freedom of Information Act 2000
  - Regulation of Investigatory Powers Act 2000.
- 2.7. This Policy reiterates the basic principles of enforcement activity that “reduce administrative burdens through effective inspection and enforcement through transparency, accountability, proportionality, consistency and targeted action”.
- 2.8. The Council nevertheless acknowledges the need for firm action against those who flout the law and puts residents, consumers and others at risk. The Council expects all officers taking enforcement action decisions to take this Policy as a guide when making those decisions.

### 3.0 Objectives

- 3.1 The approach adopted by services when carrying out the Council's duty to apply or enforce a wide range of legislation is intended to:
- Focus on prevention rather than cure
  - Ensure that we enforce the law in a fair, equitable and consistent manner
  - Take firm action when it is necessary and appropriate to do so.
  - Carry out enforcement that is risk-based, consistent, proportionate and effective.
  - Assist businesses and others in meeting their legal obligations without unnecessary expense.
- 3.2 Although primary responsibility for compliance with the law rests with individuals and businesses, the Council will endeavor to provide information and advice to help them understand their legal obligations and will seek to raise awareness about the need to comply.

## **4.0 Enforcement Activity**

4.1 The Council has a duty and a power to take action to enforce a wide range of statutes relating to:

- public health and safety
- preservation of public and residential amenity
- maintenance of the environment and
- protection of public funds
- quality of life

4.2 All of these activities will be carried out having regard to the general principles of good enforcement practice outlined in this Policy. Although not exhaustive the service areas falling within the scope of this Policy include:

- Food Safety
- Health and Safety
- Environmental Protection
- Private Sector Housing
- Licensing
- Planning Enforcement
- Building Regulation Enforcement
- Waste/Street Scene
- Anti-Social Behaviour
- Debt Recovery and Fraud
- River Crime

4.3 Individual service areas may have separate service standards specific to the legislation they enforce. Those standards must accord to this Policy.

## **5.0 Delegation of Authority**

- 5.1 The Council's Scheme of Delegation specifies the extent to which enforcement powers are delegated to officers. Whilst delegation is mainly to officers, in some specific circumstances the decision to take enforcement action lies with the relevant Council Committee.

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## 6.0 Principles of Good Regulation

6.1 For the purpose of this document the Council includes the general principles for good enforcement within the Regulators Code of Compliance dated April 2014, which specify that regulators should:

- Carry out their activities in a way that supports those they regulate to comply and grow
- Provide simple and straightforward ways to engage with those they regulate and hear their views
- Base their regulatory activities on risk
- Share information about compliance and risk
- Ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
- Ensure that their approach to their regulatory activities is transparent



## **7.0 Other Policy Considerations**

These include:

- Council's Safeguarding for Children and Vulnerable Adults Policy
- Council's Equality Policy
- Applying the principles of the Regulation of Investigatory Powers Act 2000 (RIPA) wherever they are relevant.

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## 8.0 Informal Enforcement Action

8.1. Where minor breaches of law are discovered or reported that pose low risks, informal action may be appropriate and can be an effective way of achieving compliance. Informal action may include one or more of the following:

- inspection of premises;
- verbal advice;
- verbal request for action;
- written request for action;
- written warning of formal action if contraventions are not corrected.

## 9.0 Enforcement Action

- 9.1 The Council's Regulatory Officers will have regard to general guidance documents that exist as well as other guidance relevant to the individual service areas.
- 9.2 In determining the nature of enforcement action to be taken, the Council should ensure that any sanction or penalty should:
- Aim to change the behaviour of the offender;
  - Aim to eliminate financial gain or benefit from non-compliance;
  - Be responsive and consider what is appropriate for the particular offender and regulatory issue;
  - Be proportionate to the nature of the offence and the harm caused;
  - Aim to restore the harm caused by the regulatory non-compliance where appropriate;
  - Aim to deter future non-compliance

## 10.0 Formal Enforcement Action

10.1 Circumstances where formal action will be considered include (but are not restricted to):

- Where there is a significant contravention of legislation;
- The legislation requires the Council to take a specified action;
- An informal approach has failed;
- There is a history of non-compliance with informal or formal action;
- There is a lack of confidence in the successful outcome of an informal approach;
- Standards are generally poor, suggesting a low level of awareness of, and compliance with, statutory responsibilities;
- The consequences of non-compliance, for health, safety, the environment, or other Council priorities, are unacceptable and/or immediate;
- There is demonstrable harm to the amenity of the area;
- Effective action needs to be taken quickly in order to remedy conditions which are deteriorating;
- Formal action is expected to achieve the desired outcome without incurring expense or inconvenience that is disproportionate to the risks;
- A charge applied by a Fixed Penalty Notice has not been paid;
- The use of formal notices as being more effective than informal action where this would be more time effective.

10.2 In most situations before formal action is taken, we will provide an opportunity to discuss matters and, hopefully, resolve points of difference. The extent of this will depend on the seriousness of the contravention, and may not be possible where immediate action is considered necessary or a statutory notice is being served, e.g. where there is an immediate risk to health, safety or the environment, or where the formal action takes the form of a fixed penalty notice.

10.3 Only officers who have reached a sufficient level of competence will be given the delegated authority to take formal action. Formal action can take any form that the Council is empowered by legislation to take.

10.4 Formal action may include one or more of the following:

- the service of statutory notices and orders;
- the issue of simple cautions;
- issue fixed penalty notices;
- prosecution;
- Proceeds of Crime (including Rent Repayment Orders);
- application for injunction;

- use of other enforcement powers by officers authorised by specific legislation in accordance with the Council's Constitution (e.g. sampling, forfeiture or seizure of goods, the seizure or detention of equipment or food, or the prohibition of processes or activities);
  - Works in Default.
- 10.5 Service areas may refer to individual procedural notes or policies for taking formal action.

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## 11.0 Prosecutions

- 11.1 The final decision to prosecute or take other legal action will be authorised by the relevant authorised officer and/or member of the Corporate Management Team. In all cases the Council will seek to recover all costs (where lawful to do so) associated with any enforcement action, prosecution or other legal action it takes.
- 11.2 Where the appropriate level of action is deemed to be that of prosecution or other legal action, then the case will be judged on its individual merits against the prevailing guidance and procedures associated with prosecution or other legal action (i.e. the Code for Crown Prosecutors) and the application of the evidential and public interest tests.

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## **12.0 Proceeds of Crime**

- 12.1 Where appropriate the Council will consider the use of the Proceeds of Crime Act 2002. The Proceeds of Crime Act allows Local Authorities to recover assets that have been accrued through criminal activity.
- 12.2 Repayment Orders and Financial Penalties (Amounts Recovered) (England) Regulations 2017. Where appropriate the Council must consider the use of rent repayment orders where a relevant offence has been committed.

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### **13.0 Civil Claims**

- 13.1 Any enforcement action is completely separate and distinct from civil claims made by individuals for compensation or other remedy. Enforcement is not undertaken in all circumstances where civil claims may be pursued, nor is it undertaken to assist such claims. Officers will not provide information or witness statements to support third party civil cases unless required to do so by the Courts.

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## **14.0 Training and Appointment of Officers**

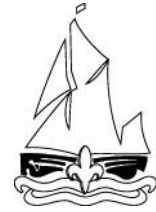
- 14.1. The Council's Constitution identifies the roles and responsibilities in connection with the enforcement function. A scheme of delegation is also in place which specifies the extent to which each officer is authorised to act and under what legislation they may do so.
- 14.2. All officers undertaking enforcement duties will be trained and competent in their specific work areas operationally and technically. The performance of officers will be monitored and reviewed and additional training needs identified in line with this.

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## 15.0 Publication and Review

- 15.1. The Policy will be published on the Council's website and will undergo a formal review ever 5 years. However, should it become apparent that the Policy contains any weaknesses for whatever reasons i.e. significant changes to law or other guidance, then the Policy will be amended by the Director of Planning and Regulatory Services who has delegated authority to make minor and consequential changes to the Policy, ensuring that any such changes are formally notified to staff and Members.

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## **REPORT of DIRECTOR OF SERVICE DELIVERY**

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**to  
COUNCIL  
8 NOVEMBER 2018**

### **BATTLE'S OVER - 100 YEARS OF REMEMBRANCE**

#### **1. PURPOSE OF THE REPORT**

- 1.1 The purpose of this report is to update the Council on arrangements to mark the 100<sup>th</sup> anniversary of the end of the First World War.

#### **2. RECOMMENDATIONS**

- (i) that the significant work undertaken by the Council's Project Team that developed the Maldon District Council's tribute to the anniversary of World War I be noted;
- (ii) that Council formally recognise the contribution made by Mr Nigel Harmer for his design and implementation of the First World War soldier silhouette. This has been adopted by Town and Parish Councils throughout the Maldon District.

#### **3. SUMMARY OF KEY ISSUES**

##### **3.1 Background**

- 3.1.1 On 11 November 2018 the Nation will pay tribute to those fallen in war. This year also marks the 100<sup>th</sup> anniversary of the end of the First World War (WWI) and the Council will be playing its part by participating in the 'Battle's Over' tribute.
- 3.1.2 Over the last year a small Project Team has looked at how the Council could pay respectful tribute to the men and women who lost their lives fighting in war, and to especially remember those fallen in WWI. Considerations ranged from a large memorial to an event marking the centenary. One of the team, Mr Nigel Harmer (the Council's River Bailiff), designed a silhouette for a WWI Soldier which was developed from concept into a successful project adopted within the community.
- 3.1.3 On 3 August the Chairman of the Council, along with the Chairman of the Community Services Committee, unveiled a steel soldier silhouette within Promenade Park and, with the Vice-Chairman of the Planning and Licencing Committee, unveiled a silhouette of a sailor at the Hythe Quay. In Burnham-on-Crouch the Vice-Chairman of the Council unveiled a soldier silhouette at the Millfields Recreation Ground.

