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

04 September 2019

Dear Councillor

You are summoned to attend the;

MEETING OF THE MALDON DISTRICT COUNCIL

on **THURSDAY 12 SEPTEMBER 2019** 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 12 SEPTEMBER 2019

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 - 25 July 2019** (Pages 7 - 18)

To confirm the Minutes of the extraordinary Council meeting held on 25 July 2019 (copy enclosed).

5. **Minutes - 29 August 2019** (Pages 19 - 22)

To confirm the Minutes of the extraordinary Council meeting held on 29 August 2019 (copy enclosed).

6. **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).

7. **Chairman's Announcements**

8. **Minute Book**

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

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

- a) **Community Services Committee - 9 July 2019** (Pages 23 - 28)

- Minute No. 108 – Advice Services Contract (*Please note that the recommendations relating to this Minute were considered and agreed by the Council at its extraordinary meeting on 25 July 2019.*)

- b) Planning and Licensing Committee - 18 July 2019 (Pages 29 - 166)
- Minute No. 276 – Local Development Scheme – Review of 2005 – 2007 Supplementary Planning Documents
- c) Audit Committee (special meeting) - 29 August 2019

Minutes TO FOLLOW.

9. **Minutes of Meetings of the Council**

To note that since the last Council, up until Wednesday 4 September 2019 (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:

Central Area Planning Committee	26 June 2019
District Planning Committee	4 July 2019
North Western Area Planning Committee	8 July 2019
South Eastern Area Planning Committee	15 July 2019
Overview and Scrutiny Committee	17 July 2019
Central Area Planning Committee	24 July 2019
North Western Area Planning Committee	5 August 2019
South Eastern Area Planning Committee	12 August 2019

Minutes NOT finalised for publication:

Appointments Committee	31 July 2019
Joint Standards Committee	22 August 2019
Overview and Scrutiny Committee	28 August 2019
North Western Area Planning Committee	2 September 2019

10. **Questions in accordance with Procedure Rule 6(3) of which notice has been given**
11. **Parish of Heybridge - Basin Ward - Community Governance Review** (Pages 167 - 176)
- To consider the report of the Director of Strategy, Performance and Governance, (copy enclosed).
12. **Air Quality Management Area (AQMA) on Market Hill, Maldon and Air Quality Management Plan (AQMP) Process** (Pages 177 - 184)
- To consider the report of the Director of Strategy, Performance and Governance, (copy enclosed).
13. **Bradwell Power Station Working Groups** (Pages 185 - 188)

To consider the report of the Director of Strategy, Performance and Governance, (copy

enclosed).

14. **Interim Changes to Designations and Scheme of Delegation**

In view of the current vacant Director of Resources post, the Council is requested to agree the following interim changes until the post is filled or otherwise 31 March 2020:

- a) That pursuant to Section 8 of the Representation of the People Act 1983, Mr Paul Dodson, Director of Strategy, Performance and Governance, shall be Electoral Registration Officer for the Maldon District;
- b) That pursuant to Section 35 of the Representation of the People Act 1983, Mr Paul Dodson, Director of Strategy, Performance and Governance, is Returning Officer for the election of Councillors of the Maldon District and of Councillors of parishes and communities within the Maldon District, and also for the conduct of Parish Polls and Neighbourhood Plan Referendums within the Maldon District;
- c) That any Proper Officer designations together with the powers and functions currently delegated to the Director of Resources and proposed to be delegated to the Director of Resources under the new structure, be transferred to the Director of Strategy, Performance and Governance.

15. **New Council Structure and Constitution - Transformation Programme** (Pages 189 - 520)

To consider the report of the Director of Strategy, Performance and Governance, (copy enclosed).

16. **Plume Educational Trust - Replacement Representative** (Pages 521 - 522)

To consider the report of the Head of Paid Service (copy enclosed).

17. **Questions to the Leader of the Council in accordance with Procedure Rule 1 (3)(m)**

18. **Business by reason of special circumstances considered by the Chairman to be urgent**

NOTICES

Sound Recording of Meeting

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

Fire

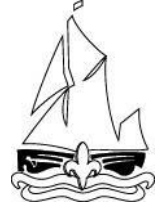
In event of a fire, a siren will sound. Please use the fire exits marked with the green running man. The fire assembly point is outside the main entrance to the Council Offices. Please gather there and await further instruction.

Health and Safety

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

Closed-Circuit Television (CCTV)

This meeting is being monitored and recorded by CCTV.



**MINUTES of
COUNCIL
25 JULY 2019**

PRESENT

Chairman	Councillor R G Boyce MBE
Vice-Chairman	Councillor Mrs P A Channer, CC
Councillors	E L Bamford, Miss A M Beale, B S Beale MBE, M G Bassenger, V J Bell, R P F Dewick, M F L Durham, CC, M R Edwards, Mrs J L Fleming, A S Fluker, B E Harker, M S Heard, M W Helm, A L Hull, K W Jarvis, J V Keyes, C Mayes, C P Morley, C Morris, N G F Shaughnessy, R H Siddall, N J Skeens, Mrs J C Stilts, C Swain, Mrs M E Thompson and Miss S White

284. CHAIRMAN'S NOTICES

The Chairman referred to the list of notices on the agenda.

285. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor K M H Lagan, S P Nunn and W Stamp.

286. STATEMENT FROM THE DIRECTOR OF SERVICE DELIVERY

The Chairman advised that the Director of Service Delivery would now make a statement.

The Director of Service Delivery then read a statement in respect of the Annual Statement of Accounts and the delay in their publication.

287. DECLARATION OF INTEREST

Councillor Mrs P A Channer disclosed a non-pecuniary interest as a Member of Essex County Council in any item relating to that Authority but particularly the following agenda items:

- 10 – New Committee Structure and Constitution – Transformation Programme;
- 11 – Thematic Strategies.

Councillor M F L Durham disclosed a non-pecuniary interest as a Member of Essex County Council for the same reasons as detailed by Councillor Mrs Channer.

288. MINUTES - 27 JUNE 2019

RESOLVED

- (i) That the Minutes of the Council held on 27 June 2019 be received.

Minute 207 – Statement of the Leader of the Council

Councillor M S Heard advised that the second paragraph of this Minute was incorrect and should read "...recognised that the transformation was well underway...". This was duly noted.

Minute 211 – Commercial Project Opportunities – Feasibility Fund

It was noted that the second bullet in these Minutes should read "Procurement of *consultants* would be...".

Minute 212 – Local Area Highways Panel – Replacement Representative

It was noted that the word resolved was incorrectly spelt.

RESOLVED

- (ii) That subject to the above amendments, the Minutes of the Council held on 27 June 2019 be approved.

289. PUBLIC QUESTIONS

There were none.

290. CHAIRMAN'S ANNOUNCEMENTS

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

28 06 19	Tommy' War Memorial Unveiling (Little Totham)
29 06 19	16 Air Assault Brigade and Colchester Garrison Show <i>Vice-Chairman</i>
29 06 19	Armed Forces Day (Stow Maries Great War Aerodrome)
30 06 19	Maldon Armed Forces Day in conjunction with the Historic Military Vehicle Trust
30 06 19	Chelmsford Civic Service (Chelmsford Cathedral) <i>Vice-Chairman</i>
04 07 19	Wentworth Primary School Open Evening
05 07 19	High Sheriff's Garden Party
07 07 19	Burnham-on-Crouch Town Council Civic lunch
09 07 19	Ground Breaking Ceremony for the Hotel Project
10 07 19	Maldon and District Community Voluntary Service Celebrating

	Volunteers Event (Tea Room Barge 'Resourceful', Hythe Quay)
10 07 19	Rural Community Council of Essex 2019 Annual General Meeting and Essex Village of the Year Awards Presentation <i>Vice-Chairman</i>
16 07 19	Civic Luncheon - Lord Bishop of Chelmsford
19 07 19	Essex County Council Chairman's Annual Reception
22 07 19	Launch of the 'Meet Up Mondays'

291. NOTICE OF MOTIONS

The following motion proposed by Councillor A S Fluker and seconded by Councillor Mrs M E Thompson, was received on 15 July 2019.

Motion one:

“Pursuant to Rule 4 of the Council Procedure Rules we the undersigned move that Rule 17(10) of the Council Procedure Rules should be amended to read as shown below with the words in brackets removed and those underlined added:

A Member of a Committee shall, if the Member wishes another Member of the political group to which the Member belongs to attend a meeting of that Committee in his place, give the (Head of Paid Service) relevant Committee Chairman, Vice-Chairman, and (the Leader) copied to Programmes, Performance and Governance Manager, written notice not later than (four working hours) fifteen minutes before the published start time of that meeting that the Member is unable to attend and that the substitute Member named in the notice will attend in his place.

Councillor M S Heard expressed concern and made a statement regarding the proposed motion. He then moved that this motion be rejected.

A number of other Members commented following the statement by Councillor Heard.

The Chairman then put the motion to the Council and upon a vote being taken it was agreed.

Motion two:

Councillor Fluker outlined the detail of his motion (set out below) and proposed that Councillors R G Boyce MBE, A S Fluker, M W Helm, S P Nunn and Miss S White be appointed to the Working Group. This was duly seconded.

Pursuant to Rule 4 of the Council Procedure Rules we the undersigned move that a working group is formed and members of it appointed to recommend to Council on the establishment of a scheme for the conferring of the honorary titles of alderman, alderwoman, freeman and freewoman in accordance with s249 of the Local Government Act 1972.

The Chairman put the motion to the Council and upon a vote being taken it was agreed.

Motion three:

Pursuant to Rule 4 of the Council Procedure Rules we the undersigned move that Rule 16(5) of the Council Procedure Rules should be amended to read as shown below with the words in brackets removed and those underlined added:

The appointment of Head of Paid Service shall be made by the Council, on a recommendation by the Appointments Committee. Appointments of Directors, the Officer fulfilling the duties in S151 of the Local Government Act 1972, and the Monitoring Officer shall be made by the Appointments Committee. The appointment of all other staff must be made on behalf of the authority by the Head of Paid Service or by an Officer nominated by him. As a temporary measure until (31 July 2019) 31st December 2019 those managers that report directly to any of the Directors shall be appointed by the Appointments Committee.

The Chairman put the motion to the Council and upon a vote being taken it was agreed.

RESOLVED that the three motions, as detailed above, be agreed.

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

There were none.

293. COUNCIL STRUCTURE - DESIGNATION AND ROLE OF INTERIM HEAD OF PAID SERVICE

The Council considered the report of the Director of Strategy, Performance and Governance, seeking Members review of the designation and role of the Head of Paid Service in light of the Council decision on 9 August 2018 to appoint Mr Richard Holmes as Interim Head of Paid Service until 31 July 2019.

Members were reminded that following the removal of the post of Chief Executive from the corporate management structure the Council had agreed to appoint an interim Head of Paid Service until 31 July 2019. The report sought Members' consideration of this appointment as a permanent arrangement.

In light of the current transformation process there was a need to review the constitutional arrangements which were put in place alongside the interim appointment. The report set out the duty of the Head of Paid Service and the requirements of the Local Government and Housing Act 1989 and Local Government Act 2000 and where changes to the constitutional document were required.

Councillor A S Fluker advised that line 4 of paragraph 3.1 should refer to 2019. He paid tribute to Mr Holmes and the way he had discharged his duties as the Interim Head of Paid Service since August 2018. Councillor Fluker also referred to the demands on this role as a result of the full Council transformation process.

Councillor Fluker proposed that recommendation (i) to (iii) as set out in the report be agreed and that Mr Richard Holmes be appointed Head of Paid Service on a permanent basis from 1 August 2019. This proposal was duly seconded and upon a vote being taken was agreed.

RESOLVED

- (i) That the need to re-define the role of the Head of Paid Service on a permanent basis in line with the Council's Transformation Process be endorsed;
- (ii) That the arrangements in place for the consideration and report by the Corporate Governance Working Group by way of a review of existing constitutional documentation and how, in part, this may affect the role of the Head of Paid Service be noted;
- (iii) That Mr Richard Holmes be appointed at Head of Paid Service on a permanent basis from 1 August 2019;
- (iv) That any associated arrangements in relation to (iii) above be agreed.

294. NEW COMMITTEE STRUCTURE AND CONSTITUTION - TRANSFORMATION PROGRAMME

The Council considered the report of the Corporate Governance Working Group (the Working Group) seeking Members' consideration of its report and recommendations on the detailed arrangements to support the previously agreed principles of a new committee structure as part of the Council's Transformation Programme. A review of constitutional documentation was also sought.

It was noted that the Working Group had reviewed the terms of reference and operating arrangements for the new Committees and further to the last report to this Council had reviewed the terms of reference and operating arrangements for the remaining Committees. The reviewed versions for the Appointments Board, Area Planning Committees and Investigating and Disciplinary Panel were attached at Appendix A to the report.

The Working Group had also reviewed two further matters in relation to the Licensing Committee, in particular the constitution and membership of the Licensing Sub-Committee and the detail of these were set out in the report. The proposed revised Terms of Reference were attached at Appendix B to the report.

Members were advised that the Working Group had carried out reviews of the following documents:

- the General Provisions section currently overlaid the Committee Terms of Reference and Scheme of Delegation, an updated version was attached at Appendix C;
- Council and Committee Procedure Rules (Appendix D), updated in light of the new structure and the report highlighted those particular rules where changes were proposed.
- A revision to the Scheme of Delegation (Appendix F) was set out in report and a reallocation of functions currently designated to the Head of Paid Service proposed.

An Officer Employment Procedure Rules document (Appendix E) had been produced by the Working Group.

Following deferment by the Council at its last meeting, the Working Group had further reviewed the Terms of Reference of the Overview and Scrutiny Committee taking into consideration recent Government guidance on Overview and Scrutiny in Local and Combined Authorities. The revised document was attached at Appendix G.

To accommodate the requirements of the new Committee structure from October 2019 a revised schedule of meetings had been produce (attached as Appendix H to the report).

Some further changes to the proposed constitution of the corporate working groups were also set out in the report.

The Leader of the Council presented the report and advised that he wished to make a number of amendments to the appendices. He then proposed the following amendments:

- Area Planning Committee Terms of Reference (Appendix A), Annexe A (iv) to read “A Member must provide reason *based on planning policy* to support a call-in request.”
- General Provisions (Appendix C), Authentication of documents for legal proceedings – amend paragraph 6 to read “...it shall be signed by the *lead specialist Legal or Senior Specialist: Legal* unless any enactment...”.
- Officer Employment Procedure Rules (Appendix F), paragraph 4 to be amended to read”...the basic salary scale subject to approved *directorate* budgets.”
- Officer Employment Procedure Rules (Appendix F), paragraph 12 to be amended to read “...officer’s salary scale within approved *directorate* budgetary limits.”
- Overview and Scrutiny Committee Terms of Reference (Appendix G), Lead Officer to read “*To be appointed by the Lead Specialist: Legal*”.
- Overview and Scrutiny Committee Terms of Reference (Appendix G), paragraph f) to be amended to read “...corporate policy and review, including...”.

The Leader proposed that based on the above amendments that recommendations (i) to (viii) as set out in the report be agreed.

In response to a questions, the following information was provided:

- Members were advised that the political balance of the Overview and Scrutiny Committee was addressed in its Terms of Reference (Appendix G).
- The Council’s Standing Orders were derived from Local Government Act and requirements for Committees to be politically balanced would be set out within these Acts.
- The Council’s Solicitor explained that the Joint Standards Committee and the Investigating and Disciplinary Panel were different Committees and that their connection was that they shared Independent Persons.

- It was clarified that the Independent persons required for the Joint Standards Committee were appointed by the Council.

A Member questioned the Area Planning Committee Terms of Reference (Appendix A) and particularly whether the last bullet point under proviso 5 should be deleted as policy I3 did not exist in the Local Development Plan. In response the Chairman thanked the Member for pointing this out and confirmed this bullet point should be removed. Following further debate the Leader of the Council proposed that the bullet point referring to policy I3 be removed.

The Leader then asked the Chairman that the question be put. The Chairman put the proposal in the name of the Leader of the Council and this was duly agreed.

RESOLVED

- (i) That subject to the following amendments, the Terms of Reference and Operating Protocols for the Appointments Board, Area Planning Committees, Joint Standards Committee, Investigating and Disciplinary Committee and Panel (Appendix A to the report) be approved to become part of the new structure and Constitution of the Council to be adopted to take effect in October 2019;
 - Area Planning Committee Terms of Reference, Annexe A (iv) to read “A Member must provide reason *based on planning policy* to support a call-in request.”
 - Area Planning Committee Terms of Reference, Provisos, delete last bullet point under Development of Strategic Interest – “Any proposals for Primrose Meadow in Maldon as defined by Policy I3 of the LDP.”
- (ii) That the revised Terms of Reference / Operating Protocol for the Licensing Sub-Committee (Appendix B to the report) be approved as part of the new structure and Constitution of the Council to be adopted to take effect in October 2019;
- (iii) That subject to the following amendment, the Updated General Provisions document (Appendix C to the report) including Proper Officer designations which, subject to further updating as required to reflect internal changes in functional responsibility, be approved as part of the new Constitution of the Council to be adopted to take effect in October 2019;
 - Authentication of documents for legal proceedings – amend paragraph 6 to read “...it shall be signed by the *lead specialist Legal or Senior Specialist: Legal* unless any enactment...”.
- (iv) That the updated Council and Committee Procedure Rules (Appendix D to the report) be approved as part of the new Constitution of the Council to be adopted to take effect in October 2019;
- (v) That the new Officer Employment Procedure Rules document (Appendix E to the report) be approved to become part of the new Constitution of the Council to be adopted to take effect from October 2019;
- (vi) That subject to the following amendments, the reallocation of the functions and responsibilities currently delegated to the Head of Paid Service, with consequent updating of the Scheme of Delegation (Appendix F to the report) be approved to

become part of the new Constitution of the Council to be adopted to take effect from October 2019;

- paragraph 4 to be amended to read "...the basic salary scale subject to approved *directorate* budgets."
 - paragraph 12 to be amended to read "...officer's salary scale within approved *directorate* budgetary limits."
- (vii) That subject to the following amendments, the updated draft Terms of Reference and Operating Protocol for the Overview and Scrutiny Committee (Appendix G to the report) be approved to become part of the new Constitution of the Council to be adopted to take effect from October 2019;
- Lead Officer to read "*To be appointed by the Lead Specialist: Legal*".
 - paragraph f) to be amended to read "...corporate policy and review, including..."
- (viii) That the arrangements for the operation of the new committee structure be noted and the revised Schedule of Meetings (Appendix H to the report) be approved to take effective from October 2019.

295. THEMATIC STRATEGIES

The Council considered the report of the Director of Strategy, Performance and Governance seeking Members' approval of the three Thematic Strategies, which would underpin the delivery of the Council Corporate Plan, for adoption as Council Policies. The Strategies of Place, Community and Prosperity were attached as Appendices to the report.

Each strategy outlined the key priorities and identified the projects and strategies that would be developed to deliver the Council's priorities. It was noted that the Strategies Engagement Member Task and Finish Working Group had considered the Thematic Strategies and provide advice and input regarding them and performance measures.

The Leader of the Council thanked Ms Georgina Button, Strategy, Policy and Communications Manager for the enormous amount of work that she and her team had put into these documents. The Leader advised Members that the delivery date set by the Council had been rather ambitious and he wished to move a motion in relation to the report and its appendices.

The Leader then proposed that Appendices A – C (the Thematic Strategies) be further reviewed and to enable the work to be carried out as expediently as possible a Member Led Working Group be formed comprising of seven Members. He then proposed that Councillors E L Bamford, Mrs P A Channer CC, Mrs J L Fleming, A S Fluker, M W Helm, R H Siddall and Mrs M E Thompson be appointed onto this Working Group and a report on the Thematic Strategies be brought back to the Council as a matter of urgency as this was a very important area. This proposal was duly seconded and agreed.

RESOLVED

- (i) That the three Thematic Strategies (Appendices A – C of the report) be further reviewed by a Member Led Working Group be formed comprising of E L Bamford, Mrs P A Channer CC, Mrs J L Fleming, A S Fluker, M W Helm, R H Siddall and Mrs M E Thompson;
- (ii) That once the review has taken place a report on the Thematic Strategies be brought back to the Council as a matter of urgency.

296. FUTURE CORPORATE PERFORMANCE REPORTING

The Council considered the report of the Director of Strategy, Performance and Governance updating Members on work that had taken place to realign performance indicators to the new Corporate Plan and Thematic Strategies. The report also sought Members' consideration of key principles around future performance reporting based on new technologies and methods available to the Council.

It was noted that the refreshed approach to performance reporting was recommended as a way to give better clarity on performance specifically against the corporate plan outcomes. Appendix A to the report provided further detail and examples of the proposed dashboard reporting and Members were advised that there would be an initial investment in time and new software was required. The report set out a number of additional key principles on which the new reporting would be based.

The Leader of the Council presented the report and sought clarification of the cost of the Power Bi software referred to in the report. In response the Director of Strategy, Performance and Governance advised that the cost would be £6.50 per licence per month and it was estimated that this would result in a saving of £1,000 per year compared to the current software used by the Council.

The Chairman put the recommendations as set out in the report and these were duly agreed.

RESOLVED

- (i) That performance be reported through high level dashboards to specifically track the corporate plan outcomes, with detailed delivery kept in service plans and ad-hoc reporting;
- (ii) That quarterly dashboards for each of the new Thematic Strategies as of Quarter Two 2019 / 20 be reported to the Performance, Governance and Audit Committee from October 2019;
- (iii) That the Programmes, Performance and Governance team lead a customer survey programme, including running an annual survey starting in September 2019, to get resident and business feedback and insight as a way to measure some of the corporate outcomes;

- (iv) That a six monthly insight report be also produced, that will provide an overview of the District indicators and track broader outcomes which we cannot directly impact.

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

There were none.

298. 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.

299. ADVICE SERVICES CONTRACT

The Council considered the report of the Community Services Committee presenting recommendations to the Council from the Committee regarding extending the contractual arrangements with the existing Advice Services contract for a further 12 months, to April 2021. The report and Minutes from the Community Services Committee were attached at Appendices 1 and 2 to the report.

Members were advised that a review of the Advice Services Contract would be undertaken in November 2019 as part of the annual budget and strategic planning process. However, there was a need to ensure continuity of service in the short-term whilst also ensuring that the Council had the opportunity to re-negotiate / review funding and service levels later in the year.

The Leader of the Council proposed that the recommendations of the Community Services Committee, as set out in paragraph 3.3 of the report be agreed. This was duly agreed.

RESOLVED

- (i) That the current Advice Services Contract be extended for a further one year;
- (ii) That funding remains at 2019 / 20 level, subject to a review by Members in November 2019 (Minute 865 refers 14 February 2019);
- (iii) That Officers ensure the most efficient and effective processes are applied when determining future provision.

300. COMMERCIAL STRATEGY 2019 - 23

The Council considered the report of the Director of Service Delivery seeking Members' approval of the Commercial Strategy 2019 – 23 (Appendix 1 to the report) and Commercial Projects Plan (Appendix 2).

It was noted that the Commercial Strategy (the Strategy) outlined how the Council would develop a more commercial approach to achieving a financial return to the Council and achieve positive social outcomes wherever possible. The Strategy and associated Projects List identified potential financial income necessary to contribute to the significant financial gap identified in the Medium-Term Financial Strategy.

The Leader of the Council presented the report and thanked Members, particularly Councillor R H Siddall, for the work they had put into the Strategy which he commented was a very important part of the transformation of the Council. The Leader proposed that the recommendations as set out in the report be agreed and he further proposed that the Corporate Leadership Team provide a contingency plan for closing the financial gap in the event that annual financial commercial targets were not met. This proposal was duly seconded. The Leader provided the Council with further explanation regarding his additional recommendation. This was duly seconded and agreed.

RESOLVED

- (i) that the Commercial Strategy 2019 – 23 be approved and adopted as Council policy;
- (ii) that the Commercial Projects Plan be approved;
- (iii) that the Corporate Leadership Team provide a contingency plan for closing the financial gap in the event that financial commercial targets were not met.

There being no further items of business the Chairman closed the meeting at 8.38 pm.

**R G BOYCE MBE
CHAIRMAN**

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**MINUTES of
COUNCIL
29 AUGUST 2019**

PRESENT

Chairman	Councillor R G Boyce MBE
Vice-Chairman	Councillor Mrs P A Channer, CC
Councillors	E L Bamford, Miss A M Beale, M G Bassenger, M F L Durham, CC, M R Edwards, A S Fluker, B E Harker, M S Heard, M W Helm, A L Hull, K W Jarvis, J V Keyes, K M H Lagan, C Mayes, C P Morley, C Morris, S P Nunn, N G F Shaughnessy, R H Siddall, W Stamp, Mrs J C Stilts, C Swain, Mrs M E Thompson and Miss S White

1. CHAIRMAN'S NOTICES

The Chairman referred to the list of notices on the agenda.

2. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors V J Bell, R P F Dewick and N Skeens.

3. DISCLOSURE OF INTEREST

Councillor M F L Durham disclosed a non-pecuniary interest as a Member of Essex County Council and a non-pecuniary interest in relation to consultancy work he carried out for Calvert Communications who had also worked for Countryside Properties. Councillor Durham advised that he had never worked for Countryside Properties and the Monitoring Officer had confirmed that he did not have a pecuniary interest in Agenda Item 5 - OUT/MAL/15/00419 – Land at Broad Street Green Road, Maypole Road and Langford Road, Great Totham / Heybridge, Essex – Planning Appeal Progress. However, in the interest of openness and transparency he would remain in the chamber but not vote on this matter.

Councillor C Morris disclosed a non-pecuniary interest as a member of Heybridge Parish Council.

Councillor Mrs P A Channer disclosed a non-pecuniary interest as a Member of Essex County Council.

Councillor R H Siddall disclosed a non-pecuniary interest being a Ward Member for Great Totham.

Councillor M R Edwards disclosed a non-pecuniary interest as a member of Heybridge Parish Council.

Councillor J V Keyes disclosed a non-pecuniary interest as a Parish Councillor and Ward Member.

4. EXCLUSION OF THE PRESS AND PUBLIC

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.

Following agreement of the above and in response to a question the Senior Solicitor advised of the reasons why the report relating to Agenda Item 5 - OUT/MAL/15/00419 – Land at Broad Street Green Road, Maypole Road and Langford Road, Great Totham / Heybridge, Essex – Planning Appeal Progress had been brought forward for consideration in private session.

5. OUT/MAL/15/00419 - LAND AT BROAD STREET GREEN ROAD, MAYPOLE ROAD AND LANGFORD ROAD, GREAT TOTHAM/HEYBRIDGE, ESSEX - PLANNING APPEAL PROGRESS

In accordance with Procedure Rule No. 13 (3) Councillor C Morris requested a recorded vote in relation to this item of business. This was duly seconded.

The Council considered the report of the Director of Strategy, Performance and Governance providing advice to Members on the progress of the appeal in relation to a hybrid planning application - OUT/MAL/15/00419 - Land at Broad Street Green Road, Maypole Road and Langford Road, Great Totham / Heybridge, which included up to 1,138 dwellings, a 12- bed care home and a primary school. The report provided Members with advice regarding the reasons for refusal, its sustainability and Appendix 1 to the report provided guidance from Counsel regarding the refusal.

The Leader of the Council proposed that the recommendation as set out in the report be agreed. This was duly seconded.

Following the Officers' presentation of the report the Senior Solicitor took Members through the advice received from Counsel and provided further detailed legal advice.

A lengthy debate ensued during which Members discussed the planning application and decision by the Council in February 2019 to refuse permission, Counsel and legal advice given, and the appeal process.

In response to a question from the Chairman regarding the declaration made earlier by Councillor M F L Durham and voting, the Senior Solicitor advised that by excluding himself from the vote Councillor Durham should be recorded as an abstention.

The Chairman then put the proposal in the name of the Leader of the Council to accept the recommendation as set out in the report that the reason for refusal in relation to this planning application should not be defended at appeal. The voting was as follows:

For the recommendation:

Councillors E L Bamford, M G Bassenger, Miss A M Beale, R G Boyce, Mrs P A Channer, A S Fluker, B E Harker, M S Heard, M W Helm, A L Hull, K W Jarvis, J V Keyes, K M H Lagan, C Mayes, C P Morley, S P Nunn, N G F Shaughnessy, R H Siddall, W Stamp, J Stilts, C Swain, Mrs M E Thompson and Miss S White.

Against the recommendation:

Councillor M R Edwards.

Abstentions:

Councillor M F L Durham and C Morris.

RESOLVED that the reason for refusal in relation to planning application OUT/MAL/15/00419 - Land at Broad Street Green Road, Maypole Road and Langford Road, Great Totham / Heybridge, Essex not be defended at appeal.

There being no further items of business the Chairman closed the meeting at 8.40 pm.

R G BOYCE MBE
CHAIRMAN

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**MINUTES of
COMMUNITY SERVICES COMMITTEE
9 JULY 2019**

PRESENT

Chairman	Councillor Miss S White
Vice-Chairman	Councillor E L Bamford
Councillors	M F L Durham, CC, J V Keyes, N G F Shaughnessy, R H Siddall, N J Skeens, Mrs J C Stilts, C Swain, A S Fluker and Mrs M E Thompson
Ex-Officio Non- Voting Member	Councillor A S Fluker
Substitute Councillor(s)	Councillor Mrs M E Thompson
In Attendance	Councillor C Morris

237. CHAIRMAN'S NOTICES

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

238. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors M S Heard and A L Hull.

In accordance with Procedure Rule 17 (9, 10) Councillor M E Thompson attended as a substitute for Councillor A L Hull

239. MINUTES OF THE LAST MEETING

RESOLVED that the Minutes of the meeting of the Committee held on 28 May 2019 be approved and confirmed.

240. DISCLOSURE OF INTEREST

Councillor N Skeens declared a non-pecuniary interest in respect of Agenda Item 8 – Crouch Valley Food and Drink Festival

Councillor Durham declared a non-pecuniary interest as a Member of Essex County Council should there be any items on the agenda pertaining to that organisation.

241. PUBLIC PARTICIPATION

No requests had been received.

242. CHAIRMAN'S GOOD NEWS ANNOUNCEMENTS

The Chairman referred to the following items:

Armed Forces Weekend – 29 & 30 June

The District commemorated Armed Forces Day by supporting two events one at Stow Maries Great War Aerodrome on Saturday 29th June and one in Promenade Park on Sunday 30th June.

Reserves Day – 26 June

The Council was pleased to support Reserves Day on 26 June – an initiative to recognise Reservists who give up their spare time, balancing their civilian life with a military career, to ensure that they are ready to serve when their country needs them.

Cabbies Day – 3 July

The annual Cabbies day outing saw over 100 cabs from East London visiting Maldon and enjoying the facilities of Promenade Park. A cab driver who attended took the time to email and say:-

‘I visited Maldon yesterday and would like to tell the Council what a great reception we all received. Everyone was so welcoming. The Plume school provided the most for the children not only the food but the time and the smiles. Thank you to all to the Cab drivers and the people of Maldon who were so wonderful!’

The Chairman added that when she was at the Plume she used to serve lunch to the cabbies and was pleased to see the event continuing.

Maldon Festival – 22 June – 6 July

A variety of events were staged as part of the very popular 2-week festival which the Council was pleased to support

Maldon Car Show – Sunday 7 July

The Promenade Park hosted the Annual Maldon Car Show with over 500 show cars including the showpiece replica Chitty Chitty Bang Bang proudly on display on the events field.

There were also 720 public shows and an estimated 18,000 attendees. A very busy day in the Promenade Park that was enjoyed by all.

243. ECOFLEX HOME ENERGY SCHEME

The Committee considered the report of the Director of Service Delivery that provided an overview of the current Ecoflex “Help to Heat” scheme; and sought Member approval of an updated Statement of Intent for the Maldon District and the ability to work with a third-party delivery partner.

The Director of Service Delivery took the Committee through the report. He reminded Members that this was an update to the scheme that Maldon District Council had been a member of for some years. The purpose of the report was to agree the updated Statement of Intent. The main impact for Local Authorities was that the Flexible Eligibility element of the Energy Company Obligation (ECO) scheme was increased from a maximum of 10% of ECO installations undertaken by energy providers to a maximum of 25%. This meant that more properties and therefore more residents would be assisted through the scheme.

He also pointed out that the Council does not have to contribute any funding towards delivery of these schemes. The finance comes from the energy companies (hence the ‘ECO’)). The role of the Council was as an arbiter for those applicants who may fall outside of the standard ECO criteria, but who are still on a low income, not in receipt of benefits and are either in a hard to heat property or vulnerable to cold.

Councillor Fluker, in response to the issue of eligibility, confirmed that the criteria was set nationally which was how the government ascertained statistics on numbers in fuel poverty. With reference to administrative costs to the Council he said it was clear under Section 6 of the report there was no cost, the scheme was fully funded with no contribution required from Maldon District Council. He added that this was a very commendable scheme and proposed that the recommendations be agreed.

The Chairman put the recommendations to the Committee and they were agreed.

RESOLVED

- (i) That details of the scheme and the potential benefits to those in fuel poverty in the District are noted;
- (ii) That the proposed statement of intent is agreed;
- (iii) That a third party is engaged as a business partner to deliver the scheme.

244. THE CROUCH VALLEY FESTIVAL OF FOOD AND DRINK

The Committee considered the report and presentation of the Director of Service Delivery that provided Members with an update on the upcoming Crouch Valley Festival of Food and Drink.

The Chairman introduced the item and invited the Tourism and Events Manager to take the Committee through the report and presentation.

At this point Councillor Fluker declared in the interests of openness and transparency, as an associate of his was exhibiting at the Crouch Valley Festival of Food and Drink.

The Tourism and Events Manager then went through the detail of the report. He advised the Committee that the Festival would comprise of a two-day event that would celebrate the very best food and drink from the local area. With live music and entertainment, activities, competitions, family fun, food to meet all tastes (including pop up restaurants and intimate hosted tasting sessions) together with delicious drinks, all with stunning riverside views. This quality event had the potential to be a landmark on the Essex event calendar.

He advised that the ‘Gastro Experience’ event had been inspired by the desire to celebrate the fantastic growth in vineyards and breweries in the Maldon District and was designed as a promotional vehicle, putting Riverside Park on the map as an event venue. It was noted that the event was supported by the Sense of Place Board and partly funded by the Magnox Socio-Economic fund (£4,500). Approximately £6,500 had been invested by the Council from existing tourism promotional budgets. It was envisaged that the event would return that investment and provide a model for future years and events. The pitch fees had been deliberately set low and a shared income model adopted to encourage traders to partake in the event.

The Committee acknowledged all the hard work the team had invested in this project, all Members were keen to promote the event and looked forward to attending. Some concerns were raised around access, highway safety and adverse weather conditions. The Tourism and Events Manager reassured the Committee that there were a number of volunteers, including councillors, on hand to assist with access and the Community Safety Team would be present to handle all traffic related matters. A contingency plan was in place to deal with adverse weather conditions in the guise of two large marquees.

In response to issues on feedback he said that a questionnaire and link would be distributed at the event and a report on the outcome submitted to a future meeting of the appropriate committee. In conclusion he said he would circulate both the marketing pack and sponsorship pack to all Members.

The Chairman said that it was an excellent report and presentation, and above all, great to see our public parks being fully utilised and showcased.

The Chairman put the recommendation to the Committee and it was agreed.

RESOLVED that Members support and promote the forthcoming Festival and take the opportunity to visit the event over the weekend of the 20th & 21st July 2019.

245. EXCLUSION OF THE PUBLIC AND PRESS

The Chairman put the proposal that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following item(s) 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, to the Committee and this was supported.

RESOLVED that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following item(s) 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.

246. ADVICE SERVICES CONTRACT

The Committee considered the report of the Director of Service Delivery seeking Members' approval to extend the current contractual arrangements with the existing Advice Services contract for a further 12 months, to April 2021.

The Customers, Community and Casework Manager took the Committee through the report. She explained that the reason the item was before Committee was to ensure continuity of service in the short-term whilst also ensuring the Council has the opportunity to review and re-negotiate funding and service levels later in the year.

Councillor Fluker acknowledged the excellent service provided by the Advice Service and thanked the Customers, Community and Casework Manager for her hard work and input, given that the new Advice Services model was now serving an increased number of people.

He proposed the recommendations be approved with the addition of a third recommendation that Officers ensure that the most efficient and effective processes are applied when determining future provision. It was further proposed that the recommendations be referred to Council.

The Chairman put the recommendations to the Committee including the additional recommendation and they were agreed.

RECOMMENDED

- (i) That the current contract is extended for a further 1 year;
- (ii) That funding remains at 2019/20 level, subject to a review by Members in November 2019 (minute 865 refers 14 February 2019); and,
- (iii) That Officers ensure the most efficient and effective processes are applied when determining future provision.

247. CONCESSIONS IN PROMENADE PARK

The Committee considered the report of the Director of Service Delivery that provided Members with an update on concessions in the Promenade Park and considered new guidance for future seasons.

The Director of Service Delivery took the Committee through the report and appendix. He reported that this was a success story and there was an opportunity to continue the good work into next year. Some concerns had been raised and these had been remedied. It was before the Committee to review the 2019 experience and provide guidance to the Events Working Group on future plans.

It was noted that the Committee was not being asked to discuss the concessions but advise on future plans for consideration by the Events Working Group. The Chairman asked that those with issues and /or ideas email her and she would endeavour to have them considered by the

Events Working Group. She went on to say she was delighted that such a great facility was successful.

In light of the upcoming new governance structure it was agreed that the recommendation be amended from 'report back to the Community Services Committee' to 'report back to the appropriate Committee'.

The Chairman put the revised recommendation to the Committee and it was agreed.

RESOLVED that Members request the Events Working Group review the 2019 concessions, provide guidance on concessions for future years and report back to the appropriate Committee.

There being no further items of business the Chairman closed the meeting at 8.25 pm.

MISS S WHITE
CHAIRMAN



**MINUTES of
PLANNING AND LICENSING COMMITTEE
18 JULY 2019**

PRESENT

Chairman	Councillor Mrs P A Channer, CC
Vice-Chairman	Councillor Mrs M E Thompson
Councillors	B S Beale MBE, R G Boyce MBE, M R Edwards, Mrs J L Fleming, A S Fluker, C Mayes and W Stamp
Substitute Councillor(s)	Councillor E L Bamford
In attendance	Councillor C Morris

269. CHAIRMAN'S NOTICES

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

270. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors M F L Durham and M S Heard. In accordance with notice duly given Councillor E L Bamford was attending as a substitute for Councillor Durham.

271. MINUTES OF THE LAST MEETING

RESOLVED that the Minutes of the meeting of the Committee held on 6 June 2019 be approved and confirmed.

272. DISCLOSURE OF INTEREST

Councillor Mrs P A Channer disclosed a non-pecuniary interest as a Member of Essex County Council particularly in relation to the following Agenda Items:

- 6 – Draft Tiptree Neighbourhood Plan;
- 7 – Consultation Questionnaire: Essex County Council Sustainable Drainage Systems Design Guide;
- 9 – Consultation Response to the Draft National Flood and Coastal Erosion Risk Management Strategy.

273. PUBLIC PARTICIPATION

No requests had been received.

274. DRAFT TIPTREE NEIGHBOURHOOD PLAN

The Committee considered the report of the Director of Strategy, Performance and Governance presenting the draft Tiptree Neighbourhood Plan (the Plan) and comments received.

Councillor Mrs M E Thompson declared a non-pecuniary interest in this item of business as she was a member of Tolleshunt Knights Parish Council.

It was noted that Tiptree Parish Council were currently consulting on the draft Tiptree Neighbourhood Plan and as a neighbouring Authority Maldon District Council had been consulted. The report provided a summary of the contents of the Plan along with Maldon District Council's proposed response to the consultation.

In response to a Member raising concern regarding the impact of the proposed additional housing to Tiptree on this District, particularly in respect of traffic and accessing the A12, the Chairman suggested that this could be incorporated into the Council's consultation response.

In response to questions and comments, the Specialist – Local Plan provided Members with the following additional information:

- Improved access to the A12 and the junctions on the A12 itself were outside the remit of the Neighbourhood Plan.
- The Draft Colchester Local Plan showed indicative locations of the proposed Tiptree additional housing allocation
- The Appleford bridge, Great Braxted and Grey Mills bridge, Kelvedon were included in respect of routes via them onto the A12.
- A Community Forum on the A12 was scheduled for 24 July and following a Member / Officer forum the Officer provided Members with information regarding the A12 preferred routes including surveys and design work to be undertaken.

It was agreed that Members' comments would be incorporated into the consultation response and the wording of this would be agreed in consultation with the Director of Strategy, Performance and Governance.

RESOLVED

- (i) that the following additional comments from Members, agreed in consultation with the Director of Strategy, Performance and Governance, be included as part of the Council's consultation response to the draft Tiptree Neighbourhood Plan:

Maldon District Council is concerned that despite the Neighbourhood Plan's approach to mitigating the impact of vehicular traffic through Tiptree village, the scale of additional housing in the village will nevertheless impact on traffic flows, through and around the village, especially the routes to the A12, including the routes via the historic Appleford and Grey Mills bridges at Great Braxted and Kelvedon respectively. Maldon District Council does, however, recognise that improvements to the access roads to the A12 and to the junctions on the A12 itself are outside the remit of the Neighbourhood Plan.

- (ii) that subject to (i) above, the draft consultation responses to the draft Tiptree Neighbourhood Plan, as detailed below be approved and submitted to Tiptree Parish Council.

Section	Draft consultation response
POLICY TIP01: Tiptree Settlement Boundaries	The approach taken on the settlement boundary and restricting development in the countryside is supported.
POLICY TIP02: Good Quality Design	This policy is supported, as it endeavours to protect the character of the village.
POLICY TIP03: Residential Car Parking	This policy is supported, as it recognises the role private cars have in enabling access to employment and everyday services, and the subsequent need to ensure that sufficient off-street parking is provided in new developments.
POLICY TIP04: Building For Life	The ambition of this policy to improve design of the built environment is supported. However, as this policy only 'encourages' developers to design to Building for Life standards it is unenforceable, and therefore is of limited value.
POLICY TIP05: Dwelling Mix	Sections A and B are rather generic. Section C which requires a percentage of homes to be built to accessible and adaptable standards or wheelchair accessibility standards is a commendable aspiration. However, the requirement for all affordable housing to meet one or other of these standards may be disproportionate in comparison to the requirements placed on market housing in the policy.
POLICY TIP06: Cycling, Walking and Disability Access Routes	This policy is supported. This policy is consistent with the draft Essex Walking Strategy.
POLICY TIP07: Mitigating the impact of vehicular traffic through Tiptree village:	Maldon District Council supports the Plan's overall approach to mitigating the impact of vehicular traffic through the village.
POLICY TIP07: Mitigating the impact of vehicular traffic through Tiptree village: D (i). the new 'primary street' meets the necessary specifications as given in the Essex Design Guide (2018), in particular ensuring it is	It is understood that 'primary street' is the term used by the Highways Authority to describe a road that is sufficient to accommodate a public bus route. However, the Street Type table in the Essex Design Guide (EDG) does not use the term 'primary street.' Therefore, in this policy, which street type the term 'primary street' relates to needs clarifying.

Section	Draft consultation response
sufficient to support a bus route; and...	
POLICY TIP08: Tiptree village centre: existing businesses	Although the aims of the policy is supported, the restrictions on change of use may not be enforceable due to permitted development rights.
POLICY TIP09: Tiptree Village Centre: New Developments	This policy is supported. The aim to provide older persons' housing in the heart of the village, within easy reach of services and facilities is supported.
POLICY TIP10: Business Development	The allocation of new employment land in the Plan is supported.
POLICY TIP11: Community Infrastructure Provision	This policy is supported
POLICY TIP12: Comprehensive Development	This policy is supported as it will ensure that the new developments will integrate with one another and the village.
POLICY TIP13: Tower End (iii) ... A 'primary street' is provided...No dwellings should front directly onto this road...	<p>This element of the policy is open to interpretation in terms of the type of development layout required. What is intended is that dwellings have front gardens and are set back from the street. However, as drafted, it could be read as meaning that no dwellings should face the road, resulting in a canyon effect as the road would be lined with back garden fences.</p> <p>It is recommended that this element of the policy is re-worded to ensure that it has the intended outcome.</p>
POLICY TIP14: Highland Nursery and Elms Farm (vii). A 'primary street' is provided ... No dwellings should front directly onto this road...	<p>This element of the policy is open to interpretation in terms of the type of development layout required. What is intended is that dwellings have front gardens and are set back from the street. However, as drafted, it could be read as meaning that no dwellings should face the road, resulting in a canyon effect as the road would be lined with back garden fences.</p> <p>It is recommended that this element of the policy is re-worded to ensure that it has the intended outcome.</p>
POLICY TIP15: Countryside and Green Spaces	The policy is supported, although the Parish Council will need to ensure that it has sufficient long-term resources to manage and maintain the open spaces it gains from development in the village.
POLICY TIP16: Recreational disturbance Avoidance and Mitigation	The inclusion of this policy is supported.

275. CONSULTATION QUESTIONNAIRE: ESSEX COUNTY COUNCIL SUSTAINABLE DRAINAGE SYSTEMS DESIGN GUIDE UPDATE

The Committee considered the report of the Director of Strategy, Performance and Governance presenting the Council's response to the Essex County Council (ECC) Sustainable Drainage Systems (SuDS) Design Guide Update. It was noted that due to

the consultation period this response had been sent to the County Council following approval by the Chairman of this Committee and in accordance with the Council's Terms of Reference was now reported to the Committee.

It was noted that ECC had requested this Council review the updated guide attaching the ECC SuDS Design Guide Update document (Appendix 1 to the report) and Consultation Questionnaire (Appendix 2). The report set out the purpose of the review and the Council's response to the Consultation Questionnaire.

Councillor R G Boyce proposed that the Committee's thanks be passed to Ms Longman, Specialist – Local Plan for her work and that the recommendation as set out in the report be agreed. This proposal was duly seconded.

It was commented how beneficial it would be when considering planning applications to have Sustainable Drainage System (SUDs) documents available to provide further guidance and information rather than being addressed through conditions. The current problems for Members with such documents being required (through conditions) and not at the time an application was being considered were discussed and highlighted. The Officer explained through the consultation response the Council was expressing the importance of knowing exactly what a drainage strategy was and the benefits of receiving it as part of the outline application stage. The Chairman advised that this was something that would be highlighted further as part of the response.

In response to further questions from Members, Officers provided Members with additional information including:

- Members' attention was drawn to page 67 of the document pack (Appendix 1 to this report) which set out what documents were required by the Lead Local Flood Authority and at what stage of the application process they were required. It was noted that this would replace the need to condition requirements for some documents as part of planning approvals.
- In response to a question regard the meaning of "preliminary layout drawings showing exceeding routing, and location of discharge points" in the what we require and when table of the appendix, the Officer advised this was to do with flows but would seek further clarification for Members.
- It was clarified that no existing issues relating to, for example flooding, could be resolved directly as a result of a new planning application as conditions etc. could only deal with mitigating the impact from the new development. The Director of Strategy, Performance and Governance reported that there were several Flood Alleviation Schemes in development and provided an update in respect of Heybridge.
- The Council was no longer eligible for Housing Infrastructure Funds and the Director of Strategy, Performance and Governance outlined the reasons for this.

The chairman then put the proposal in the name of Councillor Boyce advising that Members' comments would be added to the appropriate response from Officers. This was agreed.

RESOLVED That subject to being updated with Members' comments, the Committee notes the Council's response to the Essex County Council (ECC) Sustainable Drainage

Systems Design Guide Update agreed in consultation with the Chairman of the Committee.

276. LOCAL DEVELOPMENT SCHEME - REVIEW OF 2005 - 2007 SUPPLEMENTARY PLANNING DOCUMENTS

The Committee considered the report of the Director of Strategy, Performance and Governance seeking approval to revoke five Supplementary Planning Documents (SPDs) prepared between 2005 and 2007 following review against the current adopted Local Development Plan (LDP) and its supporting SPDs, the National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG). The five SPDs were:

- Children's Play Spaces SPD, Adopted March 2006 (attached as Appendix 1 to the report);
- Developer Contributions Guide SPD, Adopted September 2006 (Appendix 2);
- Accessibility to Buildings SPD, Adopted December 2006 (Appendix 3);
- Heybridge Basin Timber Yard SPD, Adopted February 2007 (Appendix 4);
- Sadd's Wharf SPD, Adopted September 2007 (Appendix 5).

The report provided background information regarding the review undertaken in respect of each of the SPDs. Members were advised that following review the SPDs were all deemed to be out of date or redundant and did not align with the adopted LDP, NPPF or NPPG. It was noted that a future review of the LDP would identify any new policy or future SPDs which may be required.

In response to a question regarding Community Infrastructure Levy (CIL) the Director of Strategy, Performance and Governance provided Members with an update on CIL and the Government's consultation regarding it. Officers would be reviewing the guidance in the forthcoming weeks and would report back to Members regarding the timescale.

Following further discussion in relation to CIL it was agreed that an update report on CIL would be brought to the next meeting of this Committee to provide details regarding the current situation, government guidance etc.

There was some discussion regarding the revocation of these policies, their impact on the LDP and removal of developer contributions relating to CIL. In response Members were advised that the policies were out of date, related to a different planning period, were not compliant with the NPPF and national guidance. Members' attention was drawn to paragraph 3.5.1 of the report and it was noted that these policies would have zero material weight in planning considerations and could not be used to influence any contributions from developers.

It was commented that a Member seminar to allow every Member to be informed of the CIL Update would be beneficial. The Chairman then put the proposal as set out in the report with the request for an additional report and consideration of a Member briefing on developer contributions. Upon a vote being taken this was agreed.

RESOLVED that an update report on CIL would be brought to the next meeting of this Committee to provide details regarding the current situation, government guidance etc.

RECOMMENDED that the following Supplementary Planning Documents prepared and approved between 2005 and 2007 be revoked.

- Children's Play Spaces SPD, Adopted March 2006 (attached as **APPENDIX 1** to these Minutes);
- Developer Contributions Guide SPD, Adopted September 2006 (**APPENDIX 2**);
- Accessibility to Buildings SPD, Adopted December 2006 (**APPENDIX 3**);
- Heybridge Basin Timber Yard SPD, Adopted February 2007 (**APPENDIX 4**);
- Sadd's Wharf SPD, Adopted September 2007 (**APPENDIX 5**).

277. CONSULTATION RESPONSE TO THE DRAFT NATIONAL FLOOD AND COASTAL EROSION RISK MANAGEMENT STRATEGY

The Committee considered the report of the Director of Strategy, Performance and Governance advising Members of a response (attached as Appendix 1 to the report) which had been submitted on behalf of the Council in response to a national consultation undertaken by the Environment Agency on the Draft National Flood and Coastal Erosion Risk Management Strategy for England (the Strategy). It was noted that due to the limited timescales of the consultation the response had been sent following agreement of the Chairman of this Committee and was now reported to this Committee for Members' information.

The Strategy set out some aims for future flood risk management and it was noted that the focus was directed towards resilience rather than protection and placed reliance on partnerships to deliver this. It was unclear at this stage how funding tools would be applied and the Council's response highlighted concerns regarding the availability and allocation of funding. It was noted that without clarification on funding it was difficult to identify how the Strategy would achieve the vision, the steps along the way and what it was hoping to achieve to implement them.

Councillor Mrs P A Channer declared a non-pecuniary interest in this item of business as she lived in Althorne.

Members discussed the report and concern was raised regarding the lack of funding and that the Strategy did not detail how it would be delivered. It was agreed that further clarification would be made to the Council's response to question 7a regarding funding to make it clear that without funding details it would be difficult to see how the Strategy would achieve its vision. It was further agreed that question 1 should be amended to seek clarification on what the Strategy was hoping to achieve including how this would be implemented.

In response to a question regarding the Wallasea Island wetland project, the project was briefly discussed. Members were advised that the project would not be continuing and the harbour on the River Crouch was currently being removed.

At this point, Councillor Mrs Channer declared a non-pecuniary interest in this item of business as she was a member of the Crouch Harbour Advisory Committee and was on this Committee as part of the Kent and Essex Inshore Fisheries and Conservation Authority (KEIFCA). She advised that presentations were given, and the Crouch Harbour Authority carried out a review of the Wallasea Island Scheme.

RESOLVED that Maldon District Council's formal response to the Environment Agency consultation on the Draft National Flood and Coastal Erosion Risk Management Strategy for England be updated to include Members' comments regarding questions 1 and 7a.

There being no further items of business the Chairman closed the meeting at 8.48 pm.

MRS P A CHANNER, CC
CHAIRMAN

Children's Play Spaces

Adopted Supplementary Planning Document (SPD)
Maldon District Council
March 2006



Children's Place Spaces**Adopted Supplementary Planning Document (SPD)****March 2006****Contents**

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1. **The Purpose and Scope of this SPD**

- 1.1 The purpose of this SPD is to set out a formula that allows a developer contribution to be calculated for new housing development. The contribution takes account of the requirement to make room for a play space and provide the necessary equipment on larger developments, whilst also requiring a pro-rata contribution from smaller developments so that all proposals share an equal contribution.
- 1.2 This SPD sets out how policy REC3 in the Maldon District Replacement Local Plan will be implemented and is intended for use by developers, the public and other interested parties. The basic principle of policy REC3 is that new housing development should make provision for public play space as an integral part of the development based on National Playing Fields Association standards. This is to prevent new houses being built without enough room for play space so that children have no opportunity to play safely in their neighbourhood. The intention of the policy is that development should make a proportionate contribution to provision of new play space, or upgrading of existing play spaces, (depending on circumstances) to cater for the demands on play space created by the development of new housing.
- 1.3 The SPD indicates the requirements of different types of children's play space, in relation to residential development and sets out the contribution that should be provided for new development. Separately to this document the Council has prepared strategies for play space, green space and sports fields (Play and Recreation Strategies). Those strategies identify the existing level of provision. They indicate any deficiencies that exist and explain the improvements that are needed to bring everything up to the desired standards.
- 1.4 This SPD will be used in conjunction with the play and recreation strategies. The SPD will set out the level of development contribution that will be required. The play and recreation strategies will identify whether a development contribution is actually required in any particular location. The principle is that, if development is proposed in a location which has a deficiency of provision then a contribution will be required. However, if development is proposed in a location which has adequate provision (and the development does not overload the existing facilities), then no contribution will be required. This approach relies on the play and recreation strategies of the Council being kept up to date. Within this framework the SPD reflects current Government advice and draws on corporate strategies prepared by Maldon District Council.
- 1.5 During the last 20 years the District has experienced significant growth in the residential population, notably in the major settlements. The provision of children's play space has not matched population growth. It is therefore necessary to ensure that shortfalls in provision are addressed. The Council will seek to provide a wide range of children's play space facilities for varied

age groups of children in close proximity to as many residential areas as possible.

- 1.6 In 2005 Maldon District Council is updating a survey of existing play space facilities carried out in 2002. The results of which are set out in appendix 6 of the Replacement Local Plan. This shows that the majority of the villages in the District provide some children's play space, although in many cases they do not meet the adopted standards. This is particularly the case in Maldon, where the large area of children's play space at the Promenade Park disguises the lack of facilities elsewhere in the town.

2. Policy Context

(i) National planning context

- 2.1 Policy Planning Statement 12 – Development Plans indicates that Supplementary Planning Documents are an important mechanism to ensure that detailed Local Plan policies are implemented. PPS 12 states that SPD may be taken into account as a material consideration when determining planning applications provided that it is;
 - ◆ Saved against an adopted Local Plan Policy
 - ◆ Subject to appropriate consultation in accordance with the regulations
 - ◆ Formally adopted by the Council and
 - ◆ Regularly reviewed as required.
- 2.2 SPD is therefore a significant tool in translating policies and objectives into provision on the ground.
- 2.3 Planning Policy Guidance Note 17 – Planning for open spaces sport and recreation provides the Government's advice on all aspects of open space sport and recreation. It acknowledges the importance of children's play space as one component of public open space requirements in the local community. The national guidance endorses the need for local assessments to identify deficiencies of provision, to assist with securing additional facilities through the planning process. The PPG and the associated document "Assessing needs and opportunities, PPG17 a companion guide", provide guidance on the use of planning obligations and the use and calculation of commuted sums and developer contributions. The general stance encourages the Local Planning Authority to protect existing facilities, enhance and promote qualitative improvements to existing facilities, to provide new facilities giving priority to areas of deficiency and ensure that adequate provision is made in association with new development.

(ii) National standards

- 2.4 The National Playing Fields Association published a revised “Six Acre Standard” in December 2001. This gives national advice on the standard requirements for all types of play space to encourage provision of an adequate amount of useable open space to cater for all aspects of outdoor recreation. Although the current national thinking, reflected in PPG17, is that play space standards should be local standards based on local assessment of provision and need, the NPFA standards are a useful starting point. They provide useful advice on the detailed requirements for different types of children’s play space. The intention is that all children have the opportunity for access to outdoor play space close to home. Therefore this SPD uses and adapts the NPFA standards for outdoor playing space as a basis for defining provision and demand in the District. The definition and requirements arising from this are set out in section 3 of this document.

(iii) Local planning context

- 2.5 Maldon District Replacement Local Plan policy REC3 is the policy in the Replacement Local Plan which is the subject of this SPD. It is set out in full below:

POLICY REC3 Children’s play space associated with new housing developments and elsewhere in the District

Planning permission for new housing will only be granted if:

Play space is provided in accordance with the adopted standards of the District Council; or

Where all or part of the proposed development lies within 400m of the centre of existing play space; enhancement of that play space is carried out in accordance with the needs generated by the proposed new development ; or

A combination of (a) and (b); or

Where the above cannot be fulfilled, a commuted sum is to be paid to the District Council for the provision or enhancement of children’s play space of the same value to level as provision of the facilities.

Planning permission for new housing will only be granted if children’s play space areas are;

Secure and located where there is good visibility on a pedestrian network accessible by local residents to allow supervision and surveillance;

The space will be equipped according to the standards of the District Council;

It does not result in adverse impact on residential amenity or character of the countryside;

The play space is for public use in perpetuity;

Pedestrian access exists or will be provided via a footpath giving safe access to the site.

Development proposals that do not meet the above standards will not be granted planning permission.

- 2.6 This SPD will assist with the Implementation of the Replacement Local Plan policy, aiming to protect and enhance existing play spaces as well as provide additional facilities with new development and to meet identified shortfalls.

(iv) Corporate strategies

- 2.7 The planning system, through the Local Plan and development control is only one mechanism for providing; enhancing and protecting children's play spaces. Management and maintenance of such facilities goes beyond the remit of planning and involves other Local Authority services, generally led by Leisure and Recreation Departments. Maldon District Council has produced the following strategies which have corporately identified issues addressed in this SPD
- ◆ Outdoor Play Facilities Strategy
 - ◆ Community Plan
 - ◆ Playing Pitch Strategy
 - ◆ Cultural Strategy
- 2.8 These documents have informed the background to the policy in the Replacement Local Plan and will be updated and reviewed in order that this SPD can continue to be used in planning decisions.

3. **Requirements and definitions of children's play space.**

- 3.1 Children's play space is usually just one component of larger parks or areas of formal public open space. The Replacement Local Plan has incorporated public open space standards which are based on a local assessment of provision and need. These are derived from the NPFA standards, taking into account local circumstances. The three large towns and majority of large villages in the District are built to a density of less than 30 dwellings per hectare. In the main the District is sparsely populated with a large number of small communities separated by extensive areas of open countryside. As a result this SPD modifies the recommendations of the NPFA to establish standards that relate the rural settlement pattern in the District to the level of appropriate provision. Two standards are adopted, one for the larger key settlements and another for the rural areas. The children's play space component, also follows the NPFA minimum standards, with local variations.
- 3.2 The NPFA standards for children's play space identifies three levels of play provision; LAP, LEAP, NEAP (see below). Each level of play space must be within a minimum walking distance of the area it serves. The minimum requirements based on the modified NPFA standards are also illustrated in Table 1.
- **Local Area for Play (L.A.P)** A small area of unsupervised open space specifically designed for play activities for young children close to where they live. The target users are mainly 4-6 year olds and any equipment provided should be correctly scaled so as to discourage use by older children.
 - **Local Equipped Area for Play (L.E.A.P.)** An unsupervised play area for children of early school age. The target users are mainly accompanied children between 4-8 years of age. Needs of children under 4 as well as those over 8 should also be considered. Areas should be equipped offering at least 5 types of play equipment. In addition seating for accompanying adults should be provided.
 - **Neighbourhood Equipped Area for Play (N.E.A.P.)** An unsupervised site serving a substantial residential area, equipped mainly for older children, but also including opportunities for younger children's play. The target users are mainly unaccompanied and unsupervised children from 8-14 years of age. Consideration should also be given for slightly younger unsupervised children. Play areas should be equipped offering at least 8 types of play equipment suitable for the intended age range. It should also include a kick-about area and wheeled play area (eg skate boarding). Seating should be provided for adults as well as a teenage meeting area.
- 3.3 A full specification for LAPs, LEAPs and NEAPs is included in Appendix 1 of this SPD.