- 3.1.4 As part of the tribute, timber copies of the silhouettes were supplied to all Town and Parish Councils within the Maldon District. Some other key partners such as the Plume School have also received a silhouette. Originally the concept was to ask for the soldiers to be displayed in August, September and October before being returned to the Council as part of the tribute event on 11 November 2018. In practice the soldiers have been warmly received within the community and the Council was asked if they could be retained by the custodians. This request was readily accepted and Officers were pleased that the response from the community was so favourable. Mr Nigel Harmer personally prepared each silhouette with the support of Mr Steve Krolzig and the Caretaking Team and has overseen their distribution. Without Mr Harmer it would not have been possible to achieve this particular element of the tribute.
- 3.1.5 On 11 November the Council will mark the anniversary by holding a public event as part of the 'Battle's Over' tribute within Promenade Park, Maldon, commencing at 6pm. During the tribute local stories of wartime Maldon will be shared and a beacon will be lit as part of a nationwide chain. Members have already been invited to this event and the public awareness has been raised via press releases and via our own web site.
- 3.1.6 Together with the Project Team, Mr Harmer has also been instrumental in securing an exhibition called The Danger Tree. This is an augmented reality exhibition which has been created by impressionist action painter, Scarlett Raven and digital artist, Marc Marot. It uses technology to tell the story of the soldiers who fought and fell between 1914 - 1918.
- 3.1.7 There are many moving stories as part of the exhibition, including a specially created piece by Marc Marot and Scarlett Raven about Ben Cobey a local soldier from Maldon.
- 3.1.8 The District is privileged to be one of the nine venues chosen to show this incredible exhibition and the Council is extremely grateful to Marc Marot for bringing this to Maldon at such a poignant time.
- 3.1.9 On Thursday 4 October, the Chairman of the Council led Town and District Councillors together with relatives of Ben Cobey in a ceremony to officially name a road on the Linden Homes development in South Maldon as Ben Cobey Avenue.
- 3.1.10 Other roads associated with fallen soldiers from the Maldon District have also been recognised in this way– namely Mons Way, Corbett Place and Embleton Close. This will ensure that the fallen men and women will always be remembered for the great sacrifice they made.

#### **4. CONCLUSION**

- 4.1 The Council will mark the 100<sup>th</sup> anniversary of the end of the First World War on 11 November 2018.
- 4.2 A Project Team within the Council has developed plans to mark the anniversary and to pay respectful tribute. Officers would like to thank, in particular, Mr Stephen Nunn

for his contribution and his advice on historical facts relating to WWI locally and to all Town and Parish Councils for their support.

- 4.3 Members are asked to note, in particular, the contribution and dedication shown by Mr Nigel Harmer in developing the soldier silhouette.

## **5. IMPACT ON CORPORATE GOALS**

- 5.1 The work being undertaken as part of delivering good quality, cost effective and valued services.

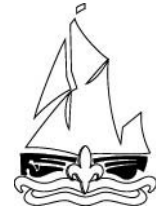
## **6. IMPLICATIONS**

- (i) **Impact on Customers** –None.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – None specific.
- (iv) **Impact on Resources (financial and human)** – None.
- (v) **Impact on the Environment** – None.

Background Papers: None.

Enquiries to: Richard Holmes, Director of Service Delivery, (Tel: 01621 875752).

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## **REPORT of DIRECTOR, STRATEGY, PERFORMANCE AND GOVERNANCE**

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to  
**COUNCIL**  
**8 NOVEMBER 2018**

### **UPDATE ON SUPERFAST BROADBAND**

#### **1. PURPOSE OF THE REPORT**

- 1.1 At its meeting of 25 September 2018 the Finance and Corporate Services Committee considered a report regarding ‘Superfast Broadband in Maldon District’ and made a recommendation that:

***RECOMMENDED** that the Council’s contribution of £45,000 over three years to contribute to the delivery of Phase 2a of the Superfast Essex Broadband Programme in the Maldon District be withdrawn.*

- 1.2 The recommendation of the Committee is due for consideration by the Council at its meeting of 8 November 2018.
- 1.3 Since the recommendation was made, Essex County Council has submitted additional information and representations regarding the delivery and progress of the Superfast Scheme in Maldon and this report presents that information for Members consideration.

#### **2. RECOMMENDATION**

That Members note the information presented in this report and consider the recommendation of the Finance and Corporate Services Committee, as presented in paragraph 1.1.

#### **3. SUMMARY OF KEY ISSUES**

- 3.1 At its meeting of 25 September 2018 the Finance and Corporate Services Committee considered a report. The report is attached at **APPENDIX A** to this report.
- 3.2 Since the submission of that report, Essex County Council, who is delivering the Superfast Essex Programme, has provided additional information. In providing this information, they have sought to clarify the current position with the rollout of the programme in Maldon District. This information, contained in two reports, is attached in **APPENDIX B**. The information in the first report ‘Maldon update October 18 comparison 2016’ shows that the assumption of rollout within Phase 1 was incorrect at the time of the funding decision. At that time, it was envisaged that Phase 1 would provide 77% coverage of Maldon District. It subsequently only

achieved a coverage of 71% of the District. Subsequently the phase 2 rollout was starting from a lower base than envisaged at the time of the original agreement. This is shown in Table 1 below.

| March 2016 position (at the time of the most recent Maldon funding decision)                                                                                                                                                                                                                                                   |  | Oct 2018 Update                                                                                                                                                                                                             |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Number of premises                                                                                                                                                                                                                                                                                                             |  |                                                                                                                                                                                                                             |  |
| Total premises in the district: 28,432                                                                                                                                                                                                                                                                                         |  | Total Premises in the district: 30,106                                                                                                                                                                                      |  |
| Phase 2 deployment                                                                                                                                                                                                                                                                                                             |  |                                                                                                                                                                                                                             |  |
| Phase 2 planned rollout: <ul style="list-style-type: none"><li>– 3,314 premises to be enabled by ECC funds (plus resulting DCMS grant and supplier contribution)</li><li>– Plus a further 931 to be enabled by £91k Maldon investment (plus resulting DCMS grant and supplier contribution – total investment £344k)</li></ul> |  | Phase 2 progress: <ul style="list-style-type: none"><li>– Phase 2 completed: 3,464 premises</li><li>– Phase 2 in deployment: 539 premises</li><li>– Phase 2 planned for deployment by end of 2019: 1,314 premises</li></ul> |  |
| Total Phase 2 plan: 4,245 premises                                                                                                                                                                                                                                                                                             |  | Total Phase 2 delivered and plans: 5,317 premises                                                                                                                                                                           |  |
| Indicative forecast of superfast broadband connectivity for Maldon District as % of all premises, by 2020                                                                                                                                                                                                                      |  |                                                                                                                                                                                                                             |  |
| Commercial providers: 38%                                                                                                                                                                                                                                                                                                      |  | Commercial providers reach: 39%                                                                                                                                                                                             |  |
| Phase 1 will reach: 77%<br>(+39% under Phase 1)                                                                                                                                                                                                                                                                                |  | Phase 1 reach: 71%<br>(+32% as a result of Phase 1 deployment)                                                                                                                                                              |  |
| Phase 2 will reach: 92%                                                                                                                                                                                                                                                                                                        |  | Phase 2 in progress expected to reach: 89%                                                                                                                                                                                  |  |
|                                                                                                                                                                                                                                                                                                                                |  | Phase 3 in progress expected to reach: 94%                                                                                                                                                                                  |  |

*Table 1 : Comparison of expectations in 2016 with position October 2018.*

- 3.3 Table 1 also shows that Phase 2 is scheduled to deliver more than was predicted at the time of the 2016 agreement, a total of 5,317 premises, as opposed to 4,245. Phase 3 is also now underway alongside Phase 2 and will deliver further coverage in the Maldon District exceeding the 92% coverage that was originally forecast for Phase 2.
- 3.4 The various phases and the deployment within each one makes it difficult to determine the level of delivery against the original agreement. This position would have been easier had Essex County Council issued a Service Level Agreement (SLA) in 2016, upon finalisation of the initial agreement. This would also have provided a clearer expectation of the level of update that Members expected from the Superfast Essex rollout programme. Whilst there was, a general progress update provided to Maldon District Council via the Superfast Essex Board, information was not provided to Maldon District Council regularly on progress directly against the agreed funding and targets.
- 3.5 Following requests by Maldon District Council officers, Essex County Council has now submitted a draft Service Level Agreement (SLA) relating to the delivery of the programme in Maldon District, based on the £45,000 funding agreed in 2016, attached in **APPENDIX C**. This would be paid in £15,000 instalments based on progress and confirmed delivery, although the trigger points are still to be finalised. Agreement of this detail could provide a greater accountability and basis for clarity in the future should Members wish to continue with the funding.



#### 4. CONCLUSION

- 4.1 The information in the report and presented in the appendices provides a fuller picture for Members to consider the recommendation of Finance and Corporate Services Committee. Should Members agree to retain the funding commitment then the finalisation of an SLA with Essex County Council would provide a greater degree of clarity in future, and this should have been in place from the outset in 2016.

#### 5. IMPACT ON CORPORATE GOALS

- 5.1 This report links to the corporate goal of “Creating opportunities for economic growth and prosperity” under the objective “improve connectivity”.

#### 6. IMPLICATIONS

- (i) **Impact on Customers** – Indications have been received from customers and partners that superfast broadband speeds experienced, especially in rural areas, are not currently meeting expectations.
- (ii) **Impact on Equalities** – None identified.
- (iii) **Impact on Risk** – There is a risk that Maldon District Council will be in default of its financial commitments to support Superfast Essex if no funding is transferred by December 2019. Conversely, if broadband speeds do not meet expectations there is a risk that the Council could face questions regarding inefficient application of resources.
- (iv) **Impact on Resources (financial)** – The Council has committed to support the Superfast Broadband rollout over three years of the duration of Phase 2a (2016 to 2019), as part of the Essex wide programme. No funding transfer has yet taken place.
- (v) **Impact on Resources (human)** – None.
- (vi) **Impact on the Environment** – None.

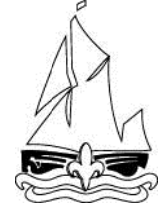
#### Background Papers:

Minutes of Finance and Corporate Services Committee 8 November 2018.

#### Enquiries to:

Paul Dodson, Director Strategy, Performance and Governance, (Tel: 01621 875756).

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**REPORT of  
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

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**to  
FINANCE AND CORPORATE SERVICES COMMITTEE  
25 SEPTEMBER 2018**

**SUPERFAST BROADBAND IN MALDON DISTRICT**

**1. PURPOSE OF THE REPORT**

- 1.1 To update Members regarding the progress of delivery of the Superfast Essex Broadband Programme in Maldon District, with particular reference to those works that Maldon District Council has committed to co-fund.

**2. RECOMMENDATION**

That Members review and comment on the contents of this report.

**3. SUMMARY OF KEY ISSUES**

**3.1 Background on Superfast Essex and its Aims**

- 3.1.1 Superfast Essex is the county's broadband improvement programme, co-ordinated by Essex County Council, and part of the Government's national Superfast Britain programme. The overall objective is to enable as many homes and businesses as possible to access superfast broadband to enable economic growth and improve residents' quality of life.
- 3.1.2 Superfast Essex, which delivers the Superfast Essex Broadband Programme, operates under the BDUK Framework, a single-supplier framework set up by The Department for Culture, Media and Sports (DCMS).

**3.2 Rationale for Public investment**

- 3.2.1 To determine the areas eligible for investment and to ensure that the public funding is spent only to supplement the planned commercial roll out of high speed broadband, Essex County Council (ECC) requests all known broadband network operators, including BT and Virgin Media as well as wireless and other broadband technology operators, to submit a list of postcodes that their network covers in Essex. Providers need to evidence that their network meets the European Union (EU) guidelines for Next Generation Access (NGA) broadband, which is kind of the EU code for superfast broadband. Suppliers are asked to provide the number of premises for each post code:

- that are currently capable of receiving superfast broadband via the supplier's service;
- where the supplier plans to make superfast broadband available within three years.

3.2.2 Under EU State Aid regulations, any areas where there is no existing NGA coverage and none planned within the next three years can be declared as areas of Market Failure, and are therefore eligible for public subsidy. Put in other words, these Market Failure areas are the post codes where Superfast Essex is legally allowed to invest. In State Aid jargon, these post codes are also known as "NGA White" post codes.

### 3.3 **Progress to date**

3.3.1 Superfast Essex Phase 1 was completed in June 2016. This phase extended high speed broadband services to 77% of premises across the District, increasing from a baseline of 38% of premises in 2013.

3.3.2 As part of the Phase 2a rollout, Maldon District is to receive a further 15% increase in connectivity to ensure that up to 92% of the 28,432 premises (homes and businesses) in the District can access superfast broadband.

3.3.3 Phase 2a will see fibre broadband rollout focused on parts of the most poorly served areas within the District, via the process of installations of Fibre-To-The-Cabinet (FTTC) technology. In May 2016 Maldon District Council agreed to provide a contribution of £45,000, paid over three years to contribute to the delivery of Phase 2a (Minute No. 16 refers), and further detail regarding this commitment is included in section 3.2 below.

3.3.4 Phase 2a is still in progress and Phase 3 is planned to start in 2019. Phase 2 and 3 are due for full completion by December 2019.

### 3.4 **Details of the agreement for funding between Maldon District Council (MDC) and ECC**

3.4.1 In 2014 Maldon District Council agreed in principle to provide funding of £90,994 to Phase 2a of the Superfast Essex programme, following a resolution of the Finance and Corporate Services Committee in its meeting of 29 July 2014 (Minute No. 301 refers). However this was subsequently renegotiated with Essex County Council.

3.4.2 Following renegotiation with Essex County Council in April 2016, Maldon District Council agreed to contribute £45,000, paid over three years of the duration of Phase 2a, as part of the Essex wide programme. This agreement was formalised by Maldon District Council through both the Planning & Licensing and Finance and Corporate Services Committees in April 2016, and at the Statutory Annual meeting of the Council in May 2016:

**Minute 1185 – Superfast Broadband in the Maldon District****RESOLVED**

- (vii) that a capital contribution of £45,000 (paid over three years of the duration of phase 2a (i.e. Phase 2a for the whole of the Essex wide programme) that is required for funding Phase 2a of the Essex Superfast Broadband Programme, be agreed.

**RESOLVED**

- (viii) that subject to the above decisions, the Minutes of the meeting of the Finance and Corporate Services Committee held on 19 April 2016, be adopted.
- 3.4.3 This contribution has not yet been transferred to Essex County Council and a meeting was subsequently arranged with Essex County Council in June 2018 to establish progress and to seek clarity on the trigger points for payment of the agreed funding.
- 3.5 **Details of the progress to deliver the targeted Superfast Broadband improvements and proposed triggers for payment**
- 3.5.1 At the time of the agreement to provide a contribution of £45,000 in 2016, the justification for the additional funding requirement was that in 2013 only 38% of premises in the Maldon District had the benefit of Superfast Broadband to the premises with connectivity at 24 mbps (Megabits per second) or more. By the summer of 2016, this had increased to 77%, through the delivery of the Phase 1 works.
- 3.5.2 Phase 2a was to bring the number of connected premises up to 92% of premises in the District if a contribution was made by Maldon District Council and to be significantly enhanced by the BDUK funding and supplier funding. Approximately 930 premises were to be connected under this next phase. A table showing the premises that would benefit, as agreed at that time is presented in **APPENDIX 1**.
- 3.5.3 According to the latest figures supplied by Superfast Essex at the Superfast Broadband Steering Board meeting on 15 August 2018, Maldon District is currently at 81.5% coverage (refer to **APPENDIX 2**).
- 3.5.4 At the Officer meeting of June 2018 it was agreed that ECC would draw up a bilateral funding agreement to cover the delivery of Phase 2a in Maldon District, to include details of the works to be undertaken, and trigger points for payment, as progress is still at a relatively early stage in delivering the 92% target, it has been suggested that the trigger for payments should be at stages of 50%, 75% and 100% of the programme targets this would equate to transfers of £15,000 at each trigger point up to the end of 2019.
- 3.5.5 This funding agreement has not yet been provided by Essex County Council. They indicated that they would be happy to accommodate the trigger points outlined.

## 4. CONCLUSION

- 4.1 While coverage levels in Maldon District are currently at 81.5%, according to Superfast Essex figures, reports received from businesses indicate that expected broadband speeds may not be experienced in the field. We are more likely to hear from dissatisfied businesses, so these views may not be representative, but we are aware of a number of potential reasons for the perception that delivery of broadband in rural areas is not meeting expectations.
- 4.2 Firstly, coverage figures provided by Superfast Essex do not guarantee that full speeds are being experienced across the area technically covered. Superfast broadband is provided by FTTC technology with fibre optic cables to specific points (cabinets, colloquially referred to as green boxes). Connections from cabinets to homes and businesses are provided by conventional copper wires. Broadband speeds drop significantly when transmitted over copper wire and the effect is magnified over greater distances. The cabinets also have a maximum capacity, so not all customers may be connected if the demand outstrips the available supply. Finally, the customers have to opt in to the faster broadband service and this may be provided at additional cost, so not all customers take up the available faster service.
- 4.3 Subject to the provision of the funding agreement by Essex County Council, and based on the resolution of the Council, MDC should therefore conclude an agreement with Superfast Essex in the form of a bilateral funding agreement to cover the delivery of Phase 2a in Maldon District with payment on meeting suitable delivery targets.

## 5. IMPACT ON CORPORATE GOALS

- 5.1 This report links to the corporate goal of “Creating opportunities for economic growth and prosperity” under the objective “improve connectivity”.

## 6. IMPLICATIONS

- (i) **Impact on Customers** – Indications have been received from customers and partners that superfast broadband speeds experienced, especially in rural areas, are not currently meeting expectations.
- (ii) **Impact on Equalities** – None identified.
- (iii) **Impact on Risk** – There is a risk that Maldon District Council will be in default of its financial commitments to support Superfast Essex if no funding is transferred by December 2019. Conversely, if broadband speeds do not meet expectations there is a risk that the Council could face questions regarding inefficient application of resources.
- (iv) **Impact on Resources (financial)** – The Council has committed to support the Superfast Broadband rollout over three years of the duration of Phase 2a (2016 to 2019), as part of the Essex wide programme. No funding transfer has yet taken place.

- (v) **Impact on Resources (human)** – None.
- (vi) **Impact on the Environment** – None.

Enquiries to:

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

The following premises in Maldon District are to benefit from Phase 2A

| Ward                     | Parish / Town   | Streets to be connected |
|--------------------------|-----------------|-------------------------|
| Althorne (15)            | Althorne (6)    | Bridgemarsh Lane        |
|                          |                 | Chestnut Farm Drive     |
|                          |                 | Fambridge Road          |
|                          |                 | Green Lane              |
|                          |                 | Station Road            |
|                          |                 | Sunningdale Road        |
|                          | Latchingdon (9) | Buchanan Way            |
|                          |                 | Burnham Road            |
|                          |                 | Heritage Way            |
|                          |                 | Lawlinge Road           |
|                          |                 | Lower Burnham Road      |
|                          |                 | Snoreham Gardens        |
|                          |                 | St Michaels Close       |
|                          |                 | Steeple Road            |
|                          |                 | The Street              |
| Althorne and Mayland (1) | Mayland (1)     | Steeple Road            |
| Mayland (2)              | Steeple (2)     | Maldon Road             |
|                          |                 | The Street              |
| Purleigh (28)            | Cold Norton (6) | Burnham Avenue          |
|                          |                 | Latchingdon Road        |
|                          |                 | Lower Burnham Road      |
|                          |                 | Purleigh Grove          |
|                          |                 | Station Road            |



| Ward                    | Parish / Town       | Streets to be connected |
|-------------------------|---------------------|-------------------------|
|                         | North Fambridge (3) | Victoria Road           |
|                         |                     | Church Road             |
|                         |                     | Rectory Road            |
|                         |                     | Rookery Lane            |
| Purleigh (28) continued | Purleigh (16)       | Callowood Croft         |
|                         |                     | Chapel Lane             |
|                         |                     | Chelmsford Road         |
|                         |                     | Church Hill             |
|                         |                     | Fairfields              |
|                         |                     | Fambridge Road          |
|                         |                     | Hawthornes              |
|                         |                     | Howe Green Road         |
|                         |                     | Mill Hill               |
|                         |                     | Mill Lane               |
|                         |                     | Pump Lane               |
|                         |                     | The Glebe               |
|                         |                     | The Street              |
|                         |                     | Thornhill               |
|                         |                     | Walton Hall Lane        |
|                         |                     | Westerings              |
|                         | Stow Maries (3)     | Church Lane             |
|                         |                     | The Street              |
|                         |                     | Woodham Road            |
| Southminster (6)        | Southminster (6)    | Buttercup Way           |
|                         |                     | Lavender Drive          |