- 3.4 “The Six Acre Standard” (2) published by The NPFA sets out the walking distance from home and size for the three different types of play space. The standards adopted by this Authority and illustrated in Table 1 modify these standards to reflect the particular circumstances of this District. The NPFA standards are shown in brackets.

TABLE1.

Specification	Time	Walking Distance	Radial (Straight Line) Distance.	Minimum Size Activity Zone	Nearest Dwelling	Characteristics And age group
Local area for play (LAP)	1.5 min. (1min)	140m (100m)	100m (60m)	100m ²	5m from Activity Zone ¹	Small, low key games area (may include “demonstrative” play features) Up to 6 years
Local equipped area for play (LEAP)	7.5min (5 min.)	400m (600m)	400m (240m)	400m ²	10m from Activity Zone ²	5 types of play equipment, small games area 4 –8 years
Neighbourhood equipped area for play (NEAP)	15 min.	1,000m (1700m)	1000m (600m)	1,000m ²	30m from Activity Zone ³	8 types of play , opportunities for ball games or wheeled activities Older children

¹ To the forward-most part of dwelling that faces the LAP

² To property boundary

³ To property boundary

¹ Source: “The Six Acre Standard 2001” by the National Playing Fields Association

- 3.5 The NPFA recommends that for settlements in rural areas the following approach be adopted.
- Settlements of 1000 people or more; full provision of LAP’s, LEAP’s and NEAP’s.
 - 250 to 1000; full provision of LAP’s and LEAP’s with priority being given to a LEAP

- 100 to 250 people; provision for a LEAP plus, for existing housing areas, a casual play area of not less than 100m² and, for new developments, LAP's. These should be located as close as possible to the centre of the newly extended settlement. However, it is recognised that within existing communities the only available land may be orientated towards the extremity of the settlement.
 - Less than 100 people; provision of a casual area of play of not less than 100m² for existing housing areas and LAP's in any new developments. These should be located as close as possible to the centre. However, it is recognised that within existing communities the only available land may be orientated towards one end of the settlement.
- 3.6 This standard suggests that a new development should make provision for the full range of play and recreation space as part of a development setting out the threshold population for each type of facility. It suggests a development with a population of 1000 people would require 1 NEAP, 8 LEAP, 16 LAP and one sports field. However taking account of the rural nature of the district and the high quality environment the Council has modified the six acre standard to a more appropriate level of provision as outlined above.

L.E.A.P.'s

- 3.7 Taking account of the rural nature of the district and easy access to countryside the standard adopted for L.E.A.P's varies the N.P.F.A. standard by substituting the "radial line" distance with the "walking line" distance in Table 1. This effectively reduces the frequency of L.E.A.P provision. Calculating the population served by each L.E.A.P. determines those settlements where L.E.A.P's should be provided.
- 3.8 This approach indicates that Maldon, Heybridge, Burnham, Mayland, Tollesbury and Southminster require L.E.A.P's. The remaining settlements are considered to be rural settlements and should be dealt with using a more relaxed formula.

N.E.A.P.'s

- 3.9 Using the methodology adopted for calculating the standard for L.E.A.P.'s, substituting the "radial line" distance with the "walking line" distance in Table 1 and calculating the population by served by each N.E.A.P using a much-reduced housing density figure determines those settlements where N.E.A.P.'s should be provided.
- 3.10 As the area of land required for this type of facility is quite significant and the separation distance between housing and the N.E.A.P. is large it is

considered that these will be mostly accommodated on land already owned by the District Council.

L.A.P's

- 3.11 LAP's should be provided at frequent intervals on small areas of land located on developments. It is expected that developers, as part of the layout process, will provide these play spaces.
- 3.12 Play pitches such as football, cricket and rugby. These should be provided at a district level to cater for older children as well as adults needing access to sport facilities.

4 Provision of Playspaces and Facilities

- 4.1 The Replacement Local Plan 2005 does not identify any further land for development of new housing. The demand for new play space will arise from the redevelopment of existing sites as identified in the Urban Capacity Study. All the identified sites are physically constrained in terms of accessibility and space to include provision of play space as part of any potential development. There are a large number of "small" sites in the district with potential for less than 10 houses. These account for nearly 30% of the supply of housing in Maldon District.
- 4.2 In the absence of provision for new housing development on undeveloped land the Council will not seek the provision of the actual play and recreation space as part of housing development. Developer contributions will be required where the recreation and play strategies identify a lack of provision in the vicinity of the proposed development and the strategy has identifies a site that can be improved or developed. Developer contribution will not be required where the strategies indicate appropriate provision of facilities in the vicinity of the proposed development. The recreation and play strategies therefore indicate the level of developer contribution in any particular location.
- 4.3 The intention of the SPD is that, subject to a need identified in the relevant recreation and play strategy, smaller development should contribute to the full provision of sports and recreation facilities in proportion to the overall level of provision. Thus a development with a population of 10 should contribute 1/100th of the cost of providing the full range of facilities for a population of 1000.
- 4.4 As this SPD refers to a number of mechanisms for securing provision of play space, it is important that methods of implementation are clearly understood and that sound advice exists for calculating developer contributions. The following definitions apply to the implementation of the

SPD. PPG 17 and the Companion Guide includes some advice on these issues, these are referred to here.

- 4.5 Planning Obligations PPG 17 endorses the use of Planning Obligations to secure the provision of additional facilities. It states “Planning Obligations should be used as a means to remedy local deficiencies in the quantity or quality of open space, sports and recreation provision. Local Authorities will be justified in seeking planning obligations where the quantity or quality of provision is inadequate, or under threat, or where new development increases local needs.” It is necessary for local Authorities to have undertaken detailed assessments of need and audits of existing facilities and set minimum standards in order to justify Planning Obligations.
- 4.6 Developers’ Contributions These are capital receipts intended to fund a particular quantity of a particular form of new provision, usually off site. Where contributions are sought there is a need for a normalised capital cost per unit of provision to establish the payment required. This cost can include any or all of the following; Land costs and related legal fees; construction costs where appropriate; essential equipment, e.g. play equipment on a LEAP or NEAP.
- 4.7 Commuted Maintenance Sum Taking account of practical implications of agreeing appropriate maintenance payments the District Council does not intend to ask developers for commuted sums to fund maintenance of play facilities. Instead the Council will ask for contributions, either in cash or by way of direct provision of facilities towards achieving the Outdoor Play Facilities Strategy.
- 4.8 Programming of provision Developer contributions will be used together with funding from the District Council to upgrade existing play spaces and establish new play spaces on land currently under the control of the District Council. These play spaces will be located in the settlements where the under-provision of L.E.A.P.’s or N.E.A.P.’s outlined in section 3 has been identified.
- 4.9 Provision will be prioritised having regard to:
 - ◆ Need as assessed by the lack of facilities in a particular area.
 - ◆ the available financial resources generated by developer and other contributions in each settlement and
- 4.10 The establishment and adoption of LEAP’s or NEAP’s secured through the construction of a large residential development will be in addition to those provided through developer contributions and will be subject to opportunities arising..
- 4.11 Funding

5 **Application Of The Play Space Standard and Calculation of Commuted Sums for the provision of Play Spaces.**

- 5.1 The play space standard is based on the estimated population that a new development will generate. This population is estimated using the occupancy standards listed in table 2 below. These occupancy standards are used to calculate the threshold figures set out in table 3.

TABLE 2

Dwelling size (No. of rooms excluding hallways larders Etc)	Occupancy (average)
3	1.4
4	1.7
5/6	2.4
7+	2.9

This information is derived from the 2001 census and may be subject to revision.

- 5.2 A development scheme population can be calculated using the information listed in table 3. Developments with a projected occupancy that equates to the threshold population for each of the play space types listed should seek to provide that facility on site.

TABLE 3

Type of play space	Minimum size of facility (excluding buffer zone)	Threshold population (derived from the 6 Acre standard)	m ² per person	m ² per person x dwelling size			
				(no. rooms)			
				3	4	5/6	7+
1 x Youth/Adult	8,100m ²	470	17.0	24	29	41	49
1 x LAP	100m ²	62	1.6	2	3	4	5
1 x LEAP	400m ²	124	3.2	4	5	8	9
1 x NEAP	1,000m ²	1,000	1.0	1	2	2	3
1 x Casual Play Space			1.0	1	2	2	3

- 5.3 It is accepted that some types of accommodation such as sheltered accommodation for the elderly are unlikely to create demand for play space.

This type of development will not be expected to make a contribution to play space provision.

- 5.4 Where the site population of a development scheme falls between or below the threshold for a type of play area (e.g. a site population of 30 would generate a requirement for half a LAP), the following approach will be applied:-
- 5.5 The area of the different play types in excess of the minimum sizes, from the last two columns of table 3 should be treated as follows:
- 5.6 The partial provision of youth/adult, N.E.A.P.'s and L.E.A.P.'s should be used to increase the size and quality of the nearest proposed or existing play area, identified in the Play Space Strategy of Maldon District Council.
- 5.7 Excess identified for LAP's should be used to enlarge a proposed area of casual play to provide a defined play area.
- 5.8 In calculating the provision of play space it is important to take accessibility into consideration. Simply enlarging or up grading the nearest play area may not necessarily increase provision if that play area has a full range of equipment but is shared by a larger community. In such cases developers should seek to work with the Council to identify alternatives where possible.

Commuted Payments For Off Site Provision

- 5.9 The District Council acknowledges that due to the lack of green field development opportunities in the Replacement Local Plan, on site provision may not be feasible, particularly where development is required to provide larger play areas. In such cases, the Council will seek to negotiate a planning obligation under Section 106 of the Town and Country Planning Act 1990. This obligation enables developers to make a contribution towards the provision of suitable off site play space in lieu of direct provision within the development site where there are identifiable and appropriate opportunities for providing new play space or upgrading existing play space in accordance with the Play Space Strategy (see table 4). In calculating commuted sums, the Council will have regard to existing facilities that could serve the development.
- 5.10 Where existing play facilities with sufficient capacity to absorb the increased level of use generated by the proposed development meet the Council's play space requirements; the Council will not require duplicate provision.

TABLE 4

LAP	It will not be possible to commute provision of LAPs as they cannot functionally be located outside of the development.
LEAP/NEAP	Commutated payments will be accepted where there are appropriate and identifiable opportunities for providing new or improved play space.
YOUTH/ADULT	It will be unlikely that youth/adult play space will be provided on site except on the largest developments. In most cases therefore, the Council will negotiate a commuted payment for off site provision. All residential development is therefore required to make provision for this type of provision, irrespective of any existing facilities within the locality.

Calculating Commuted Sums Required

- 5.11 The amount of contribution sought will be based on estimated costs for land, design, layout and equipment calculated as a figure per dwelling type for youth/adult facilities, L.E.A.P.'s and N.E.A.P.'s. In cases where a proposed development is sufficiently large enough to provide an element of on site play space provision to the minimum size and design requirements, then these will be discounted from the commuted sums to avoid duplication of provision.
- 5.12 Table 5 sets out the level of commuted sums. This information is correct at the time of publication of this document and will be reviewed annually to take account of increases in costs, and any future changes at national level or in the Council's own policies regarding health and safety inspections. The purpose of table 5 is to provide a baseline for negotiation.

TABLE 5

Dwelling type/ No. rooms	Average occupancy*	Youth/ adult play	NEAP	LEAP	Total**
		£	£	£	£
3	1.4	178	176	845	1,199
4	1.7	216	213	1,026	1,455
5/6	2.4	305	301	1,448	2,054
7+	2.9	368	364	1,750	2,482

*2001 Census

- 5.13 To calculate the appropriate amount of commuted sum payment for a particular scheme developers should:
- ◆ identify the total population of the proposed site and level of play space required using table 3,
 - ◆ identify which of the full range of required play spaces are able to be provided on site,
 - ◆ identify the level of requirement required off site, and, together with officers of the Council identify whether there are any existing play facilities (see appendix 1 and plan 1) which fulfil the relevant play space requirements
 - ◆ check distances and times as set out in table 1, and have the capacity to cater for the demand generated by the proposed development.
- 5.14 Where provision for play space cannot be accommodated on site, or at appropriate existing facilities, developers should:-
- ◆ Establish, together with officers of the Council, whether there are any viable opportunities for alternative facilities to be provided off site in locations which would fulfil the relevant play space requirements as set out in table 1.
 - ◆ Calculate the appropriate commuted sum by multiplying the number of dwellings by the sum given in table 5 for the play space types that it has been agreed can be provided off site.
- 5.15 Monies collected via commuted sum payments will be held in a discrete fund. Payments for N.E.A.P.'s and L.E.A.P.s will be spent on the most appropriate facility to the proposed site. Payments for youth/adult provision will be used to fund borough wide projects.
- 5.16 Financial Contributions The contributions collected will be used to finance the provision of either LAP's, L.E.A.P.'s or N.E.A.P.'s or the upgrading from a LEAP to a NEAP located within the same settlement as the development making the contribution in accordance with the Play Space Strategy.
- 5.17 Specified villages where developments are the subject of commuted sums. Developers will be expected to contribute to the cost of providing these facilities in relation to the number of dwellings being constructed either by:
- (a) Making a financial contribution to cover the cost of providing a site and equipping the site to NPFA standards as well funding the future maintenance of the site or
 - (b) Providing a site for a play space and equipping it to NPFA standards or

(c) Providing the necessary improvements directly to an existing play facility in accordance with the Outdoor Play Facilities Strategy.

- 5.18 A combination of (a) (b) and (c) allowing the developer to satisfy the LPA's requirement with a mix of fixed assets and funding.
- 5.19 If the funds collected cannot be used within five years of occupation of the development they will be returned.

6 **Abstract of Play Space Strategy.**

- 6.16 Contributions will be required in Maldon, Heybridge, Mayland, Southminster, Burnham on Crouch and Tollesbury. Contributions will only be used to support the creation of play spaces in the villages where the development takes place.
- 6.17 Rural Communities. In those settlements not large enough to support the provision of a LEAP or NEAP the District Council will assist in funding either the provision of new facilities or the improvement of existing facilities under a Grant Scheme operated by this Authority. In these instances funding assistance will be determined following the receipt of an application from the Parish Council. The applications will be considered in relation to the District Councils capital expenditure programme for the following financial year. Decisions on those applications will also be made having regard to the following priorities
- 6.18 Provision of play facilities in settlements where no facilities currently exist will have the highest priority

APPENDIX 1

Specification for Local Area for Play (L.A.P.)

It caters for children for up to 6 years of age

It is within 1min walking distance from home.

To be positioned beside a pedestrian pathway on a route that is well used.

It occupies a reasonably flat site that is well drained with grass or a hard surface

It has an activity zone a minimum of 100m² in area

It contains features that enable children to identify the space as their down domain, for example, a footprint trail, a mushroom style seat or a model of an animal or insect

A buffer zone of 5 metres minimum depth, is provided between the activity zone and the forward most part of the nearest dwelling that faces a LAP. Gable end or exposed walls should be protected from use for ball games by, for example, providing a strip of dense planting of 1 metre in depth.

The buffer zone includes planting to enable children to experience natural scent, colour and texture.

Some individual seats provided for parents and carers

It has a 600mm high guard-rail or similar low level fence around the perimeter (either within or adjacent to areas of planting) to prevent access to the play area by dogs.

It has a barrier to limit the speed of child entering or leaving the facility.

It has a sign to indicate that the area is solely for use by children, that adults are not allowed unless accompanied by children and that dogs should be excluded.

It is overlooked by nearby houses.

The area of the activity zone contributes to meeting the children's playing space part of the Six Acre Standard.

Specification for Local Equipped Area for Play (L.E.A.P.)

It caters for children of 4-8 years in age.

It is within a walking time of 5 minutes from home

To be positioned beside a pedestrian pathway on a route that is well used.

It occupies a site that is well drained with grass or a hard surface and features an appropriate impact-absorbing surface beneath and around the play equipment.

It has an activity zone a minimum of at least 400m² in area.

It contains at least 5 types of play equipment, of which at least two are individual pieces rather than part of a combination. Each item is designed to stimulate one of the following

Balancing e.g. beams, stepping logs, clatter bridges, or graphic line elements.

Rocking e.g. see-saw or spring animals

Climbing or agility, e.g. frames, Dnets, overhead bars, or angled climbers.

Sliding, e.g. traditional slides, straight or angled "fire fighters" poles.

Social play, e.g. sheltered areas or child seating

Additional items might focus upon rotating, swinging, jumping, crawling, viewing, (e.g. ground graphics) counting or touching (e.g. sand and water)

There is adequate space around the equipment to enable children to express their general exuberance and play games of "tag" and "chase".

It has fencing, if the site is not already adequately enclosed, of at least 1 metre in height around the perimeter of the activity zone with two, outward opening and self closing , pedestrian gates on opposite sides of the space (to deter entry by dogs and to restrict opportunities for bullying).

It has a barrier to limit the speed of the child entering or leaving the facility

Privacy of neighbouring residential gardens is protected

A buffer zone, not less than 10 metres in depth, is provided between the edge of the activity zone and the boundary of the nearest property containing a dwelling. Normally a minimum of 20 metres should be provided between the activity zone and the habitable room façade of the dwelling. Where the minimum distances apply, careful consideration needs to be given to

The design of the means of enclosure planting scheme and/or other physical features on the boundary of the residential property and

The siting of the play equipment within the activity zone (to preclude opportunities for overlooking nearby gardens and a consequential loss of privacy for residents.

The buffer zone includes planting to enable children to experience natural scent, colour and texture.

Some seats are provided for carers and parents

It has a notice to indicate:

That the area is solely for use by children

That adults are not allowed unless accompanied by children.

That dogs should be excluded

The name and telephone number of the operator of the facility to report any incident or damage to the play equipment.

It has a litter bin.

The area of the activity zone contributes to meeting the children's playing space part of the Six Acre Standard

Specification for Neighbourhood Equipped Area for Play (N.E.A.P.)

It caters for predominately older children

It is well within a walking time of 15 minutes from home.

It is positioned beside a pedestrian pathway on a route that is well used.

It occupies a site that is well drained with grass or a hard surface and features an appropriate impact-absorbing surface beneath and around the play equipment.

It has an activity zone a minimum of 1000m² in area that is divided in two parts; one containing a range of play equipment and the other provided with a hard surface of at least 465m² (the minimum area needed to play five-a-side football).

It contains at least 8 types of play equipment comprising:

At least 1 item to stimulate rocking, touch, social or developmental play among younger children.

At least 2 items to facilitate, sliding, swinging or moderate climbing.

At least 5 items, of which at least 3 are individual pieces rather than in combination, to encourage either more adventurous climbing, single point swinging, balancing, rotating, or gliding (e.g. aerial runway).

There is adequate space around the equipment to enable children to express their general exuberance and play games of “tag” and “chase”.

It has fencing, if the site is not already enclosed, of at least 1 metre in height around the perimeter of the activity zone with two, outward opening and self-closing, pedestrian gates on opposite sides of the space (to deter entry by dogs and to restrict opportunities for bullying)

It has a barrier to limit the speed of a child entering or leaving the facility

A buffer zone, of 30 metres minimum depth is provided between the activity zone and the boundary of the nearest property containing a dwelling. A greater distance may be needed where purpose-built skateboarding facilities are provided.

The buffer zone includes planting to enable children to experience a part of the “natural” environment.

Some individual seats are provided for parents or carers in the vicinity of the play equipment and other seating is provided within the hard surfaced games area.

It has a notice to indicate:

That the area is solely for use by children.

That adults are not allowed in the equipped space unless accompanied by children

That dogs should be excluded

The name and telephone number of the operator of the facility to report any incident or damage to the play equipment.

The location of the nearest public telephone.

It has litter bins at each access point and in proximity of each group of seats.

It has convenient and secure parking facilities for bicycles.

The area of the activity zone contributes to meeting the children’s playing space part of the Six Acre Standard

APPENDIX 2**Catchment Areas for LEAP's and NEAP's and funding requirements.**

In order to determine whether the provision of a play space can be justified in terms of "user intensity," the SPG aims to establish a population threshold for the provision of children's play facilities. The determination of the threshold relies on a modification of the of the NPFA standards for the provision of LEAP's and NEAP's.

To reflect the particular circumstances of this District and ensure a balance between frequency of provision and intensity of use in established residential areas the "walking distance" stated in Table 1 has been used as the "radial line distance".

Catchment Areas**L.E.A.P.'s**

Area served (1)	400m from centre of play space comprising 50 ha.
Dwelling density (2)	30 dwellings per hectare
Occupancy rate	2.6 persons per dwelling

Minimum population served by L.E.A.P. 3900 persons

N.E.A.P.'s

Area served (1)	1000m from centre of play space comprising 314ha..
Dwelling density (3)	15 dwellings per hectare
Occupancy rate	2.6 persons per dwelling

Minimum population served by N.E.A.P. 9400 persons

- (1) The area served in both cases uses the walking line distance stated in the NPFA standards to determine the area served by the respective play areas.
- (2) Density reflects the low end of the density range suggested by PPG3.
- (3) Density reduced to reflect the fact that in this District an area of 300ha is likely to be developed at a density of no more than 15 dwellings to the

hectare.

Relating these statistics shows that L.E.A.P's can only be justified in the settlements of Maldon, Heybridge, Mayland, Burnham, Southminster and Tollesbury.

N.E.A.P's require a larger investment and serve a larger population and only 5 or 6 N.E.A.P's are required in the District located in the major population centres.

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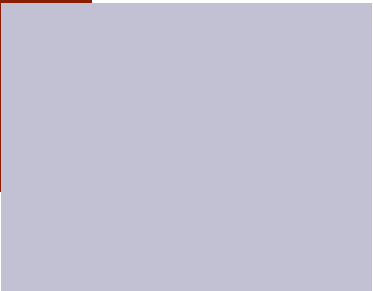
MALDON DISTRICT
**Developer
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MALDON DISTRICT
COUNCIL

DISTRICTPRIDE
DISTRICTWIDE

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Introduction

Developer contributions are normally secured through planning obligations under section 106 of the Town and Country Planning Act 1990 which are typically agreements between local authorities and developers negotiated in the context of granting planning consent. They were introduced to secure improvements not coming forward under conditions of planning permission.

Through this mechanism developers contribute towards sustainable communities and help ensure the success of new developments. They can make cash or in-kind contributions towards a range of infrastructure and services including local roads and public transport schemes, public spaces, community facilities and affordable housing.

The purpose of this document is to set out Maldon District Council's approach to seeking developer contributions when considering planning applications. It brings together the policy approach of Central Government and the development plan context as in the adopted Maldon District Replacement Local Plan and the Essex and Southend-on-Sea Replacement Structure Plan.

The document represents a guide to Maldon District Council's adopted position in relation to negotiations it will undertake to secure appropriate developer contributions as part of planning approvals.

The guide is consistent with current national planning policy and guidance and with the Development Plan. It has not been adopted as a supplementary document under the Planning and Compulsory Purchase Act 2004 as it does not elaborate existing adopted policy. Rather it represents an interim guide reflecting Maldon District Council's current adopted policy position with regard to Developer Contributions.

The District Council has now commenced preparation of a Local Development Framework part of which will be the adoption of a Core Strategy by October 2008. Following this adoption the District Council have timetabled the production of a Developer Contributions Supplementary Planning Document which will elaborate policy within the Core Strategy.

This interim guidance will therefore apply to saved Development Plan policy until replaced by the Core Strategy of the Local Development Framework. As the guide does not elaborate policy it has not been the subject of additional consultation, outside the Development Plan consultation processes, other than with key stakeholders.

Central Government Legislation and Guidance

The Government views developer contributions as a means of enabling a proposed development to proceed and to meet any increased needs of the local community associated with the new development. It is seeking to improve the operation of the system of obligations, by promoting greater speed, certainty, openness and accountability. The statutory basis of developer contributions is section 106 of the 1990 Planning Act, which allows anyone interested in land to enter into an obligation (legal agreement) that regulates the development of the land in some way or requires a financial contribution.

This is further elaborated in ODPM Circular 05/2005 'Planning Obligations' July 2005 which states that developer contributions should only be sought where they meet the following tests:

1. relevant to Planning;
2. necessary ie they are necessary to make a proposal acceptable in land use planning terms;
3. directly related to the proposed development;
4. fairly and reasonably related in scale and kind to the proposed development;
5. reasonable in all other respects.

Developer contributions may relate to matters other than those covered by a planning permission, provided there is a direct relationship with the planning permission. However, they should not be sought where this connection does not exist or is considered too remote. There should be a functional or geographical link between the development and the item being provided as part of the contribution.

Acceptable development should never be refused because an applicant is unwilling or unable to offer unrelated benefits. Unacceptable development should never be permitted because of unnecessary or unrelated benefits offered by the applicant.

All planning applications must be determined on their own merits and contributions sought only if they are necessary to proceed. Developers should not be expected to pay for facilities that are needed solely in order to meet existing deficiencies. In summary contributions aim to mitigate the impact of proposals where the development itself is in other respects acceptable.

Central Government Legislation and Guidance

The Government has addressed transparency issues through 'Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2002 [Statutory Instrument 2002 no 828]' which came into effect on 1 July 2002 and requires details of the planning obligations for each development to be published in both Parts I and II (before and after the grant of planning permission as appropriate) of the local planning authority's Planning Register. In recent years the Government has also issued a number of consultation papers with a view to reforming developer contributions.

Given the statutory basis there are two ways in which the seeking of contributions must be justified - planning policy and need. These are elaborated in sections 3 and 4.

A developer may apply to modify a Section 106 agreement and has the ability to appeal to the Secretary of State against a Council's refusal to modify a section 106 agreement after 5 years. This replaces the need to go through the Lands Tribunal set out in an earlier Circular (01/97).

The Local Planning Policy Context

The development plan represents the current adopted planning policy position for which this guide is written.

The Essex and Southend-on-Sea Replacement Structure Plan (adopted April 2001) provides the relevant development plan policy context at county level for development proposals in Maldon District. Policy BE5 identifies the need for developers to contribute towards the infrastructure costs of their proposals.

POLICY BE5 states:

'Development will not be permitted unless it makes provision for community facilities, public services, transport provision, infrastructure, environmental works and any other requirements which are made necessary by and are directly related to the proposed development. The requirements will be set out in adopted local plans, Local Transport Plans and/or development briefs and will be negotiated when determining planning applications.

Developers will be required to finance the full cost or if appropriate a contribution towards the full cost of all such provision which is fairly and reasonably related in scale and kind to the proposed development and its impacts on the wider environment. This provision will be subject to planning obligations which will be secured prior to the issue of planning permission. These obligations will specify the nature and timing of all provision, both on and off a development site, made necessary by the development concerned '.

The policy is supported within paragraphs 8.15 - 8.17 of the Structure Plan.

The adopted Maldon District Replacement Local Plan (2005) adopts a more focussed approach to directing the specific use of developer contributions in relation to a number of topic based policies. These are:

- CC1 Development Affecting an Internationally Designated Nature Conservation Site
- CC2 Development Affecting a Nationally Designated Nature Conservation Site
- H9 Affordable Housing
- REC3 Children's Play Space Associated with New Housing Developments and Elsewhere in the District
- PU1 Provision of Education Facilities

These policy priorities are explained in more detail in section 6 of this guidance.

Need

Local needs identified via the Local Strategic Partnership are important when considering the nature of developer contributions. These are set out within the Maldon District Community Plan. The priority issues arising from consultation in this community planning process have been distilled into six themes presented in the Community Plan itself as follows:

COMMUNITY SAFETY

To reduce both the level and the fear, of crime to make our community a safer place to live, work and relax.

HEALTH, SOCIAL CARE & HOUSING

To maintain and improve the health, wellbeing and quality of life of everyone in Maldon District, especially amongst those whose health is poorest. To improve access to appropriate local housing.

TRANSPORT & ACCESS

To improve the provision and integration of all modes of transport and access to services and facilities within the District.

EDUCATION, TRAINING & EMPLOYMENT

To enhance educational achievement, lifelong learning and training and to support a thriving local economy that provides jobs.

ENVIRONMENT & PLANNING

To improve our quality of life and enhance, protect and preserve both our local and the wider environment for now and future generations.

LEISURE & RECREATION

To provide everyone with high quality opportunities for leisure, recreation, relaxation and culture throughout the District.

The Community Plan is being reviewed with the intention of producing a new Plan in early 2007. As part of this process needs may be expressed differently in future.

Need

In May 2006, the District Council adopted a new corporate vision of "Creating a District which takes pride in itself". This new vision is supported by the following four key external priorities:

SUPPORTING AN ACTIVE LOCAL ECONOMY

PROTECTING OUR RURAL HERITAGE

INCREASING THE AFFORDABLE HOUSING SUPPLY

PROMOTING CIVIC PRIDE

The new vision will underpin production of the Local Development Framework. Together with the new objectives, it supports many of the policies and proposals in the adopted Maldon District Replacement Local Plan.

Other plans and strategies have been used to help define development plan policy and can assist in providing background to issues when assessing developer contributions. These are usually topic based and will include:

- the Maldon District Housing Strategy;
- the Maldon District Recreation Strategy;
- the Maldon District Playing Pitch Strategy;
- the Essex Local Transport Plan (LTP2);
- the Essex Biodiversity Action Plan.

Such strategies provide a rationale and justification for both the principle and the relevant mitigation measures contained in a developer contribution and will be referred to as appropriate.

Making a Contribution

The assessment of need is carried out according to the subject. The steps in assessing the need and scale of developer contributions are:

- determining the nature, extent and timing of the impacts;
- establishing appropriate infrastructure standards;
- identifying those areas where there are infrastructure shortfalls or spare capacity and measuring the extent of the shortfalls or spare capacity;
- measuring impacts against standards in order to calculate appropriate mitigation;
- costing the mitigation measures and determining the timing of their delivery.

A developer contribution is established within an agreement between a developer and the District Council, and other parties as necessary. It can identify activities or work to be carried out on-site or financial contributions, revenue or capital, to be made. Where available it should be based on standard charges or formulae, elsewhere by negotiation on a case by case basis.

Where unacceptable impacts are identified on public infrastructure, contributions will be required by public agencies to address these. In some cases the developer will be asked to undertake the work directly. In other cases a facility may be required that is then run by a public or other agency. Some contribution to these running costs or in other cases maintenance costs may be required.

It is open to a developer or other interested person to make a contribution by way of a unilateral undertaking. This does not require the agreement of the local authority. These are appropriate for financial contributions in certain circumstances. In other respects the considerations set out in this guide apply.

The developer contribution process must be transparent, efficient, consistent and effective. The developer contribution will be finalised within a section 106 agreement, or unilateral undertaking, prior to a report on a planning application being placed before the planning committee. Exceptions to this procedure are only likely where the development is particularly complex or large. The scale and scope of a contribution will be negotiated, in relation to the specific circumstances of the development, including viability. Where a developer indicates that infrastructure costs are considerable and a S106 contribution will make the development of the site unviable or a lesser degree

Making a Contribution

of provision is being promoted by the developer, then the Council will require documentary evidence of those infrastructure costs or other unforeseen costs that are put forward at the time of any preliminary discussions. An 'open-book' approach to financial assessment will be encouraged.

The contributions will in each case be related directly to the scale of the impact or scale of development. A major development will trigger thresholds of provision in its own right. Smaller developments may make a quantifiable impact that cumulatively with other small developments will trigger a threshold. In such cases a contribution will be called for and pooled until provision is cost effective.

In some circumstances contributions may be a significant factor in development viability. However they remain a necessary cost of development and need to be identified as such by potential developers. Hence it will be expected that the likely cost of contributions be fully reflected in negotiations from the start of the development process. In limited circumstances, if a developer considers that the cost of the contribution, renders the project unviable then the Council, at its own discretion, may review the range and nature of contributions that would normally be sought. Such a review is likely to be considered where a development is seen as offering planning benefits separate to those normally required by a contribution. In order for this review to take place the developer will be required to make available the financial appraisal that gave rise to the conclusion. The Council will require its reasonable costs in reviewing the viability to be met by the party seeking review. Where a developer indicates that infrastructure costs are considerable and an S106 contribution will make the development of the site unviable or a lesser degree of provision is being promoted by the developer, then the Council will require documentary evidence of those infrastructure costs or other unforeseen costs that are put forward at the time of any preliminary discussions.

The Council will expect its reasonable costs in drawing up the agreement and in monitoring the agreement to be met by the developer. The Council will use its best endeavours to minimise these costs to specify them at the earliest possible opportunity in the application process and wherever possible set out a timetable for the steps it will take in dealing with the application and agreement.

Making a Contribution

The main features of the approach are:

- potential developer contributions will be raised at pre-application discussions;
- planning applications will be assessed against planning policy and expressed need in order to identify appropriate contributions;
- developers will be invited to discuss contributions early in the process;
- draft agreements will be prepared for the agreement of developers when registering an application other than in exceptional cases.

Maldon District Priorities

6.1 Environment

The adopted Structure Plan includes policies that seek to protect the quality of the County's environment against inappropriate development, **Policy NR1 requires development to respect its setting**. Development will not be permitted that would cause permanent destruction or damage to the character of the landscape. Other relevant policies include:

- NR6: Development that would adversely affect designated sites will not be permitted. If there is a risk of damage, obligations may be sought to secure future site management or to made compensatory provision elsewhere.
- NR7: Additional natural habitat sites will be protected by identification in the local plan, or during the consideration of development proposals.

The Maldon District Replacement Local Plan sets out the District Council's commitment to enhancing and safeguarding the environment. Two policies, focussed on the District's most prized wildlife sites refer to the potential use of developer contributions to seek environmental benefits. These are:

'CC1 DEVELOPMENT AFFECTING AN INTERNATIONALLY DESIGNATED NATURE CONSERVATION SITE

Development likely to have a direct or indirect effect on a Ramsar site, Special Protection Area or Special Area of Conservation will not be permitted unless it is necessary for reasons of overriding public interest. Any such proposals will be subject to the most rigorous examination. Where development is permitted the use of conditions or planning obligations will be considered, to avoid and/or minimise harm to the site, to enhance the sites nature conservation interest and to secure any compensatory measures and appropriate management that may be required.

CC2 DEVELOPMENT AFFECTING A NATIONALLY DESIGNATED NATURE CONSERVATION SITE

Development likely to have a direct or indirect effect on a National Nature Reserve, Site of Special Scientific Interest or Environmentally Sensitive Area will not be permitted unless the need for the development clearly outweighs the importance of the site or the effects can be satisfactorily mitigated. Where development is permitted the use of conditions or planning obligations will be considered, to avoid and/or minimise harm to the site, to enhance the sites nature conservation interest and to secure any compensatory measures and appropriate management that may be required'.

Maldon District Priorities

In pursuing policies CC1 and CC2 the District Council may seek agreements to regulate land use in the interests of the Environment, or seek capital contributions to secure mitigation, compensatory provision or enhancement of existing sites and resources.

The identification of specific mitigation measures to address the potential impact of a proposed development on the nature conservation and amenity value of the development site and the wider area will be assessed on a site-by-site basis. Impacts on the environment are directly related to the detailed nature of a particular proposal, and in most cases, given the policy requirement for an Environmental Statement to accompany any application that adversely affects the environment, both the impact and proposed extent of mitigation will be identified by the applicant.

The District Council will assess the appropriateness of the proposed mitigation as part of its normal consideration of the application. A developer may select to undertake the mitigation works. Alternatively it may be appropriate for the developer to make a financial contribution to the District Council. In this instance, a fully costed appraisal will need to be prepared by the applicant, to include provision for the long term maintenance should this be appropriate.

Contributions may be used to:

- secure compensatory habitat provision to mitigate the impacts of development;
- secure improvements to a site as part of a development proposal;
- secure proper provision for the long-term future of a site and its maintenance;
- secure contributions towards the management and maintenance of a site that is adversely affected by a development proposal;
- secure the use of appropriate sustainable development technologies and techniques;
- secure improvements to the setting or environs of the development including enhancements to the public realm and historic structures;
- secure facilities for waste management or their enhancement.

The financial contributions referred to above will relate to a particular off-site scheme and the planning application will be required to be accompanied by a statement to clarify the precise nature of the mitigation works required to address the impacts associated with the development.

Maldon District Priorities

6.2 Affordable Housing Circular 6/98 Planning and Affordable Housing and Planning Policy Guidance 3 (PPG3): Housing 2000 sets out the Government's policy on how the planning system can contribute to the overall supply of affordable housing. It should be noted that the Government is shortly to be issuing revised guidance in the form of PPS 3.

Affordable housing need is a material consideration in considering planning applications and should be taken into account in formulating development plan documents.

Maldon District Council seeks to balance the needs of the community by ensuring there is adequate affordable housing provision for households whose incomes are not sufficient to enable them to purchase or rent suitable accommodation in the local market.

To this end the District Council has produced a separate guide addressing the provision of Affordable Housing, adopted in December 2005 and it should be read in conjunction with this guide in considering development contributions for affordable housing.

The Affordable Housing Guide includes reference to the District Council's stated policy position within the Maldon District Adopted Local Plan (Policy H9 Affordable Housing).

6.3

Children's Play Spaces Maldon District Council is concerned that effective play space provision is in place to recognised standards for the children and young people of the District. The District Council expects that new development will make an appropriate contribution to that provision particularly where deficiencies are identified.

In March 2006 the District Council adopted a Children's Play Spaces Supplementary Planning Document to elaborate policy REC3: 'Children's Play Space Associated with New Housing Developments and Elsewhere in the District' within the adopted Maldon District Replacement Local Plan.

The SPD is designed to ensure adequate facility provision is contributed alongside new development or is already in place before development goes

Maldon District Priorities

ahead. It identifies the strategy used in identified need, the standards to be applied and a calculation of contribution. This guide should therefore cross refer to the SPD when considering the provision of Children's Play Spaces.

6.4

Transport Infrastructure The need to mitigate the impact of development on transport infrastructure and to improve road safety, reduce travel and encourage sustainable means of transport are fundamental to the good planning of the District and have a high Government priority.

Any development proposal will be expected to provide for safe and convenient access for all appropriate modes to a high standard. In many cases this will be achieved within the development site and will be addressed via planning conditions. Elsewhere, the scale or location or nature of the use may necessitate off site intervention in order to enable the development to go ahead. In some of these cases a condition, precluding development until such investment has been made may be appropriate. In other cases a financial contribution will be sought that will enable the improvements to the infrastructure to proceed prior to or in parallel with the proposal. The Highway Authority may allow the developer to carry out such works on highway land in certain circumstances, in lieu of a financial contribution.

Structure Plan policy BE 5 is the overarching policy requiring developer contributions for transport provision and infrastructure 'set out in adopted local plans, Local Transport Plans and/or development briefs.

Strategic transport priorities for Maldon District are set out in detail in the Essex Local Transport Plan 2006/11 (LTP2). Maldon District lies within the 'Chelmsford and the Heart of Essex' area focussing on Chelmsford as a regional interchange centre. The key priorities for Maldon District are:

- public transport improvement particularly accessibility to town services and amenities from remoter rural areas. Continued focus is required on the Dengie Village Link and Blackwater bus links;
- congestion issues on the A414, B1018 and junctions associated with the urgent need to link the Maldon area effectively with the A12/Great Eastern corridor;

Maldon District Priorities

- renewed focus on the promotion of the Crouch Valley Community Rail Partnership.

LTP2 considers the role of Development Control Funding and specifically states:

'...at least £10 million a year is realised (across Essex) either as money passed to the County Council or as works undertaken by the developer. This level will increase over the life of the second LTP given the scale and the level of completions presently coming through the planning process'.

Policy T2 of the adopted Maldon District Local Plan 'Transport Infrastructure in New Developments' identifies more local transport requirements of development:

1. The layout of new developments will where appropriate provide for:
 - (a) Safe access to and from the highway including adequate visibility and junction capacity;
 - (b) Off site improvements to the highway;
 - (c) Facilities giving priority to public transport, pedestrians and cycling;
 - (d) Road layouts which are appropriate to the location and provide a safe and pleasant environment;
 - (e) Improvements to rail infrastructure;
 - (f) Links to the adjacent or nearby foot/cycle path network and the road system;
 - (g) Promotion of social inclusion and accessibility.
2. Larger scale development that requires a travel assessment must include and implement a Green Travel Plan.

In addition to Policy T2, Policies T4 Cycle Routes, T5 Cycle Parking provision in new developments, T6 Improvement to Pedestrian Facilities, and T7 Shared Car Parking in New Development are also relevant,

A developer may also enter into a planning obligation with the Local Highway Authority and the Local Planning Authority for improvement works to local roads.

Maldon District Priorities

Contributions from major development proposals (more than 10 dwellings or 1000 sq. m.) will be based on a package approach related to corridors, as set out in the LTP. This will continue to form the basis of the approach to the assessment of development impact and mitigation measures.

6.5 Education

The basis for developer contributions for education is policy BE5 of the adopted Structure Plan. The detailed approach to considering contributions for education is contained in the Essex County Council Supplementary Planning Guidance (SPG), 'Developer Contribution Guidelines'. The District Council has not adopted the SPG as its own policy but will apply the principles in the SPG as an expression of Structure Plan policy, in appropriate cases. The County's SPG should therefore be referred to in such cases.

Competing Demands on Development Contributions

When considering the emphasis to be placed on each of the priorities set out in section 6 in an assessment of appropriate developer contributions Maldon District Council will adopt the following approach.

1. For housing applications contributions will generally be prioritised in the following order:
 - Affordable Housing
 - Infrastructure
 - Environment
 - Children's Play Spaces
 - Education
2. For most other applications contributions will be prioritised towards infrastructure and environment
3. An element of discretion will be retained to consider applications which have specific or unusual characteristics for which the above prioritisation may not be appropriate.

It is considered that by setting out the above approach to developer contributions it will be clear to developers and other interested parties the areas to which Maldon District Council gives highest priority.

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larger print, braille and audio. It
can also be viewed on our
website: www.maldon.gov.uk

APPENDIX 2

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Accessibility to Buildings

APPENDIX 3



MALDON
DISTRICT
LOCAL
DEVELOPMENT
FRAMEWORK

ADOPTED
SUPPLEMENTARY
PLANNING
DOCUMENT
(SPD)



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Accessibility to Buildings**Contents**

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Introduction 1

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Accessibility to Buildings

1 Introduction

- 1.1 It is a strategic objective of the Maldon District Replacement Local Plan to create a sustainable and accessible environment in which living, working and leisure encourages pride in the District, recognising its important historic qualities. (Objective Svii).
- 1.2 The Local Plan requires that all new development should include access for disabled people i.e:

Policy BE2: Inclusive Access and Accessibility

Development where access by people with disabilities is necessary must incorporate the following features:

- a. Car parking specifically designed and allocated close to the entrance of the building in accordance with the adopted standards;
- b. Access from the car park and other access routes to the entrance of the building designed for use by people with disabilities, including wheelchair users;
- c. The layout of any associated street furniture suitable for use by people with disabilities;
- d. Facilities that take into account the needs of people with disabilities for transport to and from the site.

- 1.3 The purpose of this Supplementary Planning Document (SPD) is to encourage all parties involved in the planning and development process to recognise the benefits of, and bring about, inclusive design to ensure that no individual or group is disadvantaged by our built environment.
- 1.4 The Local Plan contains a number of statements and policies which seek to ensure that Maldon has accessibility at the forefront of its considerations. Development in Maldon is also governed by detailed Regulations made under the Building Act 1984 and there is a wide range of advice and recommendations in BS 8300:2001 *"Design of Buildings and their approaches to meet the needs of disabled people – Code of practice."*
- 1.5 This SPD builds upon the Local Plan policies and makes reference to those detailed documents but it does not seek to repeat their content. It seeks to ensure that anyone carrying out development in the District is aware of the aims of the Council to achieve an inclusive environment. It sets out the procedures adopted by the Council to ensure that all development proposals are considered from the outset with accessibility in mind and focuses on the role of developers and the Council in ensuring that our built and natural environment is accessible to all who live in, work in or visit the Maldon District.

1 Introduction

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Accessibility to Buildings

- 1.6** The initial draft of this SPD was the subject of an informal consultation with the local access group as listed in Appendix 1. The SPD was then the subject of a formal consultation and the representations received from the consultation document and the Council's response to them are set out in Appendices 2 and 3. The SPD has also been the subject of a Sustainability Appraisal, see Appendix 4.

Status of this Supplementary Planning Document 2

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Accessibility to Buildings

2 Status of this Supplementary Planning Document

- 2.1** Planning Policy Statement 12: *Local Development Frameworks* (PPS 12) indicates that supplementary planning documents (SPDs) form part of the planning framework for an area. PPS 12 indicates that SPDs may be thematic and may expand policy or provide further detail to policies in a development plan document.
- 2.2** This SPD accords with those purposes and:
- is consistent with national and regional policies and the policies within the development plan;
 - is clearly cross referenced to the saved policy in the adopted Local Plan which it supplements;
 - will be reviewed on a regular basis;
 - was prepared through a transparent process and a statement of community involvement was published with it.
- 2.3** For these reasons this SPD conforms with the guidance for the preparation of SPD as set out in PPS 12 and therefore it will be afforded significant weight in the determination of planning applications.

3 Policy Context

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document: Accessibility to Buildings

3 Policy Context

National Policy

- 3.1** Planning Policy Statement 1: *Delivering Sustainable Development* (PPS1) underpins all national planning policy. At paragraph 16 it states that development plans should promote development that creates socially inclusive communities and that plan policies should address accessibility (both in terms of location and physical access) for all members of the community to jobs, health, housing, education, shops, leisure and community facilities. It goes on to indicate that planning policies should take into account the needs of all of the community including particular requirements relating to, amongst other things, age and disability.
- 3.2** More specific national policy guidance can be found in Planning Policy Guidance Notes (PPGs) and Planning Policy Statements (PPSs) on Housing, Town Centres, Transport, The Historic Environment, Open Space, Sport and Recreation and Flooding.
- 3.3** In addition to the policies in PPGs and PPSs in March 2003 the Office of the Deputy Prime Minister (ODPM) published *Planning and access for disabled people: a good practice guide*. The foreword to that document states:

The Government is fully committed to an inclusive society in which nobody is disadvantaged. An important part of delivering this commitment is breaking down unnecessary physical barriers and exclusions imposed on disabled people by poor design of buildings and places. Too often the needs of disabled people are considered late in the day and separately from the needs of others.
- 3.4** The guide sets out a range of good practice points and this SPD sets out to translate those points into local policy.

Regional Policy

Regional Spatial Strategy - The East of England Plan (RSS)

- 3.5** One of the objectives of the East of England Plan is to improve social inclusion and access to employment, services, leisure and tourist facilities among those who are disadvantaged.

Policy Context 3

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Accessibility to Buildings

Sub-regional Policy

Essex and Southend-on-Sea Replacement Structure Plan 2001

- 3.6** Until the approval of the RSS, the Structure Plan remains part of the development plan. Policy T3 – *Promoting Accessibility* encourages new development to be designed so as to make provision for access by those whose mobility is impaired.

Local Policy

Maldon District Replacement Local Plan

- 3.7** The Local Plan indicates that the strategy of concentration of development within the development boundaries requires new developments to enhance the quality of design in the towns and villages including recognition of the need for accessibility for all potential users, regardless of age, disability, gender, religion or financial circumstances.
- 3.8** Paragraph 6.19 of the local plan states:
- ‘The Council is committed to promoting an inclusive society that offers opportunity for everyone. All new development, and particularly that intended for general public use must promote accessibility both into and within (buildings) and make appropriate safe provision in terms of access, egress and parking. An environment designed to be accessible to disabled people will be more accessible and user friendly for everybody, including wheelchair and pushchair users, people with physical and sensory impairments and elderly people. Easy access is part of good design and is beneficial to local business. The appropriate stage to consider accessibility is in the initial design not as an afterthought. This is particularly important with regard to development and alterations to existing and historic buildings’.
- 3.9** The *Maldon District Adopted Local Development Scheme First Review 2006* indicates that the Council will prepare a supplementary planning document on accessibility to and from buildings.
- 3.10** This SPD has been prepared to assist in the interpretation of the Maldon District Replacement Local Plan and in particular the application of local plan policy BE2 *Inclusive Access and Accessibility* which sets out features which the Council will expect to see within development where access by people with disabilities is necessary.

4 Implementation of Policy

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document: Accessibility to Buildings

4 Implementation of Policy

4.1 The Local Plan indicates the need to be aware of the implications of an accessible environment early in the development process. The need to design buildings and spaces to accommodate those using wheelchairs is now widely accepted and understood, but only a small part of the range of conditions that can create difficulties in moving around the built environment. Those involved in the design of buildings and spaces should be equally alert to the needs of those who have impaired vision or hearing, those who use walking sticks or crutches, the increasing number of elderly people and those who have to control prams or buggies. All of these groups benefit from a more accessible environment which results from inclusive design and providing for those who are disabled improves access for all.

Pre-application Advice

- 4.2** In the past it was not uncommon for planners and developers to regard accessibility as a Building Regulation matter to be resolved once planning permission had been granted. But the Building Regulations only deal with minimum standards of design within and in relation to access to buildings. The regulations do not always apply to changes of use and in the case of extensions to buildings can only require that the accessibility of an extension is no worse than the host building.
- 4.3** Whilst the application of Part M of the Building Regulations makes an important contribution to the creation of accessible buildings it remains the responsibility of the developer and the local planning authority to ensure that developments create an inclusive environment both within and around buildings.
- 4.4** Not all applications for planning permission will have implications for accessibility. However, all proposals for new dwellings, places of employment and buildings to which the public have access will be expected to be accompanied by a statement, known as an “Access Statement” which sets out the way in which the proposal responds to the principles of inclusive design both within and outside buildings.
- 4.5** The Council has prepared advice leaflets and employs an access officer who can provide advice and guidance both to developers and other Council staff. In cases where an access statement is needed the applicant is encouraged to discuss the proposal with the planning case officer prior to the submission of the application. By considering inclusive access at this stage, steps can be taken in the design process to ensure that proposals are suitable for use and accessible by everyone. Failure to consider the design of buildings and spaces in an inclusive way can result in unsatisfactory solutions which compromise both accessibility and design.

Implementation of Policy 4

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document: Accessibility to Buildings

- 4.6** The Access Statement should set out the philosophy of the development as regards inclusive access and should include detailed information about buildings and the spaces between them. The Statement should have regard to the physical nature of the development site, including for example site levels, existing points of access and the presence of vegetation. It should also indicate the way in which the proposal responds to the principles of inclusive design both within and outside buildings. It should indicate whether the design of the building would comply with the advice in BS 8300:2001 and should identify any constraints which may have inhibited full compliance with that document. The Statement should include details of the materials to be used in all external access ways and parking areas and any other aids to mobility such as handrails should be specified. Where development is on sloping ground, levels and gradients should be indicated.
- 4.7** The Access Statement will form a central part of the documentation of a development proposal and will inform the consultation process. It should therefore be submitted as part of the planning application. An example of an Access Statement is included in Appendix 5.
- 4.8** Even minor proposals, such as front porches can have significant implications for accessibility and will often create opportunities to improve accessibility through the provision of level thresholds or carefully designed ramped access. For this reason the Council includes a reference to accessibility on its notes for guidance which accompany planning application forms and includes a question about accessibility on those forms.

Consideration of Applications

- 4.9** Accessibility is a material consideration in the determination of planning applications. S 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that when making planning decisions the determination must be made in accordance with the development plan unless material considerations indicate otherwise. There will therefore be an expectation that the Policies in the Local Plan and the content of this SPD will be taken into account when planning applications are determined.
- 4.10** When considering the merits of applications planning officers will have regard to the desirability of achieving inclusive access. All planning officers will be alert to the implications of inclusive development. Where it is considered that a proposal raises issues for inclusive development it will be the subject of consultation with the access officer and where there are significant implications it will be the subject of consultation with the local advisory group.
- 4.11** Where a proposal raises fundamental issues for inclusive access for which no solution is apparent the Council may refuse to grant planning permission.

4 Implementation of Policy

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document: Accessibility to Buildings

- 4.12** If it appears that measures can be taken to provide inclusive access, the Council will consider the imposition of planning conditions, where appropriate, in accordance with the tests in Circular 11/95 "The Use of Conditions in Planning Permissions." Where a proposal raises accessibility issues which range beyond the application site or which cannot be resolved through the imposition of planning conditions the Council, will consider the need to negotiate a planning obligation under S106 of the Act.

Working with Building Control

- 4.13** Most new building work and some changes of use of buildings is subject to the Building Regulations 2002 made under the Building Act 1984. Through these regulations a developer has a statutory obligation to secure building regulation consent. This can either be done by the submission of an application to the Council's Building Control Service or to an approved inspector who will assess the proposal and either approve or reject it, as appropriate.
- 4.14** Part M of the Regulations requires that reasonable provision should be made for access to and use of buildings by disabled people. The Approved Document which accompanies Part M shows applicants ways in which the requirement of reasonable provision can be met, however, these are not necessarily best practice solutions and a more inclusive design may often be achieved with fewer cost implications if considered at an earlier stage in the design process. To avoid having to rethink the design of a building or its surroundings late in the process there should be early discussion between all parties. Where approved inspectors are to be used by developers they should be encouraged to contact the Council's planning officers to enable inclusive solutions to be developed.

The Historic Environment

- 4.15** The provision of inclusive access in relation to historic buildings and areas creates its own challenges. Within Maldon District there are approximately 1100 Listed Buildings and many more historic buildings within our 12 Conservation Areas that do not satisfy modern accessibility standards.
- 4.16** Planning Policy Guidance Note 15: *Planning and the Historic Environment* in paragraph 3.28 states that "It is important in principle that disabled people should have dignified easy access to and within historic buildings". It indicates that if a flexible and pragmatic approach is taken, it should normally be possible to plan suitable access for people with disabilities without compromising a building's special interest. The Council's Conservation Officer works closely with the Access Officer and has regard to good practice elsewhere. In particular, attention is drawn to the English Heritage publication "*Easy Access to Historic Buildings*" which includes a range of examples of good practice.

Implementation of Policy 4

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document: Accessibility to Buildings

- 4.17** Proposals for the extension or alteration of listed buildings and buildings in Conservation Areas or the change of use of such buildings to allow public access should be accompanied by an Access Statement. This should indicate the measures proposed to provide an inclusive access environment and how this has been achieved whilst maintaining the integrity of the historic building or area.

Spaces Between Buildings

- 4.18** In an inclusive environment careful consideration must be given to the spaces between buildings. The layout and design of the space around buildings must be considered as an integral part of the design process and not designed to fit after the design and position of the building has been established. Only by adopting this approach can a fully inclusive environment be developed.
- 4.19** In considering any development proposal the Council will be concerned to know how people will get from public places – such as roads and footpaths – into buildings and key issues for planners and developers are levels and gradients and the nature of surface materials.
- 4.20** The use of design features, colour, lighting and materials and clear desire lines can assist in drawing attention to the position of the entrance to buildings thereby assisting those who may have impaired visibility. The use of shallow gradients, easy curves, and appropriate surfacing combine with aids such as handrails assist those whose mobility is restricted.

Vehicle Parking

- 4.21** The Council's vehicle parking standards require that provision is made for disabled car parking. An extract from the adopted Supplementary Planning Document, which is based on the Essex Planning Officers' Association publication "*Vehicle Parking Standards*" dated August 2001, is appended at Appendix 7.
- 4.22** Whilst generally the Council's approach to car parking indicates a maximum provision, in line with the advice in PPS3 Housing, the Local Plan states that a minimum standard of car parking provision for parking for people with disabilities will be required on or as close to the site as practicable in order to promote inclusive access and accessibility.
- 4.23** In order to ensure that an inclusive and accessible environment is achieved parking spaces suitable for people with disabilities should be conveniently located to serve the main entrance to the building or other facility served by the car park and should be linked via a route which can be easily negotiated by wheelchairs. Loose materials and steep gradients should be

4 Implementation of Policy

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document: Accessibility to Buildings

avoided and the provision of handrails is encouraged to assist both the ambulant disabled and those with impaired vision. Wherever possible, routes between parking spaces for disabled people and buildings should be segregated from areas used by vehicles.

- 4.24** Landscaping within car parks can enhance their appearance but care should be taken to ensure that planting in the vicinity of access routes is of an appropriate species so as to avoid the growth of prickly plants or those which may have low branches which may create hazards for those of impaired sight or mobility.

Shop Fronts

- 4.25** A high proportion of the shops within Maldon District lie within the historic cores of our towns and villages. By their nature many of these are sited at the edge of the public pavement where there is little space to improve public access. However, the Council receives a number of applications to replace shop fronts and this creates an opportunity to improve accessibility. When submitting any application to replace a shop front the Council will expect the applicant to show how the proposal takes account of the need to promote inclusive development.
- 4.26** All applications for new shop fronts should include cross sections of the thresholds and the access route from the public highway and should clearly indicate how access doors are proposed to open and how rainwater will be dispersed from the floor. Proposals for ATMs should satisfy the design advice in *Access to "ATMs: UK design guidelines"* published by the Centre for Accessible Environments.
- 4.27** The Council has produced an information leaflet to guide developers when they are considering the installation of new shop fronts and the Access Officer will give advice on individual proposals.

Public Open Spaces

- 4.28** Inclusive communities must ensure that access is available to recreational facilities including public open space and it is an objective of the Local Plan to improve access to and the provision of sport and leisure facilities and enhance tourism for all. (Objective S vi). Proposals for new areas of open space should include an Access Statement indicating the measures proposed to create an inclusive environment. Within Maldon District a high proportion of public open space is managed by Town and Parish Councils and the Council's Access Officer will provide advice to these bodies on measures which they can take to improve accessibility.
- 4.29** Where parking is provided to serve public open space it should include designated parking spaces for people with disabilities and these should be linked to the open space via a surface which can be negotiated by wheelchair users.

Implementation of Policy 4

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Accessibility to Buildings

Roads and Footways

- 4.30** Responsibility for roads and pavements within the Maldon District lies with Essex County Council but Maldon District Council works in partnership with the County Council to deliver a seamless service through the Area Highways Team. Where entrances to buildings such as shops are close to the pavement development proposals may have a direct effect on the public highway. Maldon District Council will work closely with the Area Highways Team in order to achieve an inclusive access solution which both maintains the safety and convenience of all highway users and the character and appearance of the street.
- 4.31** In considering applications for the development of places of employment or entertainment the Council will have regard to the links between the proposal and the public transport infrastructure, in the form of bus stops and railway stations. The Council will consider the need to improve access to this infrastructure and may seek contributions from developers for the upgrading of access ways and structures, such as surface treatments, hand rails and bus shelters.

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MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Accessibility to Buildings

Appendix 1: Informal Consultation

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Accessibility to Buildings

Appendix 1: Informal Consultation

The following was consulted informally in the initial preparation of this document:

- Maldon District Access Group

Appendix 2: Formal Consultation

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Accessibility to Buildings

Appendix 2: Formal Consultation

The formal consultation stage for the Access to Buildings SPD took place between Monday 9th October and Monday 20th November 2006. The following were consulted formally on this document:

- English Heritage
- Environment Agency
- Highways Agency
- Disabled Persons Transport Advisory Committee
- Disability Rights Commission
- Essex Disability Equality
- Help the Aged
- Maldon & District Disabled Sports Club
- Centre for Accessible Environments
- Natural England
- Maldon District Access Group

Appendix 3: Responses to Consultation

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Accessibility to Buildings

Appendix 3: Responses to Consultation

Table 1 Responses to formal consultation and the Council's response

Name	Organisation	Section	Comment	Response
Mr David Rookard	Maldon District Access Group	Introduction	The definition of Accessibility shown is the incomplete version and therefore inadequate as it does not mention access to buildings.	Agree. Change definition to match one found in Adopted Replacement Local Plan Nov. 2005
Mr David Rookard	Maldon District Access Group	Appendix 8	Insert note given in BS8300:2001 (Page 16) about interpolating between the maximum gradients.	Agree
Mr David Rookard	Maldon District Access Group	Appendix 9	For clarification 2 nd paragraph – dimensions do not match diagram. Believe text refers to the on-street parking guidelines.	Agree subject to clarification
Carol Reid	Natural England	General	Thank you for the above documents. English Nature does not wish to comment further.	Noted
Wai-Kit Cheung	Fairview New Homes Limited	Page 5 (Planning Contributions)	Fairview request that the document recognises the impact that	No change. The provision for access to buildings by

Appendix 3: Responses to Consultation

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
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Name	Organisation	Section	Comment	Response
			<p>planning obligations can have on the viability of development. As such, the following text should be included in the document:</p> <p>“The Council will have regard to the impact of planning contributions on the viability of development and will ensure that they are necessary to allow consent to be given for a particular development and that they are fairly and reasonably related in scale and kind to the proposed development, and reasonable in all other respects”</p>	<p>people with disabilities is a requirement under the Disability Discrimination Act. It is therefore necessary for development to be in accordance with said Act.</p>

Appendix 4: Sustainability Appraisal

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Accessibility to Buildings

Appendix 4: Sustainability Appraisal

The Access to Buildings Sustainability Appraisal Report is available upon request or can be viewed on the Council's website: [http://www.maldon.gov.uk/Planning & Building Control/Local Development Framework/SPD Access to Buildings](http://www.maldon.gov.uk/Planning%20&%20Building%20Control/Local%20Development%20Framework/SPD%20Access%20to%20Buildings)

Appendix 5: Access Statement

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Accessibility to Buildings

Appendix 5: Access Statement

Table 2 Maldon District Council - Access Statement

	Applicant		Agent
Name		Name	
Address		Address	
Postcode		Postcode	
Telephone		Telephone	
Address of development			Is Council's Building Control Service to be used? Yes / No
Description of proposal			
Access issues of the proposal and constrains			
Measures proposed to achieve inclusive access			
Pre-application discussion and consultation			
Additional information			

Appendix 6: Access Ramps

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Accessibility to Buildings

Appendix 6: Access Ramps

- If a change of level on an access route is unavoidable it is necessary to provide a sloped access for wheelchair users. But as some ambulant disabled have difficulty using ramps an alternative access should also be provided.
- When designing ramps it is important to ensure that they are not too steep and no individual ramp should be more than 10m long to ensure that the distance between landings is not excessive to enable wheelchair users and their helpers to rest. Ramps should be designed in accordance with the advice in BS 8300:2001.
- If a ramp is more than 2m long between landings or if there is no stepped access handrails should be provided on both sides. If a ramp is less than 2m at least one handrail should be provided.
- Ramps should not be used to rise a total of more than 2m and their gradients should not exceed the recommendations in BS 8300:2001 which are set out in the table below.