**APPENDIX A**  
**APPENDIX 1**

| Ward                            | Parish / Town | Streets to be connected |
|---------------------------------|---------------|-------------------------|
|                                 |               | Primrose Walk           |
|                                 |               | Rose Drive              |
|                                 |               | Smyatts Close           |
|                                 |               | The Brambles            |
| Wickham Bishops and Woodham (2) | Hazeleigh (2) | Burnham Road            |
|                                 |               | Lodge Road              |

# Appendix 2: Superfast Essex Coverage Forecast

| Number of premises           |                | Percentages                 |                              |                            | Premises      |                             |                              | Premises       |                            | New Build<br>or<br>Regeneratio<br>n Site |
|------------------------------|----------------|-----------------------------|------------------------------|----------------------------|---------------|-----------------------------|------------------------------|----------------|----------------------------|------------------------------------------|
| Area Name                    | Existing       | Existing and<br>SFE Planned | No<br>Superfast<br>Broadband | <i>change from<br/>May</i> | Existing      | Existing and<br>SFE Planned | No<br>Superfast<br>Broadband | TOTAL          | <i>change from<br/>May</i> |                                          |
| BASILDON                     | 79,483         | 84,079                      | 1,103                        | 258                        | 93.3 %        | 98.7 %                      | 1.3 %                        | 85,182         | -132                       | 584                                      |
| BRAINTREE                    | 60,488         | 69,599                      | 1,052                        | 63                         | 85.6 %        | 98.5 %                      | 1.5 %                        | 70,651         | -114                       | 331                                      |
| BRENTWOOD                    | 31,813         | 34,611                      | 1,775                        | 16                         | 87.4 %        | 95.1 %                      | 4.9 %                        | 36,386         | -51                        | 352                                      |
| CASTLE POINT                 | 40,996         | 42,633                      | 448                          | -32                        | 95.2 %        | 99.0 %                      | 1.0 %                        | 43,081         | -1,124                     | 752                                      |
| CHELMSFORD                   | 72,700         | 77,986                      | 4,285                        | 1                          | 88.4 %        | 94.8 %                      | 5.2 %                        | 82,271         | -79                        | 1,730                                    |
| COLCHESTER                   | 82,306         | 86,016                      | 2,734                        | 29                         | 92.7 %        | 96.9 %                      | 3.1 %                        | 88,750         | -151                       | 971                                      |
| EPPING<br>FOREST             | 59,374         | 63,285                      | 537                          | 97                         | 93.0 %        | 99.2 %                      | 0.8 %                        | 63,822         | -147                       | 439                                      |
| HARLOW                       | 39,920         | 39,920                      | 1,322                        | -76                        | 96.8 %        | 96.8 %                      | 3.2 %                        | 41,242         | -72                        | 353                                      |
| <b>MALDON</b>                | <b>24,565</b>  | <b>28,549</b>               | <b>1,601</b>                 | <b>-15</b>                 | <b>81.5 %</b> | <b>94.7 %</b>               | <b>5.3 %</b>                 | <b>30,150</b>  | <b>-66</b>                 | <b>465</b>                               |
| ROCHFORD                     | 33,164         | 36,442                      | 774                          | -30                        | 89.1 %        | 97.9 %                      | 2.1 %                        | 37,216         | -27                        | 242                                      |
| SOUTHEND                     | 85,138         | 85,192                      | 3,928                        | 77                         | 95.5 %        | 95.6 %                      | 4.4 %                        | 89,120         | -48                        | 649                                      |
| TENDRING                     | 67,053         | 74,137                      | 1,347                        | -96                        | 88.8 %        | 98.2 %                      | 1.8 %                        | 75,484         | -123                       | 679                                      |
| THURROCK                     | 69,153         | 69,302                      | 2,887                        | -1,814                     | 95.8 %        | 96.0 %                      | 4.0 %                        | 72,189         | -125                       | 301                                      |
| UTTLESFORD                   | 33,580         | 39,716                      | 1,655                        | 16                         | 81.2 %        | 96.0 %                      | 4.0 %                        | 41,371         | -517                       | 870                                      |
| <b>Essex Total</b>           | <b>779,733</b> | <b>831,467</b>              | <b>25,448</b>                |                            | <b>91.0 %</b> | <b>97.0 %</b>               | <b>3.0 %</b>                 | <b>856,915</b> |                            | <b>8,718</b>                             |
| <b>Status 10 August 2018</b> |                |                             |                              |                            |               |                             |                              |                |                            |                                          |

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## Essex County Council – Superfast Essex Programme - Maldon district coverage update - October 2018 (2016 comparison)

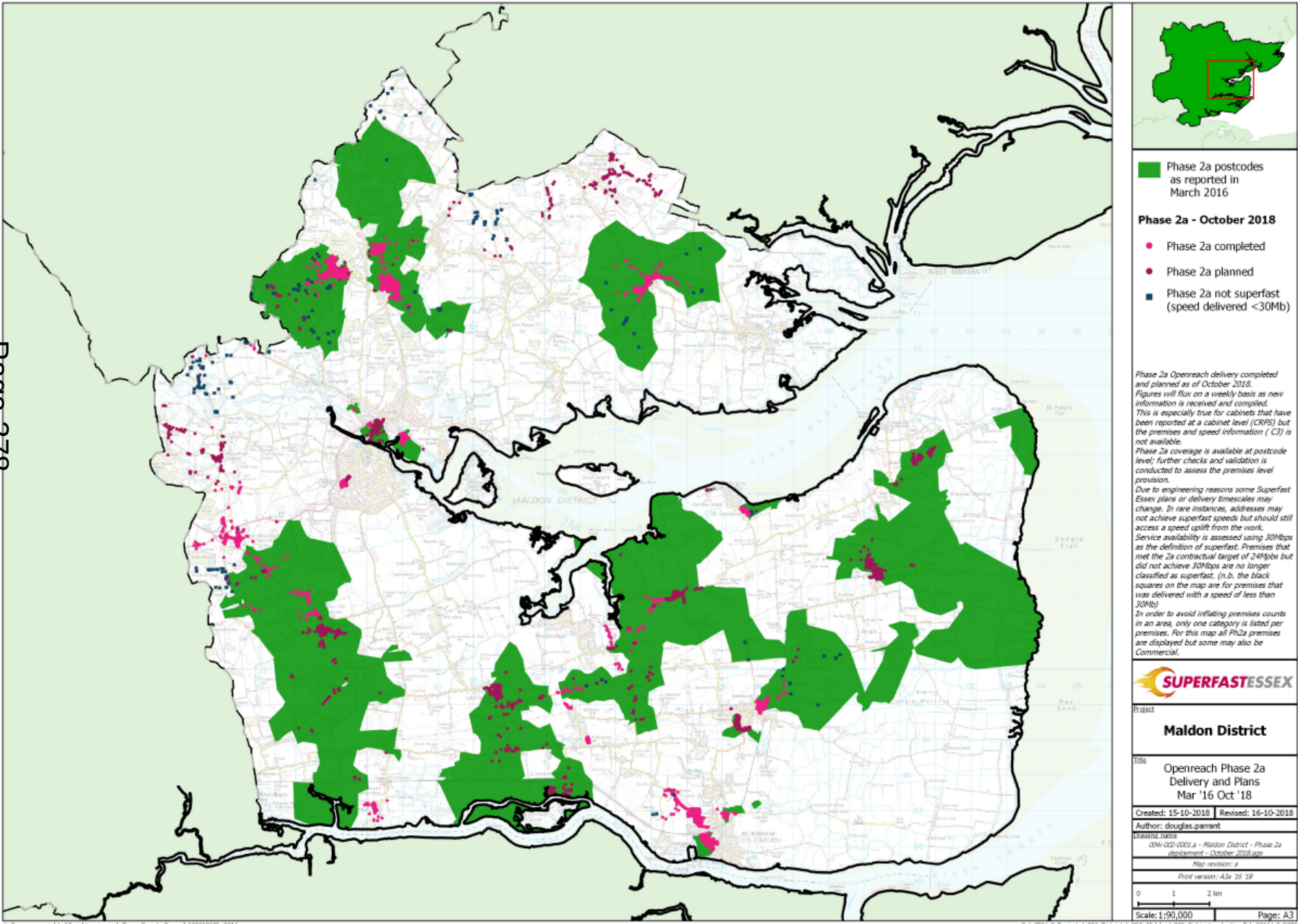
- Under Phases 1, 2 and 3 as deployed or currently planned, Superfast Essex has enabled or will enable a total of around 16,400 premises in Maldon district to access superfast broadband (download speeds of 30Mb or above).
- That more than half of the premises in Maldon district.
- Without intervention by Superfast Essex, it is unlikely these 16,000 premises would be able to access superfast broadband within the next few years.
- Maldon's contribution towards the Phase 2 deployment is funding deployment to some 930 premises. If this contribution were to be withdrawn, this number of premises would need to be removed from the remaining Phase 2 rollout due to lack of funding.

| March 2016 position (at the time of the most recent Maldon funding decision)                                                                                                                                                                                                                                               |                      | Oct 2018 Update                                                                                                                                                                                                       |                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
|                                                                                                                                                                                                                                                                                                                            |                      |                                                                                                                                                                                                                       |                                          |
| Number of premises                                                                                                                                                                                                                                                                                                         |                      |                                                                                                                                                                                                                       |                                          |
| Total premises in the district: 28,432                                                                                                                                                                                                                                                                                     |                      | Total Premises in the district: 30,106                                                                                                                                                                                |                                          |
|                                                                                                                                                                                                                                                                                                                            |                      |                                                                                                                                                                                                                       |                                          |
| Phase 2 deployment                                                                                                                                                                                                                                                                                                         |                      |                                                                                                                                                                                                                       |                                          |
| Phase 2 planned rollout: <ul style="list-style-type: none"><li>3,314 premises to be enabled by ECC funds (plus resulting DCMS grant and supplier contribution)</li><li>Plus a further 931 to be enabled by £91k Maldon investment (plus resulting DCMS grant and supplier contribution – total investment £344k)</li></ul> |                      | Phase 2 progress: <ul style="list-style-type: none"><li>Phase 2 completed: 3,464 premises</li><li>Phase 2 in deployment: 539 premises</li><li>Phase 2 planned for deployment by end of 2019: 1,314 premises</li></ul> |                                          |
| Total Phase 2 plan: 4,245 premises                                                                                                                                                                                                                                                                                         |                      | Total Phase 2 delivered and plans: 5,317 premises                                                                                                                                                                     |                                          |
|                                                                                                                                                                                                                                                                                                                            |                      |                                                                                                                                                                                                                       |                                          |
| Indicative forecast of superfast broadband connectivity for Maldon District as % of all premises, by 2020                                                                                                                                                                                                                  |                      |                                                                                                                                                                                                                       |                                          |
| Commercial providers:                                                                                                                                                                                                                                                                                                      | 38%                  | Commercial providers reach:                                                                                                                                                                                           | 39%                                      |
| Phase 1 will reach:                                                                                                                                                                                                                                                                                                        | 77%                  | Phase 1 reach:                                                                                                                                                                                                        | 71%                                      |
|                                                                                                                                                                                                                                                                                                                            | (+39% under Phase 1) |                                                                                                                                                                                                                       | (+32% as a result of Phase 1 deployment) |
| Phase 2 will reach:                                                                                                                                                                                                                                                                                                        | 92%                  | Phase 2 in progress expected to reach:                                                                                                                                                                                | 89%                                      |
|                                                                                                                                                                                                                                                                                                                            |                      | Phase 3 in progress expected to reach:                                                                                                                                                                                | 94%                                      |

- The Superfast Essex Phase contract 1 (with no local investment) delivered early in June 2016 and exceeded the premises enabled target for the whole of Essex. However, during delivery, some Phase 1 coverage shifted from Maldon to other parts of Essex. This reduced the deployment under this Phase in Maldon by some 1,400 premises and this – along with an increase in overall premises numbers by around 2,000 - has reduced the outcome percentage of superfast broadband connectivity in Maldon district to 71% after Phase 1 compared to the previously predicted outcome of 77%.
- Phase 2 overall plans for Maldon are more comprehensive than indicated in March 2016, as information at the time was based on an operational BT rollout plan at post code level. The plan is now at premises level and more detailed, and the indicated number of premises to be enabled under Phase 2 has gone up from some 4,200 expected in 2016 to some 5,300.
- The expected coverage outcome overall for Phase 2 in Maldon District (which is part-funded by Maldon DC) is higher than predicted in 2016, with more than 1,000 additional premises in the delivery plan compared to the detail available in 2016.
- As per point above, although deployment under Phase 2 is greater than planned, due to reduced delivery under Phase 1 and an increased overall premises count, the current forecast for Maldon district in terms of the overall percentage of premises able to connect to superfast broadband at the end of the Phase 2 deployment is 89%, lower than predicted in 2016.
- Superfast Essex is already implementing a Phase 3 deployment in Maldon district (with no local investment). This will enable a further 1,700 premises and is currently projected to lift superfast broadband connectivity in Maldon district to around 94% of all premises by the end of 2020.

Superfast Essex Phase 2 rollout map for Maldon district 2016 comparison v October 2018

Page 378



This map is a comparison of the planned rollout shared with Maldon 2016 (green patches) versus the current Phase 2 rollout map (coloured dots) .

The 2016 map was based on indicative rollout information from BT Openreach at the time

It should be noted that the green areas are geographical post code areas, many of which contain only a small number of premises.

Since 2016, Superfast Essex has moved to mapping at premises level and the coloured dots represent the current scope/ plans for Phase 2 in Maldon as per previous map.

## 1. Introduction

This briefing paper provides an update on the Superfast Essex broadband rollout programme for Maldon district, with a specific focus on Phase 2 of the programme, which is currently co-funded by Maldon District Council. The information in this document represents data that is current in October 2018. Please refer to the Superfast Essex programme team for any updates required within more than three months of this time.

## 2. Overview

Total Number of Premises in Maldon district: 30,106

### Superfast Essex Phase 2 (with Maldon contribution)

Phase 2 progress:

- Phase 2 completed: 2,829 premises enabled to access superfast broadband, plus 237 where speed was improved but has not reached 30 Mb/s
- Phase 2 in deployment: 937 premises
- Phase 2 planned for deployment by end of 2019: 1,314 premises
- If Maldon contribution were withdrawn, 931 of the remaining 1,314 planned premises would need to be removed from the rollout

### Total Phase 2 delivered and plans: 5,317 premises

A detailed listing of the premises as described above has been provided to Maldon District Council officers for reference.

Members can also refer to the Superfast Essex [interactive rollout map](#) to check the status of individual properties.

Indicative forecast of superfast broadband connectivity for Maldon District as % of all premises, by 2020 – forecast date: October 2018

*(please note this forecast is indicative only as % coverage depends on a variety of factors, such as population growth, continued availability of commercial provision and progress of the Superfast Essex rollout)*

Commercial providers only (without Superfast Essex): 39%

Coverage after Phase 1: 71% (+32% as a result of Phase 1 deployment)

Phase 2 expected boost coverage by end of 2019 to: 89%

Phase 3 expected boost coverage by end of 2020 to: 94%

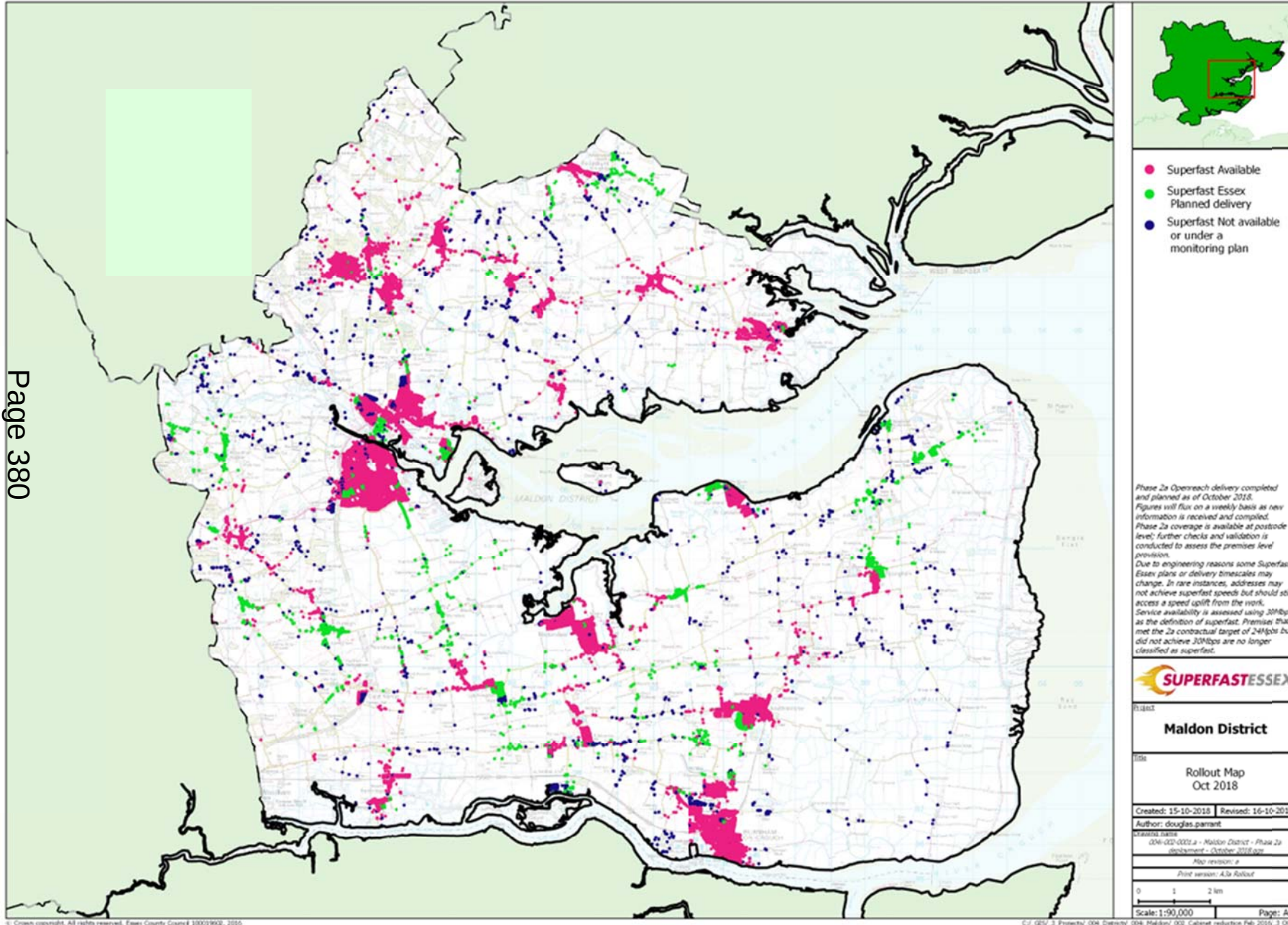
## 3. Maps

In order to illustrate the statistics above, please consult the following two maps:

- Superfast Essex Rollout Map– status 15<sup>th</sup> October
  - This is a Maldon district version of the overall rollout map as presented on the [Superfast Essex website](#).
  - This is the latest rollout information (as of 15<sup>th</sup> October 2018). This data is updated regularly to reflect rollout completion and any operational adjustments.
  - Please note that rollout plans are subject to change due to operational delivery constraints.
- Superfast Essex Phase 2 only Rollout Map – status 15<sup>th</sup> October 2018
  - This is the latest rollout information for Maldon District for Phase 2 only (as of 15<sup>th</sup> October 2018).
  - Areas shown as ‘planned’ (dark pink) are at risk of the deployment being cancelled if the Maldon funding contribution to Phase 2 is withdrawn from the project.