Table 3 Limits for ramp gradients

Length of Ramp	Maximum Gradient
10m	1:20
5m	1:15
Not exceeding 2 m	1:12
Note: For going between 2m and 10m, it is acceptable to interpolate between the maximum gradients, i.e. 1:14 for a 4m going or 1:19 for a 9m going.	
Further information on the design of ramps can be found in BS8300:2001.	

Appendix 7: Extract from Adopted Car Parking Standards

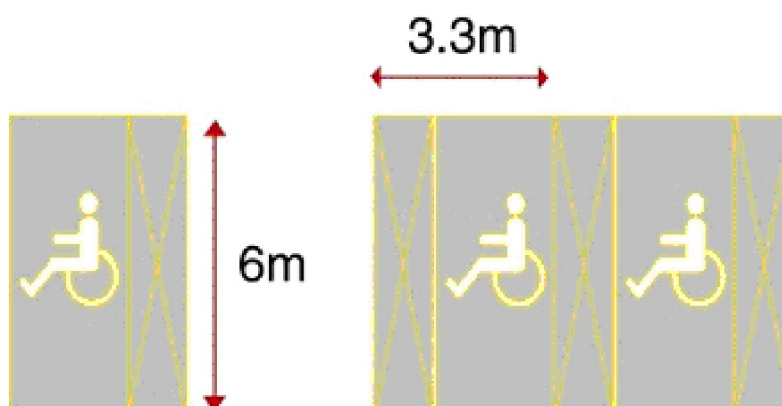
MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document: Accessibility to Buildings

Appendix 7: Extract from Adopted Car Parking Standards

Disabled Parking Provision

- Guidance on the amount of parking provision that should be supplied for disabled people is outlined in the DETR's Traffic Advisory Leaflet 5/95 – Parking for Disabled People, published in April 1995.
- Disabled parking spaces should be at least 3.3m wide and 6.0m long in order to allow the driver or passenger to get in and out of the vehicle safely, and to provide access to the rear of the vehicle for wheelchair storage. Where direct access is provided to a footway at the side or rear, spaces should be at least 2.7m or 4.8m respectively (see diagram below).

Figure 1 Disabled parking provision



Appendix 7: Extract from Adopted Car Parking Standards

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Accessibility to Buildings

Parking standard for disabled car parking

PARKING STANDARDS FOR DISABLED CAR PARKING	
Car Park Used For:	
Employees and visitors to business premises	
Car Park Size: Up to 200 Bays	
Individual bays for each disabled employee plus 2 bays	
or 5% of total capacity, whichever is the greater	
Car Park Size: Over 200 Bays	
6 bays plus 2% of total capacity	
Car Park Used For:	
Shopping, recreation and leisure	
Car Park Size: Up to 200 Bays	
3 bays or 6% of the total capacity, whichever is the greater	
Car Park Size: Over 200 Bays	
4 bays plus 4% of total capacity	

Appendix 8: Bibliography

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Accessibility to Buildings

Appendix 8: Bibliography

- *PPS 1; Delivering Sustainable Development* (ODPM, now Department of Communities & Local Government [CLG] 1997)
- *The Essex & Southend on Sea Replacement Structure Plan* (Essex County Council, 2001)
- *Vehicle Parking Standards* (EPOA, 2001)
- *BS 8300:2001 Design of buildings and their approaches to meet the needs of disabled people – Code of Practice*. (October 2001, British Standards Institute)
- *Access to ATMs: UK design guidelines 2002* (2002, Centre for Accessible Environments)
- *Planning and access for disabled people: a good practice guide* (March 2003, ODPM, now Department of Communities & Local Government [CLG])
- *Easy Access to Historic Buildings* (July 2004, English Heritage)
- *PPS 12; Local Development Frameworks* (CLG, 2004)
- *Planning Policy Guidance 15; Planning & the Historic Environment* (OPDM, now Department of Communities & Local Government [CLG] 2004)
- *Maldon District Replacement Local Plan* (MDC, 2005)
- *Maldon District Adopted Local Development Scheme* (MDC, 2006)
- *The East of England Plan* (Go East)

Heybridge Basin Timber Yard

APPENDIX 4



MALDON
DISTRICT
LOCAL
DEVELOPMENT
FRAMEWORK

ADOPTED
SUPPLEMENTARY
PLANNING
DOCUMENT
(SPD)

FEBRUARY 2007

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MALDON DISTRICT
COUNCIL

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Heybridge Basin Timber Yard**Contents**

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1 Introduction

Picture 1. Heybridge Basin seen from the air



Background

- 1.1** The Timber Yard at Heybridge Basin became vacant in 1988. Shortly afterwards a planning application was approved for the redevelopment of most of the open storage area on the site. That was developed and is now known as Blackwater Close.
- 1.2** The remaining part of the site that included the old sawmill buildings remained undeveloped. That land was allocated for employment use in the 1996 Review of the Local Plan. The land has not been developed and in 2004 the Inspector at the Replacement Local Plan Inquiry recommended the land be developed for mixed use in accordance with a development brief to be prepared by the Council. The development brief is being prepared as a Supplementary Planning Document under Policy E3 of the Maldon District Replacement Local Plan.

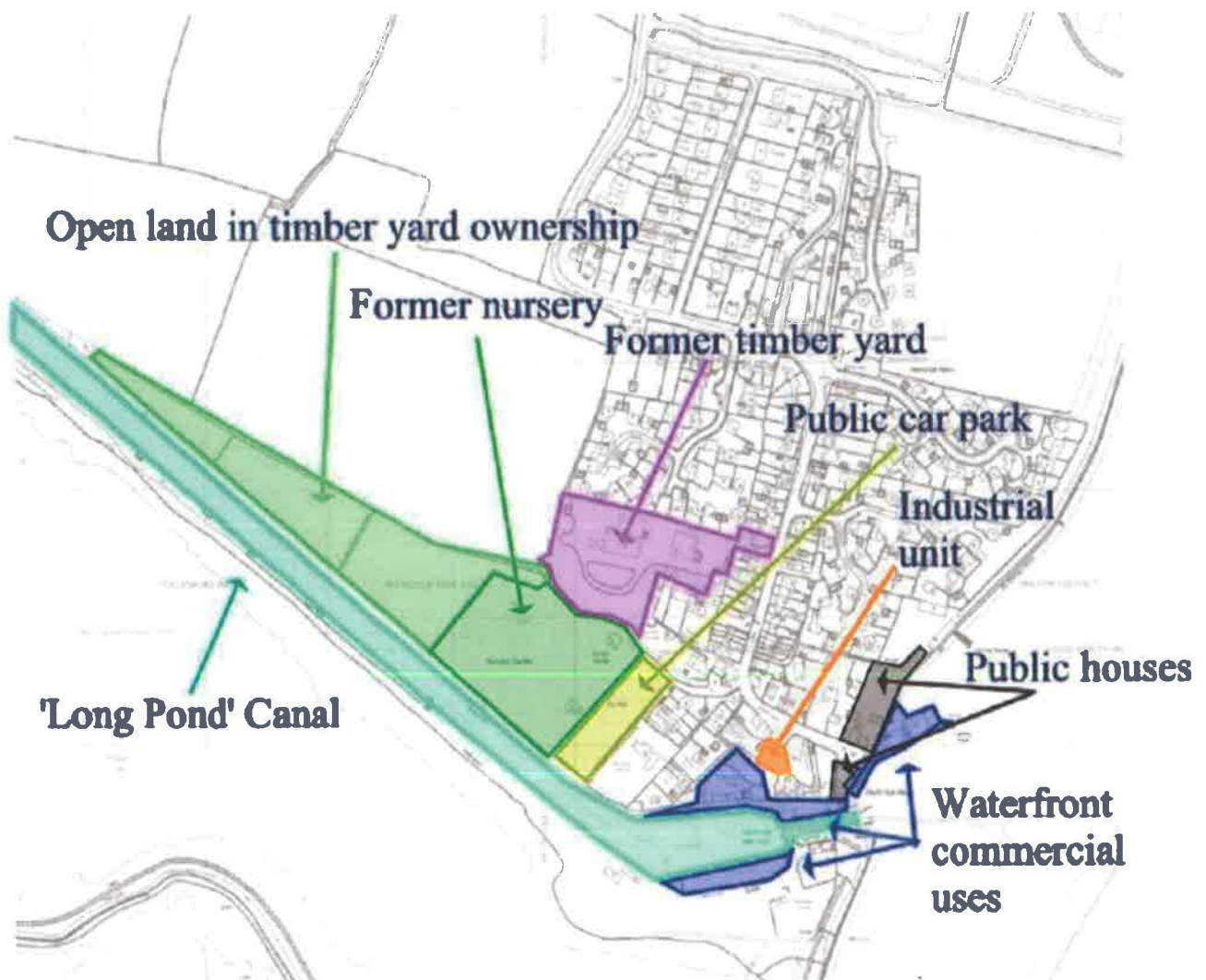
1 Introduction

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

Area covered by the brief

- 1.3** This brief only covers the area of the former Timber Yard site (shaded pink) as shown on this map.

Picture 1.1 Location and context



Purpose of the brief

- 1.4** The purpose of the brief is as follows:

- The brief provides a vision for the area to act as a framework for future development proposals.

Introduction 1

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

- The brief identifies development opportunities and provides guidance on land uses, site planning and building scale, form and detailing to make more efficient use of the land, help achieve development quality and ensure that new development improves the relationship between the Timber Yard and the historic built form in the area. The guidance provides greater certainty for the land owner and prospective developers.
- The document will provide guidance for the District Council to assist in the determination of any future planning application.
- The consultation exercise on this brief has provided a forum for the Parish Council, local amenity societies and local people to influence the evolution of a key development in the heart of the village.

Status of this document

- 1.5** This document will be adopted as a Supplementary Planning Document in accordance with the commitments set out in the Adopted Local Development Scheme.
- 1.6** It has been subject to extensive public consultation and community engagement. In autumn 2005, the District Council invited members of the local community who represented the majority of local interests to take part in a Stakeholder Group. This met a number of times including a public meeting held at St George's Church in Heybridge Basin. There was also a community web based "blog" consultation. This process helped inform the content of the final document which is proposed to be formally adopted by the District Council as a Supplementary Planning Document. As adopted guidance the document will carry significant weight in the determination of future planning applications.

2 Planning Policy Context

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

2 Planning Policy Context

Government guidance

- 2.1** The key tenets of Government guidance are contained in Planning Policy Statements (PPS) and Planning Policy Guidance Notes (PPG) as follows:

PPS 1	Delivering Sustainable Development
PPS 3	Housing
PPS 6	Planning for Town Centres
PPS 23	Planning and Pollution Control
PPS 25	Development and Flood Risk
PPG 13	Transport
PPG 15	Planning and the Historic Environment

- 2.2** The objective of Government policy and guidance is to encourage sustainable development through social progress, maintaining the economy, environmental protection and prudent use of resources. It promotes high quality design to enhance the quality of urban life and encourages the efficient use of land particularly where close to local facilities and public transport connections. The guidance recognises that well planned green spaces can help create pleasant urban environments.
- 2.3** PPG 13 advises that local authorities should make maximum use of sites which are highly accessible by public transport. PPS 3 promotes more sustainable patterns of development by focusing future housing development, in the first instance, within urban areas, and requiring that efficient use is made of previously developed land.
- 2.4** PPG 15 reinforces the provisions of the Planning (Listed Building and Conservation Areas) Act 1990, which requires local authorities to have regard to the desirability of preserving the setting of listed buildings. It also places an obligation on local authorities to preserve and enhance the special character of conservation areas. In relation to conservation areas that include the commercial centres of villages, the guidance stresses that local authorities should not seek to prevent new development, rather they should seek to protect character by managing change positively to allow the area to remain alive and prosperous.

Planning Policy Context 2

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
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- 2.5 PPS 23 requires that potential for contamination to be present must be considered in relation to the existing use and circumstances of the land, the proposed new use and the possibility of encountering contamination during development. The potential for contamination and any risks arising must be properly assessed and that the development incorporates any necessary remediation and subsequent management measures to deal with unacceptable risks, including those covered by Part IIA of the EPA 1990.
- 2.6 PPS 25 requires that Local Planning Authorities (LPAs) prepare Local Development Documents (LDDs) that set out policies for the allocation of sites and the control of development which avoid flood risk to people and property where possible and manage it elsewhere, reflecting the approach to managing flood risk in this PPS 25:
- where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, LPAs should consider whether there are opportunities in the preparation of LDDs to facilitate the relocation of development, including housing to more sustainable locations at less risk from flooding;
 - flood risk should be considered alongside other spatial planning issues such as transport, housing, economic growth, natural resources, regeneration, bio-diversity, the historic environment and the management of other hazards. Policies should recognise the positive contribution that avoidance and management of flood risk can make to the development of sustainable communities, including improved local amenities and better overall quality of life. They should be integrated effectively with other strategies of material significance such as Regional Economic Strategies.
- 2.7 In determining planning applications LPAs should:
- have regard to the policies in PPS 25 as material considerations which may supersede the policies in their existing development plan, when considering planning applications for developments in flood risk areas before that plan can be reviewed to reflect PPS 25;
 - ensure that planning applications are supported by site-specific flood risk assessments (FRAs) as appropriate;
 - apply the sequential approach at a site level to minimise risk by directing the most vulnerable development to areas of lowest flood risk, matching vulnerability of land use to flood risk;
 - give priority to the use of Sustainable Urban Drainage Systems (SUDS); and
 - ensure that all new development in flood risk areas is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed.

2 Planning Policy Context

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

Essex and Southend-on-Sea Replacement Structure Plan (April 2001)

- 2.8 The Essex and Southend-on-Sea Replacement Structure Plan forms part of the Approved Development Plan for the area. Its policies encapsulate recent Government guidance regarding sustainability and making efficient use of previously developed land.
- 2.9 Policies CS1 and BE1 seek to achieve significant enhancement of the vitality and viability of the urban environment. They require that efficient use is made of accessible land within existing urban areas that is well served by public transport. Policies CS1, BE2 and H4 promote mixed land uses.
- 2.10 Policy BE1 and CS2 establish a framework for protecting the character and townscape of the urban environment generally. Policies HC2 and HC3 provide extra protection for sites within defined conservation areas and the setting of listed buildings.
- 2.11 Policy BIW4 provides the basis for safeguarding employment sites currently in use from encroachment by other land uses.
- 2.12 Policy BE5 provides a framework for new development to provide/contribute to necessary improvements to community facilities, public services, transport provision and other essential infrastructure which is made necessary by the proposed development.

Local Plan (2005)

- 2.13 At the local level the strategy for the District recognises the importance of protecting the coast and countryside whilst achieving a better balance between new homes and jobs within the District. The policy background is set by the Maldon District Replacement Local Plan (2005). The overall Strategic Objective regarding employment is to:

Si To make provision for sustainable employment opportunities.

Policy E3 Mixed Use Development - Timber Yard, Heybridge Basin

Within the former timber yard site in Heybridge Basin shown on the Proposals Map, planning permission will be granted for a mixed-use development of housing and Class B1 employment uses provided:

- a. The extent of Class B1 uses promotes the objectives of the Employment Strategy
- b. Flood risk measures satisfy the requirements of the Environment Agency

Planning Policy Context 2

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
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- 2.14** The Council acknowledges this policy is challenging and will not be easy to deliver. It reflects the difficult circumstances that face the community in an area of high environmental capital but poor economic links that may lead to socially and environmentally damaging patterns of long distance commuting for work.

3 The Site in Context of the Surrounding Area

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

3 The Site in Context of the Surrounding Area

- 3.1 The site has an area of 1.9 ha and is a former timber yard that was associated with the canal. It continued to trade after the canal ceased commercial operations and was in operation until about 1988. It used to include the area of what is now Blackwater Close as part of the open air storage of bulk timber.
- 3.2 Access to the site was via the Basin Road entrance which is very constrained for HGV traffic and may in part have contributed to the closure of the former timber yard.
- 3.3 To the immediate south of the site there is the Heybridge Basin Conservation Area, which was designated to recognise the contribution of the old lock and basin to the character of the historic fabric of the area. To the immediate west there is open countryside with the adjacent settlement boundary on the west boundary of the site.
- 3.4 To the east and south there is the River Blackwater SSSI which was designated for its mudflats and estuarine wildlife.
- 3.5 The site is surrounded by residential development and the access along Basin Road does not include a footpath. The site has difficult access for HGV traffic, which acts as a constraint for prospective employment use that may require deliveries and collections.
- 3.6 The Conservation Area is unique in that it is applied to a relatively recent settlement, which was only created after the construction of the canal. As such it is a very recent built form.

The Site in Context of the Surrounding Area 3

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
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Map 3.1 Site analysis as existing



4 Development Opportunities and Constraints

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

4 Development Opportunities and Constraints

Development Opportunities and Constraints

- 4.1 The most significant constraint on the potential development of the site is the flood risk as set out in the Environment Agency Flood Maps. These show the site as having a 'moderate chance of flooding from the sea' i.e. a greater than 1 in 200 years risk. Initial Flood Risk Analysis carried out by the developers and agreed by the Environment Agency (EA) indicates the most significant risk of flooding is from a tidal event.
- 4.2 An initial Flood Risk Assessment (FRA) indicates the most significant risk is from an unexpected breach or overtopping of the sea defences leading to inundation of the site and surrounding area. Tidal overtopping of the defences has been examined and discounted as a significant risk on account of a number of factors including the limited volume of water that could flow over the sea wall during a high tide event.
- 4.3 However, overtopping is not necessarily separate from breach and it is possible that an overtopping event could lead to a breach. The risk in this situation is that the breach would not be predictable. On account of that the EA has taken a precautionary approach and sought initial flood protection measures that are based on the limited modelling work carried out to date.
- 4.4 In the absence of further information the EA has stipulated that all ground floor accommodation should not be enclosed and leave adequate opportunity for escape to upper floors. This places a considerable burden on developing the site insofar as the lower levels of any potential development must be discounted from development returns thereby placing a financial burden on any potential development.
- 4.5 Separately to the above, the Department for Environment, Food and Rural Affairs (DEFRA) has recently introduced new priority scoring procedures for flood defence spending. The new scoring process weighs the cost of maintaining the sea defence against the value of the area that is protected. The Basin is protected by 7 km of sea walls and is part of a flood cell that stretches from Heybridge to Goldhanger in which there are about 400 homes in total. The scoring process will determine whether the EA will continue to maintain the sea wall.
- 4.6 Given the location of the site in the proximity to the Heybridge Basin Conservation Area any potential development must be designed to enhance the setting of the Conservation Area.

5 Land Use

Land Use issues and guidance

- 5.1** The Council is promoting the regeneration of this site to address the visual impact on the landscape of Heybridge Basin. The Council does not need to use this site to meet strategic housing requirements as it has already identified sufficient land to deliver the housing allocation as set out in the Approved Development Plan.

Mixed-uses

- 5.2** Any new residential development will be served by existing local retail centres at Heybridge and Maldon. The poor proximity of the site to existing workplaces, public transport and facilities limits the extent to which this site can be predominantly residential. Non-residential uses integrated with residential will help to maintain a mixed-use character, generate activity throughout the day and help to enliven the locality in general. Subsidised use of areas at ground level, targeted at local need and making a positive impact on local waterfront activities which are being eroded due to lack of affordable spaces for them to continue will be welcomed.
- 5.3** On this site, the Council will seek mixed-uses to meet the following objectives:
- Creation of a sustainable residential neighbourhood;
 - Creation of a safe, lively character with a variety of activity.

Development Requirements

Table 1 Development requirements

<i>Amount of non residential floorspace</i>	Minimum 30% of the developed floorspace. This is seen as a minimum practical amount of non-residential floor space to promote effective mixed use.
<i>Preferred location of non-residential uses for diversity, street level interest and safety.</i>	The Council will seek non-residential uses at ground floor level on the site in order to contribute to the diversity of uses and to address flood issues and create focal points for activity.
<i>Adaptable units</i>	The Council will accept attractive, open-fronted, high ceiling, mergable / sub-divisible, flexible-use units, capable of accommodating alternative non

5 Land Use

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

	residential uses, in the interests of creating a business character, meeting unforeseen demand and for future economic sustainability.
<i>Appropriate intensity of use and satisfactory built form.</i>	The Council wants to avoid segregated uses. It will not accept single storey buildings and detached, single-use buildings. Residential developers will be encouraged to develop mixed-use buildings.

Possible Land Uses

- 5.4** New development should complement the existing surrounding uses and exploit the close association with the setting of the canal. The Council envisages that new residential and employment uses will be complementary to the existing grain of the conservation area.
- 5.5** Within the possible land uses outlined below, distinctions are drawn between uses that the Council consider are essential, desirable or acceptable. All the uses stated below are compatible with each other as long as they are carefully integrated within the overall development scheme and surrounding area, attending to possible excessive impact in terms of traffic, noise and activity.

Table 2 Possible land uses

Private residential Use Class C3	<p>Taking account of the EA's concerns over flooding together with the difficult access to the village a minimum number of mixed tenure, mixed size residential units, is preferred, (subject to comments relating to B1 use).</p> <p>The Council will seek affordable housing in accordance with the adopted Local Plan which may be in the form of commuted payments instead of on site provision.</p>
Business ** Use Class B1	<p>The inclusion of Class B1 use within the area covered by the brief is an essential requirement to meet the employment objectives of the adopted Local Plan.</p> <p>The Council will accept different types of accommodation including:</p> <ul style="list-style-type: none"> premises for small and medium size B1 businesses; managed workspace for small enterprises sharing resources;

Land Use 5

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

	<ul style="list-style-type: none"> flexible use A1/B1 workshops and studios; flexible use community or low value artisan activity associated with the nearby canal and waterside facilities. <p>An intensive employment use such as headquarters offices would be not desirable due to the local transport infrastructure.</p>
Professional services Use Class A2	Non-retail uses serving visiting members of the public will be acceptable, (architects, accountants, public relations etc).
Restaurants & Cafes Use Class A3	A Class A3 use is acceptable provided it is integrated with new living and working accommodation and complements the setting of the canal and maritime history of the village / neighbourhood.
Drinking Establishments Use Class A4	A Class A4 use may be acceptable provided it is integrated with living and working accommodation and management processes can be introduced to control access and noise. It must also complement the setting of the canal and maritime history of the village / neighbourhood.
Hotel Use Class C1	A hotel would be acceptable to promote the tourist offer in the district.
Non-residential institutions Use Class D1	Community uses such as place of worship or arts, meeting rooms, educational and cultural uses are encouraged subject to a needs assessment. However due to flood risk, permitted development rights for use as health, daycare, crèche / nursery resources will be withdrawn by planning conditions.

** With regards to employment, Heybridge Basin has poor links to the general economy due to the location on a riverside with only one access road which itself is off a B Class road that is not part of the main highway network. The Council accepts that its peripheral location is unlikely to attract high value added business that can afford to build or occupy new units that are flood resilient. Regardless of the type of business that occupies the site the issue of flooding must still be addressed.

5 Land Use

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

Table 3 Unacceptable use form or development

Large space single storey premises	Low intensity buildings that create a weak urban form.
Development heavily reliant on motor vehicle usage	Motor vehicle oriented uses would conflict with design and sustainability objectives.
Residential institutions Use Class C2	Residential accommodation for special needs is not considered acceptable on account of the flood risk and the undesirability of locating vulnerable people in an area of risk.

Traffic and Circulation 6

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

6 Traffic and Circulation

Network requirements

- 6.1** The Council will expect the design of any scheme to be founded upon an enhanced pedestrian / cycleway network:
- A pedestrian / cycle link to facilitate movement between the site and Heybridge as expressed in Policy T4 of the adopted Local Plan.
- 6.2** The most important objective for the development of this area is overcoming the barriers to pedestrian links with the main settlements of Heybridge and Maldon. These links are essential to help justify low car parking requirements and encourage use of public transport. This will require creating routes through the development site, but will also involve exploring with adjoining owners the possible integration with linkages across adjoining land.
- 6.3** The Council will assist by enabling:
- Changes to the existing canal towpath to facilitate a cycle route to extend into the site by working in partnership with the Highways Authority to provide relevant Traffic Regulation Orders.
 - Creating the framework to provide for developer contributions to finance the works.

Acceptable access points

- 6.4** The site has two access points; the original site entrance on Basin Road and the potential entrance on Blackwater Close. The Council wish to see access divided so that neither access point takes all the movement associated with the site. The Council will expect to see permeability and through access but that such access will be managed so that the site does not become a “Rat Run” for egress from the Basin. It will be necessary to control HGV traffic during the construction and development of the site to ensure the protection of the local community.

Circulation within the development

- 6.5** Access and circulation to buildings, within private and public spaces must be suitable for people with disabilities.

6 Traffic and Circulation

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

- 6.6 Pedestrian routes should be direct, legible, safe and attractive. Cycle routes should be indicated by paving materials of different colour or levels and be open and attractive with good forward visibility. Vehicle routes should follow the pedestrian network and be designed to regulate traffic flows and speeds.

Vehicle servicing needs

- 6.7 All uses should provide suitable arrangements for off-street servicing and refuse collection. The Council will require details of the types of vehicles and frequency of visit for each use to ensure satisfactory provision. Service access for existing surrounding buildings should be maintained.

Vehicle parking

- 6.8 Car parking provision will be assessed with reference to Maldon District Council Vehicle Parking Standards Supplementary Planning Document (SPD) 2006. In new residential development this requires, a maximum of one space per dwelling for off-street car parking. (This document is available on the Maldon District Council Web site at www.maldon.gov.uk).
- 6.9 For non-residential development, parking provision should aim to accord with the standards set out in the Vehicle Parking Standards SPD together with its amendments. The Council will encourage well thought out, multiple and shared use design solutions to car parking provision.
- 6.10 The potential impact on car parking for existing properties should be assessed in the light of the Council's transport policies.

Cycle parking

- 6.11 Cycle parking provision will be assessed with reference to Maldon District Council Vehicle Parking Standards SPD 2006. In residential and workplace development, there is a need for secure, covered storage for bikes at ground level. Cycle parking spaces in underground garages would be acceptable provided that a lockable enclosure is included.

Design Principles 7

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

7 Design Principles

- 7.1** Redevelopment will offer the opportunity to complete the built form of the Basin. The principal need is to integrate development with the surrounding urban form by means of routes and views through as well as repairing and enhancing the appearance of existing streets and respecting existing residential amenities. Key principles will include:

Existing buildings

- 7.2** The buildings on the site have become closely associated with the Timber Yard's historic links with the canal in its former use. Although they are now beyond economic repair the replacement of the existing buildings should be carefully considered in the formulation of development options and proposals. The Council would like existing buildings to be seen as an asset and a positive development opportunity.
- 7.3** The redevelopment of the site should be based around the existing bulk and form of the old industrial sheds which are now part of the fabric of the village. This offers the opportunity to create a new built form that respects the history of the community and area.

Building form following routes

- 7.4** Building masses should be arranged around and shaped by routes between the potential access and egress locations on site. Routes should be legible, pleasant and safe.

Built edges

- 7.5** The development should have well-defined built edges. The following provides guidance as to the most likely locations: (see drawing on Chapter 8 Implementation)

Main building 1

Replacement on existing footprint utilising existing ridge height to inform new built form.

Main building 2

Replacement building using existing footprint but allowing more height in roof to provide accommodation above.

Possible new building 1

Linear form to follow Southern boundary and edge of existing hard standing.

7 Design Principles

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

Possible new building 2

Square large bulk building to replicate form and treatment of main buildings 1&2.

Frontages to new routes and spaces

All buildings should face forwards where they adjoin public paths, roads and spaces. Street level elevations must be varied and attractive.

Surface treatment and finish

Finishing treatment (including weatherboarding / shiplap, rough sawn bulk timber not fine detailed and polished etc.) that makes reference to the maritime and historical features of the Basin is preferred.

Fenestration

In keeping with the industrial historical style of the site.

Location and quality of public open space

- 7.6 Open spaces should be located where they are visible and accessible from the surrounding area. An area of community public amenity space would be desirable, although other open space arrangements may be acceptable. Open spaces should be located and shaped to help create a sense of location and community ownership. The Council will welcome open spaces designed to promote bio-diversity generally and wildlife habitats in particular.
- 7.7 The triangle of "*open land in timber yard ownership*" to the north of the canal which is separate from this site (shown in the drawing on page two) may offer the opportunity for public amenity space.
- 7.8 Public space should be attractive with a high degree of casual surveillance from surrounding properties to encourage good levels of usage. Well-lit public cycle and pedestrian routes that provide a safe and secure environment will be encouraged. The Council will encourage shared access, parking, amenity play spaces, on the "home-zone" principle, subject to management and maintenance arrangements.
- 7.9 All footways must be convenient and comfortable for all users, allowing level access to building entrances and usable by wheelchair users.

Design Principles 7

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

Layout within the site

- 7.10 The layout within the site should recognise the layout and orientation of the existing industrial layout. It should allow for views into and through the development.
- 7.11 Building massing based on the use of large blocks with outward facing continuous frontages and secluded private areas is acceptable.
- 7.12 Orientation of building fronts and backs should ensure privacy for occupants and adequate surveillance of streets, pedestrian and cycle links and public spaces. The site may be laid out to facilitate shared access to the Chapel Lane dwellings if this delivers urban design benefits including better access for emergency services.

Car parking design

- 7.13 Car parking should be provided in a mixture of different forms. Taking account of the existing flood risk underground car parking, ground level parking under the rear of buildings or parking hidden behind buildings are acceptable.
- 7.14 Boulevard parking on street space between the fronts of buildings and parking squares designed as public realm may also be possible. Car and cycle parking areas should have good surveillance and designed to deter crime.

Drainage

- 7.15 In conjunction with car parking and open / circulation space the site will need to adopt Sustainable Urban Drainage Systems (SUDS) in order to minimise the flood risk from fluvial events.

8 Implementation

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

8 Implementation

8.1 The Council want the advice in this brief firstly to assist prospective developers with clear planning guidance. The Council anticipates that developers will bring forward schemes for the redevelopment of the site, having regard to the contents of this brief.

Planning application requirements

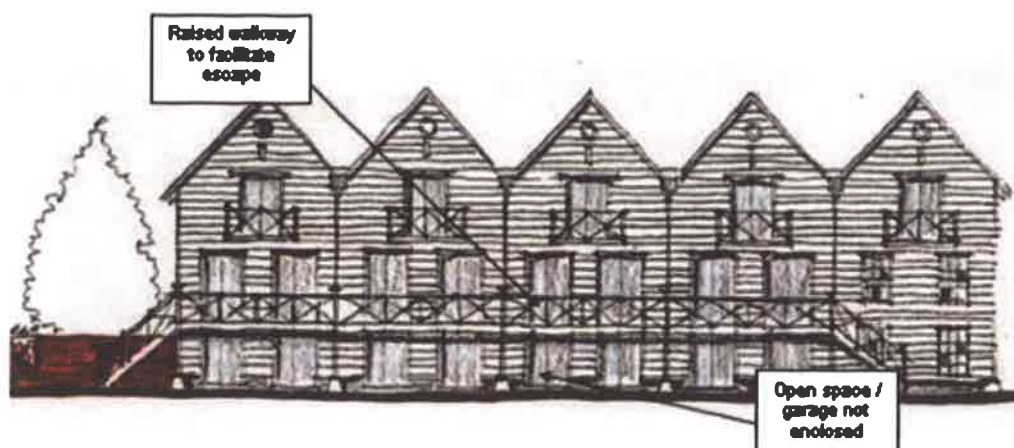
8.2 The following applies:

- A planning application may be made for full or outline permission. If an outline application is submitted, the application should be accompanied as a minimum by a Master Plan showing the proposed layout, key urban design principles, and mix of uses proposed.
- The initial planning application should relate to the whole of the area covered by the brief. In order to ensure the entire site is developed, proposals for development of part of the site will not be acceptable.
- Any application should be accompanied by evidence in respect of the impact of the development on the following matters:
 1. Full compliance with PPS 25:
 2. Access, transport and parking;
 3. Urban Design approach;
 4. Ground Condition Survey;
 5. An independent appraisal of wildlife and fauna on site to include effect on the nearby Blackwater SSSI;
 6. Environmental Assessment if the proposal is likely to have a significant effect on the environment;
 7. Contamination study and programme of remedial works in compliance with PPS 23.
- A planning application should be accompanied by a feasibility study examining the most appropriate means of achieving pedestrian / cycleway improvements between the site and the main settlement areas at Heybridge and Maldon.

Implementation 8

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

Map 8.1 Possible layout



Note: This drawing is not intended to show acceptable massing height finish or layout nor in any way to indicate the type of building that may be acceptable.

8 Implementation

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

Appendix 1: Adopted Replacement Local Plan Policies

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

Appendix 1: Adopted Replacement Local Plan Policies

Explanation of Employment Strategy Si

Employment Objectives

- Ei. To encourage employment growth opportunity and prosperity in a sustainable manner, which caters for both the needs of the urban and rural areas of the District whilst protecting the environment.
- Eii. To promote the use of suitable buildings in the countryside for employment uses.
- Eiii. To protect from changes to other uses all the existing large employment sites and allocations which are major generators of employment.
- Eiv. To encourage new firms and opportunities for the growth of local firms.
- Ev. To provide sufficient land for employment development to meet the requirements of the Structure Plan.
- Evi. To improve the quality and encourage the maximum use of existing allocated employment areas, increasing the potential for employment opportunities and providing a high quality environment.
- Evi. To encourage the use of land and buildings in connection with tourism.
- Eviii. To provide an appropriate level of employment opportunities in the smaller settlements and the countryside.

Appendix 1: Adopted Replacement Local Plan Policies

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

Preamble to Policy E3:

This site is located close to the Heybridge Basin Conservation Area. Development must conserve or enhance the setting of the conservation area. It is within a tidal flood risk area and development must satisfy the requirements of the Environment Agency. Access is constrained by the capacity of Basin Road and the junction on the Goldhanger Road. The employment component of a mixed-use development must make a contribution to the employment strategy of the Local Plan.

POLICY E3 Mixed Use Development - Timber Yard, Heybridge Basin

Within the former timber yard site in Heybridge Basin shown on the Proposals Map, planning permission will be granted for a mixed-use development of housing and Class B1 employment uses provided:

- a. The extent of Class B1 uses promotes the objectives of the Employment Strategy.
- b. Flood risk measures satisfy the requirements of the Environment Agency.
- c. Development conserves and enhances the setting of the nearby Conservation Area.

POLICY CON1 Development in Areas at Risk from Flooding

Development in areas at risk of flooding as shown by the latest Flood Risk Maps will only be permitted where:

1. There are no alternative sites suitable for the type of proposed development at lower risk of flooding taking account of all sustainability criteria; and
2. It would not have an adverse impact on the function of the flood zone; and
3. It would not increase the risk of flooding elsewhere.

Appendix 1: Adopted Replacement Local Plan Policies

MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK | Supplementary Planning Document:
Heybridge Basin Timber Yard

With regards to building Policy BE1 applies:

POLICY BE1 Design of New Development and Landscaping

Development Proposals will be permitted if:-

- a. They are compatible with their surroundings, and/or improve the surrounding location in terms of :**
 - i. Layout**
 - ii. Site coverage**
 - iii. Architectural style**
 - iv. Scale / bulk / height**
 - v. External materials**
 - vi. Visual impact**
 - vii. Effect on the safety and/or amenity of neighbouring properties or the occupiers therein**
 - viii. Relationship to mature trees**
 - ix. Relationship to important landscape or open spaces**
 - x. Traffic impact and access arrangements.**
- b. Within defined development boundaries they harmonise with the general character of the area in which they are set;**
- c. Outside defined development boundaries they make a positive contribution to the landscape and open countryside;**
- d. Measures to protect important nearby features such as trees and historic buildings during the construction process are included;**
- e. Landscaping is included as an integral part of the overall design;**
- f. Amenity space is provided appropriate to the type of development.**

DESIGNED AND PRODUCED BY

APPENDIX 4

**MALDON DISTRICT COUNCIL
PRINCES ROAD
MALDON
ESSEX CM9 5DL**

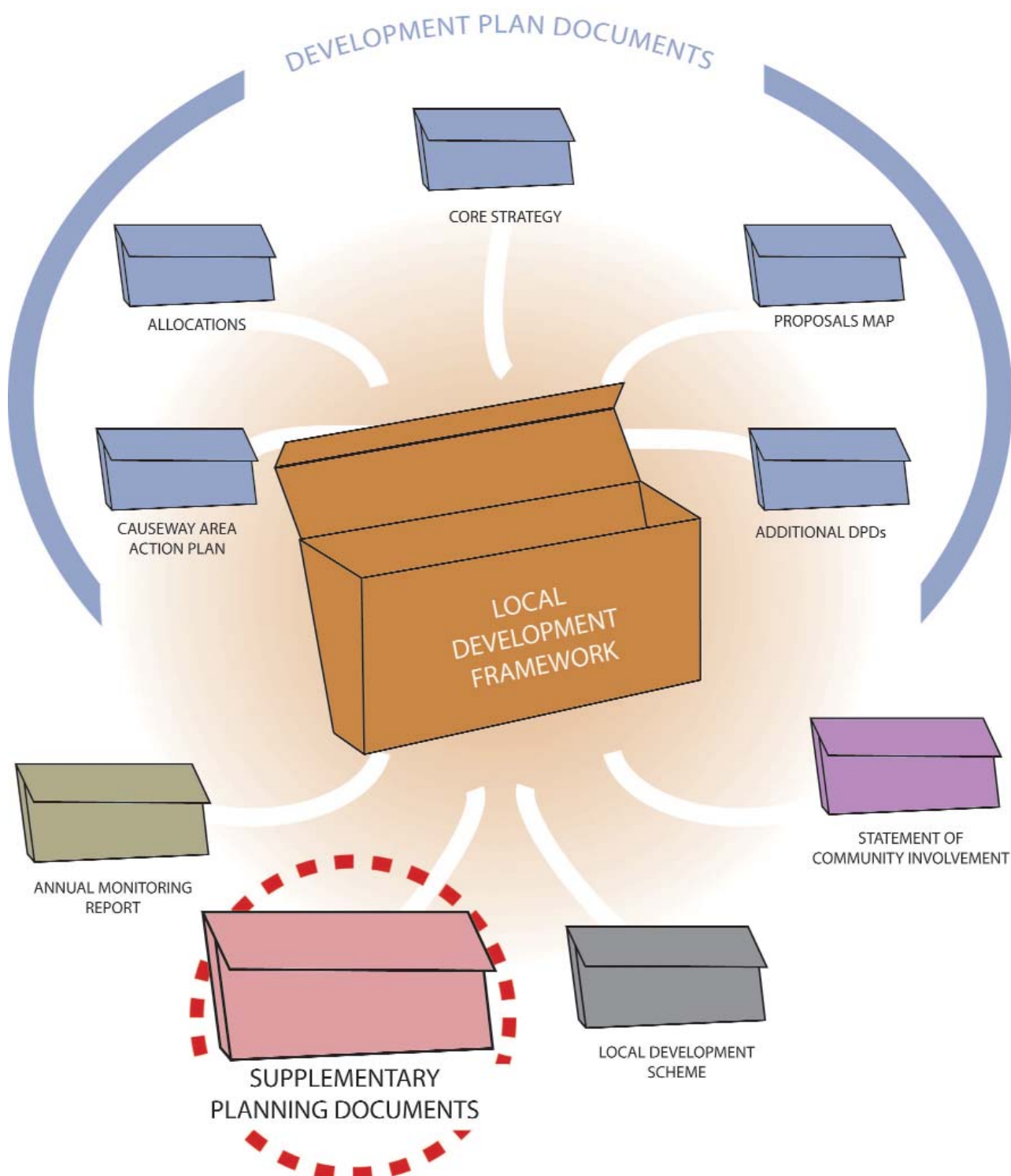
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MALDON DISTRICT
LOCAL DEVELOPMENT
FRAMEWORK

Sadd's Wharf
ADOPTED
SUPPLEMENTARY
PLANNING DOCUMENT









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Adopted Maldon District Replacement Local Plan - Relevant Policy	



SADD'S WHARF AND IMMEDIATE SURROUNDINGS - AN AERIAL VIEW



1.1 Background

The former Sadd's Timber Wharf forms part of the 'Causeway' Industrial Area running between Maldon to the south and Heybridge to the north. The wharf faces the town of Maldon across the River Chelmer and currently lies derelict.

In accordance with its adopted Replacement Local Plan and Local Development Scheme, Maldon District Council is preparing a Supplementary Planning Document (SPD) for the regeneration of Sadd's Wharf, Maldon for mixed office, residential and leisure uses.

Sadd's Wharf may be considered as the premier, or showcase, development site within Maldon District. Consequently the District Council is looking for a visionary approach to the site's development not only to make the most of the site's location, but also to act as a catalyst to further regeneration in the area and to demonstrate best practice in mixed use development.

The Council's vision therefore is of a comprehensive, high quality redevelopment of the site resulting in a vibrant, attractive place to be, offering new opportunities for people to live, work and enjoy their leisure time.

1.2 Purpose of the brief

This Supplementary Planning Document (SPD) has been prepared to assist developers when drawing up proposals for the redevelopment of Sadd's Wharf and if appropriate to assist in marketing the site. The site's recent history is one of under-use and dereliction, and Maldon District Council is keen to see its redevelopment. Central Government through advice in Planning Policy Statements (PPSs) encourages urban regeneration and the re-use of previously developed land.

Maldon District Council considers that a development brief is required for the site in order to set out in sufficient detail the relevant planning matters that elaborate the Council's Local Plan Policy as well as other important policy or contextual issues that have a bearing on the site. In particular it will guide an appropriate mix of uses.

Sadd's Wharf occupies a prominent position on Maldon's waterfront and offers a significant opportunity to act as a catalyst for wider regeneration of the Causeway area within which the site is situated. This wider regeneration is programmed to be the subject of a future Causeway Area Action Plan under the emerging Maldon District Local Development Framework.

The brief identifies development opportunities and provides guidance on land uses, site planning and building scale, form and detailing to make more efficient use of the land, help achieve development quality and ensure that new development improves and enhances the relationship between the site and the surrounding area.

The development brief has been prepared by Maldon District Council in accordance with PPS12 - Development Plans (2004). This development brief is consistent with national and regional planning policy and guidance, as well as the policies set out in the adopted development plan.

The consultation on this SPD provides an opportunity for any organisation or individual to influence the evolution of a key development opportunity in the heart of the Maldon



waterfront. Views will be particularly welcomed from key stakeholders and community representatives such as the Town Council, local amenity societies and other local groups and individuals as well as the site owners, nearby businesses and local residents who live next to or near the site. The draft will be amended to take into account the representations received.

1.3 Status of this document

This document will be adopted as a Supplementary Planning Document in accordance with the commitments set out in the adopted Local Development Scheme. It is the subject of public consultation and community engagement in accordance with the District Council's Statement of Community Involvement, found to be sound by the Planning Inspectorate in December 2006 and adopted by the District Council on 15 February 2007. As an adopted SPD, the guidance will carry significant weight in the determination of future planning applications at the Sadd's Wharf site.

The SPD elaborates Maldon District Replacement Local Plan policy and will be taken into account as a material consideration when considering applications for the site. The Government gives substantial weight to SPD which is consistent with the development plan and has been prepared in the proper manner. The SPD is accompanied by a Sustainability Appraisal for which a Scoping Report has been prepared and issued for consultation.

2.1 Government guidance

Key Government policy and guidance is contained in Planning Policy Statements (PPS) and Planning Policy Guidance (PPG). The following are considered to have relevance for the Sadd's Wharf, Maldon SPD:

PPS1:	Creating Sustainable Communities
PPS3:	Housing
PPG4:	Industrial, Commercial Development and Small Firms
PPS7:	Sustainable Development in Rural Areas
PPS9:	Biodiversity and Geological Conservation
PPS12:	Local Development Frameworks
PPG13:	Transport
PPG15:	Planning & Historic Environment
PPG17:	Planning for Open Space, Sport and Recreation
PPG21:	Tourism
PPS25:	Development and flood risk

The objective of Government policy and guidance set out in PPS1 is to encourage sustainable development through social progress, maintaining the economy, environmental protection and prudent use of resources. It promotes high quality design to enhance the quality of urban life and encourages the efficient use of land particularly where close to local facilities and public transport connections. The guidance recognises that well planned green spaces can help create pleasant urban environments.

PPS3 promotes more sustainable patterns of development by focusing future housing within urban areas, and requiring that efficient use is made of previously developed land. PPG 13 advises that local authorities should make maximum use of sites which are highly accessible by public transport.

PPG15 reinforces the provisions of the Planning (Listed Building and Conservation Areas) Act 1990, which requires local authorities to have regard to the desirability of preserving the setting of listed buildings. It also places an obligation on local authorities to preserve and enhance the special character of conservation areas.

PPS25 indicates that Local Plans should outline the consideration which will be given to flood issues. They should apply the precautionary principle to the issue of flood risk, using a risk-based search sequence to avoid such risk where possible and managing it elsewhere and developers should fund the provision and maintenance of flood defences that are required because of the development. Attention is drawn to Annex D of PPS25 and for the requirements of the 'sequential test' to be met in relation to the whole development, and for the 'exception test' to be met in respect of any residential component of the scheme.



2.2 Essex and Southend-on-Sea Replacement Structure Plan April 2001

The Essex and Southend-on-Sea Replacement Structure Plan forms part of the approved Development Plan for the area. Its policies interpret for Essex recent Government guidance regarding sustainability and making efficient use of previously developed land.

Policies CS1 and BE1 seek to achieve significant enhancement of the vitality and viability of the urban environment. They require that efficient use is made of accessible land within existing urban areas that is well served by public transport. Policies CS1, BE2 and H4 promote mixed land uses. Policy BE1 and CS2 establish a framework for protecting the character and townscape of the urban environment generally. Under Policy BE5 new development should provide/contribute to necessary improvements to community facilities, public services, transport provision and other essential infrastructure which is made necessary by the proposed development.

2.3 Maldon District Replacement Local Plan November 2005

The strategy for the District recognises the importance of protecting the coast and countryside whilst achieving a better balance between new homes and jobs within the District. The policy background is set by the adopted Maldon District Replacement Local Plan 2005.

Appendix 1 sets out the range of policies which may have a bearing on the development of Sadd's Wharf and specific reference should be made to these alongside this development brief. Of particular relevance are constraint policies CON1 as the site lies within a flood risk area and CON3 as the site has a coastal location; both these policies will require an acceptable mitigation response to deal with these constraints.

Policy CC1 requires development at the site to have no adverse impacts on the adjacent internationally important nature conservation site of the Blackwater Estuary.

Housing policies H6 and H9 guide requirements for site density and the expected level of affordable housing respectively.

The key policy for approaches to design and landscaping is BE1. Adherence to policy BE2 will ensure access for all. Policy REC3 guides provision of children's play spaces in conjunction with housing and policy T8 refers to parking provision requirements. Both are elaborated in adopted Supplementary Planning Documents. Policy T2 guides appropriate transport infrastructure in new developments.

The specific policy that this SPD will elaborate is policy E4 within the Maldon District Replacement Local Plan as follows:

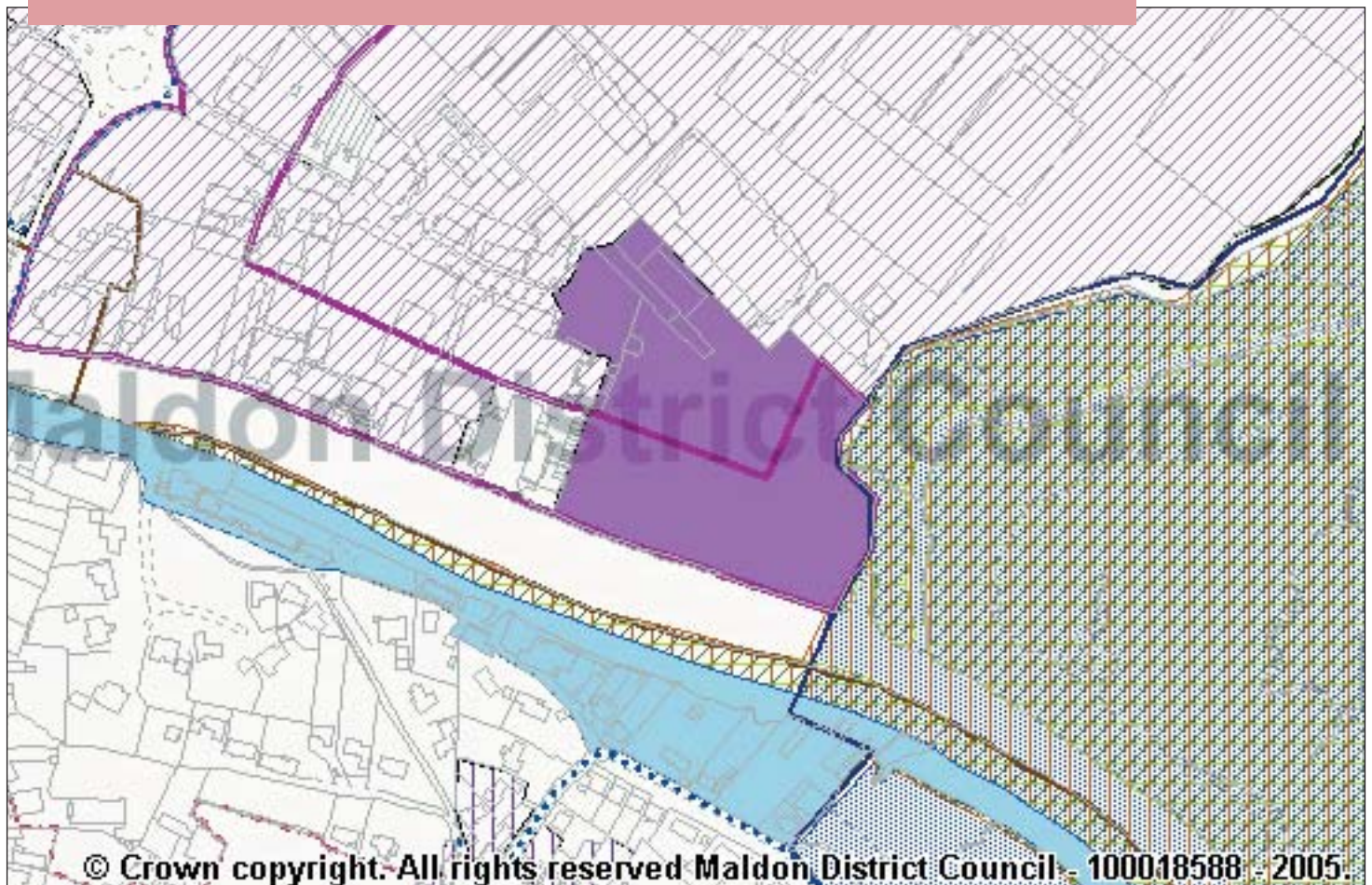
POLICY M/E/4 Mixed Use Development - Sadd's Wharf.

On the site of Sadds Wharf, Station Road, Maldon shown on the Proposals Map, planning permission will be granted for a mix of uses including offices, housing and leisure provided;



- (a) The design form and scale of the buildings permitted and the materials used in their construction shall be compatible with:
 - (i) the adjacent buildings known as 'The Granaries,'
 - (ii) the character of the buildings located within the designated Conservation Area to the south, and
 - (iii) the scale of the adjacent estuarine landscape.
- (b) Development does not lead to highway impacts that have an adverse impact on the existing employment uses in Station Road.
- (c) Flood risk measures satisfy the requirements of the Environment Agency.

LOCATION OF SADDs WHARF - EXTRACT FROM MALDON DISTRICT REPLACEMENT
LOCAL PLAN INTERACTIVE PROPOSALS MAP - NOT TO SCALE





3.1 Site History

The site has a history as a timber yard and was owned and developed by the Sadd family. Imported timber was transferred by barges and lighters from larger vessels in the Blackwater Estuary. Timber was also stored by floating it in the adjacent River Chelmer. There was a packet boat service from the wharf to London until 1851. The steam powered sawmill at the site was destroyed by fire in 1909 to be replaced by two buildings, one for logs, the other for planning and re-sawing. Electricity was also generated on site.

The Sadd's contribution to the second world war effort should also not be understated. Motor launches and torpedo boats were launched from the site and remnants of the slipway can still be seen at the site.

The decline of the timber wharf came towards the later 20th century with the site cleared and then lying derelict to the present day. It is understood that the site was last actively used in the mid-1980s.

3.2 Site context

The Sadd's Wharf site extends to 2.2 hectares.

The site has vehicular access from Station Road to the west, from where there is good linkage via Fullbridge and the A414 to the Maldon by-pass. The trunk road network is then reached via the B1019 to the A12 at Hatfield Peverel.

The immediate access along Station Road is currently congested and in need of improvement. This will need to be addressed as part of the Sadd's Wharf site redevelopment.

The site has been largely cleared of buildings and the ground surface broken up and any significant vegetation removed. The site is largely level becoming more elevated towards the northern boundary.

The site is bounded to the south by the River Chelmer representing the former wharf frontage, to the north, by the Causeway industrial area, to the east by Heybridge Creek and to the west by residential conversions of former granaries.

The wider context of the site is particularly important. To the immediate south of the site across the River Chelmer there is the Maldon Conservation Area and the visual relationship between the site and the Conservation Area is very strong. To the immediate east is the Blackwater Estuary designated as being of international importance for its mudflats and estuarine wildlife as a Site of Special Scientific Interest, Ramsar site, Special Protection Area and Special Area of Conservation. This also stretches to the south of the site along the River Blackwater and Chelmer.

The site is also within the Causeway Industrial Area, itself the subject of a future proposed Area Action Plan Development Plan Document within the Local Development Framework. A successful regeneration of Sadd's Wharf has the potential to act as a catalyst to the wider regeneration of the Causeway Area.



4.1 Site Prominence / Design / Built Environment

The greatest development opportunity presented by the site stems from its location at the junction of the River Chelmer and the Blackwater Estuary facing the historic town of Maldon. This setting requires a positive design approach in order to maximise the unique development opportunity offered.

The Maldon Conservation Area is immediately across the river and development must be designed to enhance its setting. Views to the site from the Conservation Area will be an especially important consideration. Development will need to respect that found within the Conservation Area and around the Blackwater/Chelmer waterfront.

4.2 Access

Existing site access for vehicles, cyclists and pedestrians is from Fullbridge along Station Road. Current level of use and parking means the road is congested and therefore in its existing condition is inappropriate to service the Sadd's Wharf site.

There is the opportunity for pedestrian and cyclist access to the waterfront areas of the site and also by a new link across the River Blackwater to Maldon. In addition access to the wider Causeway Area, particularly waterfront areas, is likely to be a future opportunity in conjunction with the proposed Causeway Area Action Plan. This will also apply to vehicular traffic between the site and the wider Causeway area. An opportunity for an alternative site access for vehicular traffic may also be presented by regeneration of the wider Causeway area.

4.3 Contaminated Land

The site's former industrial use means land contamination may be a development constraint.

The minimum requirements to be submitted with any planning application for the redevelopment of this site are identified in Paragraph 2.43, Annex 2 of PPS23. In accordance with Paragraphs 6 and 17 of PPS23, these studies must be undertaken prior to the determination of any planning application and will be especially important considering the close proximity of this redevelopment site to the Blackwater Estuary SPA/SAC/SSSI/Ramsar Site.

In relation to this site, the Environment Agency are only concerned with contamination issues relating to controlled waters and waste. Maldon District Council's Environmental Services department should also be consulted with regard to human health concerns.

Given the previous use of the site, it is likely that an intrusive site investigation will be required. The Environment Agency would therefore urge any applicants to submit the minimum requirements to them for comment prior to submitting a planning application.



4.4 Flood Risk

The most significant constraint on the potential development of the site is the flood risk as set out in the Environment Agency Flood Maps. The site is situated within Flood Zone 3 - High Probability as defined in Table D1 of Annex D, PPS25.

A strategic flood risk assessment is being prepared for Maldon District which will include the Sadd's Wharf site. This will give further detail on the likely nature of flood risk at the site together with an indication of potential mitigation measures.

A flood risk assessment will be required to accompany a development proposal to meet part C of the PPS25 exception test.

Flood risk investigation must take account of tidal flooding, fluvial flooding and tide-locking.

Due to the complex hydrological elements in the Maldon area, any investigation into the flood risk for this site must take into account tidal flooding, and also any possible effects of fluvial flooding and a tide-locking scenario.

The sea defence in this area has a standard of protection of 1 in 191. Given this, the Sadd's Warf area is not adequately defended in a 1 in 200 year tidal flood event, thus an overtopping analysis must be included in any assessment of flood risk. The overtopping analysis must take into account the increase in sea level resulting from climate change as indicated in Table B.1 of PPS25 as appropriate for the development type (60 years for commercial and 100 years for residential). It cannot be assumed that the existing sea defence will be maintained or improved to adequately defend development in this area for its lifetime. We have permissive powers, but not a statutory duty, to carry out or maintain flood defence works in the public interest.

For the 1 in 200 year overtopping analysis, the results should be used to determine whether there would be a safe access/egress route between the site and local facilities that are likely to be used as places of assembly during flooding. It is preferable that such routes remain dry and, if that is not possible, then they must satisfy the white cells of Table 13.1 of FD2320.

Additionally, investigation into flood risk should include the results of an overtopping scenario for a 1 in 1000 year tidal flood event. The results of the 1 in 1000 year overtopping scenario will enable the Local Authority to consult the emergency services and emergency planners regarding evacuation from the site.

An assessment of potential surface water flooding must be addressed within the flood risk assessment. The Environment Agency would expect to see the use of Sustainable Drainage Systems (SUDS) in any surface water management plan produced for this site. Annex F of PPS25 provides further information on this subject. It is important to note that the design of this surface water management system may be reliant on the outcome of the contamination studies also required at this site (see 4.3).

In addition to the above, the Environment Agency is also in the process of preparing the Blackwater and Colne Estuarine Strategy. This document will identify

the most sustainable flood management strategy for the estuaries for the next 50 years, having considered socio-economic, environmental and hydrodynamic factors. The strategy will include an identification of areas for future managed realignment and where the existing defence must be maintained. Not much information is available at this stage, however the Environment Agency is very concerned over the future sustainability of developing this site.

Due regard should be given to the vulnerability classifications of the proposed development types on-site and their compatibility with flood risk. According to Table D.2 of PPS25, the uses proposed for Sadd's Warf regeneration have the following vulnerability classifications:

GENERAL TYPE OF USE	SPECIFIC TYPE OF USE	VULNERABILITY CLASSIFICATION
Private Residential	-	More vulnerable
Business	-	Less vulnerable
Professional Services	Architects, accountant, consultancies, etc.	Less vulnerable
Restaurants/Cafes	-	Less vulnerable
Drinking Establishments	-	Less vulnerable
Non-Residential Institutions	Children's day care, crèche/nursery	More vulnerable
	museum, art gallery, exhibition space	Less vulnerable

In light of the above, it must be acknowledged that private residential uses are only appropriate where the sequential test and the exception test are passed.

Anglian Water require confirmation on land use in order for the site to be modelled to determine the foul water drainage strategy and any necessary improvement works.

Due to the site location Anglian Water need confirmation that any formal flood risk assessment for the site as required under PPS25 will ensure that any potential flooding of the site will not impact on the foul drainage system.

4.5 Natural Environment

The site lies adjacent to the Blackwater Estuary of international significance as a Site of Special Scientific Interest, Special Protection Area, Ramsar Site and the Essex Estuaries Special Area of Conservation. Development will have potential disturbance on over-wintering birds and increase the number of people using and living on the boundary of the statutory protected sites. The sensitivities involved to the estuary both during and after construction will be an important consideration at Sadd's Wharf and potential constraint to development options.

There is a possibility that the site hosts invertebrates and reptiles.



5.1 Mix of land uses

The District Council recognises the site's history as an employment site and wishes to ensure replacement employment uses predominate within the future mix of uses on the site recognising both the site's surrounding uses and the limitations for the scale of future housing development imposed by the site's flood risk. Conversely it is acknowledged that some housing at the site may be necessary to make the site's development viable.