Superfast Essex Rollout Map as published on website - status 15<sup>th</sup> October 2018



This is a Maldon district version of the overall rollout map as presented on the [Superfast Essex website](#).

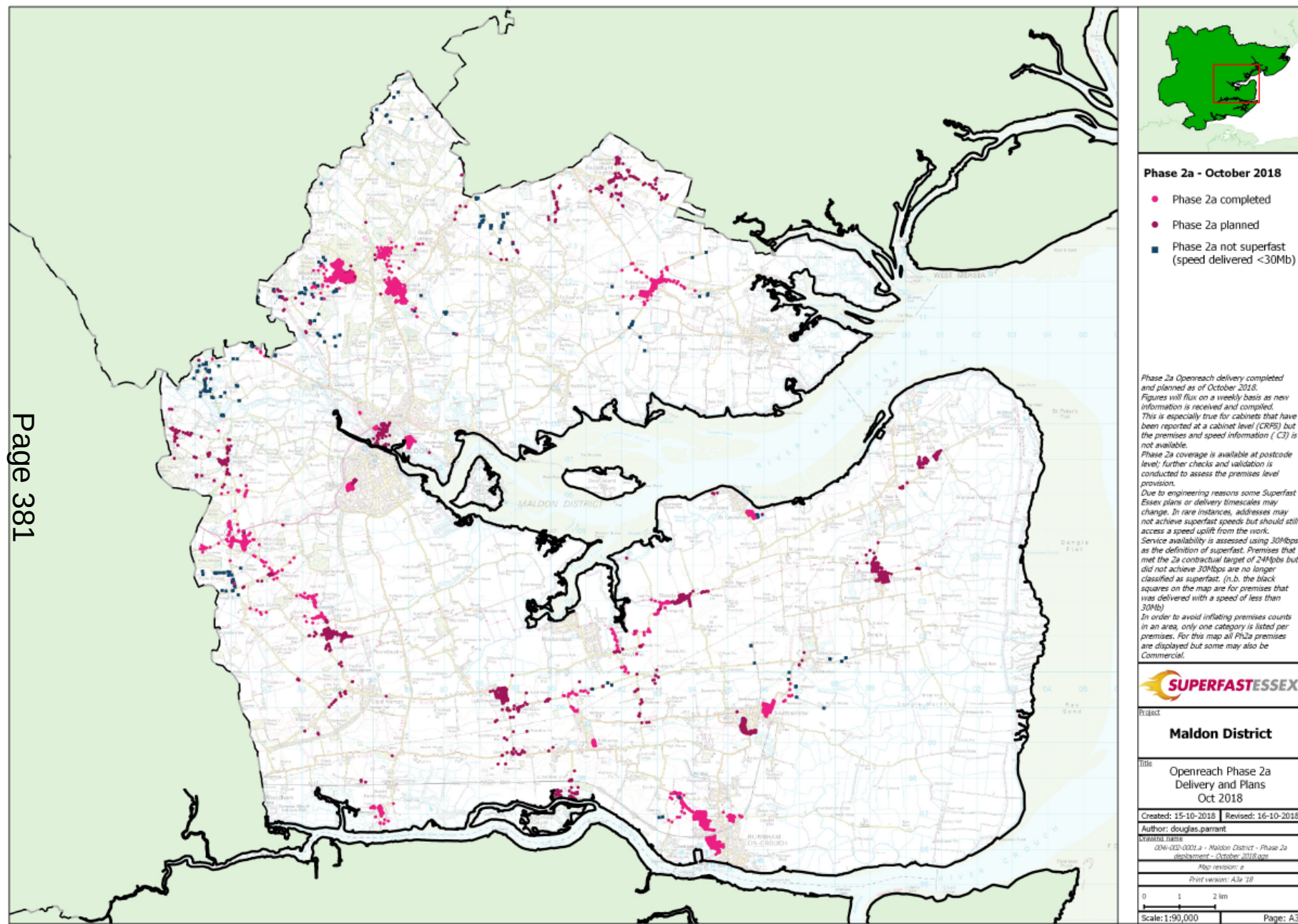
This is the latest rollout information (as of 15<sup>th</sup> October 2018). This data is updated regularly to reflect rollout completion and any operational adjustments.

Please note that rollout plans are subject to change due to operational delivery constraints.

Superfast Essex contracts are let based on number of premises enabled to access superfast broadband, with premises location being flexible within the contract to a degree.



Superfast Essex Phase 2 only Rollout Map – status 15<sup>th</sup> October 2018



This is the latest rollout information for Maldon District for Phase 2 only (as of 15<sup>th</sup> October 2018).

Areas shown as 'planned' (dark pink) are at risk of the deployment being cancelled if the Maldon funding contribution to Phase 2 is withdrawn from the project.

Areas indicated as 'not superfast' have received an upgrade but have not achieved superfast speeds (30Mb) and therefore remain eligible for future state intervention, where funding is available.

#### 4. Media coverage, assumptions and perceptions on the Superfast Essex rollout – correct facts

Since the meeting of the Maldon Finance and Resources Committee resolved to recommend to Full Council that Maldon District Council withdraw from the agreement with ECC to contribute funding to Superfast Essex Phase 2, a number of discussions have taken place between officers and Members from both Councils, as well as some parishes. Coverage of the issue has also appeared in the media. During these communications, a number of statements were made, which do not represent the correct facts. Superfast Essex would like to ensure that Maldon Members have the correct information on which to base their decisions. This section addresses the Perceptions that have been voiced and provides the Correct Facts for each one:

- Perception:  
*“The broadband coverage to be funded under the agreement with Maldon Council is not being delivered, the rollout has not materialised at the speed expected and work is delayed.”*  
 Correct Facts:
  - Under the Phase 2 rollout, which began in 2016, the Superfast Essex programme has already enabled 2,829 homes and businesses in Maldon district to access superfast broadband.
  - Upgrades to a further 2,251 addresses are due for completion by the end of 2019, and work to 937 of these is already underway.
  - Overall, Superfast Essex Phase 2 has enabled or will enable 5,317 premises in Maldon district to access superfast broadband.
  - In addition, Superfast Essex Phase 1 has already enabled 9,638 premises in the district.
  - In parallel with Phase 2, Superfast Essex has already begun a Phase 3 rollout, which is adding connectivity for a further 1,699 premises in Maldon district.
  - All deployment activity is progressing on schedule.
  - Overall, Superfast Essex Phases 1, 2 and 3 as deployed or currently planned are providing access to superfast broadband for some 16,400 premises, that is 54% of all addresses in Maldon district.
- Perception:  
*“Maldon District Council has not received any updates on the progress of the rollout.”*  
 Correct Facts:
  - The Superfast Essex Steering Board, which includes two representatives from Maldon District Council, normally meets every three months, and updates on the rollout progress are always provided.
  - In addition, specific updates on the rollout were provided to Maldon District Council on an ad-hoc basis whenever these were requested by officers, for instance by email to economic development and planning officers on 16th November 2017 and face-to-face in a meeting with senior officers on 6th June 2018.
  - The [Superfast Essex website](#) always shows the latest updates for the programme, there is an FAQ section and an online form for specific enquiries, and anyone can check the deployment status of individual properties on the [interactive rollout map](#).

- Perception:

*“Openreach will deliver this anyway whether they have our money or not. The Government has confirmed everyone will have access to superfast broadband by 2020.”*

Correct facts:

- The Government commitment by 2020 is to deliver a Universal Service Obligation (USO), which will mean everyone will have a legal right to access broadband of 10Mbps download speed, not superfast speeds of 24Mbps as being delivered by the Superfast Essex Phase 2a deployment.
- It currently remains unclear how this USO will be delivered, government discussions with Openreach are in progress. The USO does not mean everyone will have access to 10Mbps by 2020, they will simply have a right to ask for it to be provided.

- Perception:

*“It is not the district council’s responsibility, this was Essex County Council’s commitment with the Government. It will happen anyway, and we don’t believe it will be delivered quicker if we co-fund the work with Essex County Council.”*

Correct Facts:

- Superfast broadband provision is not a statutory service for County or district councils. However, access to fast broadband underpins the achievement of many socio-economic outcomes that local government is seeking.
- ECC has invested more than £12 million into the Superfast Essex programme and five other Essex district/borough councils (Braintree, Uttlesford, Tendring, Epping Forest, Basildon) have contributed a further £2.2 million in total to boost coverage in their local areas. A further contribution is currently under negotiation with Thurrock Council. These funds are needed in order to unlock the central government grant under the BDUK programme, which requires full local match funding.
- If Maldon council were to withdraw its pledged investment in Phase 2, the full originally promised contribution of £91k funding (plus the associated DCMS grant and supplier contribution – a total of £344,000) would need to be removed from the Phase 2 delivery contract. As a result, planned deployment work to enable some 930 premises in Maldon district would be cancelled.
- If they were removed from the Phase 2 plans, it is unclear whether or when these areas would receive an upgrade to superfast broadband, as currently no viable business case can be made to support commercial deployment, and no further deployment is planned by Superfast Essex.

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**DATE**

**2018**

**FUNDING AGREEMENT AND MEMORANDUM OF UNDERSTANDING**

between

**ESSEX COUNTY COUNCIL**

AND

**MALDON DISTRICT COUNCIL**

in relation to the provision of superfast  
broadband services in Maldon

## CONTENTS

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### CLAUSE

|     |                                       |
|-----|---------------------------------------|
| 1.  | Background .....                      |
| 2.  | Definitions and Interpretation .....  |
| 3.  | Purpose of Funding .....              |
| 4.  | Term and Termination .....            |
| 5.  | Principles of Agreement .....         |
| 6.  | Payment of the Grant .....            |
| 7.  | Monitoring and reporting .....        |
| 8.  | Publicity .....                       |
| 9.  | Information and Confidentiality ..... |
| 10. | Data Protection .....                 |
| 11. | Freedom of Information and EIR .....  |
| 12. | Intellectual Property Rights .....    |
| 13. | Limitation on Liability .....         |
| 14. | Warranties .....                      |
| 15. | Variation .....                       |
| 16. | Assignment .....                      |
| 17. | Severability .....                    |
| 18. | Waiver .....                          |
| 19. | Notices .....                         |
| 20. | Dispute Resolution Procedure .....    |
| 21. | No Partnership or Agency .....        |
| 22. | Third Party Rights .....              |
| 23. | Entire Agreement .....                |
| 24. | Governing Law and Jurisdiction .....  |

THIS AGREEMENT is dated

2018

## PARTIES

- (1) **Essex County Council**, whose principal address is County Hall, Market Road, Chelmsford Essex, CM1 1QH ("**Essex**"); and
  - (2) **Maldon District Council**, of Council Offices, Princes Road, Maldon, Essex CM9 5DL ("**Maldon**");
- together the "**Parties**" and "**Party**" shall be construed accordingly.

## 1. BACKGROUND

- 1.1 Essex have been involved in a procurement for superfast broadband services and following evaluation have selected the Contractor to provide the Deployed Services.
- 1.2 Maldon has agreed to provide funding to Essex to assist with the Deployed Services to enable premises to access superfast fibre broadband services across Maldon by December 2019.
- 1.3 This Agreement sets out the terms and conditions on which the Funding is made by Maldon to Essex and the mechanism for consulting on decisions.
- 1.4 These terms and conditions are intended to ensure that the Funding is used for the purpose for which it is given.

## 2. DEFINITIONS AND INTERPRETATION

- 2.1 In this Agreement the following terms shall have the following meanings:

**Agreement** means this Agreement;

**Authorised Representatives** means the persons respectively designated as such by the Parties from time to time in writing, the first such persons being the Senior Programme Manager for Superfast Essex on behalf of Essex and the Director of Strategy, Performance & Governance on behalf of Maldon;

**Business Day** means Monday to Friday, excluding any public and bank holidays in England and Wales;

|                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Commencement Date</b>            | means the date of this Agreement                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Confidential Information</b>     | means any information, however conveyed or presented, that relates to the business, affairs, operations, customers, processes, budgets, pricing policies, product information, strategies, developments, trade secrets, know-how, personnel and suppliers of the disclosing Party, together with all information derived by the receiving Party from any such information and any other information clearly designated by a Party as being confidential to it (whether or not it is marked "confidential"), or which ought reasonably be considered to be confidential, including but not limited to commercially sensitive information identified in the Contract; |
| <b>Contract</b>                     | means the Contract for the Deployed Services entered into between Essex and the Contractor pursuant to the Superfast Essex Programme dated 27 <sup>th</sup> March 2015;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Contractor</b>                   | means BT Openreach, BT Centre, London EC1;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Data Protection Legislation</b>  | means the Data Protection Act 1998 ("DPA"), as replaced by the GDPR from 25 May 2018; any national implementing laws, regulations, secondary legislation applicable guidance and codes of practice as amended or updated from time to time; and any successor legislation to the GDPR or DPA;                                                                                                                                                                                                                                                                                                                                                                       |
| <b>Deployed Services</b>            | means the roll-out of superfast fibre broadband services in Maldon pursuant to the Superfast Essex Programme as described in Schedule 1.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Dispute Resolution Procedure</b> | means the procedure for resolving disputes between the Parties as set out in clause 24 of this Agreement;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>DPA</b>                          | means the Data Protection Act 1998; as replaced by the GDPR from 25 May 2018; any national implementing laws, regulations, secondary legislation applicable guidance and codes of practice as amended or updated from time to time; and any successor legislation to the                                                                                                                                                                                                                                                                                                                                                                                            |



GDPR or DPA;

|                                     |                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>GDPR</b>                         | the General Data Protection Regulation (2016), Regulation (EU) 2016/679, as amended or re-enacted from time to time and any United Kingdom Act or European Union Regulation recognised in UK law substantially replacing the same. All compliance references to GDPR in this Agreement are applicable from 25 <sup>th</sup> May 2018. |
| <b>EIRs</b>                         | means the Environmental Information Regulations 2004 (SI 2004/3391) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations;                                                                                                     |
| <b>FOIA</b>                         | means the Freedom of Information Act 2000, and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation;                                                        |
| <b>Funding</b>                      | Means the total sum of three hundred and fifty thousand pounds (£45,000 to be paid by Maldon to Essex in accordance with clause 6.1 and on the terms set out in this Agreement;                                                                                                                                                       |
| <b>Intellectual Property Rights</b> | means all patents, copyrights and design rights (whether registered or not) and all applications for any of the foregoing and all rights of confidence and Know How however arising for their full term and any renewals and extensions;                                                                                              |
| <b>Know How</b>                     | means information, data, know how or experience whether patentable or not and including but not limited to any technical and commercial information relating to research, design, development, manufacture, use or sale;                                                                                                              |

|                  |                                                                                                                                                                                                                                     |
|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Milestone</b> | Means the milestones set out in Schedule 2                                                                                                                                                                                          |
| <b>Personnel</b> | means all employees, staff, other workers, agents, representatives, consultants and sub-contractors of the Parties and of any sub-contractors who are engaged in or about the provision of the Deployed Services from time to time; |

|                       |                                                 |
|-----------------------|-------------------------------------------------|
| <b>Prohibited Act</b> | Means Prohibited Act as defined by the Contract |
|-----------------------|-------------------------------------------------|

|                                |                                                                                                                                          |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Request for Information</b> | means a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the EIRs; |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|

|                        |                                                  |
|------------------------|--------------------------------------------------|
| <b>State Aid Terms</b> | Means State Aid Terms as defined by the Contract |
|------------------------|--------------------------------------------------|

- 2.2 Headings and sub-headings shall not affect the interpretation of this Agreement.
- 2.3 Words in the singular shall include the plural and vice versa and a reference to one gender shall include a reference to the other genders.
- 2.4 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person’s permitted assigns.

2.5 A reference to **writing** or **written** includes email.

2.6 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

**3. PURPOSE OF FUNDING**

3.1 Essex shall use the Funding only for the delivery of the Deployed Services and in accordance with the terms and conditions set out in this Agreement.

3.2 The Funding shall not be used for any other purpose without Maldon's prior written agreement.

**4. TERM AND TERMINATION**

4.1 This Agreement shall commence on the Commencement Date for a period of ten(10) years subject to earlier termination pursuant to clause 4.2 below.

4.2 In the event that clause 4.1 applies, neither Party shall be liable to the other Party for any loss or cost arising out of or in connection with such termination.

4.3 In the event that clause 4.2 applies, and there is unspent Funding, this shall be returned to Maldon within six (6) months of the termination of the Contract

**5. PRINCIPLES OF THIS AGREEMENT**

5.1 In consideration for the Funding, Essex will undertake all the operational contract management activities required pursuant to the Contract including but not limited to the assessment of milestone achievement, validation of payment claims, managing contractual payments, management of contractual changes, management of the overall supplier relationship with the Contractor, and enforcing the Contract where necessary for delivery of the Deployed Services (such decision to enforce being at the discretion of Essex acting reasonably)

5.2 Maldon acknowledge and agree that Essex is the contracting party in the Contract and Maldon are not entitled to any rights or liable for any obligations pursuant to such Contract.

5.3 The Authorised Representative from Maldon will be invited to attend the monthly Deployed Services governance meetings.

5.4 Maldon will be consulted on key decisions but Essex shall have the exclusive right to take the final decisions on all matters related to the Deployed Services and this is acknowledged and agreed by Maldon.

- 5.5 The Parties agree to work together with each other in relation to the Deployed Services to ensure the successful implementation of the Deployed Services and in doing so they shall:
- (a) work together in an open, co-operative and collaborative manner;
  - (b) communicate openly about major concerns, issues or opportunities relating to the Deployed Services; and
  - (c) respond to each other in a timely manner to all relevant requests from each other.
- 5.6 Contract management will be provided by Essex for the duration of the contract term, which is 10 years from signature
- 6. PAYMENT OF FUNDING**
- 6.1 Milestone assurance covering delivery completion checks and financial assurance will be completed by Essex.
- 6.2 Essex will confirm in writing to Maldon when the milestone completion and assurance documents relating to those Milestones required to be delivered under the Contract by 30<sup>th</sup> June 2019 and 31<sup>st</sup> December 2019 have been satisfactorily met and upon receipt of such confirmation Maldon shall pay the Funding to Essex.
- 6.3 If Maldon do not make payment within thirty (30) Business Days of the payment due date then Essex shall be entitled to charge interest in accordance with the provisions set out in the Late Payment of Commercial Debts (Interest Act) 1998.
- 6.4 The Funding shall be kept in Essex's account but will be clearly identifiable and shall not be included under general funds.
- 6.5 In the event that Clause 23 (the State Aid provisions) of the Contract is triggered and monies are repaid to Essex, such fair proportion of those monies should be repaid to Maldon within thirty (30) Business Days of receipt of the repayment.
- 7. MONITORING AND REPORTING**
- 7.1 Essex shall closely monitor the delivery and success of the Deployed Services throughout the term of the Contract.
- 7.2 Essex shall on request provide Maldon with such information, explanations and documents as Maldon may reasonably require in order for it to establish that the Funding has been used properly and in accordance with the terms of this Agreement.
- 7.3 Essex shall provide Maldon with milestone completion and financial assurance documents from time to time as part of the project governance process.

**8. PUBLICITY**

8.1 Neither Party shall without the prior consultation of the other:

- (a) make any press announcements or publicise this Agreement or its contents in any way; or
- (b) publish any material referring to the Deployed Services or the Funding without the prior written agreement of the other; or
- (c) use the other Party's name or logo in any promotion or marketing or announcement of orders.