The District Council has sought initial expert advice on the process of establishing the economic viability of the site's development. Sadd's Wharf presents many variables for determination of viability and the District Council is of the view that these costs should primarily be borne the developer. As part of good planning for the site preferred percentages of residential and office or other business uses are identified under 5.2 'Development Requirements' below. Should a developer propose to depart from these preferred percentages on grounds of economic viability, a clear case will need to be made within a planning application and this will be assessed as part of the application process.

Assessments other than those for economic viability may also impact on the final percentages for mix of land uses (in particular Flood Risk Assessment). Again such assessments will be used to inform a final decision as part of the planning application process.

The site's prominent waterfront location makes it attractive to other uses and a proportion of leisure uses that utilise this are also considered appropriate.

Policy E4 of the Local Plan specifically refers to offices being the appropriate type of employment use to be provided on the site. The District Council will, however, give favourable consideration to other uses falling within the scope of the Business (B1) Use Class (research and development, and light industry) where this helps to deliver a comprehensive, viable and vibrant scheme and where urban design objectives and requirements are also met.

In summary the Council will seek mixed uses to meet the following objectives:-

- Creation of sustainable employment as the predominant site use;
- Creation of a sustainable residential neighbourhood;
- Creation of a safe, lively character with a variety of leisure activity;
- High quality design.

5.2 Development Requirements

Amount of non residential floorspace

The Council will seek a minimum of 50% of the developed floorspace for office or other Business use (Class B1) to ensure continued employment use of the site predominates within the mixed use approach.

**Preferred location of non-residential uses**

The Council will seek non-residential uses at ground floor level on the site in order to contribute to the diversity of uses and to address flood risk issues and create focal points for activity.

Amount of residential floorspace

Sufficient residential floorspace to ensure the viability of the redevelopment of the site is acknowledged as appropriate by the Council. This is not anticipated to be greater than 40% of developed floorspace and must include affordable housing amounting to at least 30% of the number of dwellings permitted on site. A residential density of 30-50 units per hectare is considered appropriate. Greater residential density may be appropriate subject to acceptable flood risk and access mitigation.

Adaptable units

The Council will accept attractive, open-fronted, high ceiling, mergeable/sub-divisible, flexible-use units, capable of accommodating alternative non residential uses, in the interests of creating a business character, meeting unforeseen demand and for future economic sustainability.

Appropriate intensity of use and satisfactory built form

The Council wants to avoid segregated uses. It will not accept single storey buildings and detached, single-use buildings unless it can be demonstrated that these form part of comprehensive development proposals and such stand-alone uses integrate with and are complementary to the remainder of the site. Residential developers will be encouraged to develop mixed-use buildings.

Leisure provision

The Council wishes to ensure the vitality of the site's development and considers up to 30% of developed floorspace appropriate for leisure uses.

5.3 Appropriate Land Uses

New development should complement the existing surrounding uses and exploit the close association with the river frontage. The Council envisages that new office, residential and leisure uses will be complementary to the existing grain of the nearby Conservation Area.

As part of a mixed use development of Sadd's Wharf careful consideration should be given to the retention of a wharf facility along the River Chelmer frontage. Such a wharf facility might cater for leisure use or for instance mooring of Thames Barges as occurs at the Hythe in Maldon or alternatively a level of transshipment. The scale and use of the wharf should complement or conform with the mix of uses identified in any development solution and should not impact adversely on navigation in the River Chelmer.

Possible appropriate land uses are outlined below. All the uses are compatible with each other as long as they are carefully integrated within the overall development scheme and surrounding area, attending to possible excessive impact in terms of traffic, noise and activity.

Private residential
Use class C3

Mixed tenure, mixed size residential units, are an essential requirement proportionate with ensuring the development viability of the site. The Council will seek affordable housing in accordance with Policy H9 of the adopted Replacement Local Plan.

Business
Use class B1

B1 office uses not covered under A2 are appropriate. The Council will accept different types of accommodation including:

- premises for small and medium size B1 offices or businesses;
- managed space for small business enterprises sharing resources;
- flexible use studios;
- flexible use community or low value activity;
- large business occupier;
- non-office B1 uses - there is scope on the site for a B1b/c block, perhaps to the rear (N) of the site which could include managed workspace.

Professional services
Use class A2

Non-retail uses serving visiting members of the public will be acceptable (architects, accountants, consultancies, etc).

Restaurants and Cafes
Use class A3

A class A3 use is acceptable provided it is integrated with new living and working accommodation and complements the setting of the site.

Drinking establishments
Use class A4

A class A4 use may be acceptable provided it is integrated with living and working accommodation and management processes can be introduced to control access and noise. It must also complement the setting of the site.

Non residential institutions
Use class D1

These will be supported where they support and complement the main proposed uses of the site (eg museum, art gallery, exhibition space). A museum or gallery linked to the local history of the site or surrounding area would be particularly appropriate.



6.1 Site Access and Connections

The site has a range of existing and potential connections to its surroundings. These are summarised in the plan at the end of this section. It will be a requirement of site development proposals to maximise and improve access and connections wherever possible.

6.2 Vehicular Access

Vehicular site access from Fullbridge is along Station Road. This road is already congested with the current level of use and parking and road widening in conjunction with improved traffic management measures and environmental improvements will be required in order for Station Road to become an adequate access for the site which is attractive to pedestrians and cyclists as well as motor vehicles. The improvement of Station Road will therefore be a requirement by way of a section 106 agreement in conjunction with the development proposals for Sadd's Wharf.

Essex County Council Highways and Transportation Department will require submission of a full Transport Assessment to review the junctions in the area and examine public transport, walking/cycling connections and links to the public rights of way network. They will also require details of car parking provision within the Sadd's Wharf development. The scope of the Transport Assessment would need to be agreed with the Highway Authority.

Observations show Station Road is unclassified/private. If planning permission was granted the Highways and Transportation Department would seek improvements to the road ideally leading to its adoption and it becoming maintainable at public expense together with regulation of car parking along Station Road.

In addition consideration should be given via site layout to wider access to the Causeway Area from the site via the proposed Causeway Area Action Plan. Of particular relevance is the potential for a future second access route to the site which may avoid the congestion difficulties in Station Road and give more direct access to the A414.

6.3 Access for Pedestrians and Cyclists

Access for pedestrians and cyclists will be via Station Road but opportunity may also exist by way of a possible new pedestrian footbridge to link the site across the River Chelmer to Maldon. Such a link could help facilitate the sustainable development of the site by bringing Sadd's Wharf within close walking/cycling range of Maldon town centre.

Additional external funding is likely to be required for this and sufficient space would need to be included within a design layout to accommodate a bridge crossing on both the southern and northern banks of the river. Landowner agreement would be needed on an acceptable location at the southern river bank. Bridge works would also require Environment Agency Consent under the Land Drainage Act 1991/Water Resources Act 1991 and approval from the Maldon Harbour Improvement Commissioners as Harbour Authority. Any bridge design would need to accommodate river traffic needing to move



upstream along the River Chelmer to Fullbridge. With a sensitive bridge design there may be an opportunity to enhance landscape character.

The proposed Causeway Area Action Plan is of relevance to pedestrian and cyclist traffic between the site and the wider Causeway area. In addition to the potential bridge link above wider access along the bank of the River Chelmer to the west and Heybridge Creek to the north should be considered in design layout of Sadd's Wharf.

6.4 Circulation within the development

Access and circulation to buildings, within private and public spaces must be suitable for people with disabilities. 'Access for all' will be a requirement of any development proposal. A full access statement will need to be submitted with a planning application.

Pedestrian and cyclist access should be provided to all waterfront areas of the site.

Pedestrian routes should be direct, legible, safe and attractive. Cycle routes should be indicated by paving materials of different colour or levels and be open and attractive with good forward visibility. Vehicle routes should follow the pedestrian network and be designed to regulate traffic flows and speeds.

The standards of the highway authority, Essex County Council, are set out in the Essex Design Guide for Mixed Use and Residential Areas (1997). This has been adopted by Maldon District Council as Supplementary Planning Guidance.

6.5 Vehicle servicing needs

All uses should provide suitable arrangements for off-street servicing and refuse collection. The Council will require details of the types of vehicles and frequency of visit for each use to ensure satisfactory provision. Service access for existing surrounding buildings should be maintained.

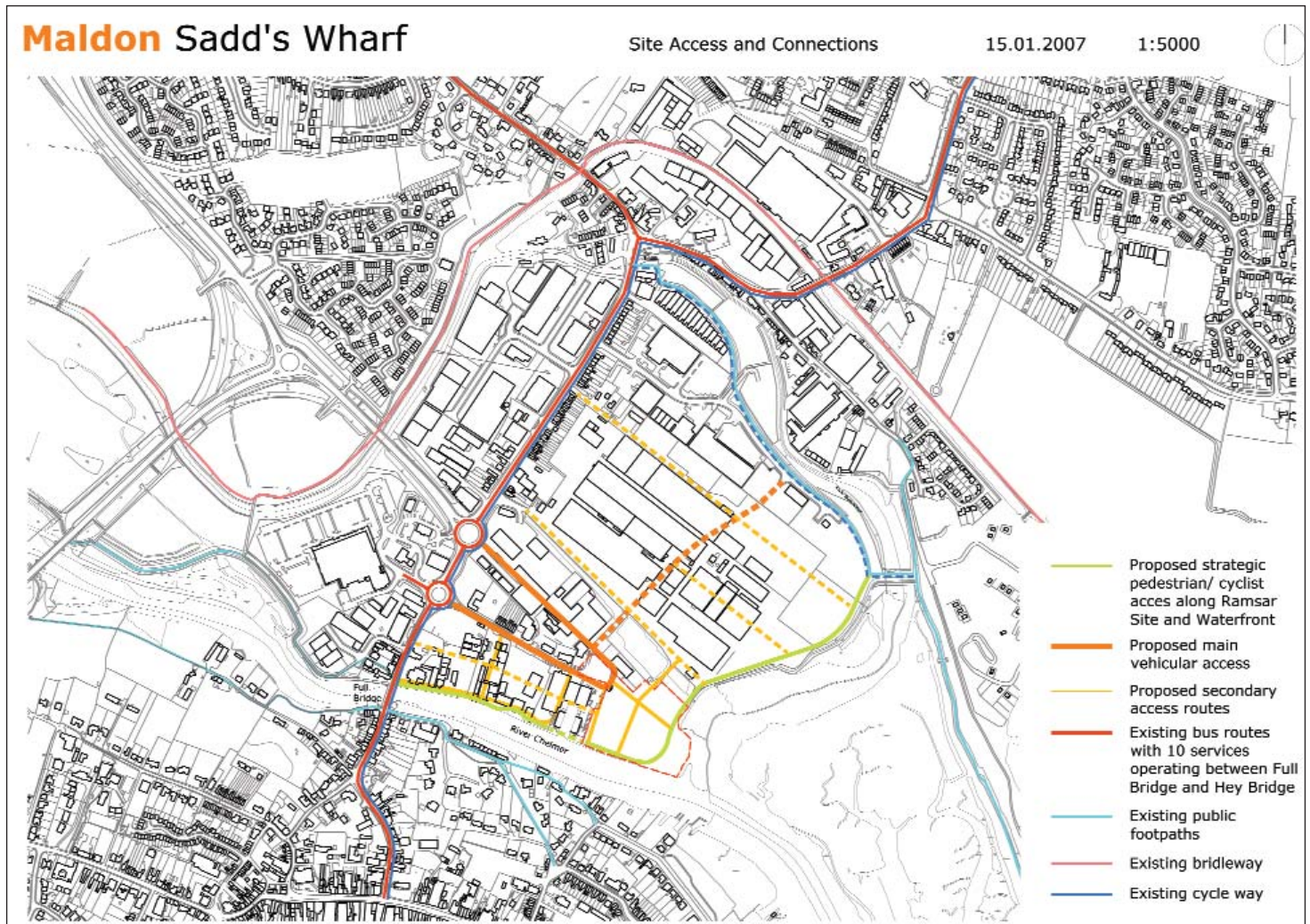
6.6 Vehicle parking

Car parking provision will be assessed with reference to Maldon District Council Vehicle Parking Standards Supplementary Planning Document 2006. In new residential development this requires, a maximum of one space per dwelling for off-street car parking. (This document is available on the Maldon District Council web site at www.maldon.gov.uk)

For non-residential development, parking provision should aim to accord with the standards. The Council will encourage well thought out, multiple and shared use design solutions to car parking provision.

6.7 Cycle parking

Cycle parking provision will be assessed with reference to Maldon District Council Vehicle Parking Standards Supplementary Planning Document 2006. In residential and workplace development, there is a need for secure, covered storage for bikes at ground level. Cycle parking spaces in underground garages would be acceptable provided that a lockable enclosure is included.





7.1 Design ethos

Redevelopment of Sadd's Wharf will offer the opportunity to regenerate a derelict site and thereby bring it into active use. Design solutions will need to maximise the potential offered by the site's highly visible waterfront location but must respect the historic setting, in particular the nearby Maldon Conservation Area. The opportunity exists, however to make a bold design statement which provides a positive enhancement to the town and may itself act as a catalyst to wider regeneration of the Causeway area.

7.2 Block Structure/Urban Design

The attached plans at the end of this section set out graphic information on expected block structure and urban design. There are key views in and out of the site particularly along the waterside boundaries of the site. These in turn inform the approach to defining key frontages which are also shown as relating to waterfront elevations and also to the site entrance. The corner of the site where the river meets the estuary presents a significant opportunity for a landmark feature as does, to a lesser extent, the site entrance. Any development within a 9 metre zone of the water frontage will require Environment Agency Consent under the Land Drainage Act 1991/Water Resources Act 1991.

Reference to the Essex Design Guide and Urban Place Supplement is also appropriate and recommended when considering urban design and layout options. These documents will be incorporated into a Maldon Design Guide SPD to be prepared and adopted during 2007 at which time it will become a material consideration for the layout and more detailed design of the site.

The close proximity to the Maldon Conservation Area and nearby granary buildings means any potential development must be designed to enhance its setting. Views to the site from the Conservation Area will be an especially important consideration with implications for the form, scale, massing and construction detailing of new development which will need to respect that found within the Conservation Area and around the Blackwater/Chelmer waterfront. It is likely that development over more than three storeys will be inappropriate. This general restriction might be relaxed on the waterfront corner of the site to create a landmark feature.

7.3 Location of public open space

Public open spaces should be located where they are visible and accessible from the surrounding area. They should be located and shaped to help create a sense of location and community ownership. The Council will welcome open spaces designed to cater for public leisure activity relating to enjoyment of the sites waterfront location (see block structure/urban design plan). A significant amount of this space must be located adjacent to the waterfront.

All footways must be convenient and comfortable for all users, allowing level access to building entrances and usable by wheelchair users.



Wherever possible public open space should be multifunctional. It should contribute to the biodiversity/ecological value of the site, aid in flood risk mitigation by contributing to a SuDS scheme and be integrated into the pollution prevention scheme for the site.

7.4 Car parking design

Car parking should be provided in a mixture of different forms. Taking account of the existing flood risk ground level parking under the rear of buildings or parking hidden behind buildings are acceptable.

Boulevard parking on street space between the fronts of buildings and parking squares designed as public realm may also be possible.

7.5 Sustainable Construction and Energy Efficiency

As the District's 'showcase' site, the development of Sadd's Wharf will make a significant contribution to energy efficiency, water efficiency, flood risk management and waste minimisation in its own right as well as offering an example of good practice to development in the district. The following statement is drawn from the Maldon District Replacement Local Plan:

'...the Council recognises that new development has an impact on the environment by way of energy and water use as well as the production of waste, (both in the construction process and afterwards when the development is occupied). Careful attention to these issues can reduce the impact on the environment in much the same way that good design can make a positive contribution. In the same way that the quality of design is now a material consideration in development control decisions the Council will start to consider the water, energy and waste implications of development in the development control process'.

'Carbon neutral' development is becoming increasingly important at Government level to the extent that all new housing development will need to be carbon neutral by 2016. Maldon District Council will encourage a carbon neutral development at Sadd's Wharf.

Development should seek to minimise the use of resources and the production of waste by incorporating, for example, passive systems using natural light, air movement and thermal mass. High levels of energy and water efficiency should be ensured in the redevelopment. It will therefore be important to ensure that the new development incorporates water efficiency measures. The Government's expectations for water efficiency in new buildings are set out in the DCLG publication 'Water Efficiency in New Buildings'.

In addition to the above, the Government's objectives for achieving zero carbon developments are set out in "Building a Greener Future: Towards Zero Carbon Development".

The above approach ties in with the newly published "Code for Sustainable Homes". As a minimum a 3 star rating should be sought under the Code for Sustainable Homes for any development proposals.



A BREEAM Assessment should also be submitted for the non-residential elements of the redevelopment and must be submitted with any planning application. When undertaking this assessment, the highest possible standards for water efficiency, energy efficiency, surface water drainage and waste minimisation must be sought.

Sustainable Construction and Energy Efficiency matters will be incorporated into the forthcoming Maldon District Design Guide SPD during 2007 at which time it will become a further material consideration for the layout and more detailed design of the site.

7.6 Biodiversity

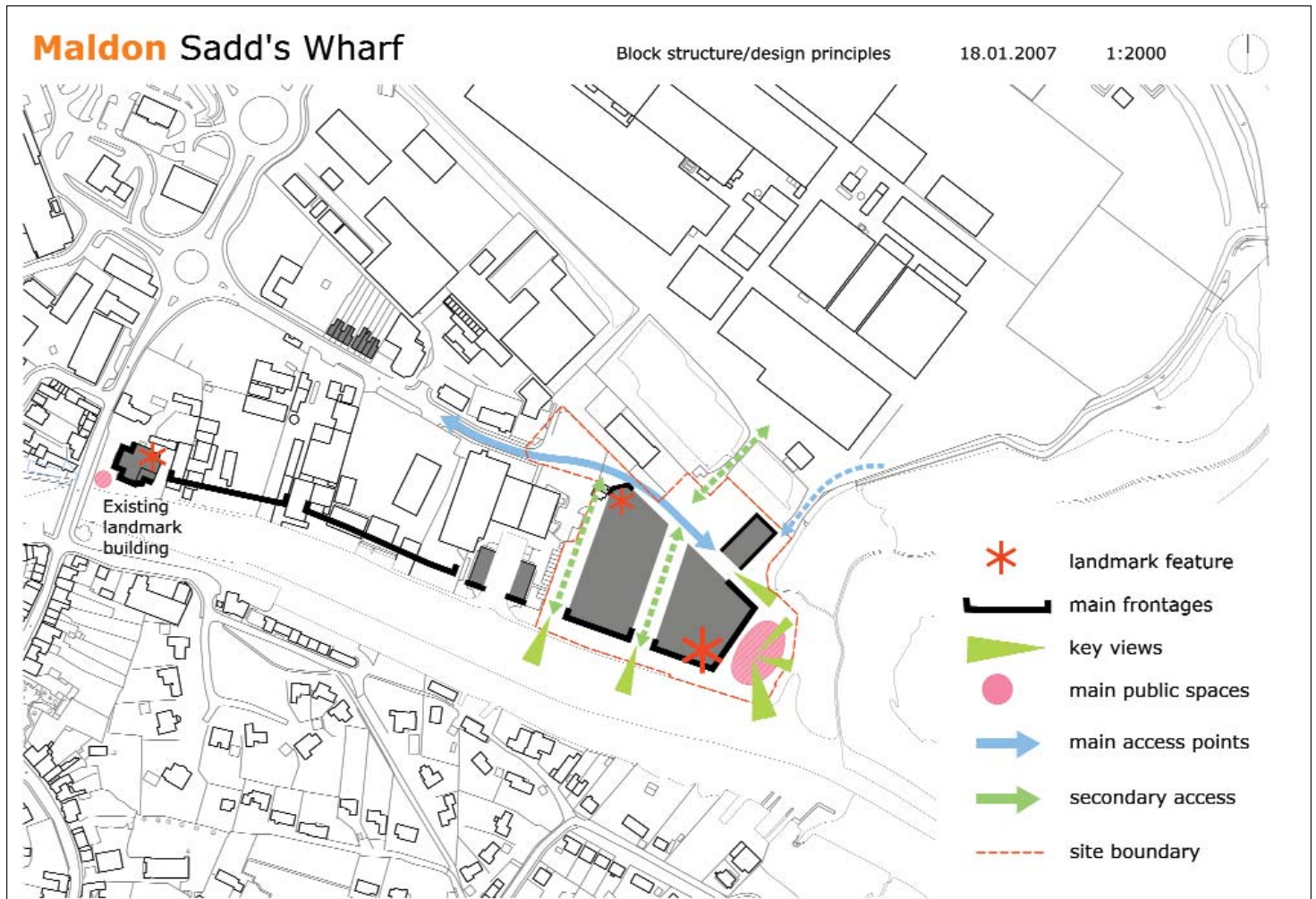
Development should consider incorporating biodiversity enhancements into the new development. Consideration should also be given to provision of functional linkages for movement of species between existing and newly created habitats. Where possible enhancements should seek to meet Biodiversity Action Plan targets.

7.7 Designing out crime

Orientation of building fronts and backs should ensure privacy for occupants and adequate surveillance of streets, pedestrian and cycle links and public spaces.

Public space should be attractive with a high degree of casual surveillance from surrounding properties to encourage good levels of usage. Well-lit public cycle and pedestrian routes that provide a safe and secure environment will be encouraged. The Council will encourage shared access, parking, amenity play spaces, on the "home-zone" principle, subject to management and maintenance arrangements.

Car and cycle parking areas should have good surveillance and designed to deter crime.



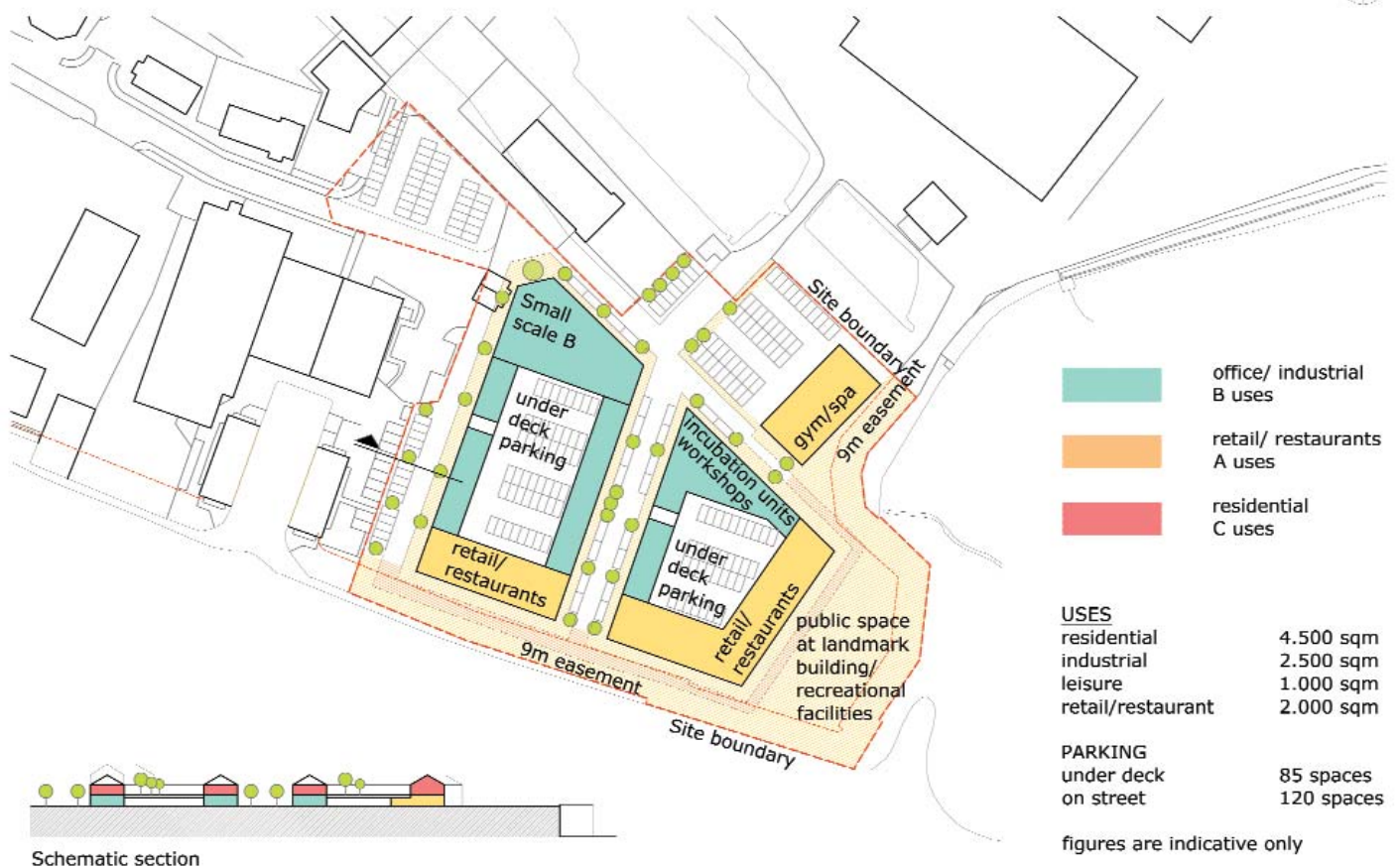
GROUND FLOOR SECTION

Maldon Sadd's Wharf

Ground floor/ section

18.01.2007

1:1000





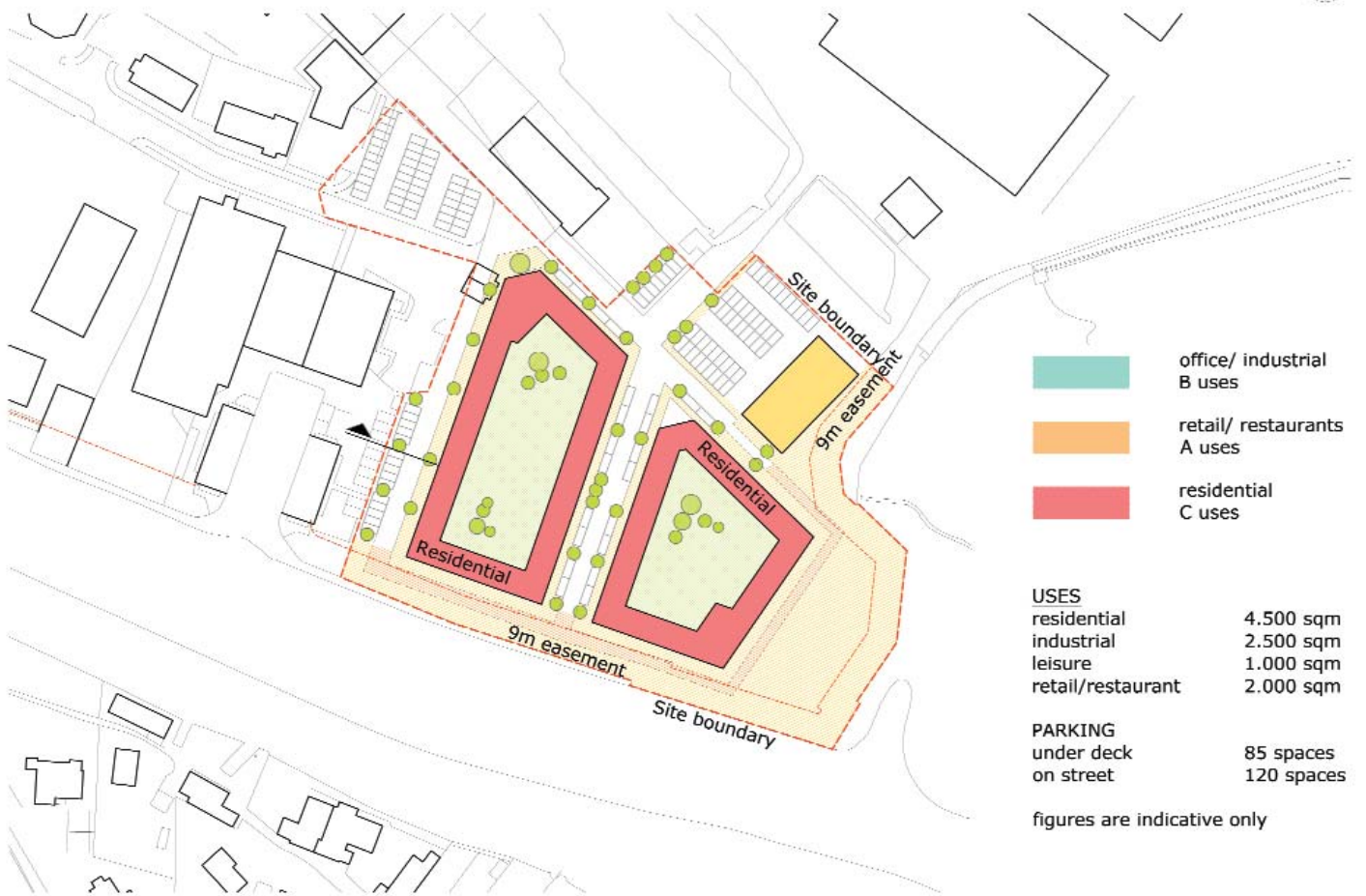
FIRST FLOOR SECTION

Maldon Sadd's Wharf

First Floor/Upper Floors

18.01.2007

1:1000



Maldon District Council will apply the following planning application requirements:

- A planning application may be made for full or outline permission. If an outline application is submitted, the application should be accompanied as a minimum by a Master Plan showing the proposed layout, key urban design principles, and mix of uses proposed.
- The initial planning application should relate to the whole of the area covered by the brief. In order to ensure the entire site is developed, proposals for development of part of the site will not be acceptable.
- Any application should be accompanied by evidence in respect of the impact of the development on the following matters:
 1. Flood Risk Assessment;
 2. Access, transport and parking;
 3. Travel Assessment;
 4. Travel Plan;
 5. Design and Access Statement including Urban Design approach;
 6. Ground Condition Survey with decontamination plan if necessary;
 7. An independent appraisal of wildlife and fauna on site and effect of development on other nature conservation interests. This should also include an enhancement/mitigation scheme for the site;
 8. Environmental Assessment if the proposal is likely to have a significant effect on the environment.
- A developer will be expected to enter into a section 106 agreement with the District Council for the following matters:
 1. Affordable housing provision;
 2. Necessary highway improvements;
 3. Environmental improvements to Station Road;
 4. Cycleway provision to the site including along Station Road;
 5. Provision of public domain areas to also cover management arrangements.

Adopted Maldon District Replacement Local Plan - Relevant Policy

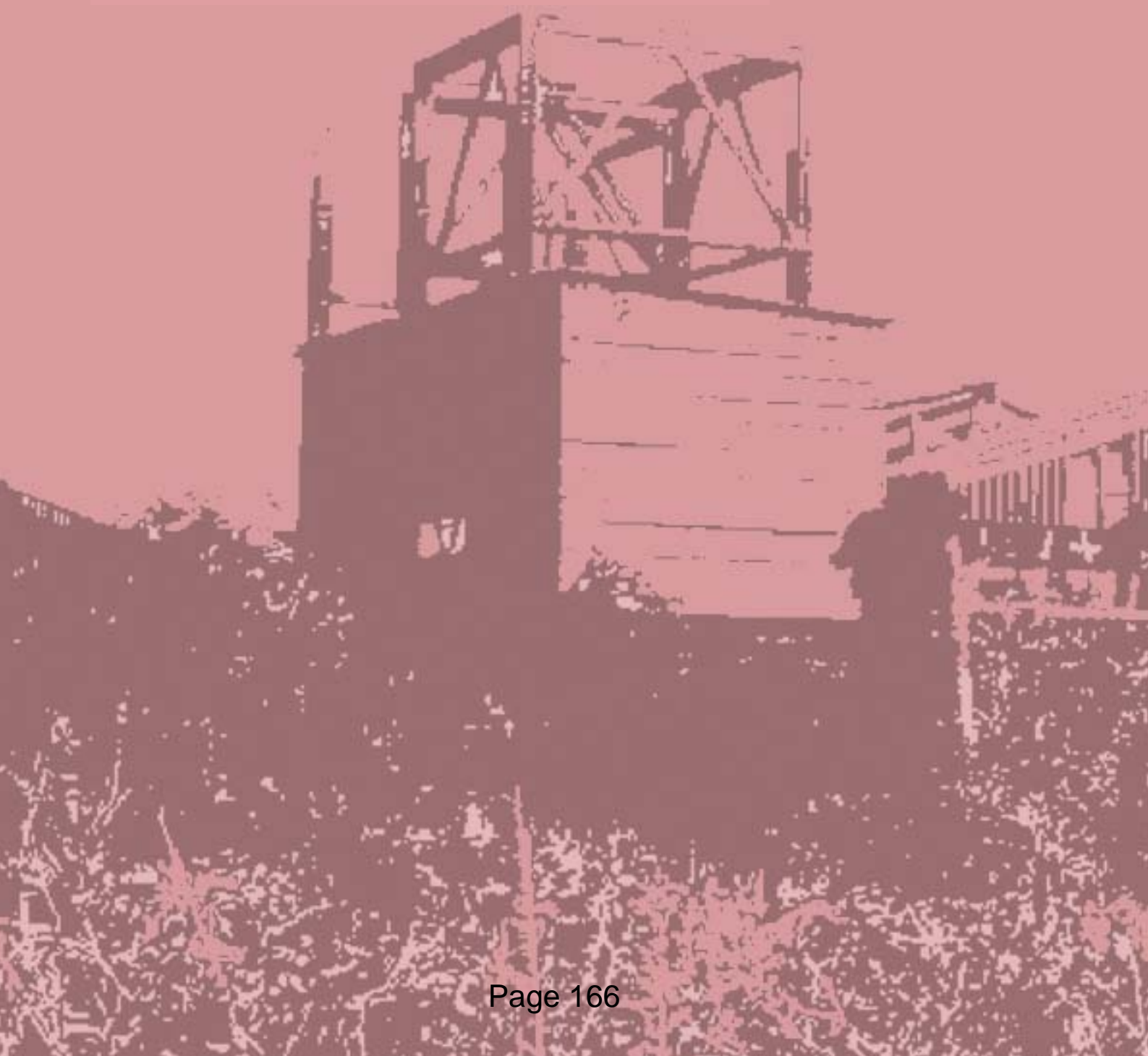
The following policies may be relevant to the development of Sadd's Wharf. For full details refer to the Maldon District Replacement Local Plan.

POLICY S1	Development Boundaries and New Development
POLICY CON1	Development in Areas at Risk from Flooding
POLICY CON2	Sustainable Drainage Systems
POLICY CON3	Coastal Defence
POLICY CON5	Pollution Prevention
POLICY CON6	Contaminated Land
POLICY CON7	Development Affecting Airports
POLICY CC1	Development Affecting an Internationally Designated Nature Conservation Site
POLICY CC2	Development Affecting a Nationally Designated Nature Conservation Site
POLICY CC3	Development Affecting Locally Designated Nature Conservation Sites
POLICY CC5	Protection of Wildlife at Risk on Development Sites
POLICY CC9	Maldon Riverside Area
POLICY CC10	Historic Landscape Features
POLICY CC11	The Coastal Zone
POLICY CC12	Maldon Waterside Area
POLICY H1	Location of New Housing
POLICY H3	Housing Provision
POLICY H4	Land Allocated for Residential Development
POLICY H6	Housing Density
POLICY H9	Affordable Housing
POLICY H11	Special Family Needs
POLICY H13	Houseboats
POLICY E1	Protection of Existing Allocated Employment Sites
POLICY E4	Mixed Use Development - Sadd's Wharf
POLICY E5	Frontage to the River Chelmer
POLICY E8	Working from Home
POLICY BE1	Design of New Development and Landscaping
POLICY BE2	Inclusive Access and Accessibility
POLICY BE3	Public and Private Amenity Spaces
POLICY BE4	Designing a Safe Environment

POLICY BE5	Parking Areas
POLICY BE7	Design of Shop Fronts
POLICY BE8	Lighting
POLICY BE9	Advertisements on Buildings
POLICY BE13	Development in Conservation Areas
POLICY BE18	Control of Development at a Site of Local Archaeological Value
POLICY REC1	Allocation of Land for Formal Public Open Space
POLICY REC3	Children's Play Space Associated with New Housing Developments and Elsewhere in the District
POLICY REC4	Allocation of Land for Informal Open Space
POLICY REC5	Provision of Informal Open Space
POLICY REC6	Provision of Amenity Areas
POLICY REC8	Open Spaces in Towns and Villages
POLICY REC9	Indoor Sports, Leisure and Recreation Facilities
POLICY REC10	Public Rights of Way
POLICY REC16	Permanent Uses of Land or Water for Sport
POLICY REC17	Water Recreation Facilities
POLICY REC19	Hotel and Guest House Accommodation
POLICY T1	Sustainable Transport and Location of New Development
POLICY T2	Transport Infrastructure in New Developments
POLICY T4	Cycle Routes
POLICY T5	Cycle Parking Provision in New Developments
POLICY T6	Improvement to Pedestrian Facilities
POLICY T7	Shared Car Parking in New Development
POLICY T8	Vehicle Parking Standards.
POLICY PU2	Recycling Facilities in New Developments
POLICY PU6	Renewable Energy

MALDON DISTRICT COUNCIL
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This document can be made available, on request, in larger print, braille and audio and languages other than English. To obtain a copy in an alternative format please contact The Spatial Planning Team on 01621 876202. It can also be viewed on our website: www.maldon.gov.uk





**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

**to
COUNCIL
12 SEPTEMBER 2019**

**PARISH OF HEYBRIDGE – BASIN WARD – COMMUNITY GOVERNANCE
REVIEW**

1. PURPOSE OF THE REPORT

- 1.1 To further update the Council on arrangements for implementation of the outcome of the above Review and to agree matters to be the subject of a Reorganisation Order.

2. RECOMMENDATIONS

- (i) That the Council approves the proposed Re-organisation of Community Governance Order under the Local Government and Public Involvement in Health Act 2007 to give effect to the agreed outcome of this Community Governance Review;
- (ii) That should Heybridge Parish Council wish to retain a membership of 12 Councillors it is advised that this will require a separate election consequent upon implementation of these proposals, the cost of which will be an expense attributable to the Parish Council;
- (iii) That the Director of Strategy, Performance and Governance is authorised to continue and conclude discussions with Heybridge Parish Council and representatives of the Local Referendum Group as required in relation to all necessary administrative matters and including the transfer of land and property;
- (iv) The council agrees to make £16,115 available from reserves to fund the operational costs of delivery to be borne by the Council.

3. SUMMARY OF KEY ISSUES

- 3.1 The Council at its meeting on 14 February 2019 agreed to the principle that a new Civil Parish and Parish Council be created for the area currently forming the Basin Ward of the Parish of Heybridge (see **APPENDIX A**) and administered by Heybridge Parish Council. For background information, a plan of the area the subject of the Review and which will form the area of the proposed new Parish is attached.

- 3.2 Following a report to the meeting of the Council in June, the following matters were agreed for inclusion in the proposed Reorganisation Order:
- That the number of Councillors for the new Parish Council should be seven;
 - That the name of the new Council should be Heybridge Basin Parish Council;
 - An effective date of 1 April 2020 for implementation, with the new Parish Councillors being elected in early May 2020.
- 3.3 There were two outstanding matters. First, the resulting membership of Heybridge Parish Council. By virtue of this proposal the Parish Council would lose the one Councillor for the Basin Ward but has confirmed its wish to keep a membership of 12. This would mean a consequential by-election for one additional seat, the cost of which the Parish Council has agreed to bear. It is suggested that the one seat be added to the East Ward.
- 3.4 The second outstanding matter is the first precept which is to be included in the Reorganisation Order. As requested, the local referendum group have provided a draft budget for the new Parish Council in the sum of £21,374. Officers consider this is reasonable and comprehensive, save for the inclusion of a sum to meet the cost of the first election of the new Parish Council, which is a Parish expense. It is suggested that the sum of £3,000 should be sufficient. The election will take place on 7 May 2020 which is also polling day for the Police and Crime Commissioner election, and therefore if contested certain election costs will be shared and therefore reduced.
- 3.5 The Parish Council has subsequently confirmed its wish to retain 12 Members which if included in the Reorganisation Order would require a separate election to fill that one additional seat (effectively replacing the seat lost when the Basin Ward is removed). The cost of this election would be an expense attributable to Heybridge Parish Council.
- 3.6 The other matter for the Re-organisation Order is arrangements for the transfer of land and property from Heybridge Parish Council to the new Parish Council. In the main, this involves Daisy Meadow Car Park, Parish amenity lighting and some grounds maintenance. Despite the effective date of 1 April 2020, clearly the new Parish Council will not be in a position to take up its new responsibilities until Councillors have been elected, taken office, and held their first annual meeting. At the meeting of the Steering Group set up to discuss the various arrangements it was agreed that transfer of property should take place around mid-May 2020, with the new Parish Council reimbursing Heybridge Parish Council for the period from 1 April 2020.
- 3.7 As previously mentioned, it will fall to the District Council to oversee any financial and administrative arrangements that are necessary during the interim period, including the appointment of a Clerk (interim at least), set up insurance, provide a Code of Conduct, and convene the first annual meeting.
- 3.8 The draft Re-organisation Order is attached at **APPENDIX B** for consideration and approval.
- 3.9 As was drawn to the attention of the Council previously, there are financial implications to the Council from having agreed to proceed with this proposal, namely

the upgrading of the Council Tax database and billing system. The cost of £16,115 to update our databases is recommended to be allocated from reserves.

4. IMPACT ON STRATEGIC THEMES

- 4.1 The undertaking of a Community Governance Review is in part a matter of compliance with the law and is also linked to the Corporate Goal of aiming to be an organisation that delivers good quality cost effective and valued services in a transparent way.

5. IMPLICATIONS

- (i) **Impact on Customers** – This may have an indirect benefit on customers in the sense that the electors of Heybridge Basin are residents of the District and the creation of a separate Parish and Parish Council for that settlement will provide a better reflection of the identities and interests of the community in that area, and would result in more effective and convenient community governance..
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – Whilst there has been a mitigation to risk based on delaying the implementation to the start of a financial year, there are inherent risks associated with a system upgrade and reconfiguration, and also the fundamental IT database of the Council, which will require testing and mitigations to avoid any incorrect billing and benefits allocation which could result.
- (iv) **Impact on Resources (financial)** – The existing system for administering Council Tax will require an upgrade and re-configuration. The estimated cost is £16,115 which the Council will have to bear now it has decided to approve the Petition proposal.
- (v) **Impact on Resources (human)** – The Future Model structure means a reduction in the specialist resources that would normally support this system work. This adds a further risk around the capacity of the Council to support the work. Resources required include Finance, Council tax and ICT.
- (vi) **Impact on the Environment** – None.

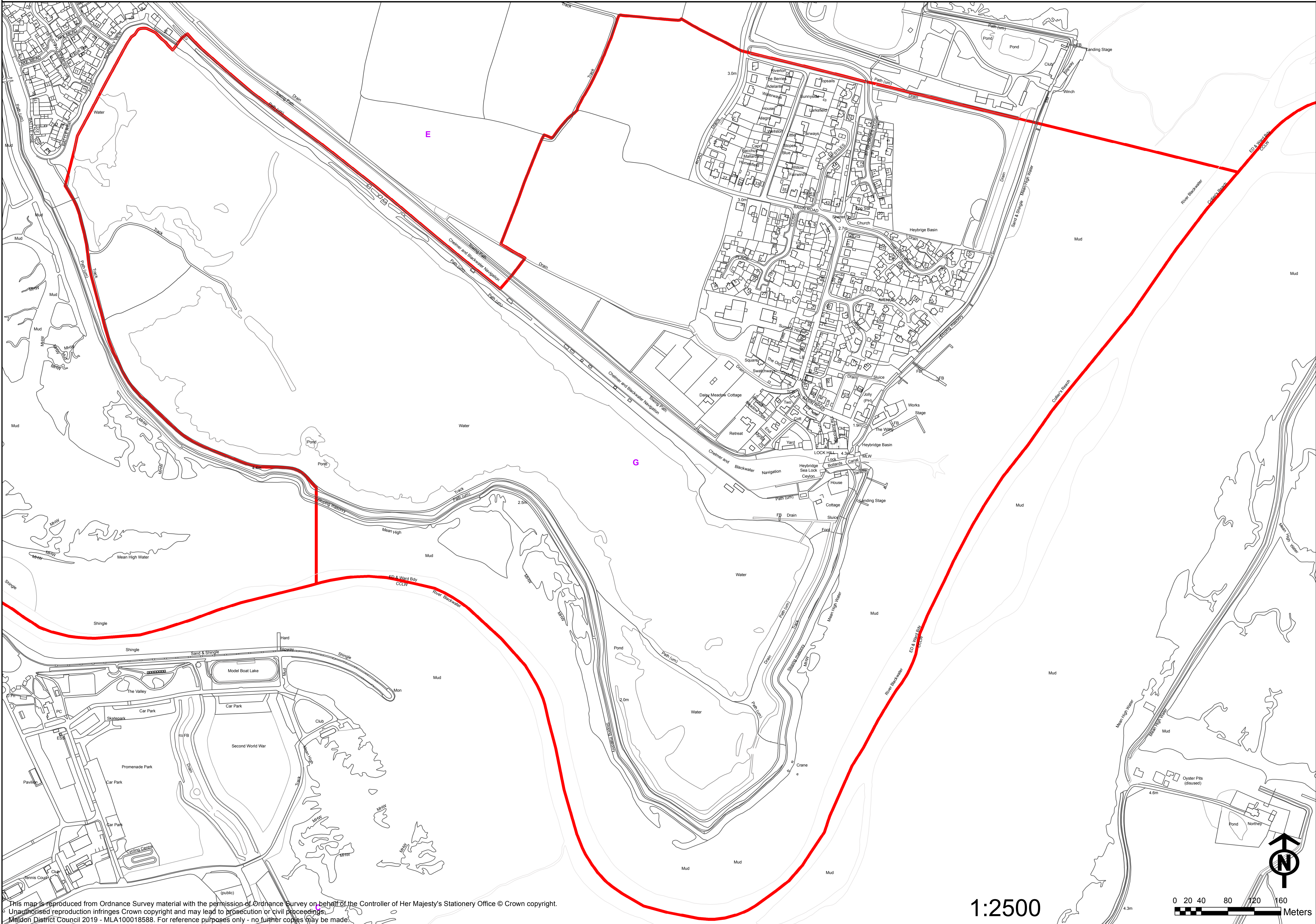
Background Papers:

Petition from local government electors for Heybridge Basin.
Government guidance on Community Governance Reviews.

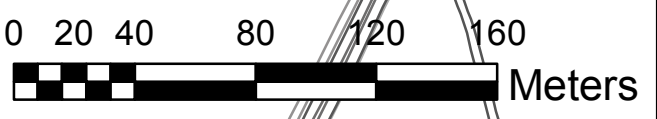
Enquiries to: Stuart Jennings, Corporate Governance Project Officer.

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BASIN PARISH WARD



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LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007

The Maldon District Council (Reorganisation of Community Governance) (Heybridge Parish - Basin Ward) Order 2019

Made as dated below

Coming into force in accordance with article 1(2)

Maldon District Council (“the Council”), in accordance with section 83 of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”), has undertaken a community governance review and on 1 February 2019 agreed the recommendation for the creation of separate civil parish and Parish Council for the Basin Ward of the Parish of Heybridge:

In accordance with section 93 of the 2007 Act, the Council has consulted with the local government electors and other interested persons and taken account of representations received. It has had regard to the need to secure that community governance reflects the identities and interests of the community and is effective and convenient:

The Council has now decided to give effect to that recommendation and in accordance with section 100 of the 2007 Act has also had regard to guidance issued under that section:

The Council makes the following Order in exercise of the powers conferred by sections 86, 98(3), 98(4), 98(6) and 240(10) of the 2007 Act.

Citation and commencement

1.(1) This Order may be cited as the Maldon District Council (Reorganisation of Community Governance) (Heybridge Parish – Basin Ward) Order 2019.

(2) Subject to paragraphs 3 and 4 below, it shall come into force on 1 April 2020.

(3) Articles 7 and 11 shall come into force on the ordinary day of election of councillors in May 2020.

(4) For the purposes of:

(a) This Article.

(b) Article 5: and

(c) Proceedings preliminary or relating to the election of councillors for the parish of Heybridge and the parish of Heybridge Basin on the ordinary day of election of councillors in May 2020, this Order shall come into force the day after it is made.

Interpretation

2. In this Order—

“district” means the District of Maldon

“existing” means existing on the date this Order is made;

“map” means the map marked “Map referred to in the Maldon (Reorganisation of Community Governance)(Heybridge Parish – Basin Ward) Order 2019” and deposited in accordance with section 96(4) of the 2007 Act;

“new parish” means new parish constituted by article 4;

“ordinary day of election of councillors” has the meaning given by section 37 of the Representation of the People Act 1983.

“registration officer” means an officer appointed for the purpose of, and in accordance with, section 8 of the Representation of the People Act 1983.

Effect of Order

3. This Order has effect subject to any agreement under section 99 (agreements about incidental matters) of the Local Government and Public Involvement in Health Act 2007 relevant to any provision of this Order.

Alteration of area of parish of Heybridge and constitution of new parish

4. (1) The area enclosed in red on the map shall cease to be part of the parish of Heybridge and be constituted as a new parish within the district.

(2) The name of the new parish shall be Heybridge Basin.

Calculation of budget requirement

5. For the purposes of regulation 3 of the Local Government Finance (New Parishes) (England) Regulations 2008 No. 626 there is specified in relation to the parish of Heybridge Basin the sum of £24,374.00.

Parish Council for the parish of Heybridge Basin

6. There shall be a parish council for the parish of Heybridge Basin and the name of that council shall be Heybridge Basin Parish Council.

Electoral arrangements for parish of Heybridge Basin

7. (1) The election of all parish councillors for the parish of Heybridge Basin shall be held on the ordinary day of election of councillors in May 2020.

(2) The number of councillors to be elected for the parish of Heybridge Basin shall be 7 (seven).

(3) The term of office of every parish councillor elected on the ordinary day of election in May 2020 for the parish of Heybridge Basin shall be three years with a further election taking place on the ordinary day of elections in May 2023 and every fourth year thereafter, notwithstanding that the first such election shall be within a period shorter than four years.

First annual meeting of new parish council

8. The annual meeting in 2020 of the council of the new parish shall be convened by the Director of Strategy, Performance and Governance of Maldon District Council. The meeting shall take place no later than 14 days after the day on which the councillors elected to the new parish council take office.

Transfer of property, rights and liabilities

9. All interests in the land, property, rights and liabilities described in Schedule 2 (subject to any existing leases or licences in respect of such land and to any controls and restrictions contained in the Transfer of Property Order dated 31 March 1988 from Maldon District Council to Heybridge Parish Council) shall transfer from Heybridge Parish Council to Heybridge Basin Parish Council on the date specified in column (3) of Schedule 2.

Electoral register

10. The registration officer for the district shall make such rearrangement of, or adaptation of the register of local government electors as may be necessary for the purposes of, and in consequence of, this Order.

Consequential effect on membership of Heybridge Parish Council

11. (1) The number of councillors to be elected for the Parish of Heybridge shall remain at twelve notwithstanding the loss of the Basin Ward and the one councillor elected to represent that Ward.

(2) An election for one additional councillor for the East Ward of the Parish of Heybridge shall be held on the ordinary day of election of councillors in 2020, and then as part of an election for all councillors in 2023, and then every four years thereafter

(3) The term of office of the one councillor elected on the ordinary day of election in May 2020 for the parish of Heybridge Basin shall be three years with a further election taking place on the ordinary day of elections in May 2023 and every fourth year thereafter, notwithstanding that the first such election shall be within a period shorter than four years.

Transitional Provision

12. Until the councillors elected to the council of the new parish of Heybridge Basin at the elections to be held on the ordinary day of election of councillors in May 2020 come into office, the new parish shall be represented by the person who immediately before 1 April 2020 was the elected councillor for the Basin Ward of the parish of Heybridge.

Order Date

13. 1 April 2020 is the order date for the purposes of the Local Government (Parishes and Parish Councils)(England) Regulations 2008.

DATED this day of 2019

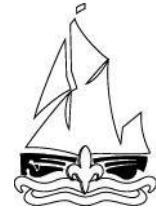
The Common Seal of the MALDON)
DISTRICT COUNCIL was affixed in)
the presence of:)

Authorised Signatory

Authorised Signatory

SCHEDULE 2 article 8

<i>Column (1)</i> <i>Land and property to be transferred</i>	<i>Column (2)</i> <i>Land Registry No.</i>	<i>Column (3)</i> <i>Date</i>
Daisy Meadow Car Park, Off Basin Road, Heybridge Basin	N/A	22 May 2020 or as otherwise agreed between Heybridge Parish Council and Heybridge Basin Parish Council



**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

**to
COUNCIL
12 SEPTEMBER 2019**

**AIR QUALITY MANAGEMENT AREA(AQMA) ON MARKET HILL, MALDON
AND AIR QUALITY MANAGEMENT PLAN(AQMP) PROCESS**

1. PURPOSE OF THE REPORT

- 1.1 To provide Members with an update on the declaration of an AQMA along Market Hill, Maldon, and the process for preparing an AQMP in accordance with the relevant guidance.

2. RECOMMENDATIONS

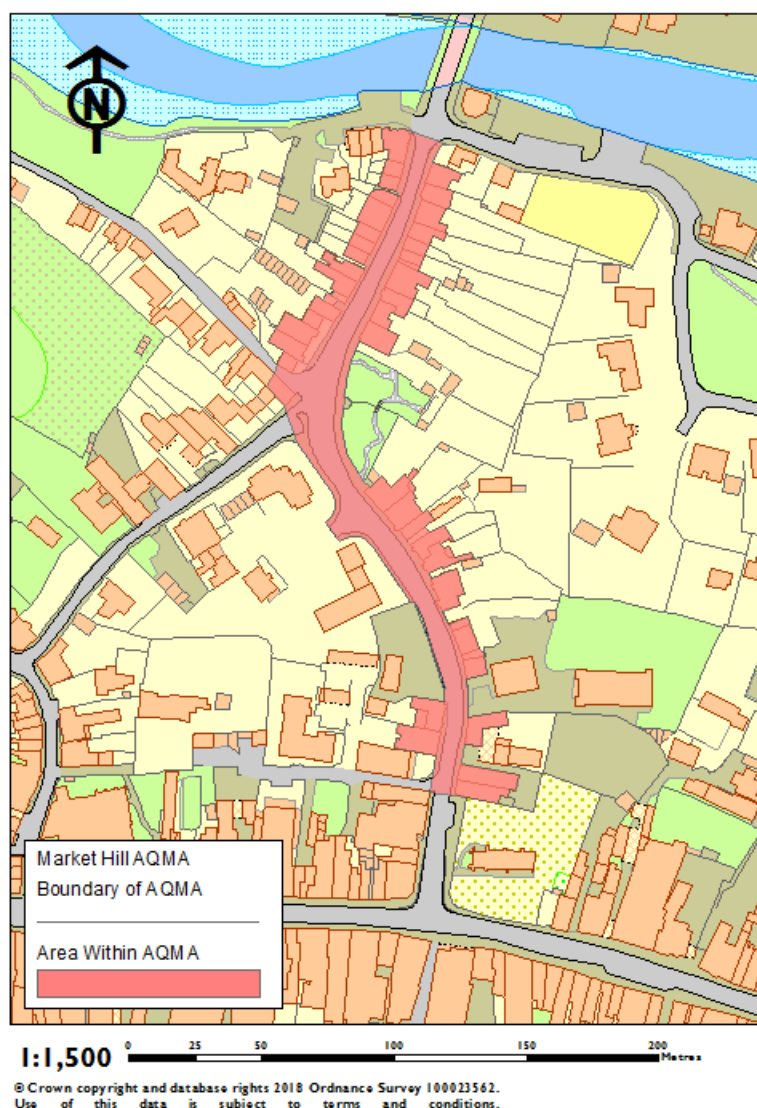
- (i) That the contents of the report be noted;
- (ii) that the Draft composition and Terms of Reference of the Members Panel (attached at **APPENDICES 1 and 2**) be agreed.

3. SUMMARY OF KEY ISSUES

- 3.1 Local authorities have a legal requirement to work towards Air Quality Strategy (AQS) objectives under Part IV of the Environment Act 1995 and relevant regulations made under that part and to meet the requirements of the Local Air Quality Management (LAQM) statutory process.
- 3.2 The LAQM process places an obligation on all local authorities to regularly review and assess air quality in their areas, and to determine whether or not the air quality objectives are likely to be achieved.
- 3.3 Where an exceedance is considered likely, the local authority must declare an Air Quality Management Area (AQMA) and prepare an Air Quality Action Plan (AQAP) setting out the measures it intends to put in place in pursuit of the objectives.
- 3.4 Whilst conducting the LAQM process, the monitoring has identified high concentrations of Nitrogen Dioxide (NO₂) in Market Hill, Maldon. Analysis of roadside air quality monitoring has identified that, for the period of July to December 2017, the mean concentration of NO₂ was 55.19µg/m³ and that an exceedance of the annual mean Air Quality Objectives (40µg/m³) is highly likely. It has been estimated

that the NO₂ concentration at the receptor (façade of residential property) is 52.4µg/m³.

- 3.5 An additional six diffusion monitoring stations have been placed along the route to validate the extent of the area.
- 3.6 In accordance with the legislation, the next steps were to declare the AQMA and submit the detail to the Department for the Environment, Food and Rural Affairs (Defra). The declaration of the AQMA was made by the Council on 11 December 2018.
- 3.7 The boundary of the AQMA as declared below.



- 3.8 The Council must now prepare a report of the results of an assessment of air quality in the relevant area and produce an action plan of mitigating measures.
- 3.9 A report was taken to Community Services Committee on 10 July 2018 (Minute No. 254 refers) and Finance & Corporate Services Committee on 31 July 2018 (Minute No. 317 refers) which confirmed a budget of £20,000 solely for the development of the AQMP. The procurement of the work was carried out in accordance with the

Council's financial and procurement rules. Chelmsford City Council was awarded the contract to provide the technical support and modelling to enable the AQMP to be developed. In addition to developing the draft and final AQMP.

- 3.10 Officers commenced this process with an inception meeting on 18 December 2018. The composition of this group was brought together in conjunction with the Corporate Leadership Team (CLT).
- 3.11 The meeting consisted of Officers and Members from Maldon District Council and an Officer each from Essex County Council and Chelmsford City Council. The Officer from Chelmsford CC, as advised above, is currently procured to provide technical support and direction for the development of the AQMP. Action points from the inception meeting included instruction of source apportionment modelling and timescales for future meetings.
- 3.12 The first Steering Group meeting was proposed to be held in late March. However, there was some delay whilst the finalised source apportionment modelling data and report was awaited. Upon receipt of the modelling report the first Steering Group meeting was arranged including the same representation as the Inception Meeting but with the addition of Town Councillor representation and was held on 8 May 2019. This meeting was to discuss the results of the modelling. A further action was to hold a Public Information session prior to the next Steering Group. This session was held on the afternoon of 18 June 2019 which included a display and information regarding frequently used 'tried and tested' measures as well as collating residents', business and Member views and comments.
- 3.13 A further Steering Group was held on 10 July 2019 at which the intention was to review the public engagement response and consider measures for modelling. Agreement was reached to model 4 potential measures and the results of this modelling was intended to be discussed at the next Steering Group meeting.
- 3.14 Subsequently, direction from CLT is that the Steering Group, as was, would be reconfigured to comprise of a technical group and Members' Panel. The composition and Terms of Reference of the relevant groups can be seen in **APPENDICES 1 and 2**.
- 3.15 Once the modelling results are received for the measures noted in paragraph 3.15 these will be discussed at the next Members' Panel. A formal Consultation of the draft AQMP will take place in view of a final version ready for Member approval.

4. CONCLUSION

- 4.1 The work of the Steering Group to date has sought to engage with Members, residents and businesses as effectively as possible. However, tight time constraints apply to this work. The Steering Group has taken the approach of trying to "work up" options for Market Hill to include in a draft action plan. The action plan, once completed, will be presented to Members for consideration / approval.
- 4.2 The newly formed Members' Panel will be updated following Technical Group meetings to ensure that Members form part of the action planning process.

5. IMPACT ON STRATEGIC THEMES

- 5.1 There is a direct impact on the Corporate Plan outcome (“Protected and improved environment for residents and visitors”) of “Improved Air Quality”. Delivery of an air quality action plan that is capable of implementation is therefore a priority.

6. IMPLICATIONS

- (i) **Impact on Customers** – The prompt development and implementation of an action plan is in the best interests of all customers – residents and businesses – but particularly those on Market Hill for whom the health improvements that will be achieved will be of most benefit.
- (ii) **Impact on Equalities** – The Council is committed to providing equal opportunities with no discrimination. There are no identifiable impacts currently based upon the work to date of the Steering Group. However, this will be kept under review as the action plan is developed.
- (iii) **Impact on Risk** – Failure to develop an action plan could result in financial penalties against the Council by Government. Failure to prepare and deliver measures set out in the proposed AQMP could impact on public health and an inability to meet the outcomes of the Corporate Plan. It will also risk negative publicity and public outcry should this matter not be progressed and delivered.
- (iv) **Impact on Resources (financial and human)** – The financial implication to the Authority to date is that £20,000 was previously committed for the preparation of the AQMP which is what is currently being utilised. However, the measures identified in any action plan may require funding from Maldon District Council (MDC) to deliver them. The majority of any financial risk for the delivery of measures is likely to rest with Essex County Council due to Highways alterations/works which are anticipated to be the most significant and costly measures proposed. In terms of human implications, the delivery of measures from the AQMP will directly ensure that residents within the AQMA will benefit from good air quality, as well as those persons who utilise Market Hill for other reasons.
- (v) **Impact on the Environment** – Creation and, more directly, implementation of measures in the AQMP will directly improve air quality and therefore have a significant positive impact on the environment.

Background Papers: None.

Enquiries to: Chris Shipham, Senior Specialist (Community), (Tel: 01621 875863).

Air Quality Management Area(Market Hill)
Members Panel
Draft Terms of reference

Maldon District Council declared an Air Quality Management Area (AQMA) along a section of Market Hill Maldon, on 11 December 2018. A requirement of this process is to develop an Air Quality Management Plan (AQMP) and submit this to the Department of Environment, Food & Rural Affairs (DEFRA). This Members Panel has been brought together as part of the AQMP development to consider the work of the Technical Group and provide Member direction.

Membership:

The group will comprise of:

Cllr A S Fluker
Cllr Mrs P A Channer, CC
Cllr Miss S White
Cllr E L Bamford
Cllr C Mayes
Cllr S P Nunn

Purpose:

To receive updates from the work of the AQMA Technical Group and provide Member direction and scrutiny of the progress towards the development of an AQMP for Market Hill.

1. Members of the Group will respect that there may be confidential matters discussed at the meeting
2. Members of the Group will understand and be aware of the obligations and responsibilities of the Council in respect of this process.
3. The group will provide direction to the AQMA Technical Group in a timely manner.
4. The Group will receive a monthly briefing note from the AQMA Technical Group inclusive of any relevant data and actions.

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Air Quality Management Area(Market Hill)
Technical Group
Draft Terms of reference

Maldon District Council declared an Air Quality Management Area (AQMA) along a section of Market Hill Maldon, on 11 December 2018. A requirement of this process is to develop an Air Quality Management Plan (AQMP) and submit this to the Department of Environment, Food & Rural Affairs (DEFRA). This Technical Group has been brought together as part of the AQMP development to carry out the functional work required to research, model, develop and consult upon the AQMP. It will provide updates to the Members' Panel on a monthly basis ahead of provision of the draft and final AQMP. Due to the development of a Member's Panel to facilitate Member input and scrutiny, the Technical Group is an Officer Group and will not therefore have Member representation on it.

Membership:

The group will comprise of (all MDC unless otherwise specified):

Senior Specialist (Community)
 Lead Specialist (Community)
 Specialist (Local Plan)
 Director of Customers and Community
 Chelmsford City Council Scientific Services Officer (contracted for AQMP work) – Tim Savage
 Essex County Council Senior Transportation and Infrastructure Planner – Katie Pudney

Purpose:

To develop an air quality management plan (AQMP) for Market Hill for Member Approval in response to the AQMA declaration. To achieve this, the Technical Group will:

1. Meet at a frequency appropriate for the development of the plan.
2. Provide to the Members' Panel a monthly briefing note detailing the work of the group and any updates towards the development of the AQMP.
3. Initiate/instruct appropriate modelling to enable accurate assessment of the existing air quality on Market Hill and to apportion the contribution of various sources to that air quality.
4. To identify and discuss potential measures for inclusion in the AQMP.
5. To initiate/instruct modelling of measures that are seriously under consideration for inclusion in the AQMP so as to demonstrate the potential improvement that such measures could achieve.
6. To discuss the potential acceptability/capability of implementation of measures under consideration.
7. To discuss and develop information suitable for keeping residents and other parties involved during the process.
8. To identify when the public consultation on the draft plan is appropriate and how to do this.
9. To provide appropriate advice and feedback to Members at other times as may be necessary.
10. To provided to Full Council the finalised Air Quality Management Plan for their approval.

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**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

**to
COUNCIL
12 SEPTEMBER 2019**

BRADWELL POWER STATION WORKING GROUPS

1. PURPOSE OF THE REPORT

- 1.1 At its meeting of 6 June 2019, the Planning and Licensing Committee noted that the Bradwell Power Station Working Group, established in 1999, did not have a suitable Terms of Reference and membership to address either the care and maintenance period of Bradwell 'A', or to support the development process for Bradwell B. The Committee recommended that the remit and the membership of the group be reviewed and that this should be deferred to the Council. At its meeting of 27 June 2019, the Council resolved that the Terms of Reference and Membership of the Bradwell Power Station Working Group be reviewed. This report is submitted to report on the recommendations of the review.

2. RECOMMENDATIONS

- (i) that Council dissolves the existing Bradwell Power Station Working Group;
- (ii) that Council establishes a new Bradwell 'A' Care and Maintenance Working Group, to support the Council's role in overseeing the care and maintenance period of Bradwell Power Station and that six Members are appointed to the Working Group by the Council;
- (iii) that Council establishes a new Bradwell 'B' Power Station Working Group to support and advise the Members appointed to the Joint Bradwell Member Board (JMBB);
- (iv) that it is recommended this Group includes the Four Members who are appointed to JMBB, with an additional 4 Members to be appointed by Council.

3. SUMMARY OF KEY ISSUES

- 3.1 An initial review of the needs for a Working Group to support the Care and Maintenance period for Bradwell A, and the Development Consent Order (DCO) process for Bradwell B, suggest that there is a need for two clear and separate working groups:
- Bradwell 'A' – Care and Maintenance Working Group

- Bradwell ‘B’ – Power Station Working Group

3.2 It is proposed that the existing Bradwell Power Station Working Group be dissolved and that two new stand-alone working groups are established, each with members appointed separately, and that each group also has its own Terms of Reference. This report sets out proposals for each group.

3.3 **Bradwell ‘A’ Care and Maintenance Working Group**

3.3.1 The existing Bradwell Power Station ceased operation in 2002, having been in use since 1962. Subsequently it was subject to a decommissioning process, culminating in it entering ‘Care and maintenance’ status, in 2018. The decommissioning process has seen the two existing reactors de-fuelled, decommissioned and covered in weatherproof cladding to create "safe stores" where waste will be kept for around 70 years to allow any radiation to decay naturally.

3.3.2 During the care and maintenance period there will be an ongoing need for Maldon District Council to continue to engage with Magnox and receive reports regarding the ongoing process.

3.3.3 It is proposed that a new Working Group be established to undertake this role and report back to the Council, and that six members are appointed to the Working Group by the Council.

3.4 **Bradwell ‘B’ Power Station Working Group**

3.4.1 Proposals for Bradwell B Power station are being developed by Bradwell Power Generation Company (BRB), which is a joint venture of EDF and CGN, with CGN as the lead partner. This is the same partnership that is delivering the power stations as at Hinkley Point and Sizewell C, although in this case CGN is lead partner for the first time.

3.4.2 The development of a new nuclear power station at Bradwell is considered a Nationally Significant Infrastructure Project (NSIP), as such the planning approval mechanism for the development of the power station site requires a developer to submit a DCO application to the Planning Inspectorate. The Planning Inspectorate then makes a recommendation to the Secretary of State on whether the DCO should be granted. The Secretary of State would then take a decision on whether to award a DCO.

3.4.3 As the Local Planning Authority, Maldon District Council (MDC) has a key role to play within the DCO process. Whilst not a decision-making body within this process, MDC has a role as a consultee in its own right, and also a role in ensuring the wider public consultation is undertaken appropriately by the developer. This will include responding to the developers Statement of Community Consultation, responding to developer consultation, developing a Local Impact Report and preparing Statements of common ground.

3.4.4 The Joint Bradwell Member Board (JMBB) will be the key forum for Council Members to engage with the DCO process. The Council has appointed the Leader and Deputy Leader of the Council, the Chairman and Vice Chairman of the Planning

and Licensing Committee to this Board. To enable those Members to represent a wider view of the Council, it is recommended that a Bradwell 'B' Power Station Working Group be formed. It is recommended that this Group includes the four Members who are appointed to JMBB, with an additional four Members to be appointed by the Council.

- 3.4.5 In addition to the Working Group and JMBB, it is expected that the Council will be asked to approve any significant responses within the DCO process.

4. CONCLUSION

- 4.1 The establishment of the new Working Groups will provide clear channels to support the Council to engage in the oversight of the care and maintenance period of the existing de-commissioned Bradwell 'A' Power Station, and to support the Council's role in the wider DCO process for the proposed new Bradwell 'B' Power Station.

5. IMPACT ON STRATEGIC THEMES

- 5.1 The proposals will support the Place Theme, and the Prosperity Theme of the Maldon District Corporate Plan 2019 - 23.

6. IMPLICATIONS

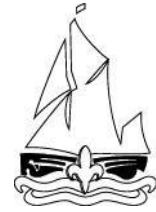
- (i) **Impact on Customers** – The Working Groups will assist the Council in its role of ensuring that the public are effectively consulted regarding the potential development of Bradwell B Power Station.
- (ii) **Impact on Equalities** - None.
- (iii) **Impact on Risk** – None.
- (iv) **Impact on Resources (financial)** – None.
- (v) **Impact on Resources (human)** – Time from Officers to support the new working Groups.
- (vi) **Impact on the Environment** – None.

Background Papers: None.

Enquiries to:

Paul Dodson, Director of Strategy, Performance and Governance, (Tel: 01621 875711).

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REPORT of DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE

**to
COUNCIL
12 SEPTEMBER 2019**

NEW COUNCIL STRUCTURE AND CONSTITUTION – TRANSFORMATION PROGRAMME

1. PURPOSE OF THE REPORT

- 1.1 To approve and adopt a new Constitution for the Council.

2. RECOMMENDATIONS

- (i) That subject to (ii) below the Council approves and adopts the new Constitution both as a framework and also incorporating the documentation in **APPENDIX A** to this report to take effect on 3 October 2019;
- (ii) That the following components included in the Constitution in their existing form be reviewed and updated at the earliest opportunity:
 - Financial Regulations;
 - Contract Procedure Rules;
 - Code of Good Practice and Guidance on the Conduct of Planning Matters.
- (iii) That the Director of Strategy, Performance and Governance be authorised generally to update the Constitution and its component parts to ensure accuracy and to be reflective of organisational arrangements;

3. SUMMARY OF KEY ISSUES

- 3.1 The Council is required under the Local Government Act 2000 to adopt a Constitution. A project was under way to review and overhaul the existing constitutional documentation when the Council's Transformation Programme was begun. That work was therefore adapted to incorporate the revised Committee structure and associated arrangements arising from the Programme, and Council has since January this year received reports from its Corporate Governance Working Group on the review of various individual constitutional documents. The agreed incremental approach to this review work was based on the Council separately agreeing and adopting a new Constitution to take effect in line with the Transformation Programme.

- 3.2 It is intended that the Transformation Programme will be complete and take full effect on 3 October 2019. It is therefore proposed that the new Constitution is in place and takes effect from that date.
- 3.3 The Constitution is a codified document which embraces various elements. Alongside an initial summary and explanation, it consists of Articles which describe what the Council is about as an organisation, what it does and why. This is vital in the interests of transparency and helps present to everyone – Members, Officers, the public etc – a complete picture of how this Council operates. The descriptive Articles are followed by a series of specific Parts which in effect are repositories for various documentation including Procedure Rules, Terms of Reference, Scheme of Delegation, Codes and Protocols, and other adopted Guidance. The Constitution is completed with information on the make-up of the Council with information on Councillors, Wards, Polling Districts, membership of Committees, Management Structure etc.
- 3.4 The format of the proposed Constitution has regard to the model set out in Government guidance and is consistent with that in common use by local authorities based on Government guidance. There is however scope for some flexibility and individual authorities will decide what documentation is included, particularly in the Codes and Protocols Part. The proposed approach here is therefore to concentrate on those documents which either directly or indirectly affect the conduct of business and decision-making. In that sense, it is considered that documents such as the Member/Officer Relations Protocol, the Public Participation at Meetings Scheme, the Press, Media and Public Forum Protocol for Elected Members, the Civic Protocol, and various other protocols or guidance which may have been approved/adopted by the Council at some point should not be included. They should however be retained, maintained and kept available within a separate folder within the Corporate I Drive along with other useful internal guidance, and where required published separately on the website.
- 3.5 At this point, the Council is being asked to approve and adopt a new Constitution as a framework together with the following components as now prepared, reviewed or recently agreed:
- Part 1 Summary and Explanation.
 - Part 2 Articles of the Constitution.
 - Part 3 Responsibility for Functions (already agreed by the Council).
 - Part 4 Rules of Procedure – Council and Committee and Officer Employment and Disciplinary Procedure Rules (already agreed by the Council).
Access to Information Procedure Rules (with proposed updating tracked changes).

Contract Procedure Rules (with proposed updating tracked changes, but due for review) and Financial Regulations (as existing - to be updated in line with new structure).
 - Part 5 Codes and Protocols – Introduction, Councillor Code of Conduct and Dispensations, Member / Officer Relations Protocol (with proposed updating tracked changes), Code of Good Practice and Guidance on the Conduct of Planning Matters (as existing – to be updated in line with new structure)

Part 6 Members of the Council, Wards, Polling Districts and Membership of Committees and Sub-Committees (as existing).

Part 7 Management Structure (as existing).

- 3.6 All documentation for approval and adoption is at **APPENDIX A**. The Constitution is a living document and will need to be kept up to date to reflect future decisions, organisational changes etc., with individual components being reviewed from time to time. It is important that Officers are authorised to make minor changes for accuracy subject to any changes of substance being referred to the Performance, Governance and Audit Committee.

4. CONCLUSION

- 4.1 The various constitutional documentation has been reviewed and updated relative to the new structure emerging from the Council's Transformation Programme and is now ready to be included in a new Constitution for the Council.

5. IMPACT ON STRATEGIC THEMES

- 5.1 The provision of a new Constitution incorporating the Council's new Committee and organisational structure arising from the Transformation Programme support the Councils Performance and Efficiency Theme, and Planning For the Future Theme, specifically contributing to, 'An open and transparent organisation', and in bringing forward a more cost-efficient structure contributes to 'Continuing to work sustainably'.

6. IMPLICATIONS

- (i) **Impact on Customers** – It is important that the Council is able openly to explain, through well-presented and user-friendly constitutional documentation, the way in which it is set up and operates, and how it conducts its business. It is important that the Council's procedures are seen as open and transparent.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – None.
- (iv) **Impact on Resources (financial)** – The new Council committee structure will operate more efficiently, in staff time, and Member time and will require one fewer Committee Chair and Vice Chair, giving a financial saving, supporting the financial benefits outlined in the Future Model.
- (v) **Impact on Resources (human)** – The reduction in the number of committees and overall meetings will reduce the staff resource required.
- (vi) **Impact on the Environment** – None.

Background Papers: None.

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

MALDON DISTRICT COUNCIL



CONSTITUTION

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(NB - this is not an exhaustive description: for details reference must be made to the full Constitution. This summary and explanation does not form part of the Constitution)

1. THE COUNCIL’S CONSTITUTION

- 1.1 The Local Government Act 2000 requires the Council to prepare, keep up-to-date and publicise a document known as the Constitution. This document provides an important means of enabling members of the local community and stakeholders to understand how the Council makes decisions and who is responsible for those decisions.
- 1.2 The Constitution is at the heart of the Council’s business. It allocates power and responsibility, and it regulates the behaviour of individuals and groups through codes of conduct, protocols and rules of procedure.
- 1.3 The Constitution is divided into fourteen articles which set out the basic rules governing the Council’s business followed by more detailed information including responsibility for discharge of functions, procedures and codes of practice.
- 1.4 The Articles are intended to set the overall framework and in general will not be subject to frequent change. They are about what is to be done and by whom.
- 1.5 Procedure Rules, Codes of Conduct and the other material located after the Articles are broadly about how the Articles will be put into effect.
- 1.6 Article 1 of the Constitution commits the Council to efficient, transparent and accountable decision making so that it will be more open and responsive to the needs and aspirations of the Community. Articles 2–14 explain the rights of members of the local community and how the key parts of the Council will work.

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PART 1 – SUMMARY AND EXPLANATION

2. HOW THE COUNCIL OPERATES

- 2.1 The Council is composed of 31 Councillors elected every four years. Councillors are democratically accountable to residents of the Ward for which they were elected. The overriding duty of Councillors is to the whole community, including those persons who did not vote for them. Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Council has established a Joint Standards Committee which guides Members on the Code of Conduct and holds them to account as necessary.
- 2.2 All Councillors meet together as the Council. Meetings are normally open to the public and held on dates set by the Council. By law the Council has to meet annually – this is known as the Statutory Annual meeting. At Council meetings Councillors, amongst other things, decide the Council's policy framework and set the overall budget each year. The Council also establishes Committees and appoints Members to these Committees that help the Council operate. At Council meetings members of the public are able to submit questions on issues of concern to them.
- 2.3 The Chairman of the Council is elected by the Council at each annual meeting and remains in office until a successor is appointed. The Chairman chairs meetings of the Council and will have regard to, and at times interpret, the Constitution relative to the conduct of meetings. The Chairman is also the Council's civic head, representing it at various civic, ceremonial and other social events – a key aspect of this role will be to promote the District. The Vice-Chairman of the Council is also elected by the Council and will deputise for the Chairman.
- 2.4 Councillors may form themselves into groupings usually based around political parties. In normal circumstances the largest group will form an Administration from which the leading positions in the structure will be filled. Other groups will normally take on the role of opposition to constructively test and challenge the work and views of the Administration. The Leader is the Council's political head, being the leader of the largest political group on the Council. At each annual meeting the Council is asked to ratify that person as the Leader of the Council. If it does not do so it must elect a Leader. The Council will also appoint annually a Deputy Leader who will deputise for the Leader. While under governance arrangements adopted by the Council the Leader has no executive or delegated powers as such, the Leader is in a position of influence and works closely with the service Directors.

3. HOW DECISIONS ARE MADE

- 3.1 Most decisions on council functions are dealt with by politically balanced Committees subject to the general oversight of Council. The main Committees which are appointed by the Council are:
- Strategy and Resources;
 - Performance, Governance and Audit;
 - Licensing;
 - District and Area Planning.

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PART 1 – SUMMARY AND EXPLANATION

- 3.2 The Council also has an Overview and Scrutiny Committee and a Joint Standards Committee. Each Committee will appoint its own Chairman.

4. THE BUDGET AND POLICY FRAMEWORK

- 4.1 The Council from time to time may produce, or review and revise as the case maybe, the main policy documents within which all decisions taken by the Council, its Committees, Sub-Committees and Officers must follow. Changes to the policy and strategy framework require approval of the Council. The key documents will include the Corporate Plan and the Local Plan (Planning Local Development Framework).
- 4.2 For the most important policies, policy formulation will be achieved after discussion in Council, but since the Council's time is finite, the Council also will receive advice on particular policy areas or individual matters from its Committees and from Member panels or working groups. These can be created by the Council or by the Committees.

5. DECISION TAKING

- 5.1 The Council and its Committees meet on a regular basis with scheduled meetings set out in a timetable of meetings approved by the Council, although there may be additional meetings convened for particular purposes.
- 5.2 The exercise of its functions and powers are undertaken either by the Council itself, or otherwise by Committees or paid Officers of the Council in accordance with arrangements determined by the Council. The Council's Committees each have terms of reference reflecting their respective remits. Terms of reference set out those matters on which a Committee may consider and report to the Council (to recommend) as distinct from those matters which it may deal with on behalf of the Council (to resolve). These arrangements are backed up by a Scheme of Delegation which enable various actions and decisions to be taken by named Officers of the Council (normally a service Director) instead of a Committee. On occasions, delegated decisions can only be taken after consultation with the Chairman of the Committee. The Leader of the Council and the local Ward Councillor may also be included in certain consultations.

6. PROTOCOLS

- 6.1 As many of the Council's procedures become written down the need arises for more informal documents which set out all parties understanding of how these procedures will be conducted.

7. JOINT WORKING

- 7.1 The Council has agreed arrangements with other Councils to perform important functions jointly with them. This includes:

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PART 1 – SUMMARY AND EXPLANATION

- The South Essex Partnership Joint Committee which covers the Basildon, Brentwood, Castle Point, Chelmsford, Maldon and Rochford Council areas and has responsibility for the ongoing maintenance and enforcement of on street parking restrictions under delegation from Essex County Council as highway authority.
- The Essex Countywide Traveller Unit Joint Committee which consists of a range of partner authorities to address the issue of unauthorised encampments.
- The Joint Standards Committee which discharges standards / ethical arrangements and upholds high standards of conduct not only for the Council itself but also the Parish and Town Councils in the District.

8. THE COUNCIL'S STAFF

8.1 Council paid employees are called Council Officers. Officers give advice, act on and put into effect the Council's decisions and run the Council's services. By law, the Council has to appoint or designate the following Officers:

- **Head of Paid Service** – responsible for the co-ordination of the operational activity involved in delivering the Council's services and functions, including the appointment and management of staff.
- **Section 151 Officer or Chief Financial Officer** – responsible for the proper administration of the Council's financial affairs.
- **Monitoring Officer** – reports to the Council on cases of maladministration, the conduct of councillors and officers, and ensuring compliance with the Constitution (including the provision of advice and interpretation).

8.2 There is an internal protocol which provides guidance and expectations around the working relationship between elected Councillors and paid Officers – the Member / Officer Relations Protocol.

9. RIGHTS OF MEMBERS OF THE LOCAL COMMUNITY

9.1 Members of the local community have a number of rights in their dealings with the Council which are set out in more detail in Article 3 of the Constitution. Some of these are legal rights, whilst others depend on the Council's own processes.

9.2 Members of the local community have the right to:

- a) vote at local elections if they are registered.
- b) contact the Council or their local Councillor about any matters of concern to them.
- c) obtain a copy of the Constitution on payment of a reasonable charge.
- d) attend meetings of the Council and its Committees except that part of a meeting where, for example, personal or confidential matters are being discussed.
- e) petition to request a referendum on a change of governance arrangements.

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PART 1 – SUMMARY AND EXPLANATION

- f) submit questions to meetings of the Council and speak at Committee meetings on items of business.
 - g) see reports and background papers, and any record of decisions made by the Council unless the Council decides that the papers should not be made public. Papers can only be withheld from the public for reasons provided for legally. These are set out in the Access to Information Procedure Rules at Part 4 of the Constitution.
 - h) complain to the Council about any Council service or the way it is delivered.
 - i) complain to the Ombudsman if they think the Council has not followed its procedures properly.
 - j) complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct.
 - k) inspect the Council's accounts and make their views known to the external auditor during prescribed periods each year.
- 9.3 Where members of the public use specific Council services they have additional rights. These are not covered in the Constitution.

10. OTHER MATTERS

- 10.1 This outline summary aims only to give a shortened description of the main processes under the Council's Constitution. It should not be relied on for detailed procedures or definitions, which are contained in the full constitution. The constitution also deals with various matters which are not mentioned above either because they are not essential for the brief description.

11. FURTHER INFORMATION

- 11.1 The Council welcomes participation by the local community in its work. For further information on your rights as a member of the local community, please contact the Director of Strategy, Performance and Governance at the Council Offices, Princes Road, Maldon, Essex (Tel: 01621 854477).

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APPENDIX A
PART 2 – ARTICLES OF THE CONSTITUTION

ARTICLE 1 - THE CONSTITUTION

CONTENTS

- 1. Powers of the Council**
- 2. Constitution**
- 3. Purpose of the Constitution**
- 4. Interpretation and Review of the Constitution**

1. POWERS OF THE COUNCIL

- 1.1 This article sets out the fundamental provisions of the Constitution. It confirms that the Council will exercise all its powers and duties in accordance with the law and the provisions of this Constitution.

2. CONSTITUTION

- 2.1 This Constitution, in all its parts, is the Constitution of the Maldon District Council.

3. PURPOSE OF THE CONSTITUTION

- 3.1 The purpose of the Constitution is to:
 - a) set out the Council's overall governance arrangements.
 - b) enable decisions to be taken efficiently and effectively.
 - c) create an effective means of holding decision-makers to public account.
 - d) enable the Council to provide clear leadership to the community, working in partnership with the local community, businesses and other organisations.
 - e) encourage and support the active involvement of the local community in the process of local authority decision-making.
 - f) help Councillors represent their constituents more effectively.
 - g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions taken.
 - h) provide the framework and structure in which cost effective quality services to the community can be delivered.
- 3.2 The Corporate Plan and Strategic Themes underpinning it will guide the Council in all the things it does and the decisions it makes.

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4. INTERPRETATION AND REVIEW OF THE CONSTITUTION

- 4.1 Any interpretation of the Constitution must have regard to the purposes stated above. The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

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ARTICLE 2 – MEMBERS OF THE COUNCIL

CONTENTS

- 1. Composition and Eligibility**
- 2. Election and terms of Councillors**
- 3. Roles and functions of all Councillors**
- 4. Conduct**
- 5. Allowances**
- 6. political Groups**
- 7. Leader and Deputy Leader of the Council, and of the Opposition**
- 8. Chairman and Vice-Chairman of Committees**

1. COMPOSITION AND ELIGIBILITY

- (a) **Composition**
The Council will comprise 31 Members, otherwise called Councillors. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up the Electoral Commission and approved by the Secretary of State. Councillors' details, including their wards, and membership of committees are shown in Part 6 of this Constitution.
- (b) **Eligibility**
Only registered voters of the District, those living or working there, or those that occupy as tenant or owner land or property in the District will be eligible to hold the office of Councillor.

2. ELECTION AND TERMS OF COUNCILLORS

- 2.1 The regular election of District Councillors will generally be held on the first Thursday in May every four years (2015, 2019 etc.). The term of office of Councillors, subject to them making a declaration of office, will start on the fourth day after their election and will finish on the fourth day after the date of the next regular election.

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3. ROLES AND FUNCTIONS OF ALL COUNCILLORS

(a) Key roles

All Councillors will:

- (i) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions.
- (ii) Contribute to the good governance of the District and actively encourage community participation and involvement in the decision-making process.
- (iii) Effectively represent the interests of the Council and their ward as community leaders.
- (iv) Respond to constituents' enquiries and representations, fairly and impartially and assist in the resolution of concerns and grievances.
- (v) Contribute to the governance and effective management of the Council's business at meetings of the Council and other committees.

(b) Rights and duties

- (i) Councillors will have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Monitoring Officer or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it. For these purposes, "confidential" and "exempt" information are defined in the Access to Information Procedure Rules in Part 4 of this Constitution.

(c) Training

Councillors will avail themselves of the opportunities provided for training so that they may vote at meetings of Planning Committees, and also participate in other quasi-judicial hearings e.g. employment, disciplinary and conduct matters, Public Licensing.

4. CONDUCT

- (i) Councillors will maintain the highest standards of conduct and ethics.
- (ii) Councillors will at all times observe the Codes of Conduct and Protocols set out in Part 5 of this Constitution.

5. ALLOWANCES

- 5.1 Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme which is published on the Council's website.

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6. POLITICAL GROUPS

(a) Application

As required by law the Members of the Council are to be treated as divided into different political groups when there is at least one political group constituted in accordance with paragraph (b) below

(b) Constitution

- (i) A political group shall be treated as constituted when there is delivered to the Programmes, Performance and Governance Manager a notice in writing which:
 - a) is signed by two or more members of the Council who wish to be treated as a political group; and
 - b) complies with the provisions of paragraph (iii).
- (ii) A political group shall cease to be constituted if the number of persons who are to be treated as members of that group is less than two.
- (iii) A notice under paragraph (i) shall state:
 - a) that the Members of the Council who have signed it wish to be treated as a political group;
 - b) the name of the group;
 - c) the name of one member of the group who has signed the notice and who is to act as its leader.
- (iv) A notice under paragraph (i) may specify the name of one other member of the group who has signed the notice and who is authorised to act in the place of the leader of that group.
- (v) The Local Government (Committees and Political Groups) Regulations 1990 as amended applies and its provisions are supplemental to this Article.

7. LEADER AND DEPUTY LEADER OF THE COUNCIL, AND OF THE OPPOSITION

- 7.1 The Leader is the Council's political head, being the leader of the largest political group on the Council as notified annually to the Programmes, Performance and Governance Manager under the Local Government and Housing Act 1989. Prior to each annual meeting, this person will be recognised as 'Leader-designate of the Council. If there is no single largest political group the Programmes, Performance and Governance Manager is entitled for the purposes of these arrangements to regard the Leader of whichever of the equal largest groups which was previously the larger as Leader-designate of the Council until the Council by resolution determines otherwise.
- 7.2 At each annual meeting the Council is asked to ratify that person as the Leader of the Council. If it does not do so it must elect a Leader. The Council will also appoint annually a Deputy Leader who will deputise for the Leader. While under governance arrangements adopted by the Council the Leader has no executive or delegated

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powers as such, the Leader is in a position of influence and works closely with the service Directors.

7.3 The Leader of the Council will also have the following roles:

- Provide a focal point for political leadership and strategic direction for the Council.
- Represent the interests of the Council.
- Ensure effective decision making including working with all political groups to seek to achieve, where possible, cross party co-operation.
- Be the key political contact for outside organisations (including Central Government, Local Authority Associations and Council partners) and internally for the Council's Management Team.
- Be the representative of the Council, for example, in its dealings with Central Government, other local authorities etc. and positively promote the Council within the media.
- Promote the long-term financial, business and economic stability of the Council.

7.4 The Deputy Leader will assist the Leader generally in the conduct of the role and will deputise when the Leader is unable to act or is unavailable. If the office of the Leader of the Council becomes vacant for any reason, the Deputy Leader shall temporarily assume the responsibility of Leader until the next or subsequent ordinary meeting of the Council when the process for either ratifying or electing the Leader as described above will apply.

7.5 The Leader of the second largest political group on the Council shall be recognised as the Opposition Leader. If there is more than one group of equal size which are each the second largest on the Council, then the Leaders of all such groups shall be recognised as Opposition Leaders.

7.6 For all the above arrangements, the term 'political group' shall have the meaning as in the Local Government and Housing Act 1989.

8. CHAIRMAN AND VICE-CHAIRMAN OF COMMITTEES

(a) Chairman and Vice-Chairman of Committees

The Council shall appoint at each Annual Meeting of the Council the Chairman and Vice-Chairmen of all the Council's Committees.

The role of the Chairman (and in their absence, the Vice-Chairman) is as follows:

- Ensure effective conduct of committee meetings.
- Maintain a good understanding of the nature of the business of the Committee and key issues within its remit.

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- Act as a Council spokesman as appropriate on matters within the Committee's remit, including responding to questions at Council meetings relating to the business and functions of the committee, media enquiries etc.
- Maintain good communication with other Chairmen and officers to ensure the co-ordination and efficient management of all committee activity.
- Represent the Council in connection with matters within the committee's remit, for example other local authorities etc. and positively promote the Council within the media.

The Chairmen and Vice-Chairmen shall remain in office until the Annual Meeting following their appointment unless they resign or are removed by decision of the Council.

Chairmen of Committees shall assume the role as 'Lead Member' for issues within their committees' remit.

(b) Procedure for Appointments

Appointments to the positions of Chairman and Vice-Chairman of Committees shall be conducted in accordance with the Council and Committee Procedure Rules 16(f) in Part 4 of this Constitution.

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PART 2 – ARTICLES OF THE CONSTITUTION

ARTICLE 3 – THE LOCAL COMMUNITY AND THE COUNCIL

CONTENTS

- 1. Rights of Members of the Local Community**
- 2. Residents' responsibilities**

1. RIGHTS OF MEMBERS OF THE LOCAL COMMUNITY

- 1.1 The rights of members of the local community are summarised in Part 1 of this Constitution and are set out in more detail in this Article. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 4 of this Constitution.

(a) Voting and Petitions

People on the Electoral Register for the District have the right to vote in elections in their ward and sign a petition to request a referendum for a change from one form of governance to another. For a petition to be valid to require a referendum, the number of signatures to it must equate to no less than 5% of the electorate of the area. If there is such a referendum, registered electors will have a right to vote.

(b) Other Petitions

The Council has adopted a petitions scheme which is available on the Council's website. A petition can, amongst other outcomes, lead to a Council debate or the matter being considered by one of the Council's committees. The Council only accepts signatures to a petition from those who live, work or study in the District.

(c) Information

The public have the right to:

- (i) Attend meetings of the Council, its Committees and Sub-Committees and Panels, with the exception of working groups or forums set up outside of the committee structure, other than by invitation. However, where confidential or exempt information is likely to be disclosed the meeting, or part of the meeting, may be held in private. See also paragraph (e) below.
- (ii) See non-confidential reports and background papers, and any records of decisions made by the Council.
- (iii) inspect the council's accounts as published by law and the Management Letter published by the Council's External Auditor and make their views known to him.

(d) Consultation and Participation

Article 8 sets out the range of consultation and participation opportunities available to the local community. In summary, the opportunity exists for local people to:

- (i) be consulted on proposals for service delivery.

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- (ii) ask questions at Council meetings and speak on items of business at Committee meetings and Public Licensing hearings. Details are published on the Council's website.
- (iii) submit a petition.

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(e) Attendance by the public at Council and Committee Meetings

- (i) Although meetings of the Council shall be open to the public as provided by statute (subject to the power to exclude by resolution the public during the whole or part of the proceedings in certain circumstances) the public shall not be admitted in excess of the number which the public accommodation can safely contain.
- (ii) In accordance with the provisions of the Openness of Local Government Bodies Regulations 2014, any person attending a Council meeting which is open to the public, may report on proceedings and publish or disseminate the results. For the purposes of the Regulations, ‘Reporting’ includes filming and providing comments on proceedings and ‘report on proceedings’ means:
 - filming, photographing or making an audio recording of the proceedings at the meeting,
 - using any other means for enabling persons not present to see or hear proceedings at the meeting as it takes place or later, or
 - reporting or providing commentary on proceedings at the meeting, orally or in writing, so that the report or commentary is available to persons not present, as the meeting takes place or later.”
- (iii) Open sessions of Council and Committee meetings are recorded for subsequent publication on the Council’s website. Members of the public attending the meeting with a view to speaking are deemed to be giving permission to be included in the recording.
- (iv) The public and press shall be excluded from meetings whenever it is likely that the business to be transacted would result in the disclosure of confidential information. Confidential information means information given to the Council by a Government Department on terms that forbid its public disclosure or information which cannot be publicly disclosed by court order.
- (v) The public and press may be excluded from meetings whenever it is likely that the business to be transacted would result in the disclosure of exempt information. Exempt information is defined and explained further in the Access to Information Rules.
- (vi) Where the public are excluded by resolution from a meeting, in whole or in part, no person shall report proceedings using methods which can be used without that person’s presence at the meeting, and which enable persons not at the meeting to see or hear the proceedings at the meeting as it takes place or later.

2. RESIDENTS’ RESPONSIBILITIES

2.1 Responsibilities of Members of the Public

- 2.1.1 Members of the public must not be violent, abusive or threatening to Councillors or officers and must not wilfully damage property owned by the Council, Councillors or officers.

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ARTICLE 4 – THE COUNCIL

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1. Meanings
 - (a) Policy Framework –
 - (b) Budget
2. Functions of the Council
3. Council Meetings
4. Responsibility for Functions

1. MEANINGS

(a) Policy Framework –

The Council's policy framework means the following plans and strategies:

- The Corporate Plan;
- The Sustainable Community Strategy;
- Crime and Disorder Reduction Partnership Plan;
- Licensing Policy;
- Gambling Policy;
- Plans and strategies which together comprise the Local Development Framework / Development Plan (*Section 54 of the Town and Country Planning Act 1990*);
- Development Plan Documents (*Section 15 of the Planning and Compulsory Purchase Act 2004*);
- The Local Development Scheme;
- Supplementary Planning Documents.

And such other plans and strategies that the Council may decide or that are required by law.

(b) Budget

The budget is a statement identifying the allocation of financial resources, including capital resources, to different services and projects and to contingency provisions and reserves. The Annual Budget setting process includes the determination of such allocations, decisions on prudential indicators and the setting of the Council Tax. It also includes a review of fees and charges.

2. FUNCTIONS OF THE COUNCIL

- 2.1 The functions of the Council are set out in Part 3 of this Constitution.

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3. COUNCIL MEETINGS

3.1 There are three types of Council meeting:

- (a) The Annual Meeting;
- (b) Ordinary Meetings;
- (c) Extraordinary Meetings.

and they will be conducted in accordance with Council Procedure Rules in Part 4 of this Constitution.

4. RESPONSIBILITY FOR FUNCTIONS

4.1 The Council will maintain the tables and appendices in Part 3 of this Constitution setting out the responsibilities for the Council's functions as prescribed in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

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ARTICLE 5 – CHAIRMAN OF THE COUNCIL

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- 1. Role and Function of the Chairman and Vice-Chairman of the Council**
- 2. Civic and Ceremonial Role**
- 3. Chairing Meetings of the Council**
- 4. Other Responsibilities**

1. ROLE AND FUNCTION OF THE CHAIRMAN AND VICE-CHAIRMAN OF THE COUNCIL

- 1.1 The Chairman is elected and the Vice-Chairman is appointed by the Council at the Annual Meeting. The Councillors who currently hold these positions are identified in Part 6 of this Constitution. The Chairman of the Council and, in his or her absence, the Vice-Chairman, will have the following roles and functions:

2. CIVIC AND CEREMONIAL ROLE

- 2.1 The Chairman will attend such civic and ceremonial functions as he/she determines appropriate having regard to Council protocol, and local functions as part of supporting the community or promoting the interests of the Council and the District. He or she will promote public involvement in the Council's activities and will encourage the Council to engage in activities to increase the understanding of democratic processes, particularly amongst minority and disadvantaged groups and young people.

3. CHAIRING MEETINGS OF THE COUNCIL

- 3.1 The Chairman will have the following responsibilities at Council meetings:
- (a) To uphold and promote the purposes of the Constitution, and to rule on its interpretation and application when necessary.
 - (b) To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community. The ruling of the Chairman as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the aims of this Constitution contained in Article 1.
 - (c) To ensure that the Council meeting is a forum for the debate of matters of concern to the local community so that its business can be carried out efficiently in accordance with the law and this Constitution with regards to the rights of councillors and the interests of the community.

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4. OTHER RESPONSIBILITIES

- 4.1 To call extraordinary meetings of the Council under Schedule 12 paragraph 3 to the Local Government Act 1972.
- 4.2 The detailed role of the Chairman of the Council, in particular the civic responsibilities, are contained in the Council's Civic Protocol.

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ARTICLE 6 - COMMITTEES

CONTENTS

- 1. Committees**
- 2. Roles and Functions**
- 3. Proceedings**
- 4. Membership**
- 5. Sub-Committees**

1. COMMITTEES

- 1.1 The Council will establish such Committees as it requires for efficient and effective decision making and as required by law.
- 1.2 For matters relating to the ethics and probity of Members of the District Council and also Members of Parish and Town Councils in the District, and for the purposes of conducting any necessary hearings and monitoring the operation of the Member Code of Conduct, the Council has established a ‘Joint Standards Committee’. The Council has established an Overview and Scrutiny Committee which also meets as the Council’s Crime and Disorder Committee.

2. ROLES AND FUNCTIONS

- 2.1 The roles and functions of these Committees and any Sub-Committees established are set out in Part 3 of this Constitution.

3. PROCEEDINGS

- 3.1 Committees will conduct their proceedings in accordance with the Council and Committee Procedure Rules set out in Part 4 of this Constitution.

4. MEMBERSHIP

- 4.1 The size, membership and the Chairmen and Vice-Chairmen of all Committees and Sub-Committees established is set out in Part 6 of this Constitution.

5. SUB-COMMITTEES

- 5.1 A Sub-Committee may at any time be established to assist a Committee in furtherance of its role and responsibilities by either:
 - (a) the Council;

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(b) The relevant Committee.

- 5.2 When establishing a Sub-Committee, the terms of reference of any such Sub-Committee its membership and the appointment of a Chairman and Vice-Chairman shall be settled.

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ARTICLE 7 – STANDARDS ARRANGEMENTS

CONTENTS

- 1. Composition**
- 2. Roles and Functions of the Joint Standards Committee:**
- 3. Procedural Arrangements:**
- 4. Code of Conduct Complaints Process – Written Summary**

The Council has established a Joint Standards Committee with all Parish and Town Councils in the Maldon District.

1. COMPOSITION

- a. The Joint Standards Committee consists of five Members of Maldon District Council and two Local Council representatives and one Independent Person. The Independent Person (or Reserve) - shall be notified of and invited to attend meetings and may participate in the discussion. The Independent Person has no voting rights.
- b. Maldon District Council Members will be appointed at the Annual Meeting of the Council in line with the rules on political proportionality.
- c. Local Council Member representatives will be nominated by the Essex Association of Local Councils (EALC) as co-opted members (with voting rights) and serve for a period of no more than two years subject to remaining elected and pending further nomination.
- d. Independent Persons will be appointed by Council. Independent Persons shall be appointed for a period of four years, with the option of re-appointment for a further four years; no Independent Person may serve more than two terms of office.

The current Independent Person is Mr N Hodson and the reserve Independent Person is Mr S Anthony.

- e. Group Leaders may not be members of the Committee.
- f. The Chairman and Vice-Chairman of the Committee shall be elected at the first and special meeting of the Committee held on the day of the Annual Meeting of the Council. All Members of the Committee will be notified and invited to participate in the election of the Chairman and Vice-Chairman.
- g. The Vice-Chairman shall deputise for the Chairman in his or her absence.
- h. The quorum for meetings of the Committee shall be three voting Members.
- i. Substitutes shall be permitted for District Council Members to maintain political balance, and name substitutes as nominated by the EALC shall be permitted for Local Council Members.

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2. ROLES AND FUNCTIONS OF THE JOINT STANDARDS COMMITTEE:

- 2.1 The Joint Standards Committee will promote and maintain high ethical standards of conduct by Councillors in the District of Maldon. It will hold Councillors to account where it determines that Councillors' conduct has fallen short of what is to be expected or otherwise required of them pursuant to the applicable Council's adopted Code of Conduct. Further details on the role and functions of the Joint Standards Committee are set out elsewhere in this part of the Council's Constitution.

3. PROCEDURAL ARRANGEMENTS:

- 3.1 The Joint Standards Committee will conduct its proceedings in accordance with the relevant Procedure Rules set out in Part 4 of this Constitution and the adopted Conduct Complaint Process set out below. The Committee will meet as and when required.
- 3.2 When dealing with matters deemed to be private / confidential where the public is to be excluded from the meeting, it is essential that the Committee's work is confined to the Members of the Committee only at the time, and circulation of papers will be restricted accordingly. Notwithstanding Procedure Rule 19 and the general acceptance of the practice which enables Members to attend meetings of other Committees, private sessions of meetings of this Committee should proceed only with the appointed Members, the Independent Person and required support of Officers present.

4. CODE OF CONDUCT COMPLAINTS PROCESS – WRITTEN SUMMARY

Stage I

1. If a complaint has been made by an Officer of the District Council against a District Councillor it shall not normally be referred to the Monitoring Officer (MO) unless it has first been dealt with under the Member / Officer Relations Protocol.
2. Upon receipt of complaint, an initial assessment will be undertaken by the MO to establish the exact nature of the complaint and whether there is a potential breach of the Code of Conduct.
3. All complaints will be acknowledged and the Councillor complained of notified within five working days of receipt. The Leader of the Council will be notified of all complaints against District Councillors and generally kept advised.
4. The MO will seek further information as required from either the Councillor complained of or the complainant within 15 working days of receipt of the complaint. If the subject Councillor declines to co-operate with the MO without good reason, then the MO may move directly to consult with the Independent Person (IP) – this in itself could constitute a separate breach of the Code of Conduct.

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5. The MO will then consider the complaint in discussion with the IP and reach a conclusion as to the likelihood of a breach of the Code and a way forward. A conclusion will normally be reached within 25 working days of receipt of the complaint, and the respective parties notified. Options for conclusion at this stage are:
- No further action.
 - Refer to Political Group Leader for action (MO / IP to reconsider if no action taken).
 - Informal resolution.
 - Refer to Police (if potential criminal issues involved).
 - MO / IP decide to put straight to **investigation** (internal) and then Stage II **Hearing**.
 - Move to Stage II (with or without further discussion with parties to complaint).

Stage II

1. Refer to Joint Standards Committee (JSC) – two possible decisions / outcomes:
 - **Investigation** (and Group Leader informed).
 - No further action (all parties including IP to be notified immediately and rationale / detailed reasoning to be provided within 10 working days of the decision).
2. **Investigation** outcomes:
 - **NO BREACH**
 - No further action.
 - Copy of report and findings to all parties including IP.
 - Report to JSC for information.
 - **BREACH**
 - MO / IP consider and pursue possible **informal resolution**
 - **JSC Hearing** (which may also be convened to hear outcome of Stage I investigation by MO or a failure to achieve informal resolution under Stage II)
3. **Hearing** findings to be notified to all parties immediately and any rationale/detailed reasoning for decision to be provided within 10 working days of the hearing. Decision notice to be published on Council's website as soon as is practicable after notification.

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ARTICLE 8 -COMMUNITY CONSULTATION AND PARTICIPATION

CONTENTS

1. Community Consultation and Participation

1. COMMUNITY CONSULTATION AND PARTICIPATION

- 1.1 The Council will promote community consultation and participation through a range of opportunities as set out in the table below and has adopted a Consultation and Engagement Strategy:

Consultation and Participation Opportunity	Form, Function and Scope
Parish and Town Councils	Autonomous local authorities within defined areas able to raise funds through Council Tax to provide local services.
Community engagement and special interest groups	We have lists of stakeholder and community engagement group for consultation purposes.
Council and Committee meetings	The Council has approved and published arrangements for members of the public to ask questions at meetings of the Council and to speak at Committee meetings.
Petitions	The Council has approved and published a Petitions Scheme detailing how it will respond to petitions received from the community.
Surveys and consultations	Throughout the year a number of paper-based and on-line survey and consultations are undertaken to seek residents' views.

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ARTICLE 9 – JOINT ARRANGEMENTS

CONTENTS

- 1. Arrangements to Promote Well-being**
- 2. Joint arrangements**
- 3. Access to information**
- 4. Delegation to and from other local authorities**
- 5. Contracting Out**

1. ARRANGEMENTS TO PROMOTE WELL-BEING

1.1 The Council may, subject to statutory restrictions:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body;
- (c) exercise on behalf of that person or body any functions of that person or body; and
- (d) create partnerships and partnership bodies.

2. JOINT ARRANGEMENTS

- (a) In accordance with Section 101 of the Local Government Act 1972 (as amended), the Council may enter into joint arrangements with one or more local authorities to advise the Council on, or exercise Council functions.
- (b) Details of any joint arrangements including delegations to joint committees are detailed in Part 3 of this Constitution.

3. ACCESS TO INFORMATION

3.1 The Access to Information Procedure Rules in Part 4 of this Constitution apply to functions in a joint arrangement except in so far as the arrangement itself has made provision.

4. DELEGATION TO AND FROM OTHER LOCAL AUTHORITIES

- (a) The Council may arrange for the discharge of its functions to another local authority, or in certain circumstances, to the Executive of another local authority.
- (b) The decision whether or not to accept a delegation from another local authority shall be reserved to a meeting of the Council.

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5. CONTRACTING OUT

- 5.1 The Council may contract out to another body or organisation the running of services but remains accountable for the quality of service contractors provide.

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ARTICLE 10 - EMPLOYEES

CONTENTS

- 1. General**
- 2. Corporate Directors**
- 3. Functions and Areas of Responsibility of the Corporate Leadership Team**
 - (a) Functions of the Head of Paid Service
 - (b) Functions of the Monitoring Officer
 - (c) Functions of the S151 Officer (Chief Financial Officer)
 - (d) Duty to Provide Sufficient Resources to the Head of Paid Service, Monitoring Officer and Chief Financial Officer.
 - (e) Conduct
 - (f) Employment

1. GENERAL

- 1.1 The Council may engage such employees (referred to as Officers) as it considers necessary to carry out its functions. Charts showing the senior management structure of the Council are at Part 8 of this Constitution.

2. CORPORATE DIRECTORS

- 2.1 The Council will employ Corporate Directors (in accordance with an organisational structure approved by the Council) to take operational responsibility for management and delivery of its services and functions. These Directors shall form the Corporate Leadership Team. The Council will appoint from amongst its Corporate Directors or senior staff to the following statutory positions (“Statutory Officers”):
 - Head of Paid Service
 - Monitoring Officer
 - Section 151 (Chief Financial Officer)

3. FUNCTIONS AND AREAS OF RESPONSIBILITY OF THE CORPORATE LEADERSHIP TEAM

- 3.1 The Corporate Leadership Team shall work with Councillors to develop and manage the Council’s strategic direction and to ensure the delivery of agreed targets. The Statutory Officer posts shall have the following functions:

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(a) Functions of the Head of Paid Service

(i) Overall Responsibilities

Overall corporate management and operational responsibility for the Council (including overall management responsibility for all employees). The provision of professional advice to all parties in the decision-making process and together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions. Representing the Council on partnership and external bodies either as required by statute or by the Council

(ii) Discharge of Functions by the Council

The Head of Paid Service will report to Council, whenever he or she considers it appropriate, on how the Council's functions are discharged, the number and grade of Officers required to discharge the functions and how Officers are organised into an overall Officer structure.

(iii) Restrictions on Position

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer if appropriately qualified.

(iv) Structure

The Head of Paid Service will determine and publicise a description of the overall Officer structure of the Council showing the management structure and deployment of Officers.

(b) Functions of the Monitoring Officer

(i) Ensuring lawfulness and fairness of decision making

After consulting with the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the Council, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of placing a stop on the proposal or decision being implemented until the report has been considered.

(ii) Supporting the Joint Standards Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Joint Standards Committee.

(iii) Receiving Reports

The Monitoring Officer will receive and act on reports into investigations of allegations of breach of the Members Code of Conduct.

(iv) Receiving complaints, conducting investigations and undertaking other action

The Monitoring Officer will carry out an initial assessment of conduct complaints received, conduct investigations or undertake other action in respect of matters

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referred to him/her by the Joint Standard Committee (within the provisions set out in Part 3 of this Constitution). This includes conduct complaints against Parish and Town Councillors in the Maldon District.

(v) Advising whether decisions are within the budget and policy framework

In association with the Section 151 (S151) Officer (Chief Financial Officer) the Monitoring Officer may advise whether decisions are in accordance with the budget and policy framework.

(vi) Providing Advice

The Monitoring Officer will provide advice to all Councillors on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues. The Chief Financial Officer has similar responsibilities.

(vii) Restrictions on Position

Neither the Head of Paid Service or the Chief Financial Officer can be the Monitoring Officer.

(c) Functions of the S151 Officer (Chief Financial Officer)

(i) Ensuring Lawfulness and Financial Prudence of Decision Making

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the Council and to the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

(ii) Administration of Financial Affairs

The Chief Financial Officer will have responsibility for the administration of all the financial affairs of the Council, including those contained in Schedule 4 of Part 3 of this Constitution.

(iii) Internal Audit

The Chief Financial Officer will have responsibility for the provision of an effective internal audit function.

(iv) Providing Advice

The Chief Financial Officer will provide advice to all Councillors on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues, and will support and advise Councillors and Officers in their respective roles. The Monitoring Officer has similar responsibilities.

(v) Give Financial Information

The Chief Financial Officer will be responsible for the provision of financial information to the media, members of the public and the community.

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(d) Duty to Provide Sufficient Resources to the Head of Paid Service, Monitoring Officer and Chief Financial Officer.

The Council will provide the Head of Paid Service, Monitoring Officer and Chief Financial Officer with such Officers, accommodation and other resources sufficient to allow their duties to be performed.

(e) Conduct

Officers will comply with the Employees' Code of Conduct, and also the Protocol on Member / Officer Relations set out in Part 5 of this Constitution.

(f) Employment

The recruitment, selection and dismissal of Officers will comply with the Officer Employment and Disciplinary Rules set out in Part 4 of this Constitution

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ARTICLE 11 – DECISION MAKING

CONTENTS

- 1. Responsibility for decision making**
- 2. Principles of decision making**
- 3. Type of Decision**
- 4. Decision Making by the Council**
- 5. Decision Making by other committees established by the Council**
- 6. Decision Making by Council Bodies Acting as Tribunals**
- 7. Access to Information**

1. RESPONSIBILITY FOR DECISION MAKING

- 1.1 The Council will issue, and keep up to date, a record of what part of the Council or what individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

2. PRINCIPLES OF DECISION MAKING

- 2.1 All decisions of the Council will be made in accordance with the following principles:
 - (a) Proportionality (i.e. the action should be proportionate to the desired outcome).
 - (b) Due consideration of all relevant factors and options, taking into account the results of any consultation undertaken and the professional advice of Officers.
 - (c) Respect for human rights and equal opportunity.
 - (d) A presumption in favour of openness.
 - (e) Clarity of aims and desired outcomes.

3. TYPE OF DECISION

- a) **Decisions Reserved to Council** - Decisions relating to the functions referred to in Article 4 and specified in Part 3 of this Constitution will be made by the Council and will not be delegated.
- b) **Decisions made by Committees appointed by the Council** – power to make such decisions is delegated by the Council as set out in the terms of reference contained in Part 3 of this Constitution, in accordance with Section 101 of the Local Government Act 1972.

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- c) Decisions made by sub-committees appointed either by the Council or the main Committees with power delegated to them to make decisions in accordance with the terms of reference contained in Part 3 of the Constitution.
- d) Decisions made by officers in accordance with the scheme of delegation contained in Part 3 of the Constitution.

4. DECISION MAKING BY THE COUNCIL

- 4.1 Subject to the general principles contained in this Article, the Council meeting will follow the Council and Committee Procedure Rules set out in Part 4 of this Constitution when considering any matter.

5. DECISION MAKING BY OTHER COMMITTEES ESTABLISHED BY THE COUNCIL

- 5.1 Subject to the general principles contained in this Article, other Council Committees will follow the Procedure Rules relating to Committees and Sub-Committees set out in Part 4 of this Constitution when considering any matter.

6. DECISION MAKING BY COUNCIL BODIES ACTING AS TRIBUNALS

- 6.1 The Council, a Councillor or an Officer acting as a tribunal or in a quasi-judicial manner or determining / considering (other than for the purposes of giving advice) the civil rights and obligations, or the criminal responsibility, of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

7. ACCESS TO INFORMATION

- 7.1 The Access to Information Procedure Rules in Part 4 of this Constitution apply to decisions taken under this Article.

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**ARTICLE 12 – FINANCIAL MANAGEMENT, CONTRACTS AND
LEGAL MATTERS**

CONTENTS

- 1. Financial Management**
- 2. Contracts**
- 3. Legal proceedings**
- 4. Authentication of Documents**
- 5. Common Seal of the Council**
- 6. Signing of documents**

1. FINANCIAL MANAGEMENT

- 1.1 The administration of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 4 of this Constitution.

2. CONTRACTS

- 2.1 Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

3. LEGAL PROCEEDINGS

- 3.1 A Director in consultation with the Chairman or Vice-Chairman of the relevant Committee and Leader of the Council is authorised to institute or defend legal proceedings on any criminal offence or civil proceedings not otherwise provided for in the Scheme of Delegation. A report will subsequently be made to the relevant Committee. This authorisation includes responding to legal representations on behalf of the other party, any directions of the Court, and the pursuance and settlement of disputes by means other than litigation.

4. AUTHENTICATION OF DOCUMENTS

- 4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Lead or Senior Specialist - Legal, or other person authorised by him / her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.
- 4.2 Any contract shall be entered into on behalf of the authority will be in accordance with the Contract Procedure Rules set out in Part 4 of this Constitution.

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5. COMMON SEAL OF THE COUNCIL

- 5.1 A decision of the Council, a Committee or Sub-Committee of the Council or a delegated decision by an officer will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Lead or Senior Specialist - Legal should be sealed and shall be attested by any two of the following persons, namely 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 to be provided for the purpose and shall be signed by the persons who have attested the seal. Such documents will include those relating to works contracts, leases, transfers and bylaws.

6. SIGNING OF DOCUMENTS

- 6.1 A Director, any manager who reports directly to a Director acting within their area of responsibility or any employed solicitor, barrister or legal executive are authorised to sign any contracts, notices, or other documents which are not required to be sealed by the Council.

PART 2 – ARTICLES OF THE CONSTITUTION

ARTICLE 13 – REVIEW AND REVISION OF THE CONSTITUTION

CONTENTS

- 1. Duty to Monitor and Review the Constitution**
- 2. Changes to the Constitution**

1. DUTY TO MONITOR AND REVIEW THE CONSTITUTION

- 1.1 The Director of Strategy, Performance and Governance will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect and will make recommendations for ways in which it could be amended in order to better achieve the purposes set out in Article 1.

2. CHANGES TO THE CONSTITUTION

- 2.1 Changes to the Constitution may take place in the following ways:
 - (a) The Director of Strategy, Performance and Governance has authority to correct anomalies, errors, inconsistencies and changes which do not have any material effect, and to make textual changes which may arise from any decision the Council might make on any matter or changes to the law.
 - (b) The Director of Strategy, Performance and Governance may recommend changes to the Constitution to the Performance, Governance and Audit Committee or the Council.

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ARTICLE 14 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

CONTENTS

- 1. Suspension of the Constitution**
- 2. Interpretation**
- 3. Publication**

1. SUSPENSION OF THE CONSTITUTION

(a) Limit to suspension

The Articles of this Constitution may not be suspended. The Rules of Procedure relating to meetings of the Council, Committees and Sub-Committees may be suspended to the extent permitted within those Rules and the law.

(b) Procedure to Suspend

A motion to the Council to suspend any rules will not be moved without notice unless at least sixteen Members of the Council are present.

The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the aims of the Constitution set out in Article 1.

2. INTERPRETATION

- 2.1 The ruling of the Chairman of the Council as to the interpretation or application of this Constitution, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

3. PUBLICATION

- 3.1 The Director of Strategy, Performance and Governance will ensure that:

- (a) an electronic copy of this Constitution is made available to each Member of the Authority upon delivery a declaration of Acceptance of Office on the Member first being elected to the Council. Any revisions to this Constitution will be provided at the earliest opportunity.
- (b) copies of the Constitution are available for inspection on the Council's website, at the authority's offices and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee;
- (c) the summary of the Constitution is made available without charge and is updated as necessary.

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PART 3 – RESPONSIBILITY AND FUNCTIONS

INTRODUCTION

The Council may make arrangements under Section 101 of the Local Government Act 1972 (as amended) for the discharge of any of its functions, except where legislation prescribes that Section 101 shall not apply, by:

- (a) a Committee;
- (b) a Sub-Committee;
- (c) a joint Committee;
- (d) another local authority, or
- (e) an Officer.

Under the Local Government Act 1972, there is no statutory power to delegate the exercise of any function of the authority to an individual Councillor.

Part 3 of this Constitution deals with:

- (a) The role and functions of the Council and delegated powers of committees appointed by the Council at its annual meeting and of any sub-committees established.
- (b) The delegation of Council functions to officers.
- (c) The “Proper Officer” provisions.

In the case of all delegation of functions, a Committee or Sub-Committee or Officer may determine not to exercise a function delegated to them and refer the decision back to Council or the relevant Committee.

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PART 3 – RESPONSIBILITY AND FUNCTIONS
GENERAL PROVISIONS

CONTENTS

- 1. Conferences**
- 2. Development Proposals**
- 3. Sealing, Signing and Authentication of Documents**
- 4. Authentication of documents for legal proceedings**
- 5. Common Responsibility**
- 6. Contracts**
- 7. Membership of Outside Organisations**
- 8. Responsibilities and Functions**
- 9. Conflicts between Committees**
- 10. Inspection of Documents**
- 11. Inspection of Lands, Premises etc.**

The following general provisions apply to Committees in exercise of their functions and responsibilities and also Officers acting under the Scheme of Delegation.

1. CONFERENCES

- 1.1 Each Committee may authorise the attendance, subject to budgetary provision, of a Member at a Conference the subject matter of which falls within the purview of that Committee.

2. DEVELOPMENT PROPOSALS

- (a) In cases where a Committee proposes to submit an application under the Town and Country Planning General Regulations 1992 for development on behalf of the Council, including for development of land which has been declared surplus to the requirements of the Council, the Committee may resolve that such applications be submitted to the relevant planning authority.
- (b) Corporate Directors are authorised to make proposals under the 1992 Regulations and to seek any required planning or building control permission in pursuance of any resolution or objection of the Council.

3. SEALING, SIGNING AND AUTHENTICATION OF DOCUMENTS

3.1 Sealing and Signing of documents

- 3.1.1 A resolution of the Council or of a Committee where that Committee has the power, or an Officer acting under delegated powers relevant, authorising the acceptance of

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PART 3 – RESPONSIBILITY AND FUNCTIONS

any tender, the purchase, sale, letting, or taking of any property, the issue of any stock, the presentation of any petition, memorial, or address, the making of any rate or contract, or the doing of any other thing, shall be a sufficient authority for sealing any document or for the conclusion of any contract necessary to implement or give effect to the resolution.