**9. INFORMATION AND CONFIDENTIALITY**

**Confidentiality**

9.1 Except to the extent set out in this clause 9 or where disclosure is expressly permitted elsewhere in this Agreement, each Party shall:

- (a) treat the Confidential Information of the other Party as confidential; and
- (b) not disclose the other Party's Confidential Information to any other person without that other Party's prior written consent.

9.2 Clause 9.1 shall not apply to the extent that:

- (a) such information was in the possession of the Party making the disclosure, without obligation of confidentiality, prior to its disclosure; or
- (b) such information was obtained from a third party without obligation of confidentiality; or
- (c) such information was already in the public domain at the time of disclosure otherwise than through a breach of this Agreement; or
- (d) such information was independently developed without access to the Confidential Information of the other Parties; or
- (e) any disclosure which is required by Law (including without limitation the FOIA and/or the EIRs), parliamentary obligation or the rules of any stock exchange or governmental or regulatory authority having the force of Law; or
- (f) any disclosure by a Party to a department, office or agency of the Government; or
- (g) any disclosure for the purpose of the examination and certification of a Party's accounts.

**10. DATA PROTECTION**

- 10.1 Each Party shall at all times comply with any notifications under the Data Protection Legislation, and both Parties will duly observe all their obligations under the Data Protection Legislation which arise in connection with this Agreement.

**11. FREEDOM OF INFORMATION AND ENVIRONMENTAL INFORMATION REGULATIONS**

- 11.1 The Parties acknowledge that each is subject to the requirements of the FOIA and the EIRs and each shall reasonably assist and co-operate with the other to enable that other Party to comply with its obligations under the FOIA and the EIRs. This shall include complying with any timescales set by the relevant Party for providing information and/or assistance and providing all such information and/or assistance as the relevant Party shall request to enable that Party to comply with its obligations under the FOIA and the EIRs.

- 11.2 Where a Party receives a Request for Information in relation to information which it is holding on behalf of the other Party in relation to the Deployed Services, it shall:

- (a) transfer the request for information to the other Party as soon as practicable after receipt and in any event within two (2) Business Days of receiving a Request for Information;
- (b) provide the other Party with a copy of all information in its possession or power in the form that the other Party requires within ten (10) Business Days (or such longer period as the relevant Party may specify) of the Party requesting that information; and
- (c) provide all necessary assistance as is reasonably requested by the other Party to enable that other Party to respond to a Request for Information within the time for compliance set out in the FOIA or the EIR.

- 11.3 Each Party shall be responsible for determining at its absolute discretion whether the information belonging to them:

- (a) Is exempt from disclosure in accordance with the provisions of the FOIA or the EIR; or
- (b) Is to be disclosed in response to a request for information.

- 11.4 In no event shall either party respond directly to a request for information relating to information belonging to the other unless expressly authorised to do so in writing.

**12. INTELLECTUAL PROPERTY RIGHTS**

- 12.1 The Parties agree that all rights, title and interest in or to any information, data, reports, documents, procedures, forecasts, technology, Know How and any other Intellectual Property Rights whatsoever owned by either Party before the

Commencement Date or developed by either Party during the Funding Period shall remain the property of that Party.

**13. LIMITATION OF LIABILITY**

- 13.1 Neither Party shall be liable to the other Party (as far as permitted by Law) for indirect special or consequential loss or damage in connection with this Agreement whatsoever and howsoever arising whether in contract, tort, (including negligence) breach of statutory duty or otherwise, nor for any loss of (or damage to) profit, revenue, contracts, anticipated savings, goodwill, reputation or business opportunities whether direct or indirect.
- 13.2 Each Party shall at all times take all reasonable steps to minimise and mitigate any loss or damage for which the other Party is entitled to bring a claim against it pursuant to this Agreement.
- 13.3 Notwithstanding any other provision of this Agreement neither Party limits or excludes its liability for:
- (a) fraud or fraudulent misrepresentation;
  - (b) death or personal injury caused by its negligence;
  - (c) breach of any obligation as to title implied by statute;
  - (d) infringement of a Party's Intellectual Property Rights; or
  - (e) any other act or omission, liability for which may not be limited under any applicable law.
- 13.4 Subject to Clause 13.1 Maldon liability under this Agreement is limited to the payment of the Funding.

**14. WARRANTIES**

- 14.1 Essex warrants, undertakes and agrees that:
- (a) It has all the necessary resources and expertise to deliver the Deployed Services (assuming due receipt of the Funding)
  - (b) It has not committed nor shall it commit any Prohibited Act;
  - (c) It shall all times comply with all relevant legislation including requirements of Health & Safety at Work Act 1974 and any other acts, orders and other similar codes which relate to health and safety
  - (d) It is not subject to any contractual or other restriction imposed by its own or any other organisation's rules or regulations or otherwise which may prevent it from meeting its obligations in connection with the Deployed Services or this Agreement

- (e) It shall at all times use its reasonable endeavours to ensure the Contract is operated within the requirements of the State Aid Terms

**15. VARIATION**

- 15.1 This Agreement, including the Annexures, may only be varied by written agreement between the Parties. In the context of any variation to this Agreement, writing does not include email.

**16. ASSIGNMENT**

- 16.1 Neither Party shall assign, novate or otherwise dispose of any or all of its rights and obligations under this Agreement without the prior written consent of the other Party.

**17. SEVERABILITY**

- 17.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.
- 17.2 If one Party gives notice to the other Party of the possibility that or if any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

**18. WAIVER**

- 18.1 No failure or delay by a Party to exercise any right or remedy provided under this Agreement shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

**19. NOTICES**

- 19.1 Any notice given to a Party under or in connection with this Agreement shall be in writing marked for the attention of the other Party's Authorised Representative and shall be:
  - (a) sent by email to:
    - (i) in the case of Essex; Connie Kerbst ([connie.kerbst@essex.gov.uk](mailto:connie.kerbst@essex.gov.uk));



- (ii) in the case of Maldon District Council; Paul Dodson, Director of Strategy, Performance & Governance (paul.dodson@maldon.gov.uk)

provided that the subject heading of the email must clearly state that the email is a notice being sent pursuant to this Agreement and reference the relevant clause.

- 19.2 Any Party may change its nominated individual email address by prior notice in writing to the other Party.
- 19.3 Any notice shall be deemed to have been received at 9.00 am on the next Business Day after transmission by email.
- 19.4 This clause does not apply to the service of any proceedings or other documents in any legal action or where applicable any arbitration or other method of dispute resolution. For the purposes of this clause 'writing' shall include email.

## **20. DISPUTE RESOLUTION PROCEDURE**

- 20.1 If either Party has any issues, concerns or complaints arising between the Parties to this Agreement or any matter in relation to this Agreement, that Party shall notify the other Party and the Parties shall then seek to resolve the issue by a process of consultation. Such attempt at resolution shall, in the first instance, be dealt with by a meeting of the Authorised Representatives and in the event that the Authorised Representatives cannot resolve the matter within ten (10) Business Days, the Authorised Representatives shall refer the matter to their respective Chief Executives for resolution.
- 20.2 The respective Chief Executives shall meet within fifteen (15) Business Days of referral to them pursuant to clause 20.1 of any matter.
- 20.3 If the Parties are for any reason unable to resolve a dispute within fifteen (15) Business Days of its referral to the Chief Executives pursuant to clause 20.1 (or such other period as the Parties shall agree), the Parties shall attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the Parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a Party must serve notice in writing (ADR notice) to the other Party, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation shall commence not later than fifteen (15) Business Days after the date of the ADR notice.
- 20.4 The commencement of mediation shall not prevent the Parties commencing or continuing court proceedings as either Party may deem necessary or desirable to protect their respective positions in relation to any dispute between them.

**21. NO PARTNERSHIP OR AGENCY**

- 21.1 This Agreement shall not create any partnership or joint venture between Essex and Maldon, nor any relationship of principal and agent, nor authorise any party to make or enter into any commitments for or on behalf of the other Party.

**22. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT**

- 22.1 This Agreement does not and is not intended to confer any contractual benefit on any person pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999.

**23. ENTIRE AGREEMENT**

- 23.1 This Agreement and any documents scheduled to it or otherwise referred to in it constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 23.2 Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement or any such documents.

**24. GOVERNING LAW AND JURISDICTION**

This Agreement shall be governed by and construed in accordance with the law of England and the Parties irrevocably submit to the exclusive jurisdiction of the English Courts.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

The COMMON SEAL of  
**ESSEX COUNTY COUNCIL** was  
hereunto affixed  
in the presence of:

Attesting Officer

Executed as a Deed by affixing the  
COMMON SEAL of  
**MALDON DISTRICT COUNCIL**  
in the presence of:

Authorised Signatory

**SCHEDULE 1**

**DEPLOYED SERVICES**

Schedule 2 of the Contract sets out the Service Requirements for Deployed Services to be delivered by the Contractor

Deployed Services are defined in Schedule 1 of the Contract as all or any part of the services to be provided and/or obligations to be performed by the Supplier to cover the agreed number of premises within the Coverage Area as set out within the Speed and Coverage Template in order to comply with the Service Requirements, the Supplier Solution and Schedule 4.1 (Implementation), and shall include Demand Stimulation, Network Deployment and the Wholesale Access Products and Services;

SCHEDULE 2

MILESTONES & PAYMENTS

The Milestone Payments payable subject to the terms of the Contract to the Contractor for Achievement of each Milestone (in accordance with Schedule 4.1 (Implementation)) are as detailed in Appendix 1 to Schedule 5.1 of the Contract.

The payments from Maldon District Council in accordance with clause 6.2 of this Agreement, will therefore be for the amounts set out below, at the times set out below:

| Milestone completion due by | ECC Milestone completion assurance by | Milestone payment amount | To be paid to ECC by |
|-----------------------------|---------------------------------------|--------------------------|----------------------|
|                             |                                       |                          |                      |
|                             |                                       |                          |                      |
| Total                       |                                       | £45,000.00               |                      |

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of the Local Government Act 1972.

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