- 3.1.2 The Seal shall be attested by any two of the following: a Director, any manager who reports directly to a Director 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.
- 3.1.3 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 contracts, notices, or other documents which are not required to be sealed by the Council.

4. AUTHENTICATION OF DOCUMENTS FOR LEGAL PROCEEDINGS

- 4.1 Where any document will be a necessary step in legal proceedings on behalf of the Council it shall be signed by the Lead Specialist – Legal or Senior Specialist - Legal unless any enactment otherwise requires or authorises, or the Council gives the necessary authority to some other person for the purpose of such proceedings.

5. COMMON RESPONSIBILITY

- 5.1 Each Committee shall have regard to the implications of the Maldon Corporate Plan, Workforce Development Plan, the Crime and Disorder Strategy and the IT Strategy.

6. CONTRACTS

- 6.1 There shall be delegated to each Committee power to allocate and manage within approved estimates contracts entered into for the purpose of achieving or furthering the approved programme of the Committee.

7. MEMBERSHIP OF OUTSIDE ORGANISATIONS

- 7.1 Appointments to Outside Organisations shall be made by the Council, normally at its Annual Meeting. Casual vacancies shall be considered by the next ordinary meeting of the Council.

8. RESPONSIBILITIES AND FUNCTIONS

- 8.1 All proposals for amending the terms of reference of Committees and the Scheme of Delegation will be considered by the Performance, Governance and Audit Committee and recommended to the Council.

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PART 3 – RESPONSIBILITY AND FUNCTIONS

9. CONFLICTS BETWEEN COMMITTEES

- 9.1 All conflicts between Committees shall be determined by the Council.

10. INSPECTION OF DOCUMENTS

- 10.1 A Member of the Council may on application to the Programmes, Performance and Governance Manager inspect any document which has been considered by a Committee, or by the Council, and if copies are available shall on request be supplied for the like purposes with a copy of such a document.
- 10.2 A Member shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which he is professionally interested or in which he has a disclosable personal interest in the terms of the Local Code of Conduct.
- 10.3 This shall not preclude any Director or the Council's legal advisor from declining to allow inspection of any document that is, or in the event of legal proceedings, would be protected by privilege arising from the relationship of solicitor and client.
- 10.4 All reports made or Minutes kept by any Committee shall, as soon as the Committee has concluded action on the matter to which such reports or Minutes relate, be open for the inspection of any Member of the Council.
- 10.5 On the request of any Member attending a meeting of a Committee of which they are not a Member, they shall be given access to any documents which have been provided to the Committee at that meeting except where the report or document contains information relating to staffing information, or where the identity of individual staff would be revealed (see Access to Information Procedure Rules).

11. INSPECTION OF LANDS, PREMISES ETC.

- 11.1 Unless specifically authorised to do so by the Council, or a Committee, a Member of the Council shall not issue any order for any works which are being carried out by or on behalf of the Council or claim by virtue of his membership of the Council any right to inspect or to enter upon any lands or premises which the Council has the power or duty to inspect or enter.

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APPENDIX A PART 3 – RESPONSIBILITY AND FUNCTIONS

TERMS OF REFERENCE – COUNCIL

<u>CONTENTS</u>
Terms of Reference

COMMITTEE	COUNCIL
MEMBERSHIP	All 31 Members of the Council
LEAD OFFICER	Corporate Directors
OFFICERS / UNITS PRIMARILY REPORTING	Corporate Directors

TERMS OF REFERENCE

The Council Meeting will deal with the following matters:

1. Adopt any fundamental changes to the Council’s Constitution after consideration by the Performance, Governance and Audit Committee.
2. Make appointments to:
 - all committees and approve the delegation / allocation of functions to them; and
 - outside bodies and joint committees.
3. Determine the Budget Strategy in terms of the total revenue and capital budgets each year for the General Fund.
4. Determine the amount of Council Tax to be levied.
5. Adopt a Code of Conduct for Members and employees.
6. Approve or adopt the following applications, plans, schemes and strategies:
 - Corporate Plan and Thematic Strategies;
 - Local Development Plan and associated Supplementary Planning Guidance / Documents and Strategic Masterplan Frameworks;
 - Commercial Strategy;
 - Homelessness, Rough Sleeper and Housing Strategy;
 - Commissioning and Procurement Strategy;
 - ICT Strategy;
 - Strategic Plan for Workforce and Development;
 - Treasury Management and Annual Investment Strategy;
 - Corporate Communications Protocol;
 - Marketing and Communications Strategy;

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- Corporate Debt Recovery Strategy;
- Medium Term Financial Strategy.

and any other plans, policies or strategies which have a significant corporate impact on the Council or which have a significant impact on the Council's resources.

7. Adopt an allowances scheme under Part VI of the Constitution having regard to the recommendations of the Independent Remuneration Panel;
8. Confirm the appointment of the Head of the Paid Service;
9. Appoint a Returning Officer, Electoral Registration Officer, and designate other Proper and Responsible Officers as required by statute.
10. Consider recommendations from the Investigating and Disciplinary Panel (Section 27a of the Localism Act) and agree action to be taken in relation to dismissal of the statutory officers.
11. Debate issues that are the subject of petitions signed by a specified number of people (as set out in the Petitions Scheme in the appendix to the Constitution);
12. The determination of neighbourhood area applications in the following circumstances:
 - where appropriate representations have been received;
 - where the area to be designated includes land within another civil parish not represented by the applicant;
 - where an application is made by an organisation or body not recognised by Section 61G of the Town and Country Planning Act 1990; or
 - where there are two competing neighbourhood area applications for the same location
13. Consider all other matters which, by law, must be reserved to Council or otherwise as provided for in the Council's Constitution.

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PART 3 – RESPONSIBILITY AND FUNCTIONS
TERMS OF REFERENCE – STRATEGY AND RESOURCES
COMMITTEE

CONTENTS

- 1. Terms of Reference**
- 2. Operating Protocol**

COMMITTEE	STRATEGY AND RESOURCES
MEMBERSHIP	16 Members of the Council appointed annually and politically balanced
LEAD OFFICER	Director of Strategy, Performance and Governance / Director of Resources
OFFICERS / UNITS PRIMARILY REPORTING	All Directors

1. TERMS OF REFERENCE

1.1 The Strategy and Resources Committee will exercise the Council’s powers in relation to the following, subject to its recommending policy for those areas that fall outside the policy or budget framework, which will be submitted to the Council for approval or adoption.

a) Review and recommend to the Council on its budget framework including:

- Medium Term Financial Strategy
- Capital Strategy
- Capital and Revenue Budgets
- Treasury Management Strategy
- Fees and Charges levied by the Council
- Funding initiatives

provided that the Committee may change individual fees and charges where the Council needs to respond to market changes or changes to the cost base.

b) Regulation and control of the Council’s finances, including investments and borrowing, in accordance with its treasury management strategy.

c) Ensure compliance with the Council’s budget including its revenue and capital budgets

d) Review the Council’s overall policy framework, and recommend on those plans, policies and strategies (except relating to Public Licensing and Risk Management) which are reserved to the Council for approval and adoption.

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- e) Approval or adoption any other plans, policies and strategies which do not have a significant corporate impact on the Council or on its resources.
- f) Strategic control and management of the Council's assets, including decisions on leases with an annual value in excess of £25,000 or tenure in excess of 14 years.
- g) Approval of business cases for new corporate and commercial projects, and allocation of resources where required.
- h) Consideration and recommend to the Council on:
 - Strategic and Corporate Objectives.
 - Adoption of a new function or sphere of activity.
 - Cessation of a new function or sphere of activity.
 - Contracting out of an existing activity or reinstatement in-house of a previously contracted out activity (including service tender proposals under the Community Right to Challenge).
- i) Preparation, planning and oversight of civil emergencies.
- j) Consideration of strategic transport and flood management matters.
- k) Review and appraisal of designated Conservation Areas, the approval of Conservation Area Management Plans, and the identification and designation of new Conservation Areas.
- l) Approval of the Local Planning Authority's response to the Neighbourhood Planning Consultations under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012.
- m) Decisions in exercise of any function, duty or power of the council which is not delegated to another Committee, Sub-Committee or an officer, or reserved for decision by full Council under this Constitution or by law.
- n) Receive reports on Human Resources statistics.
- o) Expenditure over £10,000 from the budget for the development of commercial opportunities and projects.

2. OPERATING PROTOCOL

- 2.1 The Committee will meet in accordance with arrangements determined by the Council.
- 2.2 Other Members, the Head of Paid Service, Monitoring Officer, Section 151 (S151) Officer and Directors will also have the right to attend.
- 2.3 In all other respects and as appropriate, the Council and Committee Procedure Rules will apply.

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PART 3 – RESPONSIBILITY AND FUNCTIONS
TERMS OF REFERENCE – PERFORMANCE, GOVERNANCE AND
AUDIT COMMITTEE

CONTENTS

- 1. Terms of Reference**
Performance and service delivery
Governance
Audit and risk
- 2. Operating Protocol**

COMMITTEE	PERFORMANCE, GOVERNANCE AND AUDIT
MEMBERSHIP	15 Members of the Council appointed annually and politically balanced
LEAD OFFICER	Director of Strategy, Performance and Governance
OFFICERS / UNITS PRIMARILY REPORTING	All Directors

1. TERMS OF REFERENCE

- 1.1 The Performance, Governance and Audit Committee is primarily responsible for the monitoring of the performance of the Council, oversee the Council's audit and risk functions, and keep under review the Council's Corporate Governance arrangements. In particular, it will:

Performance and service delivery

- a) Monitor and scrutinise the performance of the Council in the execution of its functions and delivery of services against business and improvement plans.
- b) Make decisions within the Council's budget and overall policy framework on the delivery and performance of services, save for where provision is made in the terms of reference of another Committee or in the Scheme of Delegation, with particular attention to the Corporate Priorities.

Governance

- c) Ensure the effective development and operation of corporate governance within the Council, including compliance with best practice.
- d) Review the operation of the Council's Constitution and recommend to the Council on any changes identified.

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- e) Reviewing and recommending to the Council on Financial Regulations, Financial Procedures and Contract Procedure Rules
- f) Consult the Joint Standards Committee in connection with the review of any codes or protocols relating to the ethical framework.
- g) Review issues raised by the Council's statutory officers and Directors.
- h) Undertake and implement the outcome of Community Governance Reviews.

Audit and risk

- i) Review the internal audit arrangements within the Authority, enhance the profile, status and authority of the Internal Audit function, and demonstrate its independence.
- j) Approve (but not direct) the Internal Audit Plan and Strategy, and monitor progress against plans and delivery of the Internal Audit service, ensuring that co-ordination of effort between internal and external audit is maximised.
- k) Receive the annual report and opinion of the Officer responsible for Internal Audit and consider the level of assurance given in respect of the Council's corporate governance arrangements.
- l) Receive and consider summary Internal Audit reviews and reports, including reports of agreed recommendations not implemented within reasonable timescales, and seek assurance that action has been taken where necessary.
- m) Monitor the effective development and operation of risk management and corporate governance in the Council, and seek assurance that action is being taken on issues identified by auditors and inspectors.
- n) Ensure that the Council achieves value for money and that satisfactory arrangements are in place to promote economy, efficiency and effectiveness.
- o) Ensure there are effective relationships between Members, Internal and External Auditors, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
- p) Approve appointment of the external auditor and the external audit plan.
- q) Receive and consider the reports of external audit and inspection agencies.
- r) Review the external auditor's opinion and reports, and monitor management action in response to the issues raised by external audit.
- s) Receive and consider reports on the effectiveness of the monitoring and management of arrangements with external suppliers.

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- t) Consider the effectiveness of the Authority's counter fraud and corruption arrangements (including 'Whistleblowing' and RIPA) and promote an anti-fraud culture relating to all the activities of the Council.
- u) Approve the Annual Governance Statement on behalf of the Council, ensuring it properly reflects the risk, control and governance environment and any actions required to improve it.
- v) Approve the Statement of Accounts.
- w) Oversee corporate health and safety issues in relation to the Council's activities.
- x) Approve the Risk Management Policy and receive regular reports on risk management and the quarterly corporate risk register.

2. OPERATING PROTOCOL

- 1 The Committee has a key role to provide independent assurance to the Council on the adequacy of the risk management framework and the associated internal control environment and the extent to which the Council is complying with good corporate governance principles. The Committee independently scrutinises the Authority's financial and non-financial performance to the extent that it affects the Authority's exposure to risk and weakens the control environment, and will oversee the financial reporting process and scrutinise the internal and external audit arrangements and review the overall performance.
- 2 The Committee will meet at least four times a year and in accordance with arrangements determined by the Council. It will meet separately with the External Auditor as necessary.
- 3 Meetings will normally be attended by the Director of Resources (S151 Officer) and representative(s) from the Council's Internal Audit provider and External Auditors when dealing with audit and risk management matters. Other Members, the Head of Paid Service, Monitoring Officer and Directors will also have the right to attend.
- 4 The Committee may require any officer to attend its meetings to provide pertinent information and advice in relation to any internal or external audit report.
- 5 In all other respects and as appropriate, the Council and Committee Procedure Rules will apply.

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PART 3 – RESPONSIBILITY AND FUNCTIONS
TERMS OF REFERENCE – DISTRICT PLANNING COMMITTEE

CONTENTS

- 1. Terms of Reference**
- 2. Operating Protocol**

COMMITTEE	DISTRICT PLANNING
MEMBERSHIP	All 31 Members of the Council
LEAD OFFICER	Director of Service Delivery
OFFICERS / UNITS PRIMARILY REPORTING	None

1. TERMS OF REFERENCE

The determination of the following planning applications and related matters:

- a) Referred by, or otherwise beyond the remit of the Area Planning Committees, including reference by the Director, under Provisos 1 - 3 of the terms of reference of the Area Planning Committees;
- b) Where the site area involves more than one Area Committee;
- c) Where the proposal involves development of strategic interest as follows:
 - Any development proposal which directly relates to one of the Garden Suburbs or Strategic Allocations (sites S2(a) – (k)) included within Policy S2 the Local Development Plan (LDP).
 - Any residential or mixed-use development proposal which includes provision for 75 dwellings or more.
 - Any large-scale renewable and low carbon energy projects, including:
 - Any wind energy proposals whose output capacity is 1Mw or more or which proposes three or more turbines of 30m or more.
 - Any Solar energy proposals whose output capacity is 1Mw or more or which proposes 4,000 or more solar panels.
 - Energy from Waste Scheme of 1MW capacity or more.
 - Any development proposal which directly relates to identified *new* employment sites allocated by Policy E1 of the LDP.
 - Any retail development of 1,000 square meters or more which is proposed to be beyond existing town centres as defined by Policy E2 of the LDP.
 - Any proposals for a new Community Hospital or similar healthcare facility to serve the needs of the District as defined by Policy I2 of the LDP.

For this purpose “applications for development of strategic interest” shall include all applications establishing or varying the principle of development but shall not include

APPENDIX A
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variations to conditions or the approval of reserved matters unless in accordance with a decision of the Council or at the discretion of the Director of Strategy, Performance and Governance. In all other respects, the existing provisions of the Scheme of Delegation will apply.

- d) Where, at the discretion of the Director of Strategy, Performance and Governance in consultation with the Chairman of this Committee and the relevant Area Planning Committee the proposal is considered to be of particular strategic importance and interest to the District.

2. OPERATING PROTOCOL

- 1 The Committee will meet in accordance with arrangements determined by the Council.
- 2 In all other respects and as appropriate, the Council and Committee Procedure Rules will apply, in particular Procedure Rule 13(1) which prevents a member of a Planning Committee from voting in connection with the determination of a planning application or related matter unless he/she has not undergone fundamental induction training.

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PART 3 – RESPONSIBILITY AND FUNCTIONS
TERMS OF REFERENCE – LICENSING COMMITTEE

CONTENTS

- 1. Terms of Reference**
- 2. Operating Protocol**

COMMITTEE	LICENSING
MEMBERSHIP	10 Members of the Council appointed annually, and politically balanced
LEAD OFFICER	Director of Service Delivery
OFFICERS / UNITS PRIMARILY REPORTING	Licensing Officers, Legal Specialists
SUB-COMMITTEE	Licensing Sub-Committee

1. TERMS OF REFERENCE

1. The Committee will recommend to the Council on the approval and adoption of policies under the Licensing Act 2003 and the Gambling Act 2004, and the making of any regulations for the performance of licensing functions.
2. The Committee will also recommend to the Council on fees for all the Council's licensing functions (including fees for Hackney Carriage and Private Hire Licences and the determination of objections to them).
3. The Committee will (save as set out above) exercise all the Council's licensing and registration functions including relating to:
 - a) licensing under the Licensing Act 2003.
 - b) gambling or gaming under the Gaming Act 1968 and the Gambling Act 2005.
 - c) the control of sex establishments pursuant to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009.
 - d) licensing under the Scrap Metal Dealers Act 2013.
 - e) hackney carriage drivers and vehicles, private hire drivers, vehicle and operators.
 - f) street and house to house collections.
 - g) registration of society lotteries.
 - h) temporary road closures under the Town Police Clauses Act 1847.
 - i) decisions upon applications under Schedule 1 part B of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and other licensing and regulatory matters not falling within the remit of any other Committee Licensing Sub-Committee or under the Scheme of Delegation to Officers.

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save for those matters falling within the remit of the Licensing Sub-Committee or otherwise provided for in the Scheme of Delegation to Officers.

4. The Committee will consider the making of byelaws and regulations for land and premises under the Council's control, including the River Blackwater, for recommendation to the Council.

2. OPERATING PROTOCOL

- 1 The Committee will meet in accordance with arrangements determined by the Council.
- 2 All members of the Committee shall have received appropriate and regular training on licensing matters.
- 3 All members of the Committee shall have received appropriate and regular training on licensing matters.

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PART 3 – RESPONSIBILITY AND FUNCTIONS
TERMS OF REFERENCE – LICENSING SUB-COMMITTEE

CONTENTS

- 1. Terms of Reference**
Licensing Act 2003
Gambling Act 2005
Other Licensing Functions
- 2. Operating Protocol**

COMMITTEE	LICENSING SUB-COMMITTEE
MEMBERSHIP	4 Members of the Licensing Committee (see Operating Protocol 2 below)
LEAD OFFICER	Licensing Officer(s)/Lead Legal Specialist
COMMITTEE REPORTING	Licensing Committee

1. TERMS OF REFERENCE

Licensing Act 2003

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.

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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 applications for renewals of Personal Licences where the Chief Officer of Police gives an Objection Notice that granting an application would undermine the crime prevention objective.
12. 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 or renewal of a Personal Licence.
13. 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).

Gambling Act 2005

14. Determination of applications for the following matters where objections have been received and not withdrawn:
 - (a) premises licences;
 - (b) variation to licences;
 - (c) transfers of licences;
 - (d) provisional statements;
 - (e) club gaming / club machine permits.
15. Determination of applications or decisions on the following matters:
 - (f) review of premises licences;
 - (g) cancellation of club gaming / club machine permits;
 - (h) giving a counter notice to a temporary use notice.

Other Licensing Functions

16. The determination of applications for sex establishments where an objection has been received to the grant, renewal or transfer of the licence.
17. The determination of applications for Hackney Carriage and Private Hire Drivers' Licences where the applicant has unspent convictions or endorsements exceeding six points accrued on his/her Driving Licence or where the applicant is aggrieved at a decision to refuse the grant of a Drivers Licence on medical grounds.
18. The determination of applications for Charitable Collections (Street and House to House Collections), the Registration of Society Lotteries and Temporary Road Closures (for special events) where an objection has been received to the grant of a licence, permit or registration.

Terms of Reference – Licensing Sub-Committee

APPENDIX A
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19. To determine licence applications under the Scrap Metal Dealer Act 2013 where the Officers acting under delegated powers are minded to refuse the application and representations have been received.
20. To revoke or vary licence applications under the Scrap Metal Dealer Act 2013 where representations have been received.

2. OPERATING PROTOCOL

- 1 The Sub-Committee will meet in accordance with arrangements determined by the Council.
- 2 The Sub-Committee will be constituted to deal with matters which require a hearing under the relevant legislation. The membership of each Licensing Sub-Committee meeting comprises of four Members drawn from the membership of the Licensing Committee. A quorum shall be three.
- 3 All members of the Committee shall have received appropriate and regular training on licensing matters.
- 4 In all other respects and as appropriate, the Council and Committee Procedure Rules will apply.

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PART 3 – RESPONSIBILITY AND FUNCTIONS
TERMS OF REFERENCE – APPOINTMENTS BOARD

CONTENTS

- 1. Terms of Reference**
- 2. Operating Protocol**

COMMITTEE	APPOINTMENTS BOARD
MEMBERSHIP	Leader of the Council (or Deputy), Opposition Leader (or Deputy), Chairmen (or Vice-Chairmen) of the Strategy and Resources and the Performance, Governance and Audit Committees, plus two other named Members appointed by the Council (political balance provisions shall apply).
LEAD OFFICER	Head of Paid Service
OFFICERS / UNITS PRIMARILY REPORTING	Head of Paid Service / Corporate Directors
SUB-COMMITTEE	None

1. TERMS OF REFERENCE

- 1 The appointment of the following:
 - (a) Head of Paid Service;
 - (b) Section 151 Officer (Chief Financial Officer);
 - (c) Monitoring Officer;
 - (d) Directors;
- 2 To consider and report to the Council on appropriate levels of pay for the Director posts.

2. OPERATING PROTOCOL

- 1 The Board will meet in accordance with arrangements determined by the Council and these are described in Article 6 of this Constitution.
- 2 The Board shall be advised by the Head of Paid Service or a Director as appropriate and by a suitably experienced Human Resources Officer provided they did not prepare the report under consideration.
- 3 In the event that the Board needs to make a decision about the appointment of Directors within its terms of reference, and that conflicting advice has been given to

Terms of Reference – Appointments Board

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the Board by the in-house Professional teams, Board should seek independent advice at the earliest opportunity to avoid any undue delays in the appointment process.

- 4 In all other respects and as appropriate, the Council and Committee Procedure Rules will apply.

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TERMS OF REFERENCE – AREA PLANNING COMMITTEE

CONTENTS

1. Terms of Reference

To exercise on behalf of the Council the following functions:

- (A) The making of decisions or representations on planning and other applications falling to be considered by the District Council as a Local Planning Authority -
- (B) The making of decisions on enforcement and related planning control matters falling to be considered by the District Council as Local Planning Authority, save in those cases where such decisions are delegated to the Director of Strategy, Performance and Governance:

Provisos:

2. Operating Protocol

ANNEXE A

COMMITTEE	AREA PLANNING
MEMBERSHIP	Area-based – see below
LEAD OFFICER	Director of Service Delivery
OFFICERS / UNITS PRIMARILY REPORTING	Lead Specialist - Place
SUB-COMMITTEE	None

There are three Area Planning Committees whose memberships comprise the Ward Members for the following Planning areas of the Maldon District:

- **North-Western:**
Great Totham, Purleigh, Tollesbury, Tolleshunt D'Arcy, Wickham Bishops and Woodham Wards
- **Central:**
Heybridge East, Heybridge West, Maldon North, Maldon South, Maldon East and Maldon West Wards
- **South-Eastern:**
Althorne, Burnham-on Crouch North, Burnham-on-Crouch South, Mayland, Southminster and Tillingham Wards

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1. TERMS OF REFERENCE

To exercise on behalf of the Council the following functions:

- (A) The making of decisions or representations on planning and other applications falling to be considered by the District Council as a Local Planning Authority -**
1. For residential development where the number of dwellings is nine or more, or where the number of dwellings is not given, the application site has an area of 0.2 hectares or more.
 2. For all other development where the floor space to be built, or a change of use of a building is proposed for 1,000 sq. metres or more.
 3. Where a Ward Member requests that an application in his / her Ward is referred to the Area Committee for determination in accordance with **ANNEXE A**.
 4. Where proposals which, in the opinion of the Director of Strategy, Performance and Governance in consultation with the Chairman of the appropriate Area Committee or the Chairman of the District Planning Committee are of significant public interest, would have a significant impact on the environment, or should otherwise be referred to Members.
 5. Where proposals have been advertised as departures under the Town and Country Planning (Development Management Procedure) Order 2010 and where the Officers' recommendation is that permission should be granted. Except where the principle of the development has already been approved through an extant planning permission.
 6. Where proposals require the submission of or are accompanied by an environmental statement in accordance with the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988.
 7. Where proposals require a planning obligation, or involve the variation of a planning obligation, under Section 106 of the Town and Country Planning Act 1990 to secure the payment of monies to the Council.
 8. Where an application has been resubmitted following refusal by an Area Committee contrary to Officers recommendation.
 9. Applications submitted by Members and Officers of the Council. This includes:
 - Spouses and Partners of a Member or Officer;
 - Where it is clear that an application has been submitted on behalf of a Member or Officer, e.g. by an agent or other immediate family member;
 - Where it is clear from the application and any subsequent discussion that a Member or Officer has a close association with the applicant such as might prejudice judgement of the public interest;
 - In the interests of openness and transparency, the Director of Strategy, Performance and Governance in consultation with the Monitoring Officer shall have discretion in the matter of referring an application to a committee instead of determining it under delegated powers.

APPENDIX A
PART 3 – RESPONSIBILITY AND FUNCTIONS

10. Applications in respect of the Council's own development proposals or development on Council land.

(B) The making of decisions on enforcement and related planning control matters falling to be considered by the District Council as Local Planning Authority, save in those cases where such decisions are delegated to the Director of Strategy, Performance and Governance:

1. To serve a Stop Notice under Section 183 of the Town and Country Planning Act 1990.
2. To seek injunctions under Section 187B or to commence any actions under Sections 94 (completion notices), 97 (revocation and modification orders) and 102 (discontinuance orders) of the 1990 Act.
3. To make and confirm directions under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995, including the consideration of any representations received.
4. To make and confirm Orders involving public rights of way including the consideration of any representations received.
5. The making and confirmation of Tree Preservation Orders, and the consideration of any representations or objections received.

Provisos:

1. If any Area Planning Committee considers that a matter before it should be considered by either the District Planning Committee or the Council it may refer the matter to that Committee or the Council for determination save for those matters on which they are required to report to the Council.
2. The Director of Strategy, Performance and Governance has the discretion to refer to the District Planning Committee applications where a major policy decision is involved. In assessing whether a major policy decision is to be made the Director of Strategy, Performance and Governance shall have regard to the scale of development, whether it involves a major departure from policy and whether the application is the subject of widespread public interest.
3. Proposals requiring reference to the Secretary of State for Transport Local Government and the Regions under the terms of the direction at Annex 1 of the Environment Circular 07/99 shall be referred to the District Planning Committee for determination.
4. Save for those cases described in 5 below in the event of a planning or related application falling to be determined by an Area Planning Committee but, due to the application site area, would involve more than one Committee, the following procedure shall apply:
 - (a) The application will be scheduled for determination by the District Planning Committee;

Terms of Reference – Area Planning Committees

APPENDIX A
PART 3 – RESPONSIBILITY AND FUNCTIONS

- (b) In order to avoid undue delay in determination of the application a special meeting of the District Planning Committee will be arranged.
5. Meetings of the District Planning Committee will be convened and held for the sole purpose of considering and determining all applications for development of strategic interest as follows:

Development of Strategic Interest:

- Any development proposal which directly relates to one of the Garden Suburbs or Strategic Allocations (sites S2(a) – (k)) included within Policy S2 the Local Development Plan (LDP).
- Any residential or mixed-use development proposal which includes provision for 75 dwellings or more.
- Any large-scale renewable and low carbon energy projects, including:
 - Any wind energy proposals whose output capacity is 1Mw or more or which proposes three or more turbines of 30m or more.
 - Any Solar energy proposals whose output capacity is 1Mw or more or which proposes 4,000 or more solar panels.
 - Energy from Waste Scheme of 1MW capacity or more.
- Any development proposal which directly relates to identified *new* employment sites allocated by Policy E1 of the LDP.
- Any retail development of 1,000 square meters or more which is proposed to be beyond existing town centres as defined by Policy E2 of the LDP.
- Any proposals for a new Community Hospital or similar healthcare facility to serve the needs of the District as defined by Policy I2 of the LDP.

For the purpose of this proviso 5 “applications for development of strategic interest” shall include all applications establishing or varying the principle of development but shall not include variations to conditions or the approval of reserved matters unless in accordance with a decision of the Council or at the discretion of the Director of Strategy, Performance and Governance. In all other respects, the existing provisions of the Scheme of Delegation will apply.

6. A development proposal not falling within the categories set out in paragraph 5 above may also be referred to a meeting of District Planning Committee at the discretion of the Director of Strategy, Performance and Governance in consultation with the Chairman of the District Planning Committee and the relevant Area Planning Committee where the proposal is considered to be of particular strategic importance and interest to the District.

Terms of Reference – Area Planning Committees

PART 3 – RESPONSIBILITY AND FUNCTIONS

2. OPERATING PROTOCOL

- 1 The Committee will meet in accordance with arrangements determined by the Council.
- 2 In all other respects and as appropriate, the Council and Committee Procedure Rules will apply, in particular Procedure Rule 13(1) which prevents a member of a Planning Committee from voting in connection with the determination of a planning application or related matter unless he/she has not undergone fundamental induction training.

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ANNEXE A

Determination of Planning Applications – Member Call-In

- (i) The effect of this facility is to enable a Member to request that an application is referred to an Area Planning Committee for determination instead of being determined under powers delegated to the Director of Strategy, Performance and Governance.
- (ii) A Member may ‘call in’ an application from their Ward or another Ward within the following areas:

Central Area Planning Committee:

Call-in area 1 – Maldon North, South, East, West Wards

Call-in area 2 – Heybridge East and West Wards

South Eastern Area Planning Committee:

Call-in area 1 – Burnham-on-Crouch North and South Wards

Call-in area 2 – Althorne, Mayland, Southminster and Tillingham Wards

North Western Area Planning Committee:

Call-in area 1 – Tollesbury, Tolleshunt D’Arcy, Great Totham Wards

Call-in area 2 – Purleigh, Wickham Bishops and Woodham Wards

- (iii) Requests must be made in writing to the dedicated email address – and within 28 days of the date an application appears on a published Weekly List produced by Planning Services. When an application is amended, and the parish or town council is re-consulted, requests can be made in writing to the dedicated email address provided it is within the consultation period provided to the parish or town Council.
- (iv) A Member must provide a reason based on planning policy to support a call-in request.
- (v) A Member is under no obligation to invoke this provision on the basis of any public representation or request he or she may have received, including town or parish council, but may wish to take this into consideration, as he or she may also wish to do when reviewing the request as set out below.
- (vi) Where a Member’s request is the only reason for an application being referred to the Area Committee, the Director of Strategy, Performance and Governance will notify the Member of his recommendation on the application following which the Member may withdraw his or her request.
- (vii) Due to the limited time available all responses to Certificates of Lawful Use for Proposed Development and prior notifications, including those in relation to agricultural buildings, telecommunications, hedgerows, trees in conservation areas and demolition are delegated to the Director of Strategy, Performance and Governance unless he considers that they should be referred to the appropriate Area Planning Committee, time permitting.

APPENDIX A
PART 3 – RESPONSIBILITY AND FUNCTIONS
TERMS OF REFERENCE – INVESTIGATING AND DISCIPLINARY
COMMITTEE

CONTENTS

- 1. Terms of Reference**
- 2. Operating Protocol**

COMMITTEE	INVESTIGATING AND DISCIPLINARY
MEMBERSHIP	Five Members of the Council appointed annually and politically balanced
LEAD OFFICER	Head of Paid Service / Monitoring Officer / Director as appropriate
OFFICERS / UNITS PRIMARILY REPORTING	As above
SUB-COMMITTEE	None

1. TERMS OF REFERENCE

1. Consider any allegation of misconduct, capability or breakdown of trust against the Head of Paid Service, the Section 151 (Chief Financial Officer), the Monitoring Officer, or a Director in a non-statutory role, and to suspend (under the Officer Employment Procedure Rules) the Officer concerned for the purpose of investigating the allegation.
2. Authorise an investigation in relation to matters referred to in paragraph 1 above in accordance with the Council's statutory obligations.
3. Decide whether the matter can be dealt with by informal resolution or other appropriate procedures or that there is no case to answer.
4. Report to the Council on any issues, including disciplinary action, arising from steps taken above, in accordance with the Council's statutory obligations.
5. Hear and decide appeals arising from Human Resources (HR) Policies.

NOTE:

- 1 See role of Investigating and Disciplinary Panel in relation to dismissal.**
- 2 The exercise of the Committee's duties under paragraph 5 above will have regard to relevant HR Policies / Procedures and related employment advice and is not subject to the Operating Protocol set out below.**

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PART 3 – RESPONSIBILITY AND FUNCTIONS

2. OPERATING PROTOCOL

- 1 The Committee will meet as and when required, subject to compliance with Access to Information requirements.
- 2 The Committee shall be advised by the Head of Paid Service, Monitoring Officer or a Director as appropriate and suitably experienced Human Resources Officer, provided that they did not prepare the report to the Committee.
- 3 Allegations or complaints falling within the remit of the Committee will normally be sent or passed to the Chairman of the Committee who will ensure circulation to other Members of the Committee as required. Allegations or complaints may in the first instance be received by the Leader of the Council or one of the Council's Statutory Officers.
- 4 It is for the Committee expeditiously to undertake an initial, but not detailed, investigation having regard to the facts and, if necessary, to seek further information/clarification from the complainant including an indication of how the matter might be resolved.
- 5 As soon as practicable the Committee will inform the Officer the subject of the allegation, seek a response, and provide an opportunity to appear in person and call witnesses and be represented.
- 6 It is for the Committee to consider and decide whether:
 - a. The matter requires any further formal action, or
 - b. The matter is suitable for informal resolution or other action/procedure and therefore resolved, or
 - c. The matter should be the subject of a formal investigation and appoint a Designated Independent Person (DIP),and advise the Officer accordingly.
- 7 An allegation or complaint must be considered by the Committee, meetings of which are subject to the normal rules around notice, summons and publication of the agenda. For the most part, it is likely that the business of the Committee will be conducted in private session due to the confidentiality and sensitivity of the subject matter.
- 8 In the light of the above, and the potential for further consideration, investigation, and report to the Council, and also potential conflicts of interest, arrangements for meetings of the Committee need to remain flexible with the appointment of substitutes. The fairness and integrity of the process must be maintained at all times.
- 9 It is essential that the Committee's work is confined to the Members of the Committee only at the time, and circulation of papers will be restricted accordingly. Notwithstanding Procedure Rule 19 and the general acceptance of the practice which enables Members to attend meetings of other Committees, private sessions of meetings of this Committee should proceed only with the appointed Members and required support Officers present (e.g. Human Resources, Committee / Governance). A quorum shall be three Members.

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PART 3 – RESPONSIBILITY AND FUNCTIONS

- 10 The appointment of a DIP must be agreed between the Committee and the Officer the subject of the complaint. In the event of failure to agree, the Council will ask the Secretary of State to make an appointment. It is essential that this stage is progressed expeditiously particularly if the Officer has been suspended, as there is a two month time limit on suspension.
 - 11 The Committee will provide terms of reference to the appointed DIP, and may consider and recommend to the Council on appropriate remuneration. The timescale for an investigation should be agreed between the Committee and the Officer in question.
 - 12 The DIP has the power to direct the Council to terminate any suspension of the Officer, to extend the suspension beyond the two month limit, or to vary the terms of the suspension.
 - 13 The DIP reports to the Council, but in reality, this will be Committee. The Officer in question will be given a further opportunity to state his / her case before a decision is made. The Committee is required to report to the Council on any issues arising from the process it has operated, including disciplinary action, in accordance with the Council's statutory obligations. The Committee will notify the Officer and keep him / her advised at all relevant stages.
 - 14 In all other respects and as appropriate, the Council and Committee Procedure Rules will apply.
- NB: The Council has agreed to adopt in its entirety the procedures laid down within the Joint Negotiating Committee for Local Authority Chief Executives model for use in connection with the exercise by this Committee of its remit in relation to the posts of Head of Paid Service, Section 151 Officer or Monitoring Officer.

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PART 3 – RESPONSIBILITY AND FUNCTIONS
TERMS OF REFERENCE – INVESTIGATING AND DISCIPLINARY
PANEL

CONTENTS

- 1. Terms of Reference**
- 2. Operating Protocol**

COMMITTEE	INVESTIGATING AND DISCIPLINARY PANEL
MEMBERSHIP	Minimum of five Members of the Council – politically balanced – of which three have not served on the initial investigation carried out by the Investigating and Disciplinary Committee. In addition, two or three Independent Persons appointed by the Council to assist the Joint Standards Committee under the Localism Act 2011.
LEAD OFFICER	Monitoring Officer / Director as appropriate.
OFFICERS / UNITS PRIMARILY REPORTING	As above
SUB-COMMITTEE	None

1. TERMS OF REFERENCE

1. To receive and consider references from the Investigating and Disciplinary Committee on proposed disciplinary action culminating in dismissal against the Head of Paid Service, Section 151 Officer (Chief Financial Officer), the Monitoring Officer, or a Director in a non-statutory role.
2. To recommend to the Council on any proposed course of action involving or culminating in dismissal.

2. OPERATING PROTOCOL

- 1 The Panel will meet as and when required, meetings being convened by or on behalf of the Monitoring Officer with 20 days notice and subject to compliance with Access to Information requirements.
- 2 In all other respects and as appropriate, the Council and Committee Procedure Rules will apply.

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APPENDIX A
PART 3 – RESPONSIBILITY AND FUNCTIONS
TERMS OF REFERENCE – JOINT STANDARDS COMMITTEE

CONTENTS

- 1. Terms of Reference**
- 2. Operating Protocol**

COMMITTEE	JOINT STANDARDS
MEMBERSHIP	5 Members of the Council (politically balanced) appointed annually plus 2 representatives of Parish/Town Councils nominated by the Essex Association of Local Councils
LEAD OFFICER	Monitoring Officer
OFFICERS / UNITS PRIMARILY REPORTING	Monitoring Officer
SUB-COMMITTEE	None

1. TERMS OF REFERENCE

- 1) Promoting and maintaining high standards of conduct by Members and co-opted members (with or without voting rights) of the District Council and also Parish / Town (Local) Councils, and considering relevant issues to enable the Committee to fulfil this role;
- 2) Advising and assisting Councillors to maintain high standards of conduct and to make recommendation to Local Councils on improving standards or actions following a finding of a failure by a Local Councillor to comply with the Code of Conduct;
- 3) Advising the Council and Local Councils on the adoption or revision of the applicable Member Code of Conduct;
- 4) Receiving and considering referrals from the Monitoring Officer into allegations of misconduct;
- 5) Receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Member Code of Conduct;
- 6) Advising, training or arranging to train Councillors and co-opted Members on matters relating to the Member Code of Conduct;
- 7) Assisting Councillors and co-opted Members to observe the Member Code of Conduct;
- 8) Conducting hearings and determining complaints as necessary about District and Local Councillors and co-opted Members where an investigation is undertaken to consider whether an allegation that there has been a breach of the Member Code of Conduct has been undertaken;

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PART 3 – RESPONSIBILITY AND FUNCTIONS

- 9) Following a hearing the Joint Standards Committee is able to make one of the following findings:
- (a) That the Member has not failed to comply with the Member Code of Conduct and no further action needs to be taken in respect of the matters considered at the hearing; or
 - (b) That the Member has failed to comply with the Member Code of Conduct but that no further action needs to be taken in respect of the matters considered at the hearing; or
 - (c) That the Member **has failed** to comply with the Member Code of Conduct and that a sanction and/or an informal resolution should be imposed in respect of the matters considered at the hearing;
- 10) After making a finding at a hearing the Committee shall, through the Monitoring Officer, provide written notice of its findings immediately. Detailed reasons for its decision shall be given to the subject Member and the complainant in the form of a decision notice within 10 days of the hearing;
- 11) Advising the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council;
- 12) Maintaining oversight of the Council's arrangements for dealing with complaints against Councillors;
- 13) Informing the Council and the Head of Paid Service of relevant issues arising from the determination of Code of Conduct complaints;
- 14) Developing and adopting:
- (a) Arrangements for dealing with complaints against councillors and publicising the arrangements;
 - (b) Such other provisions and procedures as may be required;
- 15) The Committee may impose any action or combination of actions available to it, or impose any informal resolution or combination of informal resolutions in accordance with the approved Complaints Procedure. The following list is an indication of the actions or combination of actions available:
- Reporting its findings to Council (or to the Local Council) for information;
 - Recommending to Council that the Member concerned be issued with a formal censure or reprimand (or to the Local Council);
 - Recommending to the Member's Group Leader (or in the case of ungrouped Members, recommend to the Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - Recommending to the Leader of the Council that the Member be removed from, or removed from any particular posts or responsibilities they hold;
 - Instructing the Monitoring Officer to (or recommend that the Local Council) arrange training for the member;
 - Removing (or recommend to the Local Council that the Member be removed) from all outside appointments to which he/she has been appointed or nominated by the authority (or by the Local Council);

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PART 3 – RESPONSIBILITY AND FUNCTIONS

- Withdrawing (or recommend to the Local Council that it withdraws) facilities provided to the Member by the Council, such as a computer, website and/or email and internet access; or
 - Excluding (or recommend that the Local Council exclude) the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 16) Granting dispensations to elected and co-opted Members in respect of Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests.
- 17) Determining arrangements for the remuneration of the Independent Person(s).
- 18) Recommending to the Council on the appointment of the Independent Person(s).

2. OPERATING PROTOCOL

- 1 The Committee will meet in accordance with arrangements determined by the Council and these are described in Article 6 of this Constitution.
- 2 When dealing with matters deemed to be private / confidential where the public is to be excluded from the meeting, it is essential that the Committee's work is confined to the Members of the Committee only at the time, and circulation of papers will be restricted accordingly. Notwithstanding Procedure Rule 19 and the general acceptance of the practice which enables Members to attend meetings of other Committees, private sessions of meetings of this Committee should proceed only with the appointed Members, the Independent Person and required support of Officers present.
- 3 In all other respects and as appropriate, the Council and Committee Procedure Rules will apply.

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PART 3 – RESPONSIBILITY AND FUNCTIONS
TERMS OF REFERENCE – OVERVIEW AND SCRUTINY
COMMITTEE

CONTENTS

- 1. Terms of Reference**
- 2. Operating Protocol**

COMMITTEE	OVERVIEW AND SCRUTINY
MEMBERSHIP	8 Members of the Council appointed annually, excluding Chairman of Council, Leader and Deputy Leader and Chairmen and Vice-Chairmen of Strategy and Resources and Performance, Governance and Audit Committees. Political balance provisions apply.
LEAD OFFICER	As designated or appointed.
OFFICERS / UNITS PRIMARILY REPORTING	Monitoring Officer
SUB-COMMITTEE	Directors and Statutory Officers

The Committee will also act as the Council's Crime and Disorder Committee.

1. TERMS OF REFERENCE

- 1) Prepare and agree a work programme annually, taking account of items put forward by Members and the Corporate Leadership Team, ensuring that those items that relate to the Council's functions fall, primarily, within the Council's Priorities.
- 2) Co-ordinate and monitor the Committee's work programme.
- 3) Recommend to the Council the detailed arrangements for the discharge of the overview and scrutiny function.
- 4) Prepare and present an Annual Report to Council.
- 5) Review experience, identify good practice and develop learning in relation to the overview and scrutiny role.
- 6) Have a strong and effective role in corporate policy review, including proposing policy options to the Strategy and Resources Committee, Corporate Directors, or exceptionally to the Council Meeting.
- 7) Receive reports and other evidence from public bodies, organisations and individuals which the Committee or a working group considers relevant to its work.
- 8) Take a lead on specific improvement objectives assigned to it by the Council.

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PART 3 – RESPONSIBILITY AND FUNCTIONS

- 9) Review or scrutinise decisions made, or other action taken in connection with the discharge of any functions of the Council and to present reports and/or recommendations either with respect to the discharge of any functions of the Council or on matters which affect the Council's area or the inhabitants of the area, including the draft budget, as follows:
- to the Council or,
 - to any Committee or Sub-Committee of the Council or
 - to any joint Committee on which the Council is represented or any Sub-Committee of such a Committee.
- 10) When acting as the Crime and Disorder Committee, the undertaking of the Council's crime and disorder functions as follows by way of the review or scrutiny of decisions made, or other action taken, by the responsible authorities (within the meaning of section 5 of the Crime and Disorder Act 1998) in connection with crime and disorder functions.
- 11) Consideration of petitions in accordance with the Council's Petition Scheme, in particular requests for review of action taken or responses to petitions, and report on the outcome to either the Council or the appropriate Committee.

2. OPERATING PROTOCOL

- 1 The Committee will meet in accordance with arrangements determined by the Council.
- 2 Members of the Committee must have early induction training on the Overview and Scrutiny committee role.
- 3 To conduct as much of its proceedings as possible in public.
- 4 To appoint the chair and members of working groups to undertake tasks within the work programme, where appropriate; to establish the terms of reference for working groups, together with reporting arrangements; and co-ordinate and monitor the work of those working groups.
- 5 In all other respects and as appropriate, the Council and Committee Procedure Rules will apply.

PART 3 – RESPONSIBILITY AND FUNCTIONS

SCHEME OF DELEGATION (GENERAL PROVISIONS)

CONTENTS

- 1. Principles of Delegation**
- 2. Statutory Officer and Other Designations**
 - Monitoring Officer
 - Head of Paid Service
 - Section 151 Officer (Chief Financial Officer)
 - Registration of Electors
 - Returning Officer at Local Government Elections
 - "Proper Officers"
 - Delegation to Officers – General (continued)

1. PRINCIPLES OF DELEGATION

- 1.1 Section 101 of the Local Government Act 1972 provides that:
 - A Council may delegate its powers (except those incapable of delegation) to a committee or an Officer.
 - A Committee may delegate its powers to a Sub-Committee.
 - A Committee may delegate its powers to an Officer.
 - Powers which have been delegated may be exercised by the delegating body.
- 1.2 Any delegation to a Committee or a Director/Senior Officer shall be exercised in compliance with the Council's Constitution, any other policies or conditions imposed by the Council and with the law.
- 1.3 In making any decision regard shall be had to the Council's Corporate Plan and Themed Strategies, and also the principles of decision-making as set out in Article 11 of the Constitution.
- 1.4 Save in the cases of statutory appointments, a function delegated to a Director or other senior Officer shall be validly exercised if carried out on behalf of that Officer and in that Officer's name by staff authorised by him or her in writing for that purpose. Any Officer so authorised shall not extend that authorisation to another Officer. The exercise of a function in the name of a Director or other senior Officer will not be invalidated by the absence of that Officer at the time when the function was exercised.
- 1.5 In the absence of Director or other authorised Officer, or in the event of their inability to act in the exercise of a delegated power or function, another Director may exercise that power or function should the need arise.

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PART 3 – RESPONSIBILITY AND FUNCTIONS

2. STATUTORY OFFICER AND OTHER DESIGNATIONS

Monitoring Officer

1. Pursuant to Section 5 of the Local Government and Housing Act 1989, the person appointed by the Appointments Board (see Officer Employment Procedure Rules) shall be Monitoring Officer for the Maldon District Council.

Head of Paid Service

2. Pursuant to Section 4 of the Local Government and Housing Act 1989, the person appointed by the Appointments Board (see Officer Employment Procedure Rules) shall be the Head of Paid Service for the Maldon District Council.

Section 151 Officer (Chief Financial Officer)

3. Pursuant to Section 151 of the Local Government Act, 1972, the person appointed by the Appointments Board (see Officer Employment Procedure Rules) shall be the Section 151 Officer for the Maldon District Council.

Registration of Electors

4. Pursuant to Section 8 of the Representation of the People Act 1983, Mr Paul Dodson, Director of Strategy, Performance and Governance, shall be Registration Officer for the Maldon District.

Returning Officer at Local Government Elections

5. Pursuant to Section 35 of the Representation of the People Act 1983, Mr Paul Dodson, Director of Strategy, Performance and Governance, is Returning Officer for the election of Councillors of the Maldon District and of Councillors of parishes and communities within the Maldon District. Mr Dodson is also Returning Officer for the conduct of Parish Polls within the Maldon District.

"Proper Officers"

6. The Council has approved and adopted the appointment of the following officers as proper officers, as described in the following specified sections of the relevant Acts of Parliament or regulations. Proper Officer is defined for most legislation by s.270(3) Local Government Act 1972 as an officer appointed for that purpose by that body or for that area, as the case may be.

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The Local Government Act 1972		
Section of Act	Functions	Proper Officer
83(l) to (4)	Witness and receipt of declaration of acceptance of office	Programmes, Performance and Governance Manager
84	Receipt of declaration of resignation of office	Programmes, Performance and Governance Manager
88(2)	Convening of meeting of Council to fill casual vacancy in the office of Chairman	Programmes, Performance and Governance Manager
89(l)(b)	Receipt of notice of casual vacancy from two local government electors	Director of Resources
100 B(2)	Circulation of Reports and Agendas	Programmes, Performance and Governance Manager
100 B(7)(c)	Supply of Papers to the Press	Programmes, Performance and Governance Manager
100 C(2)	Summaries of Minutes	Programmes, Performance and Governance Manager
100 D(1)(a)	Compilation of lists of background papers	Programmes, Performance and Governance Manager
100 D(5)(a)	Identification of background papers	In joint reports a Director and in all other cases the Programmes, Performance and Governance Manager
100 F(2)	Papers not open to Members	Director of Strategy, Performance and Governance
115(2)	Receipt of money due from Officers	Director of Resources
117	Record of notices given by Officers of personal interests in contracts	Monitoring Officer
146(l)(a) & (b)	Declarations and certificates with regard to securities	Director of Resources

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The Local Government Act 1972		
Section of Act	Functions	Proper Officer
151	Responsibility for proper administration of the Council's financial affairs.	Person appointed by Appointments Board
191	Functions with respect to ordnance survey	Director of Service Delivery
215	Registrar of Local Land Charges	Director of Service Delivery
225(1)	Deposit of documents	Programmes, Performance and Governance Manager
229(5)	Certification of photographic copies of documents	Programmes, Performance and Governance Manager
234(1) & (2)	Authentication of documents	Programmes, Performance and Governance Manager
236(9)(i)	To send copies of byelaws for parish records	Lead Specialist - Legal
236(10)(ii)	To send copies of byelaws to the County Council	Lead Specialist - Legal
238	Certification of byelaws	Lead Specialist - Legal

Data Protection Act 1998		
Section of Act	Functions	Proper Officer
	Data Protection Officer	Senior Specialist - Legal

Local Government Finance Act 1988		
Section of Act	Functions	Proper Officer
S116	Notification to auditor of the date, time and place of a proposed meeting to consider a report under Section 114 and of any decision made at the meeting.	Director of Resources

Crime and Disorder Act 1998		
Section of Act	Functions	Proper Officer
	For all matters relating to the Act	Director of Service Delivery

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Local Government Act 2000		
Section of Act	Functions	Proper Officer
S81	Maintenance of Register of Interests of Members	Monitoring Officer

Localism Act 2011		
Section of Act	Functions	Proper Officer
S29	Maintenance of Register of Interests of Members	Monitoring Officer

Local Government and Housing Act 1989		
Section of Act	Functions	Proper Officer
S3A (Amended by Localism Act 2011)	Grant of exemptions from politically restricted posts.	Head of Paid Service
S4	Head of Paid Service	Person appointed by Appointments Board

The Openness of Local Government Bodies Regulations 2014		
Regulation	Functions	Proper Officer
9	Disclosure of confidential information	Director of Strategy, Performance and Governance

Public Health (Control of Disease) Act 1984 and related legislation		
Section	Functions	Proper Officer
48	Issue certificates relative to the removal of bodies to mortuaries or for immediate burial	Named Officers of the Health Protection Agency appointed by the Lead Specialist - Community

Food and Environmental Protection Act 1985		
Section	Functions	Proper Officer
	Enforcement and Investigating Officers	Lead Specialist – Community, and Senior Specialists – Community

- (i) In the event of any other notices being required to be served under any other Section of the Local Government Act 1972 or any other enactment, and not otherwise specified in

APPENDIX A
PART 3 – RESPONSIBILITY AND FUNCTIONS

the Council's Scheme of Delegation, the Director of Strategy, Performance and Governance is designated the "Proper Officer".

- (ii) The Programmes, Performance and Governance Manager is recognised as the Officer responsible for giving public notice of the time and place of meetings pursuant to Section 100 A(6)(a).
- (iii) The Programmes, Performance and Governance Manager in consultation with the "Proper Officer" as appropriate, is recognised as the officer responsible for provision of the Agendas and Reports for public inspection pursuant to Sections 100 B(1) and 100 E(1) of the Act.

Delegation to Officers – General (continued)

- 7. To renew Council membership of bodies or organisations, subject to the costs of any particular subscription renewal falling within the Council's estimates guideline figure.
- 8. The authorisation of directed surveillance under the provisions of the **Regulatory and Investigatory Powers Act 2000** to the undermentioned Officers:
 - Director of Resources (as Senior Responsible Officer);
 - Specialist Services Manager;
 - Monitoring Officer.
- 9. **Emergency Action** – Any Director is authorised to act in emergencies, and where time permits in consultation with the Leader of the Council and Chairman or Chairmen of appropriate Committee(s)
- 10. **Consultations** – A Director, in liaison with the relevant Lead Member (Committee Chairman or Leader of the Council), is authorised to respond to consultation documents where the period during which a response is required does not allow the matter to be reported to the relevant committee or where the consultation is of a predominantly technical nature.
- 11. **Legal Proceedings** - A Director in consultation with a Legal Advisor, Chairman of the relevant Committee (or Vice-Chairman in his or her absence) and Leader of the Council, be authorised to institute or defend legal proceedings on any criminal offence or civil proceedings not otherwise provided for in Officer delegation arrangements elsewhere in this document, subject to subsequent report to the next meeting of the relevant Committee. The exercise of this authorisation shall, for the avoidance of any doubt, include responding to legal representations on behalf of the other party, any directions of the Court, and the pursuance and settlement of disputes by means other than litigation.

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PART 3 – RESPONSIBILITY AND FUNCTIONS
SCHEME OF DELEGATION

CONTENTS

- 1. To the Director of Strategy, Performance and Governance**
Development Management
Enforcement of Planning Control
Environment and Conservation
Building Control
Others
Housing
Environmental Health and related licensing/regulatory matters
Assets of Community Value
Licensing
Corporate Projects
Staffing
- 2. To the Director of Resources**
Staffing
(As Electoral Registration Officer)
- 3. To the Head of Paid Service**
- 4. To the Director of Service Delivery**
Community and Leisure
Asset Management
Rivers Management
Others
Staffing
- 5. Licensing Act 2003**
Senior Specialist - Community:
Lead Specialist – Place, and the Senior Specialist – Community
Protection:-
- 6. Gambling Act 2005**
Senior Specialist – Community (Commercial):
- 7. Other Licensing Functions**
Senior Specialist – Community (Commercial) – Commercial:
To the Director of Strategy, Performance and Governance

APPENDIX A
PART 3 – RESPONSIBILITY AND FUNCTIONS

1. TO THE DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE

Development Management

All decisions or representations on planning and other applications (having taken into account views from Members of the public being contrary to the proposed decision or where the issues raised are not material in planning terms), responses to prior notifications and enforcement matters falling to be considered by the District Council as Local Planning Authority, save those to be made by the District Planning Committee or the Area Planning Committees, are delegated to the Director of Strategy, Performance and Governance. Such decisions shall include:

1. Applications for major or large scale development which the Director of Strategy, Performance and Governance is minded to recommend refusal on the basis of strong policy reasons or because the proposal is contrary to the development plan, subject to first consulting with the Chairman of the District Planning Committee as to the scope of the proposed reasons for refusal.
2. The determination of applications for minor alterations and additions to developments approved by a Planning Committee where there are no objections.
3. Where a planning application has been determined by a Committee, and unless otherwise required by the determining Committee, the approval or refusal of reserved matters and matters the subject of conditions such as materials, boundary treatments, landscaping etc.
4. In consultation with the Chairman of the relevant Area Planning Committee to respond to consultations on applications submitted to neighbouring authorities.
5. In consultation with the Leader of the Council, the Chairman of the Strategy and Resources Committee, and a Legal Advisor to commence proceedings to challenge appeal decisions on a point of law.
6. Applications where the site area exceeds 1 hectare in size, and this is the only reason the application is defined as a ‘major development’, which the Director of Strategy, Performance and Governance is minded to recommend approval on the basis the proposal is in accordance with the development plan and subject to the Director of Strategy, Performance and Governance first consulting with the Chairman of the Council or relevant Planning Committee (or the Vice Chairman in the Chairman’s absence) and the ward members.
7. Applications for major or large scale development which the Director of Strategy, Performance and Governance is minded to recommend approval on the basis the proposal is in accordance with the development plan and is made under Section 73 of the Town and Country Planning Act (1990) (as amended) only, subject to the Director of Strategy, Performance and Governance first consulting with the Chairman of the relevant Planning Committee (or the Vice Chairman in the Chairman’s absence) and the ward members.
8. In consultation with a legal advisor, the determination of requests for the variation of a Section 106 Planning Obligation provided that the approved principle of development

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is unaffected and that the variation does not affect the securing of the payment of monies to the Council.

9. In consultation with the Chairman of the relevant Planning Committee, to review the accuracy of agreed planning conditions due to the passage of time between the Committee decision and the issue of a decision notice consequent upon the completion of a Section 106 Planning Obligation.

Enforcement of Planning Control

10. In consultation with the Ward Member(s), the issue of Planning Enforcement Notices (Town and Country Planning Act 1990, Section 172) and Listed Building Enforcement Notices (Planning (Listed Building and Conservation Areas) Act 1990, Section 38), and the withdrawal or variation of such proceedings.
11. The issue of Planning Contravention Notices, and the hearing and consideration of representations arising from those notices.
12. The issue of Breach of Condition Notices and Temporary Stop Notices.
13. The issue of notices under Section 215 of The Town and Country Planning Act 1990 requiring the proper maintenance of land.
14. The issue of Remedial Notices (Part 8, Anti-Social Behaviour Act 2003 - High Hedges).
15. In consultation with a Legal Advisor, the institution of legal proceedings for failure to comply with:- Planning Contravention Notices, Enforcement and Stop Notices, Breach of Condition Notices, Notices under Section 215 of the Act, and Listed Building and Conservation Area Enforcement Notices, Temporary Stop Notices and Remedial Notices (High Hedges).
16. The removal or obliteration of posters and placards under Section 225 of the Town and Country Planning Act 1990.
17. On the grounds of urgency, and in consultation with the Chairman of the relevant Area Planning Committee wherever possible and a Legal Advisor, the issue of Stop Notices including, if not already authorised, any necessary enforcement notice; provided that these actions are reported to Members of the relevant Area Planning Committee.
18. In consultation with a Legal Advisor to institute legal proceedings for offences in relation to listed buildings, conservation areas, preserved trees, advertisements and hedgerows. Such proceedings to be reported to Members of the relevant Area Planning Committee

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Environment and Conservation

19. To take action on the following matters:
 - a) Dangerous trees - Section 23 and 24 Local Government (Miscellaneous Provisions) Act, 1976.
 - b) Tree Preservation Orders and Trees in Conservation Areas - Sections 198 – 201, 207 and 209 Town and Country Planning Act, 1990.
 - c) Building Preservation Notices and Urgent Repairs to Listed Buildings - Sections 3 and 54 Planning (Listed Buildings and Conservation Areas) Act 1990.
20. To respond to Hedgerow Removal Notices (under regulation 5) and to give notice requiring the replanting of hedgerows (regulation 8) under the Hedgerows Regulations 1997.
21. To approve grants for repairs to historic buildings and improvements in conservation areas falling within the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Local Authorities Historic Buildings Act 1962 and other environmental improvements.

Building Control

22. To determine all matters falling within the provisions of the Building Act 1984 and Building Regulations 2000, Local Government (Miscellaneous Provisions) Act 1976 and associated legislation excluding authorisation of legal action but including:
 - a) Determination of all applications.
 - b) Service of all statutory notices.
 - c) Authorisation of appropriate action in connection with dangerous structures under the Building Act 1984.
 - d) Determination of relaxation applications.
 - e) Authorisation of pre-approval design calculation checks in connection with D.o.E. Circular 39 of 1969.
 - f) Dispensation of post-approval inspections as set out in the Building Regulations Policy Statement.
23. To carry out the following functions under the Party Wall etc. Act 1996.
 - a) To nominate an appropriate officer of the Council as the Appointing Officer.
 - b) To keep a select list of Party Wall Surveyors for the purpose of the above Act.
24. To carry out the technical inspections and other relevant requirements in relation to Premises Licences.

Others

25. To carry out functions in respect of Ordnance Survey.

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26. To carry out all functions relating to street numbering under the requirements of the Town Improvements Clauses Act 1847 and Section 17 of The Public Health Act 1925.
27. In consultation with the Ward Member(s), the consideration of proposals for the naming of streets (Public Health Act 1952, Section 16).
28. To authorise officers and duly appoint contractors who are appropriately qualified and experienced to discharge the powers and duties delegated to the Director of Strategy, Performance and Governance.
29. To determine applications made under Regulations 5 and 5A of the Neighbourhood Planning (General) Regulations 2012 for the designation of an neighbourhood plan area where no representations objecting to the proposal have been received to a public consultation, or where public consultation is not required by regulation, and where the area to be designated is coterminous with or wholly within the area of a civil parish. Any such decisions made are to be reported to the Members of the relevant Area Planning Committee.
30. On the grounds of urgency, and in consultation with the Chairman of the relevant Area Planning Committee; the response on behalf of the Local Planning Authority for the Regulation 16 Consultation to the Neighbourhood Planning (General) Regulations 2012; provided that these actions are reported to Members of the relevant Area Planning Committee.

Housing

31. The determination of applications for Renovation Grants, Disabled Facilities Grants and Home Repair Assistance under the Housing Grants, Construction and Regeneration Act 1996.
32. The determination of Home Loss Payments and Disturbance Payments under the Land Compensation Act 1973 to occupiers displaced as a result of the making of a Closing Order or Demolition Order under the Housing Act 1985.
33. The determination of grants and signing notices under the Housing Grants, Construction and Regeneration Act 1996.
34. Housing the homeless including the determination of applications by persons to be considered as homeless under the Housing Act 1996.

Environmental Health and related licensing/regulatory matters

35. Enforce and execute the duties and functions of the Council (including authorising in consultation with a Legal Advisor the institution of legal proceedings, and also works in default where the works can be undertaken within existing budgets) under the following statutory provisions and Regulations made there under:-
 - (a) Animal Welfare Act 2006
 - (b) Anti-social Behaviour Crime and Policing Act 2014 (Part 7)
 - (c) Breeding and Sale of Dogs (Welfare) Act 1999

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- (d) Building Act 1984 (Part III)
- (e) Caravan Sites and Control of Development Act 1960 (as amended, and to include the varying of site licence conditions)
- (f) Clean Air Act 1993
- (g) Clean Neighbourhoods and Environment Act 2005
- (h) Control of Pollution Act 1974
- (i) Dangerous Dogs Act 1991
- (j) Dangerous Wild Animals Act 1976
- (k) Dogs Act 1906
- (l) Dogs (Fouling of Land) Act 1996
- (m) Environment Act 1995
- (n) Environmental Protection Act 1990 (as amended by the Environment Act 1995)
- (o) Food and Environment Protection Act 1985 (Parts I & III)
- (p) The Food Safety and Hygiene (England) Regulations 2013
- (q) Food Safety Act 1990 (as amended)
- (r) Health Act 2006
- (s) Health and Safety at Work etc Act 1974 (and any other relevant statutory provisions as defined in Section 53 of the Act)
- (t) Housing Act 1985
- (u) Housing Act 2004
- (v) Housing Grants (Regeneration and Construction) Act 1996
- (w) Land Compensation Act 1973
- (x) Land Drainage Acts 1976 and 1991
- (y) Litter Act 1993
- (z) Local Government Act 1894
- (aa) Local Government and Housing Act 1976
- (bb) Local Government (Miscellaneous Provisions) Act 1976
- (cc) Local Government (Miscellaneous Provisions) Act 1982 (Sections 13 to 17)
- (dd) Mobiles Homes Act 2013
- (ee) National Assistance (Amendment) Act 1951 (so far as it relates to an application to a Magistrates Court for an order to remove a person to a place of safety)
- (ff) Noise and Statutory Nuisances Act 1993
- (gg) Noise Act 1996
- (hh) Official Feed and Food Controls (England) Regulations 2009
- (ii) Pollution Prevention and Control Act 1999
- (jj) Prevention of Damage by Pests Act 1949 – (Part I)
- (kk) Public Health Acts Amendment Act 1890 – Section 42
- (ll) Public Health Act 1936
- (mm) Public Health Act 1961
- (nn) Public Health (Control of Disease) Act 1984

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- (oo) The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014
 - (pp) Refuse Disposal (Amenity) Act 1978
 - (qq) Regulation (EC) No. 178 / 2002
 - (rr) Regulation (EC) No. 852 / 2004
 - (ss) Regulation (EC) No. 853 / 2004
 - (tt) Regulation (EC) No. 854 / 2004
 - (uu) Regulation (EC) No. 882 / 2004
 - (vv) Regulation (EC) No. 2073 / 2005
 - (ww) Sunbeds (Regulation) Act 2010
 - (xx) Sunday Trading Act 1994
 - (yy) Trade in Animal Related Products Regulations 2011
 - (zz) Water Industry Act 1991 (Sections 67 – 86)
 - (aaa) Zoo Licensing Act 1981
36. Subject to notification to the Ward Members and report to the Committee, the determination of Closing Orders under Section 278 of the Housing Act 1985.
37. To authorise Officers and duly appointed Contractors who are appropriately qualified and experienced to discharge the powers and duties delegated to the Head of Paid Service.

NOTE: The following are authorised to act as enforcement and investigating officers for the purposes of the Food and Environmental Protection Act 1985:

- (a) Lead Specialist - Community
- (b) Senior Specialists – Community

Assets of Community Value

38. To consider and undertake reviews of listings of Assets of Community Value requested under the Localism Act 2011 (Community Right to Bid).

Licensing

39. In consultation with a Legal Advisor and the Chairman of the Licensing Committee, the institution of legal proceedings in respect of any of the Council's licensing powers.
40. To authorise Officers and duly appoint Contractors who are appropriately qualified and experienced to discharge the powers and duties delegated to the Director or other Officers.

Corporate Projects

41. In consultation with the Commercial Projects Board to approve any spend up to £10,000, subject to the details being reported to the Strategy and Resources Committee.

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Staffing

42. To approve the filling of vacancies other than the posts of Directors, Monitoring Officer and Section 151 Officer (this shall not apply to those managers that report directly to any of the Directors until after 31 December 2019).
43. To approve the regrading of posts providing that such regrading can be achieved within approved budgets.
44. Where difficulty is experienced in filling a vacant post, to approve the addition to the salary scale of that post of a market supplement not exceeding 15 per cent of the basic salary scale subject to approved directorate budgets.
45. To approve the repayment of training fees for prospective employees where their previous employer requires such repayment.
46. To award up to £100 for staff suggestions.
47. To approve requests from staff for unpaid leave of absence.
48. To award discretionary points on an officer's salary scale within approved directorate budgetary limits.
49. To approve voluntary staff redundancy or voluntary dismissal for those staff who are below Directors, in the interests of the efficient discharge of the Council's functions.

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2. TO THE DIRECTOR OF RESOURCES

1. To write off irrecoverable debts of individual amounts not exceeding the amount specified in Appendix F of Financial Regulations.
2. To review and set Fees and Charges which generate income of less than £2,000 per annum.
3. To exercise day to day functions relating to Treasury Management in accordance with approved Treasury Management Practices.
4. To exercise day to day administrative control over mortgages granted for the purchase or improvement of properties including:
 - a) the power to instigate legal proceedings for recovery of possession of such property.
 - b) to agree to enter into Deeds of Postponement where there is no doubt as to the equity remaining in the property.
5. To approve financial references for contractors.
6. To investigate payments for compensation losses arising as a result of the listing of an asset as part of the Community Right to Bid Scheme. Outcomes of investigation are to be reported to the Finance and Corporate Services Committee.
7. To determine applications for staff car loans under the Council's scheme.
8. To approve attendance of staff at courses, conferences and seminars (other than post entry training courses).
9. To be authorised to make an ex-gratia payment of up to £250 in instances of claims for damaged clothing.
10. To pay professional fees / practice certificates where necessary.
11. To approve secondments to / from other public bodies.
12. To represent the authority on cross-organisational groups.
13. To develop and implement ICT strategies.
14. To negotiate with current and potential suppliers to maximise the return on investment in ICT.
15. In consultation with a Legal Advisor, the institution of legal proceedings in respect of benefit fraud under the provisions of the Social Security Administration Act 1992 (as amended), the Fraud Act 2006, the Theft Acts 1968 and 1978, and The Proceeds of Crime Act 2002.

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16. All matters relating to the billing, collection and recovery of the National Non-Domestic Rate and Council Tax, including the determination of all discretionary rate relief where the application falls within the guidelines adopted by the Council.
17. To administer the Housing / Council Tax benefits scheme and the Local Council Tax Support Scheme, including the waiving of overpayments, the approval of discretionary awards / Hardship Fund awards and referral of fraudulent claims in line with the Council's prosecution policy.
18. Authorisation, together with any staff designated by her, to appear in Court, on the Council's behalf, in connection with recovery proceedings for Council Tax, Non-Domestic Rates and Small Claims Procedure.
19. Authorisation to appear on behalf of the Council at Local Valuation Tribunals.
20. Authorisation to appear on behalf of the Council at Housing and Council Tax Benefit and Local Council Tax Support Appeal Tribunals.
21. To approve requests for the sharing of vacant Office space within the Council office complex for a period of up to two years, in consultation with the Chairman of the Strategy and Resources Committee and the Leader of the Council.*
 - Minute No. 853 of Finance and Corporate Services Committee 12 April 2011 refers.
22. The Director of Resources, in consultation with a valuer, a Legal Advisor and the Chairman of the Strategy and Resources Committee, be authorised to release any restrictive covenants which are stated to be in favour of the Maldon District Council (or its predecessors) at a market value or at such other value as deemed appropriate by the Director or Resources.
23. To consider and decide on nominations for listing of Assets of Community Value received under the Localism Act 2011 (Community Right to Bid).
24. The appointment of the Members Remuneration Panel.
25. To settle on behalf of the Council during the proceedings of Employment Appeals Tribunals.

Staffing

26. To approve the filling of vacancies other than the posts of Directors, Monitoring Officer and Section 151 Officer (this shall not apply to those managers that report directly to any of the Directors until after 31 December 2019).
27. To approve the regrading of posts providing that such regrading can be achieved within approved budgets.
28. Where difficulty is experienced in filling a vacant post, to approve the addition to the salary scale of that post of a market supplement not exceeding 15 per cent of the basic salary scale subject to approved directorate budgets.

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- 29. To approve the repayment of training fees for prospective employees where their previous employer requires such repayment.
- 30. To award up to £100 for staff suggestions.
- 31. To approve requests from staff for unpaid leave of absence.
- 32. To award discretionary points on an officer's salary scale within approved directorate budgetary limits.
- 33. To approve voluntary staff redundancy or voluntary dismissal for those staff who are below Directors, in the interests of the efficient discharge of the Council's functions.

(As Electoral Registration Officer)

- 34. To fix the fees paid to canvassers for the Register of Electors within the overall approved estimate provision.

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3. TO THE HEAD OF PAID SERVICE

1. In consultation with the Chairman of the Strategy and Resources Committee to appoint suitably qualified staff on a consultancy basis to cover for the absence of Senior Officers (and Directors) if necessary.
2. To approve secondment of staff between Departments.

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4. TO THE DIRECTOR OF SERVICE DELIVERY

Community and Leisure

1. Operational issues relating to off-street, on-street and residents parking and Parking Orders.
2. The approval of lettings of the Council's parks and open spaces for funfairs and circuses and similar purposes.
3. In consultation with the Director of Resources, the setting of the level of fees to be levied for events agreed under 2 above.
4. Operational issues relating to items 7 – 10 and 12 - 15 in (b) above.
5. In consultation with a Legal Advisor, to give a direction under Section 77 of the Criminal Justice and Public Order Act 1994 (and notify Ward Member(s)) regarding the removal of unauthorised campers.
6. Operational issues relating to the Council's community halls and centres.
7. Operational issues relation to the Council's community grant scheme item 11 in (b) above.
8. Operational issues relating to specialist community transport schemes.
9. All matters under the Anti-social Behaviour Act 2003, Sections 2-4, 6 and 30-36, and the Anti-Social Behaviour, Crime and Policing Act 2014, Parts 1 – 6.
10. To approve and issue the Grant of Deeds of Exclusive Rights of Burial for the Council's Cemeteries.
11. Operational issues relating to cemeteries and mortuaries if provided, and public conveniences.
12. To authorise Officers and duly appointed Contractors who are appropriately qualified and experienced to discharge the powers and duties delegated to the Director of Service Delivery.
13. In consultation with the Ward Member(s), responding to informal consultations by the South Essex Parking Partnership on proposed traffic regulation orders and related measures for parking restrictions.
14. In consultation with the Council's representative on the South Essex Parking Partnership and the Ward Member(s), to make recommendations to the Parking Partnership on proposed traffic regulation orders for parking restrictions in the light of representations received following formal publication.
15. Operational issues relating to the operation of concessionary travel pass schemes.

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16. Subject to no objections being received, and in consultation with the Chairman of the Licensing Committee and the Ward Members(s), the approval of temporary road closures and the making of Orders under Section 21 of the Town Police Clauses Act 1847.

Asset Management

- 17.
- (a) To authorise the grant of easements over Council land at market value or other value as deemed appropriate.
 - (b) To approve any letting of property for a period of up to seven years at market rent to which statutory security of tenure will not apply.
 - (c) To procure agents to advise upon terms for sales, leases, purchases, easements, compensation claims and similar matters or otherwise in connection therewith.
 - (d) To negotiate the terms of new leases, including interim and initial rent both at market rent and in those cases where existing tenants have a statutory right to call for a new lease on expiry of the current term, and to authorise completion of such new leases up to an annual value of £15,000 and duration not exceeding seven years.
 - (e) In consultation with the Chairman or Vice-Chairman of the Strategy and Resources Committee and the Leader, as (d) above in relation to leases with an annual value in excess of £15,000, but not exceeding £25,000, or tenure in excess of 7 years but not exceeding 14 years.
 - (f) To negotiate the terms of, and accept, early surrenders of leases.
 - (g) To negotiate and agree rent payable on rent reviews of existing leases based on the advice of a suitably qualified valuer.
 - (h) To grant yearly licenses for pedestrian and vehicular access to private property over Council owned land.
 - (i) To authorise the grant of way-leaves to other statutory undertakers where Council-owned land is affected.
 - (j) To negotiate the terms of, and authorise the granting of, landlords licences and consents and variations under existing leases in consultation with a Legal Advisor.
 - (k) To dispose of any surplus small plot of land (up to an area of quarter of an acre with a maximum value of £10,000) at market value upon the advice of a suitably qualified valuer and upon such terms and conditions as he considers appropriate in consultation with the relevant Director and in accordance with Council policy on land disposals.

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Rivers Management

18. Subject to no objections being received, the issue of licences in respect of fishing and fishermen in the River Blackwater and the use of the Hythe Quay, Maldon and other related facilities within the control of the District Council.
19. In consultation with a Legal Advisor, the institution of legal proceedings for any contravention of any of the byelaws relating to the River Blackwater.
20. The grant of annual mooring licences to individuals and the renewal of licences to clubs and other organisations for periods not exceeding 5 years.
21. Reviewing fees payable under river licences in accordance with the advice of a qualified valuer or in accordance with the Council's policy on mooring fees generally where it is not economic to employ a valuer.
22. To authorise officers and duly appoint contractors who are appropriately qualified and experienced to discharge the powers and duties delegated to the Director of Service Delivery.
23. The exercise of statutory responsibility under the Merchant Shipping Act 1995 in relation to safety on the River Blackwater.

Others

24. Exercise of the powers contained in Part 8 of the Anti-Social Behaviour Act 2003 relating to High Hedges.
25. To consider and decide on nominations for listing of Assets of Community Value received under the Localism Act 2011 (Community Right to Bid).

Staffing

26. To approve the filling of vacancies other than the posts of Directors, Monitoring Officer and Section 151 Officer (this shall not apply to those managers that report directly to any of the Directors until after 31 December 2019).
27. To approve the regrading of posts providing that such regrading can be achieved within approved budgets.
28. Where difficulty is experienced in filling a vacant post, to approve the addition to the salary scale of that post of a market supplement not exceeding 15 per cent of the basic salary scale subject to approved directorate budgets.
29. To approve the repayment of training fees for prospective employees where their previous employer requires such repayment.
30. To award up to £100 for staff suggestions.
31. To approve requests from staff for unpaid leave of absence.

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32. To award discretionary points on an officer's salary scale within approved directorate budgetary limits.
33. To approve voluntary staff redundancy or voluntary dismissal for those staff who are below Directors, in the interests of the efficient discharge of the Council's functions.

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5. LICENSING ACT 2003

Senior Specialist - Community:

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.

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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 (or the renewal of) a Personal Licence where no Objection Notice has been given by the Chief Officer of Police.
19. The issue of a Notice to the Chief Officer of Police that an applicant for the renewal of a Personal Licence has a Relevant or Foreign Offence.
20. 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 or renewal of a Personal Licence.
21. 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.
22. Unless specified to the contrary, the issue of all Licences, Certificates, Notices and any other formal notifications required under the Licensing Act 2003.
23. In consultation with a Legal Advisor and the Chairman of the Licensing Committee, the institution of legal proceedings in respect of any of the Council's powers under the Licensing Act 2003.
24. To keep the Licensing Register and any Central Register prescribed by the Secretary of State.
25. 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 Environmental Health Manager - Commercial.
26. 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.
27. To suspend premises licences and club premises certificates for non-payment of the annual fee.
28. To make representations on behalf of the Licensing Authority in respect of all applications for premises licenses or club premises certificates and to apply for reviews of the same.

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Lead Specialist – Place, and the Senior Specialist – Community Protection:-

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.

6. GAMBLING ACT 2005

Senior Specialist – Community (Commercial):

1. Consideration and determination of applications for the following matters where no objections have been received or any so received have been withdrawn:
 - (a) premises licences;
 - (b) variation to licences;
 - (c) transfers of licences;
 - (d) provisional statements;
 - (e) club gaming / club machine permits.
2. Consideration and determination of applications or decisions on the following matters:
 - (f) other permits;
 - (g) cancellation of licensed premises gaming machine permits.
3. Consideration of Temporary Use Notices and Occasional Use Notices.

7. OTHER LICENSING FUNCTIONS

(Hackney Carriage Drivers and Vehicle Licences; Private Hire Drivers, Vehicle and Operators Licences; Street Collections; House to House Collections; Registration of Society Lotteries; Sex Establishments and Scrap Metal Dealers)

Senior Specialist – Community (Commercial) – Commercial:

1. Subject to no objections being received, the grant and issue of licences and permits for:

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- Charitable Collections (Street Collections and House to House Collections);
 - Registration of Society Lotteries;
2. The issue of Hackney Carriage and Private Hire Vehicle, Drivers and Operators Licences, except in the case of Drivers Licences where the applicant has unspent convictions or endorsements exceeding six points accrued on his/her Driving Licence in which event the matter shall be referred to the Licensing Sub-Committee.
 3. The refusal of an application for a Drivers Licence on the recommendation of the applicant's GP in a medical report.
 4. With regard to the Carriage of Assistance Dogs in Taxis:
 - The issue of Exemption Certificates under Section 37(5) of the Disability Discrimination Act 1995 where satisfactory medical evidence is provided by the applicant's GP of relevant medical grounds.
 - The determination of whether the exemption is to apply to a 'specified taxi' or a 'specified type of taxi'.
 5. In consultation with the Chairman of the Licensing Committee, the suspension or revocation of Hackney Carriage and Private Hire Drivers' licences.
 6. To authorise Officers and duly appoint Contractors who are appropriately qualified and experienced to discharge the powers and duties delegated to the Lead Specialist - Community.
 7. The grant, issue, renewal or variation of a Scrap Metal Dealer Licence where the applicant is deemed to be a suitable person and no objections are received.
 8. The refusal or rejection of an application for a Scrap Metal Dealer Licence where no representations are received.
 9. In consultation with the Chairman of the Licensing Committee, the revocation of a Scrap Metal Dealers Licence where no representations are received.
 10. To ensure all Scrap Metal Dealer Licences are reported to the National database.

To the Director of Strategy, Performance and Governance

1. In consultation with a Legal Advisor and the Chairman of the 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 Director or other Officers.

PART 4 - RULES OF PROCEDURE

COUNCIL AND COMMITTEE PROCEDURE RULES

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PART 4 - RULES OF PROCEDURE

BACKGROUND

The authority for making Standing Orders is found in paragraph 42 of Schedule 12 of the Local Government Act 1972, which states that:

"Subject to the provisions of the Act, a local authority may make standing orders for the regulations of their proceedings and business and may vary or revoke any such order".

The Local Government and Housing Act 1989 provides for Regulations to be made requiring Councils to adopt standing orders on particular issues.

The Local Government Act 2000 and sub-ordinate legislation provide for rules of procedure for Council and Committee meetings to be part of the Council's Constitution.

*For the purpose of these **Procedure Rules** references to the male gender shall be taken to refer to both genders.*

RULE 1. MEETINGS AND BUSINESS OF THE COUNCIL

Meetings

- (1) Ordinary meetings of the Council will take place in accordance with a programme as determined by the Council.
- (2) In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors (fourth day after day of election). In any other year, the annual meeting will take place in March, April or May as determined by the Council.

Order of Business

- (3) Except as otherwise provided by paragraphs (4) and (5) of this Rule, the order of business at every meeting of the Council shall be:-
 - (i) Choose a person to preside if the Chairman and Vice-Chairman are absent;
 - (ii) Deal with any business required by statute to be done before any other business;
 - (iii) To approve as a correct record and sign the Minutes of the last meeting of the Council;
 - (iv) To receive declarations of interests and then deal with any business expressly required by statute to be done;
 - (v) Chairman's announcements, and then receive public questions (not at statutory annual meeting)

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- (vi) To dispose of business (if any) remaining from the last meeting;
- (vii) To receive and consider any reports, minutes and recommendations of all Committees;
- (viii) To receive and, as appropriate, debate any Statements as specified in the Summons – to include the Leader’s Speech setting out the Council’s Programme for the current municipal year (to the first meeting following the Annual Meeting) and the Budget Speech setting out the Council’s Budget for the ensuing year (to the February meeting);
- (ix) To receive and consider petitions requiring debate under the Council’s Petitions Scheme
- (x) To consider motions in the order in which notice has been received;
- (xi) To answer questions asked under Rule 6;
- (xii) Other business, if any, specified on the summons;
- (xiii) Questions (which may be made without notice) to the Leader of the Council (or in his absence the Deputy Leader) (other than at the Annual Meeting, and at the meetings referred to in (h) above) for a maximum of 15 minutes and not beyond 10.00pm unless such period is extended with the mutual agreement of the Chairman of the Council and the Leader (or Deputy Leader).
- (xiv) Business by reason of special circumstances considered by the Chairman to be urgent.

Variation of order of business

- (4) Business falling under items (a), (b) or (c) of paragraph (3) shall not be displaced, but subject to that, the order of business may be varied:-
 - (i) by the Chairman at his discretion,
 - (ii) by a resolution passed on a motion (which need not be in writing) duly moved and seconded, which shall be moved and put without discussion.

Regulation of business and duration of meetings

- (5) No business shall be transacted at a meeting of the Council or of any Committee or Sub-Committee other than that specified in the agenda except business brought before the meeting on the grounds of urgency, the reasons for which having first been agreed by the Chairman.
- (6) The duration of any meeting of the Council, Committee or Sub-Committee shall be at the absolute discretion of the Chairman. Any items of business not transacted before the meeting is closed shall stand adjourned to the next available meeting.

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Annual Meeting

- (7) (a) The Leaders of all groups to submit to the Programmes, Performance and Governance Manager a list of Members of their group as required by the Act of 1989 (or to confirm in a non-election year that the list is unchanged) not less than 7 days prior to the Annual Meeting.
- (ii) The Director of Strategy, Performance and Governance to call the Leader-designate of the Council and the Opposition Leader(s) to a meeting not less than 48 hours before the Annual Meeting to discuss the allocation of Committee places.
- (iii) The ruling of the Director of Strategy, Performance and Governance on the interpretation of the relevant statutory provisions relating to the total number of seats on the Council's Committees to which each group is entitled to be recognised as being final.
- (iv) Not later than Noon on the day before the Annual Meeting the Leader-designate of the Council and Opposition Leader(s) to submit to the Programmes, Performance and Governance Manager a list of their groups' nominations to the Committee places allocated to their groups.
- (8) At the Annual Meeting the Council will also:
- (i) Elect a person to preside if the Chairman is not present
- (ii) Elect the Chairman of the Council (and elected Chairman to make Statutory Declaration of Acceptance of Office)
- (iii) Elect the Vice-Chairman of the Council (and elected Vice-Chairman to make Statutory Declaration of Acceptance of Office)
- (iv) Receive any announcements from the Chairman
- (v) Ratify the Leader-designate
- (vi) Appoint the Deputy Leader
- (vii) Appoint Committees
- (viii) Decide the allocation of seats to political groups in accordance with political balance rules
- (ix) Appoint Councillors to serve on Committees (see Rule 17)
- (x) Adjourn for special meetings of Committees to elect their Chairmen and Vice-Chairmen to be appointed
- (xi) Appoint Councillors to serve on outside bodies

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- (9) The Council shall at the Annual Meeting appoint such Committees as it is required to appoint by or under any statute or under Rule 17, and may at any time appoint such other Committees as are necessary to carry out the work of the Council. It may, subject to any statutory provision in that behalf, may at any time dissolve a Committee (for the avoidance of doubt this excludes the Overview and Scrutiny Committee and the Joint Standards Committee) or alter the membership of its Committees. All Committees so appointed shall remain in existence until replaced at the next Annual Meeting.
- (10) In connection with the special meetings of Committees referred to in 7(j) above, the Chairman of the Council shall preside for the purpose of electing a Chairman. In the event of a Committee failing to elect a Chairman, the Council shall appoint a Chairman for that Committee.
- (11) In the event of more than two nominations being submitted for the election of the Chairman of the Council and the Chairman of any Committee or Sub-Committee, on the first ballot those receiving the lowest number of votes shall be eliminated and a further ballot shall be taken for the remaining two candidates.

Leaders' Speech

- (12) The Leader's Speech (First meeting following the Statutory Annual meeting) setting out the Council's Report and Programme for the current municipal year and the responses thereto of the Opposition Leader(s) shall exceptionally be time-limited to 15 minutes but the final right of reply to each shall be time-limited in accordance with Rule 8.

Budget Speech

- (13) (a) The Budget Speech (February meeting) setting out the Council's Budget for the ensuing municipal year and the responses thereto of the Opposition Leader(s) shall exceptionally be time-limited to 15 minutes but the final right of reply to each shall be time-limited in accordance with Rule 8.
- (b) No alternative proposal or amendment to that being recommended to the Council as part of the Budget and Council Tax Setting item of business shall be considered unless notice in writing (and marked confidential) has been given to the Council's Chief Financial Officer no later than 5pm three working days before the date of the Council meeting.

Extraordinary Meetings

- (14) The Director of Strategy, Performance and Governance may call an extraordinary meeting of the Council. In addition, those listed below may request the Director of Strategy, Performance and Governance to call Council meetings in addition to ordinary meetings:
- (i) the Council by resolution;

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- (ii) the Chairman of the Council;
- (iii) the Monitoring Officer;
- (iv) the Head of Paid Service;
- (v) the S151 Officer; and
- (vi) any five Members of the Council if they have signed a requisition presented to the Chairman and he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

Policy Matters

- (15) An issue before the Council shall be deemed to be a policy matter if it involves:
 - an alteration, addition to, or removal from, the Council's Strategic and Corporate Objectives;
 - the adoption by the Council of a new function or sphere of activity;
 - the cessation by the Council of an existing function or sphere of activity;
 - a decision to carry out an existing in-house activity by contract or the reinstatement in-house of an activity previously contracted out;
 - any major or significant change in the Council's activities which the Monitoring Officer in consultation with the Leader of the Council and Opposition Leader(s) rules to be a policy matter.
- (16) The item will be the subject of a specific agenda item at the Council and will not be considered as part of the reception of reports of any Committee;
- (17) The normal rules of debate will apply and the Chairman of the Committee, if any, with specific responsibility for the subject matter under consideration to have a right of reply to the debate
- (18) Notwithstanding (16) above, before the conclusion of the debate the penultimate speaker will be the Opposition Leader(s) and the final right of reply will be afforded to the Leader of the Council.

RULE 2. CHAIRMAN OF MEETING

Any power or duty of the Chairman in relation to the conduct of any meeting of the Council and its Committees may be exercised by the person presiding at the meeting.

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RULE 3. QUORUM FOR MEETINGS

- (1) Unless otherwise provided, the quorum of a meeting will be one quarter of the whole number of Members (for the avoidance of doubt this will be rounded up to the next whole number). The quorum of a Committee shall not be less than three Members.
- (2) If during any meeting the Chairman, after counting the number of Members present, declares that there is not a quorum present, the meeting shall stand adjourned. The consideration of any business not transacted shall be adjourned to a time fixed by the Chairman at the time the meeting is adjourned, or, if he does not fix a time, to the next ordinary meeting of the Council.

RULE 4. NOTICES OF MOTION

- (1) Notice of every motion, other than a motion which under Rule 5 may be moved without notice, shall be given in writing and signed by the Member intending to move the motion and by a seconder and shall reach the Programmes, Performance and Governance Manager before 10.30 a.m. on the Wednesday in the week preceding the week in which the Council meeting is held.

It shall be dated, numbered in the order in which it is received and entered in a book which shall be open to the inspection of every Member of the Council.

Motions to be set out in summons

- (2) The Programmes, Performance and Governance Manager shall set out in the summons for every meeting of the Council all motions of which notice has been duly given in the order in which they have been received, unless the Member and seconder giving such a notice intimated in writing when giving it, that they proposed to move it at some later meeting, or have since withdrawn it in writing.

Automatic reference to Committee

- (3) If the subject matter of any motion of which notice has been duly given comes within the province of any Committee it shall stand referred without discussion to such Committee, or to such other Committee as the Council may determine, for consideration and report.

Provided that the Chairman may, in consultation with the Leader, and, if he considers it convenient and conducive to the dispatch of business, allow the motion to be dealt with at the meeting at which it is brought forward.

- (4) When a motion has been referred to any Committee under (3), the Member of the Council who has moved, or given notice of intention to move the motion and his seconder shall have notice of the meeting of the Committee at which it is proposed to

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consider the motion. They shall have the right to attend the meeting and the opportunity of explaining the motion.

Scope of motions

- (5) Every motion shall be relevant to some matter in relation to which the Council has powers or duties or which affect the District.

RULE 5. MOTIONS AND AMENDMENTS WHICH MAY BE MOVED WITHOUT NOTICE

The following motions and amendments may be moved without notice:

- (1) Appointment of a Chairman of the meeting at which the motion is made.
- (2) Motions relating to the accuracy of the Minutes.
- (3) That an item of business specified in the summons has precedence.
- (4) Remission to a Committee.
- (5) Appointment of a Committee or Members thereof, occasioned by an item mentioned in the summons to the meeting.
- (6) Adoption of reports and recommendations of Committees or Officers and any consequent resolutions.
- (7) That leave be given to withdraw a motion.
- (8) Extending the time limit for speeches.
- (9) Amendments to motions.
- (10) That the Council proceeds to the next business.
- (11) That the question be now put.
- (12) That the debate be now adjourned.
- (13) That the Council adjourns.
- (14) Authorising the sealing of documents.
- (15) Suspending Rules of Procedure, in accordance with Rule 22.
- (16) Motion under section 100A(4) of the Local Government Act, 1972 to exclude the public.

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- (17) That a Member named under Rule 10 (Disorderly Conduct) be not further heard or do leave the meeting.
- (18) Giving consent of the Council where the consent of the Council is required by these Rules.

RULE 6. QUESTIONS

- (1) A Member of the Council may ask the Chairman of a Committee a question on a recommendation of a Committee when that item is under consideration by the Council.
- (2) Subject to paragraph (3), a Member of the Council may ask the Chairman of a Committee a question on any matter the subject of a resolution of a Committee.
- (3) A Member of the Council may:-
 - (i) If notice in writing has been given to the Programmes, Performance and Governance Manager, which has been received not later than Noon on the Monday preceding the day on which the meeting is to be held, ask the Chairman or the Chairman of any Committee, any question on any matter in relation to which the Council has powers or duties or which affect the District.
 - (ii) With the permission of the Chairman, put to him or the Chairman of any Committee, any question relating to urgent business, of which such notice has not been given; but a copy of any such question shall, if possible, be delivered to the Programmes, Performance and Governance Manager not later than ten o'clock in the morning of the day of the meeting.
- (4) Every question shall be put and answered without discussion, but the person to whom a question has been put may decline to answer.
- (5) An answer may take the form of:-
 - (i) a direct oral answer; or
 - (ii) where the desired information is contained in a publication of the Council, a reference to that publication; or
 - (iii) where the reply to the question cannot conveniently be given orally, a written answer circulated to Members of the Council.
- (6) Every question under the provisions of paragraphs (2)(a) and (2)(b) of this Rule shall be recorded in the Council Minutes together with any replies given thereto.
- (7) Questions may be also be put, without notice, to the Leader of the Council under Rule 1(3)(m), provided that no question shall seek to raise, or have the effect of raising any matter dealt with or disposed of through the transaction of business earlier in the particular meeting.

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RULE 7. MINUTES OF MEETINGS

- (1) At the next suitable meeting, the Chairman shall put the question that the Minutes of the meeting of the Council or of a Committee or Sub-Committee held on theday of..... be approved as a correct record.
- (2) No discussion shall take place upon the Minutes, except upon their accuracy, and any question of their accuracy shall be raised by motion. If no such question is raised, or if it is raised then as soon as it has been disposed of, the presiding Chairman shall sign the Minutes.
- (3) Where in relation to any meeting of the authority, the next such meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) shall be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

RULE 8. RULES OF DEBATE FOR COUNCIL MEETINGS

Motions and Amendments

- (1) A motion or amendment shall not be discussed apart from the opening speech of the proposer unless it has been proposed and seconded, and unless notice has already been given in accordance with Rule 4 it shall, if required by the Chairman, be put into writing and handed to the Chairman before it is further discussed or put to the meeting.

Seconders's speech

- (2) A Member, when seconding a motion or amendment may, if he then declares his intention to do so, reserve his speech until a later period of the debate.

Only one Member to stand at a time

- (3) A Member when speaking shall stand and address the Chairman. If two or more Members rise, the Chairman shall call on one to speak; the other or others shall then sit. While a Member is speaking the other Members shall remain seated, unless rising to a point of order or in personal explanation.

Content and length of speeches

- (4) A Member shall direct his speech to the question under discussion or to a personal explanation or to a point of order. No speech shall exceed five minutes in the case of a mover of a motion and three minutes in all other cases except by consent of the Chairman.

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When a Member may speak again

- (5) A Member who has spoken on any motion shall not speak again whilst it is the subject of debate, except:-
- (i) to speak once on an amendment moved by another Member;
 - (ii) if the motion has been amended since he last spoke, to move a further amendment;
 - (iii) if his first speech was on an amendment moved by another Member, to speak on the main issue, whether or not the amendment on which he spoke was carried;
 - (iv) in exercise of a right of reply given by paragraph (11) or (13) of this Rule;
 - (v) on a point of order;
 - (vi) by way of personal explanation.

Amendment to motion

- (6) An amendment shall be relevant to the motion and shall be either:-
- (i) to refer a subject of debate to a Committee for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others;
 - (iv) to insert or add words;
- but such omission, insertion or addition of words shall not have the effect of negating the motion before the Council.
- (7) Only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of.
- (8) If an amendment be lost, other amendments may be moved on the original motion. If an amendment be carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.

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Alteration to motion

- (9) A Member may with the consent of the Council signified without discussion:-
- (i) alter a motion of which he has given notice, or
 - (ii) with the further consent of his seconder alter a motion which he has moved,
- If (in either case) the alteration is one which could be made as an amendment thereto.

Withdrawal of motion

- (10) A motion or amendment may be withdrawn by the mover with the consent of his seconder and of the Council, which shall be signified without discussion, and no Member may speak upon it after the mover has asked permission for its withdrawal, unless such permission shall have been refused.

Right of reply

- (11) The mover of a motion has a right to reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion shall also have a right of reply at the close of the debate on the amendment and shall not otherwise speak on the amendment. The mover of the amendment shall have no right of reply to the debate on his amendment.

Motions which may be moved during debate

- (12) When a motion is under debate no other motion shall be moved except the following:-
- (i) to amend the motion;
 - (ii) to adjourn the meeting;
 - (iii) to adjourn the debate;
 - (iv) to proceed to the next business;
 - (v) that the question be now put;
 - (vi) that a Member be not further heard;
 - (vii) by the Chairman under Rule 10(2) that a Member do leave the meeting;
 - (viii) a motion under section 100A(4) of the Local Government Act, 1972 to exclude the public.

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Closure motions

- (13) A Member may move without comment at the conclusion of a speech of another Member, "that the Council proceeds to the next business", "that the question be now put", "that the debate be now adjourned", or "that the Council adjourns", on the seconding of which the Chairman shall proceed as follows:-
- (i) on a motion to proceed to next business: unless in his opinion the matter before the meeting has been insufficiently discussed, he shall first give the mover of the original motion a right of reply, and then put to the vote the motion to proceed to next business;
 - (ii) on a motion that the question be now put: unless in his opinion the matter before the meeting has been insufficiently discussed, he shall first put to the vote the motion that the question be now put, and if it is passed then give the mover of the original motion his right of reply under paragraph (11) of this Rule before putting his motion to the vote;
 - (iii) on a motion to adjourn the debate or the meeting: if in his opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion he shall put the adjournment motion to the vote without giving the mover of the original motion his right of reply on that occasion.

Points of Order

- (14) A Member may rise on a point of order or in personal explanation, and shall be entitled to be heard forthwith.
- (i) A point of order shall relate only to an alleged breach of a Rule of Procedure or statutory provision and the Member shall specify the Rule of Procedure or statutory provision and the way in which he considers it has been broken.
 - (ii) A personal explanation shall be confined to some material part of a former speech by him which may appear to have been misunderstood in the present debate.
- (15) The ruling of the Chairman on a point of order or on the admissibility of a personal explanation shall not be open to discussion.

Respect for Chairman

- (16) Whenever the Chairman rises during a debate a Member then standing shall resume his seat and the Council shall be silent.

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Application to Committees and Sub-Committees

- (17) This Rule (except those parts which relate to standing and to speaking more than once) shall, with any necessary modification, apply to Committee and Sub-Committee meetings.

RULE 9. MOTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL

If any question arises at a meeting of the Council or of a Committee thereof to which section 100A of the Local Government Act, 1972 applies as to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council, such question shall not be the subject of discussion until the Council or Committee, as the case may be, has decided whether or not the power of exclusion of the public under section 100A (4) of the Local Government Act, 1972 shall be exercised..

RULE 10. DISORDERLY CONDUCT

- (1) If at a meeting any Member of the Council misconducts himself by persistently disregarding the ruling of the Chairman, or by behaving irregularly, improperly, or offensively, or by wilfully obstructing the business of the Council, the Chairman or any other Member may move "that the Member named be not further heard", and the motion if seconded shall be put and determined without discussion.

Continuing misconduct by a named Member

- (2) If the Member named continues his misconduct after a motion under the foregoing paragraph has been carried the Chairman shall:-

EITHER move "That the Member named do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion);

OR adjourn the meeting of the Council for such period as he in his discretion shall consider expedient.

General disturbance

- (3) In the event of general disturbance which in the opinion of the Chairman renders the due and orderly despatch of business impossible, the Chairman, in addition to any other power vested in him may, without the question being put, adjourn the meeting of the Council for such period as he in his discretion shall consider expedient.

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RULE 11. DISTURBANCE BY THE PUBLIC

If a member of the public interrupts the proceedings at any meeting the Chairman shall warn him. If he continues the interruption the Chairman shall order his removal from the Council Chamber. In case of general disturbance in any part of the Chamber open to the public the Chairman shall order that part to be cleared.

RULE 12. RESCISSION OF PRECEDING RESOLUTION
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No motion to rescind any resolution passed within the preceding six months, and no motion or amendment to the same effect as one which has been rejected within the preceding six months, shall be proposed unless the notice thereof given in pursuance of Rule 4 bears the names of at least ten Members of the Council. When any such motion or amendment has been disposed of by the Council, it shall not be open to any Member to propose a similar motion within a further period of six months.

This Rule shall not apply to motions moved in pursuance of a recommendation of a Committee.

RULE 13. VOTING

(NB: See also Rule 15 on Interests)

Meetings

- (1) Any item of business will be decided by a simple majority of those Members voting and present in the room at the time the question was put. If a Member has not been present at the meeting for the whole of the consideration of a planning application or related matter, or has not undergone fundamental induction training once such a programme has been introduced he / she shall not vote on the matter.
- (2) If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.
- (3) The mode of voting at meetings of the Council, Committees and Sub-Committees shall be by a show of hands, or if there is no dissent, by affirmation of the meeting: Provided that on the requisition of any Member of the Council made before the vote is taken and supported by one other Member who signifies his support the voting on any question shall be by roll-call and shall be recorded so as to show how each Member present and voting gave his vote. The name of any Member present and not voting shall also be recorded.

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- (4) Where any Member requests it immediately after a vote by a show of hands is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.
- (5) Immediately after any vote is taken at a budget decision meeting there must be recorded in the minutes of that meeting the name of the persons who cast a vote for or against the decision or who abstained from voting.

NOTE. For this purpose, ‘budget decision’ means a meeting at which it makes a calculation in accordance with sections 31A, 31B, 34-36A, 42A, 42B, 45-49, 52ZF, 52ZJ of the Local Government Finance Act 1992 or issues a precept under Chapter 4 of Part 1 of that Act, and includes a meeting where making the calculation or issuing the precept was included as an item of business for the agenda for that meeting. The requirement to record voting extends to a vote on any decision related to the making of the calculation or the issuing of the precept (The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014).

Appointments

- (6) Where there are more than two Members nominated for any position to be filled by the Council or a Committee and of the votes given there is not a majority in favour of one Member, the name of the Member having the least number of votes shall be struck off the list and a fresh vote shall be taken, and so on until a majority of votes is given in favour of one Member.

RULE 14. RECORD OF ATTENDANCES

Every Member of the Council attending a meeting of the Council, or of any of its Committees of which he is a Member, shall sign his name in the attendance book or sheet provided for that purpose.

RULE 15. DISCLOSURE OF INTERESTS

(NB: See also the Council’s Code of Member)

If a Member has a Discloseable Pecuniary, Other Registrable Pecuniary or Non-pecuniary Interest as defined by the Council’s Code of Member Conduct then that interest must be disclosed and where that interest is a Disclosable or Other Registrable Pecuniary one as defined in the Code the Member shall not only disclose it but then withdraw from the meeting while the business to be transacted is under consideration (unless formal dispensation has been granted).

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RULE 16. APPOINTMENT AND CONSTITUTION OF COMMITTEES
--

- (1) The Council shall at each Annual Meeting appoint from among its membership the Committees referred to in this Rule to advise the Council on the discharge of its functions, and to exercise on its behalf such functions as may be delegated to such Committees by the Council. The Council shall adopt and may from time to time review Terms of Reference for Committees.
- (2) The Committees shall be the Strategy and Resources Committee, the Performance, Governance and Audit Committee, the District Planning Committee, the Overview and Scrutiny Committee, the Licensing Committee, the three Area Planning Committees and the Joint Standards Committee.
- (3) The Strategy and Resources Committee shall comprise 16 Members, the Performance, Governance and Audit Committee shall comprise 15 Members, and the Licensing Committee shall comprise 10 Members. All Committees shall be formed in accordance with the political balance provisions (see also Procedure Rule 1(7)).Pro

The Chairman of the Council is eligible to be appointed to any of the Committees referred to in (2) above in his own right (see however paragraph (7) below).

- (4) The District Planning Committee shall comprise all 31 Members of the Council and determine planning applications beyond the remit of the Area Planning Committees.
- (5) The three Area Planning Committees (which will have all other development control responsibilities save for those delegated to Officers) shall have jurisdiction in respect of specified geographical areas of the District approved from time to time by the Council and shall comprise each of the elected Members representing Wards covered by the specified geographical area.
- (6) The Joint Standards Committee shall comprise –
 - a. five Members of the Council (political balance provisions apply)
 - b. two persons appointed by the Council upon nomination by the Essex Association of Local Councils and who are Members of Parish / Town Councils in the Maldon District
- (7) The Overview and Scrutiny Committee of the Council shall comprise eight Members of the Council and shall be formed in accordance with the political balance provisions. The Chairman of the Council, the Leader and Deputy Leader of the Council and the Chairmen and Vice-Chairmen of the Strategy and Resources and the Performance, Governance and Audit Committees shall not serve on the Overview and Scrutiny Committee.
- (8) The Council shall at its Annual Meeting also appoint Members to serve on the Appointments Board and the Investigating and Disciplinary Committee and Panel as set out below. Political balance provisions shall apply.
 - Investigating and Disciplinary Committee – Five Members;

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- Investigating and Disciplinary Panel – Minimum of five Members to ensure that at least three have not served on the initial investigation carried out by the Investigating and Disciplinary Committee
- Appointments Board – Two Members to serve in addition to the Leader or Deputy Leader, Opposition Leader or Deputy, and Chairmen or Vice-Chairmen of the Strategy and Resources and Performance, Governance and Audit Committees.

Substitutions

- (9) A Member of a Committee shall, if the Member wishes another Member of the political group to which the Member belongs to attend a meeting of that Committee in his place, give the relevant Committee Chairman, Vice-Chairman, and copied to Programmes, Performance and Governance Manager, written notice not later than fifteen minutes before the published start time of that meeting that the Member is unable to attend and that the substitute Member named in the notice will attend in his place.
- (10) A substitution notice may be given by the Leader of a political group.
- (11) The effect of a substitution notice shall be that the Member named in the notice shall cease to be a Member of that Committee for the duration of that meeting and that the substitute Member shall be a full Member of the Committee for the same period.
- (12) A substitution notice may be revoked at any time preceding the deadline for giving of such notice.
- (13) These arrangements shall not apply to the Licensing Committee unless the proposed substitute Member has been trained on public licensing matters, and do not apply to the Licensing Sub-Committee and the Area Planning Committees.

Termination of appointments and allocated seats falling vacant

- (14) Where a seat allocated to a political group falls vacant the following procedure shall apply:-
 - (i) If the seat has fallen vacant as a result of the death, resignation or disqualification of a Member, the Act and Regulations made there under provide for a review of allocations of seats to groups at the next meeting of the Council following the election of a replacement Member, unless the person elected indicates that the Member does not wish such a review to take place. If in these circumstances a review is to take place, the process set out in Procedure Rule 1(7) shall apply in respect of the next ordinary meeting of the Council following the by-election at which the person is elected.
 - (ii) In all other circumstances the group to which the seat is allocated shall give notice of its nomination of a Member to a vacant seat in writing to the Programmes, Performance and Governance Manager who shall report as soon

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as possible to the Council for the Council to approve the filling of the vacant seat.

RULE 17. SPECIAL MEETINGS OF COMMITTEES
--

The Chairman of a Committee or the Chairman of the Council may call a special meeting of a Committee at any time. A special meeting shall also be called on the requisition of a quarter of the whole number of the Committee, delivered in writing to the Programmes, Performance and Governance Manager, but in no case shall less than three Members requisition a special meeting. The summons to the special meeting shall set out the business to be considered thereat, and no business other than that set out in the summons shall be considered at that meeting.

RULE 18. APPOINTMENT OF SUB-COMMITTEES

- (1) Every Committee appointed by the Council may appoint Sub-Committees for purposes to be specified by the Committee.
- (2) The Chairman of a Sub-Committee or the Chairman of the parent Committee may call a meeting of the Sub-Committee at any time.

RULE 19. ATTENDANCE BY MEMBER AT COMMITTEE

A Member of the Council may attend Committee meetings of which he is not a member and may also speak by prior arrangement with, and at the discretion of, the Chairman. This procedure rule shall not apply to meetings of the Appointments Board, Investigating and Disciplinary Committee and Panel (all matters) and the Joint Standards Committee (when considering matters deemed to be private / confidential and where the public is to be excluded from the meeting).

RULE 20. FINANCIAL ADMINISTRATION
--

Every Committee, Sub-Committee and Officer of the Council shall conform with the financial arrangements made by the Council under the provisions of section 151 of the Local Government Act, 1972.

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RULE 21. SUSPENSION AND AMENDMENT OF PROCEDURE RULES

- (1) All of these Procedure Rules except Nos. 7(3), 13(4), 13(5) and 21(2) may be suspended by motion on notice or without notice if at least sixteen (16) Members of the Council are present and by the consent of the simple majority of those Members. Suspension can only be for the duration of the meeting.
- (2) Any motion to add to, vary or revoke these Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council. Any subsequent decision on such a motion shall be on the basis of a simple majority of those Members present and voting.

RULE 22. PROCEDURE RULES TO BE GIVEN TO MEMBERS
--

A printed copy of these Procedure Rules shall be given to each Member of the Council by the Programmes, Performance and Governance Manager upon delivery to them of the Member's Declaration of Acceptance of Office on the Member being first elected to the Council.

RULE 23. INTERPRETATION OF PROCEDURE RULES

The ruling of the Chairman as to the construction or application of any of these Rules, or as to any proceedings of the Council, or of its Committees or Sub-Committees, shall not be challenged at any meeting of the Council, or of its Committees or Sub-Committees and his decision shall be final.

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ACCESS TO INFORMATION PROCEDURE RULES

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1. ~~GENERAL ARRANGEMENTS~~SCOPE

- 1.1 These Rules apply to all meetings of the Council, and its Committees and Sub-Committees. They cover Members' rights of access to information and the public's access to information. These Rules do not cover public rights of access to information under the Freedom of Information Act 2000, and the Data Protection Act 1998.

2. ADDITIONAL RIGHTS TO INFORMATION

- 2.1 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

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3. RIGHTS TO ATTEND MEETINGS

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these ~~R~~rules.

4. NOTICES OF MEETING

- 4.1 The Council will give at least five working days notice of any meeting by posting details ~~of the meetings at the Maldon District Council Offices, Princes Road, Maldon, Essex, CM9 5DL, the designated office and~~ on its website www.maldon.gov.uk.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

- 5.1 The Council will make copies of the agenda and reports open to the public available for inspection at ~~the Council Offices, Princes Road, Maldon CM9 5DL~~ ~~designated office~~ and on its website, at least five clear working days before the meeting (excluding the day of publication of notice and the day of the meeting). Where reports or associated documents are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Members.

Note: The Local Government (Access to Information) Act 1985 provides that an item of business may not be considered unless either it is included on the published agenda for a meeting or by reason of special circumstances the Chairman of the meeting considers it to be urgent. Once the agendas for meetings of the Council, its Committees and Sub-Committees have been produced, there is little scope for issuing supplementary reports. It is not permissible to simply create an agenda item for a report to follow at a later date.

6. SUPPLY OF COPIES

- 6.1 The Council will supply copies of:
- (a) any agenda and reports which are open to public inspection;
 - (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
 - (c) if the Proper Officer thinks fit, copies of any other documents supplied to Members in connection with an item to any person on payment of a reasonable charge for postage and any other costs.

7. ACCESS TO MINUTES ETC. AFTER THE MEETING

- 7.1 The Council will make available copies of the following for six years after a meeting:
- (a) the minutes of the meeting or records of decisions taken, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;

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- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

8. BACKGROUND PAPERS

List of background papers

- (a) The ~~P~~proper ~~O~~fficer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his opinion:
 - (i) disclose any facts or matters on which the report or an important part of the report is based; and
 - (ii) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined) and in respect of executive reports, the advice of a political advisor.

Public inspection of background papers

- (a) The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

9. SUMMARY OF PUBLIC'S RIGHTS

- 9.1 A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Maldon District Council Offices, Princes Road, Maldon, Essex CM9 5DL.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

Confidential information – requirement to exclude public

- (a) The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

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Exempt information – discretion to exclude public

- (a) The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. In these circumstances, public access to reports, background papers and minutes will also be excluded.
- (b) Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

Meaning of confidential information

- (a) Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order or under another Act.

Meaning of exempt information

- (a) Subject to the **conditions** detailed in 14 (b) below, exempt information is defined in the Local Government (Access to Information) (Variation) Order 2006 as information falling within any of the following categories:

	Category	Conditions/definitions
1.	Information relating to any individual	1. Conditions - see 14 (b) below
2.	Information which is likely to reveal the identity of an individual	1. Conditions - see 14 (b) below
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information)	1. Conditions - see 14 (b) below 2. Definitions - “financial or business affairs” includes contemplated as well as past or current activities
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders under, the authority	1. Conditions - see 14 (b) below 2. Definitions - “employee” means a person employed under a contract of service “office holder” means the holder of any paid office appointments to which are or may be made or confirmed by the authority or any Joint Board on which the authority is represented or by any person who holds any such office or is an employee of the

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	Category	Conditions/definitions
		<p>authority</p> <p>“labour relations matters” are as specified in paragraphs (a) to (g) of Section 218 (1) of the Trade Union and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute</p>
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	1. Conditions - see 14 (b) below
6.	<p>Information which reveals that the authority proposes:</p> <p>a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>b) to make an order or direction under any enactment</p>	1. Conditions - see 14 (b) below
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	1. Conditions - see 14 (b) below
7A	Information which is subject to any obligation of confidentiality.	7A, 7B and 7C apply only to the Standards Committee or a sub-committee of a standards committee when convened to consider a matter under the specified provisions.
7B	Information which relates in any way to matters concerning national security.	
7C	Information presented to a standards committee, or to a sub-committee of a standards committee, set up to consider any matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000.	

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(b) Exempt Information - Conditions

(i)	Information falling within Category 3 is not exempt information if it is required to be registered under the Companies Act 1985 the Friendly Societies Act 1974 the Friendly Societies Act 1992 the Industrial and Provident Societies Acts 1965 to 1978 the Building Societies Act 1986 (and in this context, “registered” means recorded in the public file of the Building Society); or the Charities Act 1993
(ii)	Information is not exempt information under any category if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992
(iii)	<p>Exempt information under any category (and which is not prevented from being exempt by virtue of (a) or (b) above) is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p> <p><u>The public interest test for the purposes of the exempt categories of information is about whether it better serves the interests of the public to withhold or disclose the information. The Information Commissioner’s Office has published guidance in connection with the Freedom of Information Act which may be useful in undertaking that test (Freedom of Information Act Awareness Guidance No. 3 The Public Interest Test). Basically, something is considered to be in the public interest if it serves the interests of the public. Examples of the types of factors that would encourage disclosure are:</u></p> <ul style="list-style-type: none"> • <u>furthering the understanding and participation of the public debate of issues of the day;</u> • <u>promoting accountability and transparency of public authorities for their decisions;</u> • <u>promoting accountability and transparency in the spending of public money;</u> • <u>allowing individuals and companies to understand decisions made by public authorities that affect their lives and, in some cases, assisting individuals in challenging such decisions; and</u> • <u>bringing to light information affecting public health and safety.</u> <p><u>The main factors against disclosure of information are those set out in exemptions (1) to (7) themselves such as the need to maintain and not prejudice law enforcement matters. If disclosure of information would adversely affect these matters, then it is relevant to consider the possible adverse effect of disclosure against the positive benefits of openness. Consideration of the European Convention on Human Rights may also lead to a conclusion that information should not be disclosed because it might prejudice the right to a fair hearing.</u></p>

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11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

- 11.1 If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his opinion relate to items for which, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.
- 11.2 Where an exemption is relied upon, any such report must contain the reasons why, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

12. MEMBER ACCESS TO INFORMATION

- 12.1 A Member has the same power of inspection of documents as members of the public.
- 12.2 A Member also has a statutory right of access to documents provided by Section 100F of the Local Government Act 1972. This provides that any document which is in the possession or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council or a Committee or a Sub-Committee must be open to inspection by a Member of the Council.
- 12.3 A Member has a common law right to be provided with or to inspect Council documents that it is reasonably necessary for them to see in order to carry out their duties as a Councillor. A Member wishing to exercise this ‘need to know’ right must inform the Director of Strategy, Performance and Governance Monitoring Officer in writing of the document they wish to see together with information in support of their claim to have a ‘need to know’. The decision of the Director of Strategy, Performance and Governance Head of Paid Service as to whether or not the right is demonstrated shall be final.
- 12.4 All Members of the Council shall have access to all minutes and records of decisions.

13. MEMBER ACCESS TO EXEMPT OR CONFIDENTIAL DOCUMENTS

- 13.1 This Section deals with Member access to documents which contain confidential or exempt information, including agenda papers, background documents and minutes.
- 13.2 Members of a Committee or Sub-Committee will be provided with, and are entitled to receive, copies of confidential or exempt reports.
- 13.3 Subject to Rule 24 any Member of the Council may, upon request, receive a copy of a confidential or exempt report or agenda, or inspect an associated background document, on any matter except where the report or document contains information relating to staffing information, or where the identity of individual staff would be revealed.

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- 13.4 Any Member wishing to receive or inspect a report or document containing information referred to in Rule 23 must demonstrate a ‘need to know’ in accordance with the process set out in Rule 19.



MALDON DISTRICT COUNCIL

Financial Regulations and Financial Procedures

Updated February 2019

Changes log

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FINANCIAL REGULATIONS AND FINANCIAL PROCEDURES

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FINANCIAL REGULATIONS AND FINANCIAL PROCEDURES

1. Status of Financial Regulations

- 1.1. Financial regulations provide the framework for managing the Council's financial affairs. They apply to every member and officer of the Council and anyone acting on its behalf.
- 1.2. The regulations identify the financial responsibilities of the Council, the Committees, the Directors, and the Monitoring Officer. Directors should maintain a written record where decision making has been delegated to members of their staff, including seconded staff. Where decisions have been delegated or devolved to other responsible officers, references to the Director in the regulations should be read as referring to them. Actions may also be delegated, and again delegation should be documented, however the responsibility to ensure that these actions are happening remains with the person specified in these regulations. (Appendix I)
- 1.3. All Council Members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.
- 1.4. The Director of Resources is responsible for maintaining a continuous review of the financial regulations and submitting any additions or changes necessary to the Council for approval. The Director of Resources is also responsible for reporting, where appropriate, breaches of the financial regulations to the Finance & Corporate Services Committee. Any non-compliance with the Regulations must be reported to the Director of Resources. Anyone wishing to act outside the provisions of these regulations, in a specific instance, must seek the prior written approval of the Director of Resources.
- 1.5. The Council's detailed financial procedures, setting out how the regulations will be implemented, are contained in the appendices to the financial regulations.
- 1.6. The Director of Resources is responsible for ensuring that all staff are aware of the existence and content of the Council's financial regulations and other internal regulatory documents and that they comply with them.
- 1.7. The Director of Resources is responsible for issuing advice and guidance to underpin the financial regulations that Members, Officers and others acting on behalf of the Council are required to follow. Notes and guidance may expand upon, but not contradict the Regulations. Any consultation required under these Regulations must allow sufficient time for a proper consideration of any issues.
- 1.8. All financial and accounting procedures must be carried out in accordance with the Regulations.

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FINANCIAL REGULATIONS AND FINANCIAL PROCEDURES

2. FINANCIAL REGULATIONS

a) Financial Management

1. INTRODUCTION

- 1.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget.

2. THE COUNCIL

- 2.1 The Council is responsible for adopting the corporate governance arrangements (Standing orders and Terms of Reference), for approving the annual budget and the policy framework within which the Committees operate. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The framework is set out in its corporate governance arrangements. The Council is also responsible for monitoring compliance with the agreed policy and related Committee decisions.
- 2.2 The Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated by and decisions taken by the Council and its Committees.

3. THE COMMITTEES

- 3.1 The Finance & Corporate Services Committee is responsible for proposing the annual budget to the Council, and for discharging its own functions in accordance with that budget and framework.
- 3.2 Once approved, the Finance & Corporate Services committee is responsible for the administration of the budget for the services set out in its Terms of Reference.
- 3.3 Committee decisions can be delegated to an officer or a sub-committee.
- 3.4 The Committees are responsible for establishing protocols to ensure that decisions take account of legal and financial liabilities and risk management issues that may arise from the decision.
- 3.5 The Overview and Scrutiny Committee along with its major role in reviewing Best Value, has power to scrutinise decisions made, or action taken, in respect of any of the functions of the Council which have financial implications. It also has powers to make recommendations on future financial policy options and for reviewing the general financial policy and service delivery of the Council.
- 3.6 The Standards Committee is established by the Council and is responsible for promoting and maintaining high standards of conduct amongst councillors. In particular, it is responsible for advising the Council on the adoption and revision of the Members' code of conduct, and for monitoring the operation of the code.

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4. THE STATUTORY OFFICERS

4.1 Head of Paid Service

4.1.1 He/she is responsible for the corporate and overall strategic management of the Council as a whole. He/she must report to and provide information for the Council, the Programme committees and other Committees. He/she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of Paid Service is also responsible, together with the Monitoring Officer (see 4.2 below), for the system of record keeping in relation to all the Council's decisions.

4.1.2 The Director of Strategy, Performance and Governance is responsible for keeping the Council's corporate governance arrangements up to date.

4.2 Monitoring Officer

4.2.1 The Monitoring Officer is responsible for promoting and maintaining high standards of financial conduct and therefore provides support to the Standards Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the Council and/or to the Committees, and for ensuring that procedures for recording and reporting key decisions, as defined in the Constitution, are operating effectively.

4.2.2 The Monitoring Officer must ensure that Committees' decisions and the reasons for them are made public. He/she must also ensure that Council Members are aware of decisions made by Committees and of those made by officers who have delegated responsibility.

4.2.3 The Monitoring Officer is responsible for advising all Members and officers about who has authority to take a particular decision.

4.2.4 The Monitoring Officer is responsible for advising the Committees or Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.

4.2.5 The Monitoring Officer (together with the Section 151 Officer (see below)) is responsible for advising the Committees or Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:

- a) initiating a new policy;
- b) committing expenditure in future years to above the current budget level;
- c) incurring expenditure where no estimate or an inadequate estimate exists thereby giving rise to the necessity for [supplementary estimates](#) or [virements](#) above approved limits;
- d) causing the total expenditure financed from council tax, grants and corporately held reserves to increase, or to increase by more than a specified amount.

4.3 Section 151 Officer (Chief Finance Officer)

4.3.1 The Director of Resources is the Chief Finance Officer and has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:

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- a) Section 151 of the Local Government Act 1972;
- b) The Local Government Finance Act 1988;
- c) The Local Government and Housing Act 1989;
- d) The Accounts and Audit Regulations 2015;
- e) The Localism Act 2011.

4.3.2 The Section 151 Officer (Chief Finance Officer) is responsible for:

- a) the proper administration of the Council's financial affairs;
- b) setting and monitoring compliance with financial management standards;
- c) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- d) providing financial information;
- e) preparing the [revenue budget](#) and [capital programme](#);

Operational responsibility for these matters is assigned to the Director of Resources.

4.3.3 Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer (Section 151 Officer) to report to the Council, Committees and external auditor if the Council, Committees or one of its officers or members:

- a) has made, or is about to make, a decision which involves incurring unlawful expenditure;
- b) has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council;
- c) is about to make an unlawful entry in the Council's accounts.

Section 114 of the 1988 Act also requires:

- d) the Chief Finance Officer to nominate a properly qualified member of staff to deputise should he/she be unable to perform the duties under section 114 personally;
- e) the Council to provide the Chief Finance Officer with sufficient staff, accommodation and other resources, including legal advice where this is necessary, to carry out the duties under section 114.

5. DIRECTORS

5.1 Directors are responsible for ensuring that Committees are advised of the financial implications of all proposals and that the financial implications have been agreed by the Director of Resources;

5.2 The Directors and the Head of Paid Service are responsible for signing contracts on behalf of the Council.

5.3 It is the responsibility of Directors and Committees to consult with the Director of Resources and seek approval on any matter liable to affect the Council's finances, before any commitments are incurred.

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FINANCIAL REGULATIONS AND FINANCIAL PROCEDURES

6. OTHER FINANCIAL ACCOUNTABILITIES

6.1 Virement

6.1.1 The Council is responsible for agreeing procedures for revenue and capital virements of expenditure or income between budget headings.

6.1.2 Directors must consult the Director of Resources on all virements, (see [Appendix F](#))

6.2 Treatment of year-end balances

6.2.1 The Director of Resources is responsible for agreeing procedures for carrying forward under-spending on budget headings.

6.3 Accounting policies

6.3.1 The Director of Resources is responsible for selecting accounting policies and ensuring that they are applied consistently.

6.4 Accounting records and returns

6.4.1 The Director of Resources is responsible for determining the accounting procedures and records for the Council.

6.5 The Annual Statement of Accounts

6.5.1 The Director of Resources is responsible for ensuring that the annual Statement of Accounts is prepared in accordance with the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice for Local Authority Accounting in the United Kingdom and that the annual accounts are published by the deadline set out in the Accounts and Audit Regulations each year. The Audit Committee is responsible for approving the annual Statement of Accounts.

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FINANCIAL REGULATIONS AND FINANCIAL PROCEDURES

b) Financial Planning

1. INTRODUCTION

- 1.1 The Council is responsible for agreeing the Council's policy framework, in particular the Corporate Plan. It is also responsible for agreeing the budget, the main framework of which will be proposed by the Finance & Corporate Services Committee. In terms of financial planning, the key elements are:

- a) the revenue budget;
- b) the medium term financial strategy (MTFS);
- c) the capital programme.

2. POLICY FRAMEWORK

- 2.1 The policy framework comprises a number of statutory plans and strategies, which are set out in the Councils corporate governance arrangements.
- 2.2 The Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. The Monitoring Officer or the S151 Officer, as appropriate, should refer decisions to the Council.
- 2.3 The Programme committees are responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.

2.4 Preparation of the Corporate Plan

- 2.4.1 The Director of Strategy, Performance and Governance is responsible for proposing the Corporate Plan to the Council for approval.

3. BUDGETING

3.1 Budget format

- 3.1.1 The general format of the budget will be approved by the Finance & Corporate Services Committee and the Council on the advice of the Director of Resources. The draft budget should include current approvals updated for inflation and volume changes, proposals for growth and savings, together with the proposed taxation level.

3.2 Budget preparation

- 3.2.1 The Director of Resources is responsible for ensuring that a revenue budget is prepared on an annual basis and a MTFS at least on a three-yearly basis for consideration by the Finance & Corporate Services Committee, before submission to the Council. The Council may amend the budget before approving it.

3.3 Budget monitoring and control

- 3.3.1 The Director of Resources is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He/she must monitor and control expenditure against budget allocations and report to the Finance & Corporate Services Committee on the overall position on a quarterly basis.

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- 3.3.2 It is the responsibility of Directors to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Director of Resources. They should also take any action necessary to avoid exceeding their budget allocation and alert the Director of Resources to any problems.

3.4 Resource allocation

- 3.4.1 The Director of Resources is responsible for developing and maintaining a resource allocation process that ensures due consideration of the Council's strategic and financial planning process.

3.5 Preparation of the Capital Strategy

- 3.5.1 The Director of Resources is responsible for ensuring that the Capital Strategy and Capital Programme are prepared on an annual basis for consideration by the Finance & Corporate Services Committee before submission to the Council.

3.6 Guidelines

- 3.6.1 Guidelines on budget policies are issued to Directors by the Director of Resources following approval of the Finance & Corporate Services Committee. The guidelines will take account of:
- a) legal requirements;
 - b) medium-term financial strategy;
 - c) the Corporate Plan;
 - d) available resources;
 - e) spending pressures;
 - f) other relevant guidelines issued by government or external audit;
 - g) other internal policy documents;
 - h) cross-cutting issues (where relevant);
 - i) external partnerships.

4. MAINTENANCE OF RESERVES

- 4.1 It is the responsibility of the Director of Resources to advise the Finance & Corporate Services Committee on prudent levels of reserves for the Council.

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c) Risk Management and Control of Resources

1. INTRODUCTION

- 1.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

2. RISK MANAGEMENT

- 2.1 The Audit Committee is responsible for approving the Council's Risk Management Policy and for reviewing the effectiveness of risk management. The Finance & Corporate Services Committee is responsible for ensuring that proper insurance exists where appropriate.
- 2.2 The Director of Resources is responsible for preparing the Council's Risk Management Policy and for promoting it throughout the Council and is responsible for advising the Committees on proper insurance cover where appropriate.

3. INTERNAL CONTROL

- 3.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- 3.2 The Director of Resources is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, effectively and in accordance with the statutory and other authorities that govern their use.
- 3.3 It is the responsibility of Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

4. AUDIT REQUIREMENTS

- 4.1 The Accounts and Audit Regulations require every local Council to maintain an adequate and effective internal audit.
- 4.2 The Secretary of State for Communities and Local Government, via the Local Government Association has delegated the appointment of external auditors to each local authority to a body called Public Sector Audit Appointments Ltd (PSAA). The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by the Local Audit and Accountability Act 2014.
- 4.3 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenues and Customs, which have statutory rights of access.

5. PREVENTING FRAUD AND CORRUPTION

- 5.1 The Director of Strategy, Performance and Governance, is responsible for the development and maintenance of an Anti-Fraud and Anti-Corruption Policy.

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6. ASSETS

- 6.1 Directors should ensure that records of the Council's assets in excess of the limit set out in section 1.7 of **Appendix F** are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place. The Director of Resources should ensure that all assets above the specified value are properly recorded in the asset register.

7. TREASURY MANAGEMENT

- 7.1 The Council has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities.
- 7.2 The Finance & Corporate Services Committee is responsible for approving the treasury management policy and Treasury Management Practices (TMP's) setting out the matters detailed in CIPFA's Code of Practice for Treasury Management in Local Authorities. The Director of Resources has delegated responsibility for implementing and monitoring the TMP's.
- 7.3 All money in the hands of the Council is controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972, referred to in the Code as the Director of Resources.
- 7.4 Subject to the Council setting the overall borrowing limits in accordance with the Prudential Code, the day to day decisions on borrowing, investment or financing shall be delegated to the Director of Resources, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities.

8. STAFFING

- 8.1 The Head of Paid Service is responsible for providing overall management to staff. He/she is also responsible for ensuring that there is proper use of evaluation or other agreed systems for determining the remuneration of a job.
- 8.2 Directors, in consultation with the Director of Resources, are responsible for controlling total staff numbers by:
- a) advising the Council on the budget necessary in any given year to cover estimated staffing levels;
 - b) adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs;
 - c) the proper use of appointment procedures.

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d) Systems and Procedures

1. INTRODUCTION

- 1.1 Sound systems and procedures are essential to an effective framework of accountability and control.

2. GENERAL

- 2.1 The Director of Resources is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. The Director of Resources must determine any changes proposed by Directors to the existing financial systems or the establishment of new systems. However, Directors are responsible for the proper operation of financial processes in their own services.
- 2.2 Any changes to agreed procedures by Directors to meet their own specific service needs should be agreed with the Director of Resources.
- 2.3 The Director of Resources should ensure that all staff receive relevant financial training.
- 2.4 Directors must ensure that, where appropriate, computer and other systems are registered in accordance with Data Protection legislation. Directors must ensure that staff are aware of their responsibilities under freedom of information legislation.

3. INCOME AND EXPENDITURE

- 3.1 It is the responsibility of Directors to ensure that a proper scheme of internal authorisation has been established within their area and that it is operating effectively. The scheme of delegation should identify in writing staff authorised to act on the Directors' behalf, or on behalf of the Council, in respect of payments, income collection and placing orders, together with the limits of their authority. The Finance & Corporate Services Committee is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

4. PAYMENTS TO EMPLOYEES AND MEMBERS

- 4.1 The Director of Resources is responsible for all payments of salaries and allowances to all staff, including payments for overtime, and for payment of allowances to Members.

5. TAXATION

- 5.1 The Director of Resources is responsible for advising Directors, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.
- 5.2 The Director of Resources is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

6. TRADING ACCOUNTS

- 6.1 It is the responsibility of the Director of Resources to advise on the establishment and operation of trading accounts.

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e) External Arrangements

1. INTRODUCTION

- 1.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social and environmental well-being of its area.

2. PARTNERSHIPS

- 2.1 The Programme committees are responsible for approving delegations, including frameworks for partnerships. The Programme committees are the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 2.2 The Programme committees can delegate functions, including those relating to partnerships, to officers. These are set out in the scheme of delegation that forms part of the Council's corporate governance arrangements. Where functions are delegated, the Programme committees remain accountable for them to the Council.
- 2.3 The Director of Resources is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council.
- 2.4 The Director of Resources, in consultation with the Council's designated legal advisor, must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are robust and comply with best practices. He/she must also consider the overall corporate governance arrangements and in consultation with the designated legal advisor, legal issues when arranging contracts with external bodies. He/she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- 2.5 Programme committees are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

3. EXTERNAL FUNDING

- 3.1 The Director of Resources is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

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A. FINANCIAL MANAGEMENT PROCEDURES

A.1. FINANCIAL MANAGEMENT STANDARDS

1.1 Why is this important?

- 1.1.1 All staff and Members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

A.1.2 Key controls

- 1.2.1 The key controls and control objectives for financial management standards are
- (a) their promotion throughout the Council;
 - (b) a monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards that are reported to the Finance & Corporate Services and/or Overview & Scrutiny Committees.

A.1.3 Responsibilities of the Director of Resources

- 1.3.1 To ensure the proper administration of the financial affairs of the Council.
- 1.3.2 To set the financial management standards and to monitor compliance with them.
- 1.3.3 To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the Council.
- 1.3.4 To advise on the key strategic controls necessary to secure sound financial management.
- 1.3.5 To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

A.1.4 Responsibilities of Directors

- 1.4.1 To promote the financial management standards set by the Director of Resources in their service and to monitor adherence to the standards and practices.
- 1.4.2 To promote sound financial practices in relation to the standards, performance and development of staff in their departments.

A.2. MANAGING EXPENDITURE

2.1 Scheme of Virement

2.1.1 Why is this important?

- 2.1.1.1 The scheme of virement is intended to enable the Finance & Corporate Services committee, Directors and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the Council, and therefore to optimise the use of resources.

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A.2.2 Key controls

2.2.1 Key controls for the scheme of virement are:

- (a) it is administered by the Director of Resources within guidelines set by the Council. Any variation from this scheme requires the approval of the Council;
- (b) the overall budget is proposed by the Finance & Corporate Services Committee and approved by the Council. Directors and budget holders are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement (i.e. switching resources between approved budget headings of expenditure or income). For the purposes of this scheme, a budget heading is considered to be a line in the Budget Summary of the Budget Book;
- (c) virement does not create additional overall budget liability. Directors are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Directors must plan to fund such commitments from within their own budgets.

A.2.3 Responsibilities of the Director of Resources

2.3.1 To prepare jointly with the Directors, a report to the Finance & Corporate Services Committee where revenue and capital virements, between different directorates, in excess of specified financial limits, are proposed (see **Appendix F**).

A.2.4 Responsibilities of Directors

2.4.1 A Director, in consultation with the Director of Resources may exercise virement within the same directorate under his/her control for any amount. Virements between different directorates must be reported to the Finance & Corporate Services Committee. The authorisation limits are set out in **Appendix F**.

2.4.2 Amounts that require the approval of the Finance & Corporate Services Committee must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial years.

2.4.3 Virement that is likely to impact on the level of service activity of another Director should be implemented only after agreement with the relevant Director.

2.4.4 No virement relating to a specific financial year should be made after 31 March in that year.

2.4.5 Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:

- a) the amount is used in accordance with the purposes for which it has been established;
- b) the Finance & Corporate Services Committee has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Finance & Corporate Services Committee.

2.4.6 Virements are not permitted in relation to asset charges or other budget headings which are outside the control of the Directors or where a proposal would adversely affect long term revenue commitments.

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A.3. ACCOUNTING POLICIES

A.3.1 Why is this important?

- 3.1.1 The Director of Resources is responsible for the preparation of the Council's Statement of Accounts, in accordance with proper practices as set out in the format required by the CIPFA Code of Practice on Local Authority Accounting in the United Kingdom for each financial year ending 31 March.

A.3.2 Key controls

- 3.2.1 The key controls for accounting policies are:
- a) systems of internal control are in place which ensure that financial transactions are lawful;
 - b) suitable accounting policies are selected and applied consistently;
 - c) proper accounting records are maintained;
 - d) financial statements are prepared which present fairly the financial position of the Council and its expenditure and income.

A.3.3 Responsibilities of the Director of Resources

- 3.3.1 To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the Statement of Accounts, which is prepared at 31 March each year, and covers such items as:
- a) income and expenditure;
 - b) fixed assets;
 - c) treatment of leasing;
 - d) depreciation;
 - e) charges to revenue;
 - f) capital receipts;
 - g) debtors and creditors;
 - h) support services;
 - i) pensions;
 - j) government grants;
 - k) investments;
 - l) reserves.
 - m) stocks

A.3.4 Responsibilities of Directors

- 3.4.1 To adhere to the accounting policies and guidelines approved by the Director of Resources.

A.4. ACCOUNTING RECORDS AND RETURNS

A.4.1 Why is this important?

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- 4.1.1 Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources. The Council has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the Council's resources.

A.4.2 Key controls

- 4.2.1 The key controls for accounting records and returns are:

- a) all Committees, finance staff and budget managers operate within the required accounting standards and timetables;
- b) all the Council's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis;
- c) procedures are in place to enable accounting records to be reconstituted in the event of systems failure;
- d) reconciliation procedures are carried out to ensure transactions are correctly recorded;
- e) prime documents are retained in accordance with legislative and other requirements.

A.4.3 Responsibilities of the Director of Resources

- 4.3.1 To determine the accounting procedures and records for the Council. Where these are maintained outside his/her department, the Director of Resources should consult the Director concerned.
- 4.3.2 To arrange for the compilation of all accounts and accounting records under his/her direction.
- 4.3.3 To comply with the following principles when allocating accounting duties:
- a) separating the duties of providing information about sums due to or from the Council and calculating, checking and recording these sums from the duty of collecting or disbursing them;
 - b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- 4.3.4 To make proper arrangements for the audit of the Council's accounts in accordance with the Accounts and Audit Regulations 2015.
- 4.3.5 To ensure that all claims for funds including grants are made by the due date.
- 4.3.6 To prepare and publish the audited accounts of the Council for each financial year, in accordance with the statutory timetable and with the requirement for the Audit Committee to approve the Statement of Accounts.
- 4.3.7 To administer arrangements for under-spending to be carried forward to the following financial year.
- 4.3.8 To ensure the proper retention of financial documents in accordance with the requirements set out in the Council's document retention guidelines.

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A.4.4 Responsibilities of Directors

- 4.4.1 To consult and obtain the approval of the Director of Resources before making any changes to accounting records and procedures.
- 4.4.2 To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.
- 4.4.3 To supply information required to enable the Statement of Accounts to be completed in accordance with guidelines issued by the Director of Resources.

A.5. THE ANNUAL STATEMENT OF ACCOUNTS

A.5.1 Why is this important?

- 5.1.1 The Council has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. The Audit Committee is responsible for approving the statutory annual Statement of Accounts.

A.5.2 Key controls

- 5.2.1 The key controls for the annual Statement of Accounts are:
 - a) the Council is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs. In this Council, that officer is the Director of Resources (Section 151 Officer);
 - b) the Council's Statement of Accounts must be prepared in accordance with proper practices as set out in the latest CIPFA Code of Practice on Local Authority Accounting in the United Kingdom.

A.5.3 Responsibilities of the Director of Resources

- 5.3.1 To sign and date the Statement of Accounts, stating that it presents a true and fair view of the financial position of the Council at the accounting date and its income and expenditure for the year ended 31 March.
- 5.3.2 To select suitable accounting policies and to apply them consistently.
- 5.3.3 To make judgements and estimates that are reasonable and prudent.
- 5.3.4 To comply with the latest accounting Code of Practice.
- 5.3.5 To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.

A.5.4 Responsibilities of Directors

- 5.4.1 To comply with accounting guidance provided by the Director of Resources and to supply him/her with information when required.

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B. FINANCIAL PLANNING

B.1. PERFORMANCE PLANS

B.1.1 Why is this important?

- 1.1.1 The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement.

B.1.2 Key controls

- 1.2.1 The key controls for performance plans are:
- (a) to meet the timetables set;
 - (b) to ensure that all performance information is accurate, complete and up to date;
 - (c) to provide improvement targets which are meaningful, realistic and challenging.

B.1.3 Responsibilities of Directors

- 1.4.1 To contribute to the development of performance plans in line with statutory requirements.
- 1.4.2 To contribute to the development of corporate and service targets and objectives and performance information.
- 1.4.3 To ensure that systems are in place to measure activity and collect accurate information for use as performance indicators.
- 1.4.4 To ensure that performance information is collected and monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

B.2. BUDGETING

B.2.1 Format of the budget

2.1.1 Why is this important?

- 2.1.1.1 The structure of the budget determines the level of detail to which financial control and management will be exercised. The structure shapes how the rules around virement operate, the operation of financial limits and sets the level at which funds may be reallocated within budgets.

B.2.2 Key controls

- 2.2.1 The key controls for the budget structure are:
- a) the structure complies with all legal requirements;
 - b) the structure reflects the accountabilities of service delivery.

B.2.3 Responsibilities of Directors

- 2.3.1 To comply with accounting guidance provided by the Director of Resources.

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B.2.4 Revenue budget preparation, monitoring and control

2.4.1 Why is this important?

2.4.1.1 Budget management ensures that once the budget has been approved by the Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account, managers responsible for defined elements of the budget.

2.4.1.2 By continuously identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity. The Council itself operates within an annual financial limit, approved when setting the overall budget. To ensure that the Council in total does not overspend, each service is required to manage its own expenditure within the budget allocated to it.

2.4.1.3 For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service or policy area. However, budgetary control may take place at a more detailed level if this is required by the Directors scheme of delegation or by the Council.

B.2.5 Key controls

2.5.1 The key controls for managing and controlling the revenue budget are:

- a) budget managers should be responsible only for income and expenditure that they can influence;
- b) there is only one nominated budget manager for each budget area;
- c) budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities;
- d) budget managers follow an approved certification process for all expenditure;
- e) income and expenditure are properly recorded and accounted for;
- f) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget;
- g) Managers should supervise the financial management of those reporting to them.

B.2.6 Responsibilities of the Director of Resources

2.6.1 To establish an appropriate framework of budgetary management and control that ensures that:

- a) budget management is exercised within annual financial limits unless the Council agrees otherwise;
- b) each Manager has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
- c) all officers responsible for committing expenditure comply with relevant guidance, and the financial regulations;

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- d) each directly controllable cost centre has a single named manager, determined by the relevant Director. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making process that commits expenditure;
- e) significant variances from approved budgets are investigated and reported by budget managers regularly.

2.6.2 To administer the Council's scheme of virement.

2.6.3 To submit reports to the Finance & Corporate Services Committee and to the Council, in consultation with the relevant Director, where a Director is unable to balance expenditure and resources within existing approved budgets under his/her control.

2.6.4 To prepare and submit reports on the Council's projected income and expenditure compared with the budget on a quarterly basis.

2.6.5 To approve fees and charges where the budgeted income is less than or equal to £2,000.

B.2.7 Responsibilities of Directors

2.7.1 To maintain budgetary control within their services, in adherence to the principles in 2.6.1, and to ensure that all income and expenditure is properly recorded and accounted for.

2.7.2 To ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Director. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.

2.7.3 To ensure that spending remains within the service's overall financial limit, and that individual budget headings are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.

2.7.4 To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and that it is operating effectively.

2.7.5 To ensure prior approval by the Council or Programme committees (as appropriate) for new proposals, of whatever amount, that:

- a) create financial commitments in the current or future years;
- b) change existing policies, initiate new policies or cease existing policies;
- c) materially extend or reduce the Council's services.

2.7.6 To ensure compliance with the scheme of virement.

2.7.7 To agree with the relevant Director where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or another Director's level of service activity.

B.2.8 Budgets and the Medium-Term Financial Strategy (MTFS)

2.8.1 Why is this important?

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- 2.8.1.1 The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the Council's plans and policies.
- 2.8.1.2 A report on new proposals should explain the full financial implications, following consultation with the Director of Resources. Unless the Council or Finance & Corporate Services Committee has agreed otherwise, Directors must plan to contain the financial implications of such proposals within the relevant financial limit.
- 2.8.1.3 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the business plans and priorities of the Council. Budgets (spending plans) are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for a Council to budget for a deficit.
- 2.8.1.4 The annual strategic and financial planning process involves a cycle in which Directors develop their own plans for submission to the relevant Committee. As each year passes, another future year will be added to the MTFS. This ensures that the Council is always preparing for events in advance.

B.2.9 Key controls

- 2.9.1 The key controls for budgets and the MTFS are:
- a) specific budget approval for all expenditure;
 - b) budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Council for their budgets and the level of service to be delivered;
 - c) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

B.2.10 Responsibilities of the Director of Resources

- 2.10.1 To prepare and submit reports on budget prospects to the Finance & Corporate Services Committee including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.
- 2.10.2 To determine the detailed form of revenue estimates and the methods for their preparation.
- 2.10.3 To advise on the medium-term implications of spending decisions.
- 2.10.4 To encourage the best use of resources and value for money by working with Directors to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 2.10.5 To advise the Council on proposals in accordance with his/her responsibilities under section 151 of the Local Government Act 1972.

B.2.11 Responsibilities of Directors

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- 2.11.1 To prepare estimates of income and expenditure, in consultation with the Director of Resources.
- 2.11.2 To prepare budgets that are consistent with any relevant financial limits, with the Council's annual budget cycle and with guidelines issued by the Director of Resources.
- 2.11.3 To integrate financial and budget plans into business planning, so that budget plans can be supported by financial and non-financial performance measures.
- 2.11.4 In consultation with the Director of Resources and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by the Finance & Corporate Services Committee.
- 2.11.5 When drawing up draft budget requirements, to have regard to:
- a) spending patterns and pressures revealed through the budget monitoring process;
 - b) legal requirements;
 - c) requirements as defined by the Council in the Strategic and Financial Policy Process;
 - d) initiatives already under way and any new service requirements that are likely to require funding within the financial year in question.

B.2.12 Resource allocation

2.12.1 Why is this important?

- 2.12.1.1 A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is therefore imperative that needs/desires are carefully prioritised, taking account of the Council's legal responsibilities and that resources are allocated to meet the urgent priorities. Resources may include staff, money, equipment, goods and materials.

B.2.13 Key controls

- 2.13.1 The key controls for resource allocation are:
- a) resources are acquired in accordance with the law and allocated using an approved authorisation process;
 - b) resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for;
 - c) resources are securely held for use when required;
 - d) resources are used in the most efficient manner.

B.2.14 Responsibilities of the Director of Resources

- 2.14.1 To coordinate the Strategic and Financial Planning process to ensure that resources are devoted to the Council's stated priorities.
- 2.14.2 To advise on methods available for the funding of expenditure plans.

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B.2.15 Responsibilities of Directors

- 2.15.1 To deliver the Council's key objectives within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.
- 2.15.2 To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

B.2.16 Capital programmes

2.16.1 Why is this important?

- 2.16.1.1 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.
- 2.16.1.2 The Government controls the financing capacity of the Council through the CIPFA Prudential Code. This means that capital expenditure should be integrated into the Council's Treasury Management Strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

B.2.17 Key controls

- 2.17.1 The key controls for capital programmes are:
 - a) the development and implementation of asset management plans;
 - b) specific approval by the Council for the programme of capital expenditure;
 - c) a scheme and estimate, including project plan, progress targets and associated revenue expenditure is prepared for each capital project, for approval by the Finance & Corporate Services Committee;
 - d) proposals for improvements and alterations to buildings must be approved by the relevant Director;
 - e) accountability for each capital project is accepted by a named manager;
 - f) monitoring of progress in conjunction with expenditure and comparison with approved budget;
 - g) capital spending plans are to be in line with the approved Capital Strategy.

B.2.18 Responsibilities of the Director of Resources

- 2.18.1 To prepare the capital programme and estimates jointly with Directors and to report them to the Finance & Corporate Services Committee for approval. The Finance & Corporate Services Committee will make recommendations on the capital programme and on any associated financing requirements to the Council.
- 2.18.2 To prepare and submit reports jointly with the officers defined as accountable for capital projects to the Finance & Corporate Services Committee on the progress of the capital programme compared with the approved estimates.
- 2.18.3 Having regard to regulations determine the definition of 'capital'.

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B.2.19 Responsibilities of Directors

- 2.19.1 To comply with guidance concerning capital schemes and controls issued by the Director of Resources.
- 2.19.2 To prepare and submit quarterly reports jointly with the Director of Resources to the Finance & Corporate Services Committee on the progress of the capital programme compared with the approved estimates.
- 2.19.3 To prepare regular reports reviewing the capital programme provisions for their services. In consultation with the Director of Resources, to obtain authorisation from the Finance & Corporate Services Committee and/or the Council for individual schemes where the estimated expenditure exceeds the capital programme provision by more than a specified amount (see **Appendix F**).
- 2.19.4 To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the Director of Resources.
- 2.19.5 To ensure that adequate records are maintained for all capital contracts.
- 2.19.6 To proceed with projects only when there is adequate provision in the capital programme.
- 2.19.7 To prepare and submit reports, jointly with the Director of Resources, to the Programme committees, of any increase in contract costs in excess of the approved scheme and estimate, unless the excess can be met by virement from elsewhere within the capital programme. The authorisation limits for capital virements are set out in **Appendix F**.
- 2.19.8 To prepare and submit reports, jointly with the Director of Resources, to the Programme committees, where it appears that the final cost of a revenue or capital contract will exceed the approved contract sum by more than a specified financial limit (see **Appendix F**).
- 2.19.9 No leasing arrangements as defined by the Director of Resources shall be entered into without prior approval.

B.3. MAINTENANCE OF RESERVES

B.3.1 Why is this important?

- 3.1.1 The Council must decide the level of general reserves it wishes to maintain before it can decide the level of council tax. Reserves are maintained as a matter of prudence. They enable the Council to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

B.3.2 Key controls

- 3.2.1 To maintain reserves in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom and agreed accounting policies.
- 3.2.2 For each reserve established, the purpose, usage and basis of transactions should be clearly identified and approved by the Finance & Corporate Services Committee.

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B.3.3 Responsibilities of the Director of Resources

- 3.3.1 To advise the Finance & Corporate Services Committee and/or the Council on prudent levels of reserves for the Council.

B.3.4 Responsibilities of Directors

- 3.4.1 To ensure that resources are used only for the purposes for which they were intended.

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C. RISK MANAGEMENT AND CONTROL OF RESOURCES

C.1. RISK MANAGEMENT

C.1.1 Why is this important?

1.1.1 All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.

1.1.2 It is the overall responsibility of the Council to approve the Council's risk management strategy, and to promote a culture of risk management awareness throughout the Council.

C.1.2 Key controls

1.2.1 The key controls for risk management are:

- a) procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the Council;
- b) a monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls;
- c) managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives;
- d) provision is made for losses that might result from the risks that remain;
- e) procedures are in place to investigate claims within required timescales
- f) acceptable levels of risk are determined and insured against where appropriate;
- g) the Council has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

C.1.3 Responsibilities of the Director of Strategy, Performance and Governance

1.3.1 To prepare and promote the Council's Risk Management Policy.

1.3.2 To develop risk management controls in conjunction with Directors.

C.1.4 Responsibilities of the Director of Resources

1.4.1 To include all appropriate employees of the Council in a suitable fidelity guarantee insurance.

1.4.2 To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.

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C.1.5 Responsibilities of Directors

- 1.5.1 To notify the Director of Resources immediately of any loss, liability or damage that may lead to a claim against the Council, together with any information or explanation required by the Council's insurers.
- 1.5.2 To take responsibility for risk management, having regard to advice from the Director of Resources and other specialist officers (e.g. fire prevention, health and safety).
- 1.5.3 To ensure that there are regular reviews of risk within their Service.
- 1.5.4 To notify the Director of Resources promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- 1.5.5 To consult the Director of Resources and the Council's legal advisors on the terms of any indemnity that the authority is requested to give.
- 1.5.6 To ensure those employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

C.2. INTERNAL CONTROLS

C.2.1 Why is this important?

- 2.1.1 The Council is complex and beyond the direct control of a single individual. It therefore requires internal controls to manage and monitor progress towards strategic objectives.
- 2.1.2 The Council has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- 2.1.3 The Council faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.
- 2.1.4 The system of internal controls is established in order to provide measurable achievement of:
 - a) efficient and effective operations;
 - b) reliable financial information and reporting;
 - c) compliance with laws and regulations;
 - d) risk management.

C.2.2 Key controls

- 2.2.1 The key controls and control objectives for internal control systems are:
 - a) key controls should be reviewed on a regular basis;

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- b) managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities;
- c) financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems;
- d) an effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the Auditing Practices Board's auditing guideline Guidance for Internal Auditors, CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom and with any other statutory obligations and regulations.

C.2.3 Responsibilities of the Director of Resources

- 2.3.1 To assist the Council to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

C.2.4 Responsibilities of Directors

- 2.4.1 To manage processes to check that established controls are understood and being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.
- 2.4.2 To review existing controls in the light of changes affecting the Council and to establish and implement new ones in line with guidance from the Director of Resources. Directors should also be responsible, after consultation with the Director of Resources, for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.

C.3. AUDIT REQUIREMENTS

C.3.1 Internal audit

3.1.1 Why is this important?

- 3.1.1.1 The Accounts and Audit Regulations 2015 (para 5) require that a “relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance”.
- 3.1.1.2 Internal Audit must be seen as independent. This is achieved through operating within a framework that allows unrestricted access to senior management, reporting in its own name and segregation as far as practical from line operations. The function reports directly to the Director of Resources (also the officer designated under Section 151 of the Local Government Act 1972 as responsible for ensuring the proper administration of the Authority's financial affairs). Internal Audit also reports directly to the Audit Committee.

C.3.2 Key controls

- 3.2.1 The key controls for internal audit are:

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- a) that it is independent in its planning and operation;
- b) the Audit Manager has direct access to the Director of Resources, all levels of management and directly to elected Members;
- c) Internal Auditors work towards complying with the UK Public Sector Internal Audit Standards (PSIAS), and effort is made to preserve objectivity by ensuring staff are free from conflicts of interest. Therefore as far as is practical, Internal Audit will not participate in the day to day operation of any systems of internal financial control.

C.3.3 Responsibilities of the Director of Resources

3.3.1 To ensure that internal auditors have the authority to:

- a) access Council premises at reasonable times;
- b) access all assets, records, documents, correspondence and control systems ;
- c) receive any information and explanation considered necessary concerning any matter under consideration;
- d) require any employee of the Council to account for cash, materials or any other asset under his/her control;
- e) access records belonging to third parties, such as contractors, when required;
- f) obtain direct access to the Finance & Corporate Services Committee and the Audit Committee.

3.3.2 To approve the annual audit plans, prepared by the Audit Manager, and present to the Audit Committee for their approval.

3.3.3 To prepare terms of reference for the internal audit function, for approval by the Audit Committee.

3.3.4 To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

C.3.4 Responsibilities of Directors

3.4.1 To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.

3.4.2 To ensure that auditors are provided with any information and explanations that they seek in the course of their work.

3.4.3 To respond to internal and external audit reports in writing, within a timescale agreed by the appropriate Director and the Director of Resources or External Auditor, detailing the action intended to address any recommendations.

3.4.4 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

3.4.5 To ensure that their staff report any suspicion of fraud, corruption or other financial irregularity in respect of Council funds, either directly, or via the Directors to the Director of Resources for investigation.

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- 3.4.6 The Director of Resources must then arrange for appropriate investigation of the matter. The relevant Director must agree any further investigative action with the Director of Resources before proceeding.
- 3.4.7 The Director of Resources, in consultation with the relevant Director and the Monitoring Officer will advise whether any matter should be referred to the police for further investigation.
- 3.4.8 To ensure that the Director of Resources is given an opportunity, in a timely manner before live operation, to evaluate the adequacy of new systems for maintaining financial records, or records of assets, or changes to such systems.

C.3.5 External audit

3.5.1 Why is this important?

- 3.5.1.1 Under Schedule 1 of the Local Audit and Accountability Act 2014 all contracts for audit and related services, previously let by the Audit Commission, were transferred to Public Sector Audit Appointments Ltd on 1 April 2015. The external auditor has rights of access to all documents and information necessary for audit purposes (para 22 2014 Act).
- 3.5.1.2 The general duties of the external auditor are defined in the Local Audit and Accountability Act 2014 (para 20) and the Local Government Act 1999. In particular, Schedule 6 of the 2014 Act sets out that the Comptroller & Auditor General is responsible for preparing a code of audit practice, which external auditors follow when carrying out their duties. Schedule 1 of the code of audit practice sets out the auditor's statutory responsibilities across 3 main headings:
- a) Audit Scope;
 - b) Reporting;
 - c) Additional powers and duties.
- 3.5.1.3 The Council's accounts are scrutinised by external auditors, who must be satisfied that the Statement of Accounts 'presents a true and fair view' (Para 20 2014 Act) of the financial position of the Council and its income and expenditure for the year in question and complies with the legal requirements.

C.3.6 Key controls

- 3.6.1 External auditors were initially appointed by Public Sector Audit Appointments Ltd, however subsequent appointments are to be made by the Local Authority for a maximum period of five years. The Comptroller & Auditor General (National Audit Office) prepares the code of audit practice, which external auditors follow when carrying out their audits.

C.3.7 Responsibilities of the Director of Resources

- 3.7.1 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.
- 3.7.2 To work with the external auditor and advise the Council, and Directors on their responsibilities in relation to external audit.

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3.7.3 To ensure there is effective liaison between external and internal audit.

C.3.8 Responsibilities of Directors

3.8.1 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.

3.8.2 To ensure that all records and systems are up to date and available for inspection.

C.4. PREVENTING FRAUD AND CORRUPTION

C.4.1 Why is it this important?

4.1.1 The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.

4.1.2 The Council's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

4.1.3 The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and without thought of or actions involving fraud and corruption. It must guard against the possibility that these expectations will not be fulfilled in all respects.

C.4.2 Key controls

4.2.1 The key controls regarding the prevention of financial irregularities are that:

- a) the Council has an effective Anti-Fraud and Anti-Corruption Policy and maintains a culture that will not tolerate fraud or corruption;
- b) all Members and staff act with integrity and lead by example as per the relevant Code of Conduct;
- c) Managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Council or who are corrupt;
- d) high standards of conduct are promoted amongst Members by the standards committee;
- e) the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded;
- f) "whistle blowing" procedures are in place and operate effectively;
- g) legislation including the Public Interest Disclosure Act 1998 is adhered to.

C.4.3 Responsibilities of the Director of Strategy Performance and Governance.

4.3.1 To maintain and review an Anti-Fraud Policy.

C.4.4 Responsibilities of the Director of Resources

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4.4.1 To maintain adequate and effective internal control arrangements.

4.4.3 To ensure that all suspected irregularities are investigated, and all proven irregularities reported to the Monitoring Officer and S151.

C.4.5 Responsibilities of Directors

4.5.1 To ensure that all suspected irregularities are reported to the Director of Resources

4.5.2 To instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.

4.5.3 To ensure that where financial impropriety is discovered, the Director of Resources is informed. Where sufficient evidence exists to believe that a criminal offence may have been committed, after consultation with the Director of Resources, relevant Director, to ensure that the Police are called in.

C.4.6 Responsibility of the Monitoring Officer

4.6.1 To maintain a register of interests.

C.5. ASSETS

C.5.1 Security

5.1.1 Why is this important?

5.1.1.1 The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

C.5.2 Key controls

5.2.1 The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:

- a) resources are used only for the purposes of the Council and are properly accounted for;
- b) resources are available for use when required;
- c) resources no longer required are disposed of in accordance with the law and the regulations of the Council so as to maximise benefits;
- d) an asset register is maintained for the Council, assets are recorded when they are acquired by the Council and this record is updated as changes occur with respect to the location, value and condition of the asset;
- e) all staff are aware of their responsibilities with regard to safeguarding the Council's assets and information, including the requirements of the Data Protection Act and software copyright legislation;

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- f) all staff are aware of their responsibilities with regard to safeguarding the security of the Council's Information Communication Technology (ICT) Systems, including maintaining restricted access to the information held on them and compliance with the Council's Information Communication Technology and internet security policies.

C.5.3 Responsibilities of the Director of Resources

- 5.3.1 To ensure that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of a specified financial limit (see **Appendix F**). The function of the asset register is to provide the Council with information about fixed assets so that they are:
- a) safeguarded;
 - b) used efficiently and effectively;
 - c) adequately maintained.
- 5.3.2 To receive the information required for accounting, costing and financial records from each Director.
- 5.3.3 To ensure that assets are valued in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom.

C.5.4 Responsibilities of Directors

- 5.4.1 A property database shall be maintained by the Director of Resources for all properties, plant and machinery and moveable assets currently owned or used by the Council subject to the minimum values specified in **Appendix F**. Any use of property by a service other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use.
- 5.4.2 To ensure that lessees and other prospective occupiers of council owned land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Council's legal advisor, has been established.
- 5.4.3 To ensure the proper security of all buildings and other assets under their control in accordance with laid down guidelines.
- 5.4.4 Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a joint report by the Director and the Director of Resources (see **Appendix F**).
- 5.4.5 To pass title deeds to the Monitoring Officer who is responsible for maintaining the central repository of all title deeds.
- 5.4.6 To ensure that no Council asset is subject to personal use by a Member or employee without prior agreement of the relevant Director.
- 5.4.7 To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Council.
- 5.4.8 To ensure that an inventory is maintained of moveable assets (subject to limits in **Appendix F**) in accordance with arrangements defined by the Corporate Leadership Team.

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- 5.4.9 To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- 5.4.10 To consult the Director of Resources in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 5.4.11 To ensure cash holdings on premises are kept to a minimum.
- 5.4.12 To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Director of Resources as soon as possible.
- 5.4.13 To record all disposals or part exchange of assets that should normally be by competitive tender or public auction in accordance with ***Contract Procedure Rules***, unless, the Finance & Corporate Services Committee agrees otherwise.
- 5.4.14 To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Council in some way.
- 5.4.15 To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery above a specified financial limit in value (see **Appendix F**).
- 5.4.16 To carry out an annual check of all items on the inventory in order to verify location and condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers and cameras should be identified with security markings as belonging to the Council.
- 5.4.17 To make sure that property is only used in the course of the Council's business, unless the Director concerned has given permission otherwise.

C.5.5 Asset disposal

5.5.1 Why is this important?

- 5.5.1.1 It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the Council.

C.5.6 Key controls

- 5.6.1 Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the Council, and best price is obtained in accordance with ***Contract Procedure Rules*** and bearing in mind other factors, such as environmental issues.
- 5.6.2 Procedures protect staff involved in the disposal from accusations of personal gain.

C.5.7 Responsibilities of the Director of Resources

- 5.7.1 To issue advice on disposal in accordance with ***Contract Procedure Rules***.
- 5.7.2 To ensure appropriate accounting entries are made to remove the value of disposed assets from the Council's records and to include the sale proceeds if appropriate.

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C.6. TREASURY MANAGEMENT

C.6.1 Why is this important?

- 6.1.1 Millions of pounds pass through the Council's accounts each year. This requires the establishment of codes of practice. These aim to provide assurances that the Council's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Council's investment.

C.6.2 Key controls

- 6.2.1 That the Council's borrowings and investments comply with the CIPFA Code of Practice on Treasury Management and with the Council's treasury management practices (TMP's).
- 6.2.2 That the Finance & Corporate Services Committee receives reports on Treasury activity at least twice a year in accordance with the code of practice and that the Treasury Management Strategy is subject to annual scrutiny before it is agreed.

C.6.3 Responsibilities of Director of Resources – treasury management and banking

- 6.3.1 To arrange the borrowing and investments of the Council in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the Council's treasury management practices and strategy.
- 6.3.2 To prepare reports for the consideration of the Finance & Corporate Services and Overview & Scrutiny Committees.
- 6.3.3 To operate bank accounts as are considered necessary – opening or closing any bank account shall require the written approval of the Director of Resources in accordance with the Banking Mandate (**Appendix G**).

C.6.4 Responsibilities of Directors – treasury management and banking

- 6.4.1 To follow the instructions on banking issued by the Director of Resources.

C.6.5 Responsibilities of Director of Resources – investments and borrowing

- 6.5.1 To ensure that all investments of money are made in the name of the Council.
- 6.5.2 To ensure that all securities that are the property of the Council and the title deeds of all property in the Council's ownership are held in the custody of the Monitoring Officer or under arrangements approved by the Director of Resources.
- 6.5.3 To effect all borrowings in the name of the Council.
- 6.5.4 To maintain records of all borrowing of money by the Council.

C.6.6 Responsibilities of Directors – investments and borrowing

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- 6.6.1 To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Council.

C.6.7 Responsibilities of Directors – funds held for third parties

- 6.7.1 To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Director of Resources, and to maintain written records of all transactions.

C.6.8 Responsibilities of the Director of Resources – imprest accounts

- 6.8.1 To provide employees of the Council with cash imprest accounts to meet minor expenditure on behalf of the Council and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed the prescribed amount.
- 6.8.2 To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.
- 6.8.3 To reimburse imprest holders, as often as necessary, to restore the imprests.

C.6.9 Responsibilities of Directors – imprest accounts

- 6.9.1 To ensure that employees operating an imprest account:
- a) obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained;
 - b) make adequate arrangements for the safe custody of the account;
 - c) produce upon demand by the Director of Resources cash and all vouchers to the total value of the imprest amount;
 - d) record transactions promptly;
 - e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder;
 - f) provide the Director of Resources with a certificate of the value of the account held at 31 March each year;
 - g) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made.

C.7. STAFFING

C.7.1 Why is this important?

- 7.1.1 In order to provide the highest level of service, it is crucial that the Council recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

C.7.2 Key controls

- 7.2.1 The key controls for staffing are:

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- a) procedures are in place for forecasting staffing requirements and cost;
- b) controls are implemented to ensure that staff time is used efficiently and to the benefit of the Council;
- c) checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced, lawfully resident and trustworthy.

C.7.3 Responsibilities of the Director of Resources

- 7.3.1 To act as an advisor to Directors on areas such as Income Tax, National Insurance and pension contributions, as appropriate.
- 7.3.2 To ensure that staff costs are charged accurately to allow Directors to monitor staffing budgets effectively.

C.7.4 Responsibilities of Directors

- 7.4.1 To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.
- 7.4.2 To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.
- 7.4.3 To ensure that the Director of Resources is immediately informed if the staffing budget is likely to be materially over- or under-spent.

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D. FINANCIAL SYSTEMS AND PROCEDURES

D.1. GENERAL

D.1.1 Why is this important?

1.1.1 Services have systems and procedures relating to the control of the Council's assets. Services are reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.

1.1.2 The Director of Resources is responsible for ensuring that the authority's financial systems are sound and should therefore be notified of any new developments or changes.

D.1.2 Key controls

1.2.1 The key controls for systems and procedures are:

- a) basic data exists to enable the Council's objectives, targets, budgets and plans to be formulated;
- b) performance is communicated to the appropriate managers on an accurate, complete and timely basis;
- c) early warning is provided of deviations from target, plans and budgets that require management attention;
- d) operating systems and procedures are secure.

D.1.3 Responsibilities of the Director of Resources

1.3.1 To make arrangements for the proper administration of the Council's financial affairs, including to:

- a) issue advice, guidance and procedures for officers and others acting on the Council's behalf;
- b) determine the accounting systems, form of accounts and supporting financial records;
- c) establish arrangements for audit of the Council's financial affairs;
- d) approve any new financial systems to be introduced;
- e) approve any changes to be made to existing financial systems.

1.3.2 To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.

1.3.3 To ensure that, where appropriate, computer systems are registered in accordance with Data Protection legislation and that staff are aware of their responsibilities under the legislation.

D.1.4 Responsibilities of Directors

1.4.1 To ensure that accounting records are properly maintained and held securely.

1.4.2 To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Director of Resources.

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- 1.4.3 To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- 1.4.4 To incorporate appropriate controls to ensure that, where relevant:
- a) all input is genuine, complete, accurate, timely and not previously processed;
 - b) all processing is carried out in an accurate, complete and timely manner;
 - c) output from the system is complete, accurate and timely.
- 1.4.5 To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- 1.4.6 To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
- 1.4.7 To ensure that systems are documented and staff trained in operations.
- 1.4.8 To consult with the Director of Resources before changing any existing system or introducing new systems.
- 1.4.9 In consultation with the Director of Resources to establish a scheme of delegation identifying officers authorised to act upon the Directors behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- 1.4.10 To supply lists of authorised officers, with specimen signatures and delegated limits, to the Director of Resources, together with any subsequent variations.
- 1.4.11 To ensure that relevant standards and guidelines for ICT systems issued by the Director of Resources or IT Manager are observed.
- 1.4.12 To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- 1.4.13 To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
- a) only software legally acquired and installed by the Council is used on its computers;
 - b) staff are aware of legislative provisions;
 - c) in developing systems, due regard is given to the issue of intellectual property rights.

D.2. INCOME AND EXPENDITURE

D.2.1 Income

2.1.1 Why is this important?

- 2.1.1.1 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cash-flow and also avoids the time and cost of administering debts.

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D.2.2 Key controls

2.2.1 The key controls for income are:

- a) all income due to the Council is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed;
- b) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery;
- c) all money received by an employee on behalf of the Council is paid in without delay through the Council's payment facility, as the Director of Resources directs, to the Council's bank account, and properly recorded. The responsibility for cash collection should be separated from that:
 - i. for identifying the amount due
 - ii. for reconciling the amount due to the amount received
- d) effective action is taken to pursue non-payment within defined timescales;
- e) formal approval for debt write-off is obtained;
- f) appropriate write-off action is taken within defined timescales;
- g) appropriate accounting adjustments are made following write-off action;
- h) all appropriate income documents are retained and stored for the defined period in accordance with the document retention guidelines;
- i) money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

D.2.3 Responsibilities of the Director of Resources

- 2.3.1 To agree arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection.
- 2.3.2 To approve all debts to be written off in consultation with the relevant Director and to keep a record of all sums written off up to the approved limit and to adhere to the requirements of the Accounts and Audit Regulations 2015.
- 2.3.3 To obtain the approval of the Finance & Corporate Services Committee in consultation with the relevant Director for writing off debts in excess of a specified financial limit (see **Appendix F**)
- 2.3.4 To ensure that appropriate accounting adjustments are made following write-off action.
- 2.3.5 To order and supply to services all receipt forms, books or tickets and similar items and to satisfy himself/herself regarding the arrangements for their control.

D.2.4 Responsibilities of Directors

- 2.4.1 To implement the charging policy for the supply of goods or services, including the appropriate charging of VAT (in consultation with the Director of Resources where appropriate), and to review it regularly, in line with corporate policies.
- 2.4.2 To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.

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- 2.4.3 To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- 2.4.4 To issue official receipts or to maintain other documentation for income collection.
- 2.4.5 To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.
- 2.4.6 To hold securely receipts, tickets and other records of income for the appropriate period in accordance with the documentation retention policy.
- 2.4.7 To secure all income to safeguard against loss or theft, and to ensure the security of cash handling.
- 2.4.8 To ensure that income is paid fully and promptly into the appropriate Council bank account in the form in which it is received. Appropriate details should be recorded on paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.
- 2.4.9 To ensure personal cheques or other payments are not en-cashed.
- 2.4.10 To supply the Director of Resources with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Director of Resources to record correctly the sums due to the Council and to ensure accounts are sent out promptly. Directors have a responsibility to assist the Director of Resources in collecting debts that they have originated, by providing any further information requested about the debtor, and in pursuing the matter on the Council's behalf.
- 2.4.11 To notify the Director of Resources of outstanding income relating to the previous financial year as soon as possible after 31st March in line with the timetable determined by the Director of Resources and not later than 15th April.

D.3. ORDERING AND PAYING FOR WORK, GOODS AND SERVICES

D.3.1 Why is this important?

- 3.1.1 Public money should be spent with demonstrable probity and in accordance with the Council's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The Council's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Council's ***Contract Procedure Rules***.

D.3.2 General

- 3.2.1 Every Officer and Member of the Council has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with appropriate codes of conduct.
- 3.2.2 Official orders must be in a form approved by the Director of Resources. Official orders must be issued for all work, goods or services to be supplied to the Council, except for supplies of utilities, periodic payments, petty cash purchases or other exceptions specified by the Director of Resources.

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- 3.3.3 Each order must conform to the guidelines approved by the Council on procurement Standard terms and conditions and must not be varied without the prior approval of the Director of Resources.
- 3.3.4 Apart from petty cash, the normal method of payment from the Council shall be by BACS drawn on the Council's bank account by the Director of Resources. The use of direct debit shall require the prior agreement of the Director of Resources. The use of Council procurement/business cards by non card holders shall require the prior agreement of the Director of Resources.
- 3.3.5 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts, except where there is a specific Council policy to the contrary.
- 3.3.6 Detailed regulations relating to Procurement are set out in the Council's ***Contract Procedure Rules***.
- 3.3.7 Where an order is not appropriate as discussed in section 3.2.2, authorisation must be provided on the specified form and attached to the invoice for payment. Authorisation thresholds for Officers are set out in **Appendix H**.

D.3.3 Key controls

- 3.3.1 The key controls for ordering and paying for work, goods and services are:
- a) all goods and services are ordered only by authorised persons and are correctly recorded;
 - b) all goods and services shall be ordered in accordance with the Council's ***Contract Procedures Rules***;
 - c) goods and services received are checked to ensure they are in accordance with the order;
 - d) payments are not made unless goods have been received by the Council to the correct price, quantity and quality standards;
 - e) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method;
 - f) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention guidelines;
 - g) all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected by journal;
 - h) in addition e-commerce requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

D.3.4 Responsibilities of the Director of Resources

- 3.4.1 To ensure that all the Council's financial systems and procedures are sound and properly administered.
- 3.4.2 To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- 3.4.3 To approve the form of official orders and associated terms and conditions in consultation with the Council's legal advisors.

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- 3.4.4 To make payments from the Council's funds on the Director's authorisation that the expenditure has been duly incurred in accordance with financial regulations.
- 3.4.5 To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- 3.4.6 To make payments to contractors on the certificate of the appropriate Director, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- 3.4.7 To provide advice and encouragement on making payments by the most economical means, in accordance with the Council's Procurement Strategy and associated guidance.
- 3.4.8 To ensure that payment is not made unless a proper VAT invoice, where appropriate, has been received, checked and coded, confirming:
- (a) that the invoice has not previously been paid;
 - (b) that expenditure has been properly incurred;
 - (c) that prices and arithmetic are correct;
 - (d) correct accounting treatment of tax;
 - (e) that discounts have been taken where available;
 - (f) that appropriate entries will be made in accounting records.
- 3.4.9 To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice, except where the original invoice has been lost, in which case a check must be made to see if payment has been made and if it has not the copy annotated accordingly prior to payment.

D.3.5 Responsibilities of Directors

- 3.5.1 To ensure that official orders are issued via the e-procurement system for all goods and services, other than the exceptions as specified in 3.2.2.
- 3.5.2 To ensure that orders are only used for goods and services provided to the service. Individuals must not use official orders to obtain goods or services for their private use (see 3.3.5).
- 3.5.3 To ensure that only staff authorised to raise orders (Buyers) via the e-procurements system have access to the system. To ensure that only staff authorised to approve orders above the specified limit have access to the system. Buyers and Approvers should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Best Value principles should underpin the Council's approach to procurement. Value for money should always be achieved.
- 3.5.4 To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories if necessary.
- 3.5.5 To ensure that the e-payment system is updated to show the receipt of goods, immediately after the goods are received.

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- 3.5.6 Wherever possible to ensure that two authorised members of staff are involved in the ordering and receiving process.
- 3.5.7 To encourage suppliers of goods and services to receive payment by the most economical means for the Council. It is essential, however, that payments made by direct debit have the prior approval of the Director of Resources.
- 3.5.8 To ensure that the service obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality. Due regard to be taken of the Council's procurement strategy and associated procurement guidance.
- 3.5.9 To ensure that employees are aware of the national code of conduct for local government employees specified in personnel policies.
- 3.5.10 To ensure that, loans, leasing or rental arrangements are not entered into without prior agreement from the Director of Resources.
- 3.5.11 To notify the Director of Resources of outstanding expenditure relating to the previous financial year as soon as possible after 31st March in line with the timetable determined by the Director of Resources.
- 3.5.12 With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Director of Resources the systems and procedures to be adopted in relation to financial aspects. This includes certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.
- 3.5.13 To notify the Director of Resources immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- 3.5.14 To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention guidelines.

D.4. PAYMENTS TO EMPLOYEES AND MEMBERS

D.4.1 Why is this important?

- 4.1.1 Staff costs are the largest item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are authorised in accordance with the scheme adopted by the Council.

D.4.2 Key controls

- 4.2.1 The key controls for payments to employees and Members are:

- (a) proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
- i. starters
 - ii. leavers
 - iii. variations

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- iv. enhancements
 - v. and that payments are made on the basis of timesheets or claims;
 - vi. frequent reconciliation of payroll expenditure against approved budget and bank account;
- (b) all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention guidelines;
- (c) that HM Revenues and Customs regulations are complied with.

D.4.3 Responsibilities of the Director of Resources

- 4.3.1 To arrange and control the secure and reliable payment of salaries, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him/her, on the due date.
- 4.3.2 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention guidelines.
- 4.3.3 To record and make arrangements for the accurate and timely payment of tax, pensions and other deductions.
- 4.3.4 To make arrangements for payment of all travel and subsistence claims.
- 4.3.5 To make arrangements for paying Members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- 4.3.6 To ensure that adequate and effective systems and procedures are operated, so that:
- (a) payments are only authorised to bona fide employees;
 - (b) payments are only made where there is a valid entitlement;
 - (c) conditions and contracts of employment are correctly applied, employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- 4.3.7 To ensure that the Director of Resources is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system (P11d).

D.4.4 Responsibilities of Directors

- 4.4.1 To send an up-to-date list of the names of officers authorised to sign records to the Director of Resources, together with specimen signatures.
- 4.4.2 To ensure that payroll transactions are processed only through the payroll system. Directors should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. HM Revenues and Customs applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Director of Resources.
- 4.4.3 To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and the Director of Resources is informed where appropriate.

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- 4.4.4 To make, having regard to the particular circumstances of each case, ex gratia payments not exceeding a specified financial limit (see **Appendix F**) in any one case, subject to consultation with the Director of Resources. The circumstances of the proposed payment must not have the effect of circumventing other Council pay and allowance policies, tax rules or other legislation.
- 4.4.5 To notify the Director of Resources of all appointments, terminations or variations that may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Director of Resources.
- 4.4.6 To ensure appointments are made in accordance with the regulations of the Council and approved establishments, grades and scale of pay and that adequate budget provision is available.

D.4.5 Responsibilities of Members and Officers

- 4.5.1 To submit claims for travel and subsistence allowances on a monthly basis and, in any event, within one month of the year end.

D.5. TAXATION

D.5.1 Why is this important?

- 5.1.1 Like all organisations, the Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

D.5.2 Key controls

- 5.2.1 The key controls for taxation are:
- (a) Finance staff remain abreast of tax legislation, in particular that relating to PAYE, NICs, CIS and VAT.
 - (b) budget managers are provided with relevant information and kept up to date on tax issues;
 - (c) budget managers are instructed on required record keeping;
 - (d) all taxable transactions are identified, properly carried out, accounted for within stipulated time-scales and paid through appropriate financial systems;
 - (e) records are maintained in accordance with instructions;
 - (f) returns are made to the appropriate authorities within the stipulated timescale.

D.5.3 Responsibilities of the Director of Resources

- 5.3.1 To complete all HM Revenues and Customs returns regarding PAYE and NIC's.
- 5.3.2 To complete a monthly return of VAT inputs and outputs to HM Revenues and Customs.
- 5.3.3 To provide details to HM Revenues and Customs regarding the construction industry tax deduction scheme in accordance with their deadlines.
- 5.3.4 To provide guidance for Council employees on taxation issues (including VAT).

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D.5.4 Responsibilities of Directors

- 5.4.1 To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenues and Customs regulations.
- 5.4.2 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- 5.4.3 To follow any guidance on taxation issued by the Director of Resources.

D.6. TRADING ACCOUNTS AND BUSINESS UNITS

D.6.1 Why is this important?

- 6.1.1 Trading accounts have become more important as local authorities have developed a more commercial culture.

D.6.2 General

- 6.2.1 Trading activities must operate within the Council's overall arrangements and rules for financial, personnel and resource management. Exceptionally, where it can be demonstrated that this would lead to a unit being uncompetitive and losing work, special arrangements can be considered. While the Programme committees have an overall responsibility for the operations of trading activities, clearly trading activities need freedom within this framework to operate on a commercial basis. Trading activities must adhere to Financial Regulations, unless alternative arrangements are explicitly identified and agreed in writing with the Director of Resources.

D.6.3 Responsibilities of the Director of Resources

- 6.3.1 To advise on the establishment and operation of trading accounts.

D.6.4 Responsibilities of Directors

- 6.4.1 To ensure that the control of the trading activity will be to the financial target (the 'bottom line') rather than to individual expenditure and income estimate headings
- 6.4.2 To ensure that as a minimum, a break even position should be achieved.
- 6.4.3 To report to the Finance & Corporate Services Committee, where a trading activity plans a significant item of expenditure (e.g. a capital scheme, the purchase of a major item of computer software or the creation of a major ongoing revenue commitment), prior to the expenditure being committed, unless already in an approved capital programme
- 6.4.4 To make a full report to the Finance & Corporate Services Committee, as soon as it is known that the trading activity may make a deficit.
- 6.4.5 To make a report to the Finance & Corporate Services Committee on the outturn of each trading activity compared to the financial plan.

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- 6.4.6 To consult with the Director of Resources and the Council's legal advisors where a trading activity wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the Council. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.

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Appendix E

E. EXTERNAL ARRANGEMENTS

E.1. PARTNERSHIPS

E.1.1 Why is this important?

1.1.1 Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.

1.1.2 Local authorities usually act as an “enabler” and will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

E.1.2 General

1.2.1 The main reasons for entering into a partnership are:

- a) the desire to find new ways to share risk;
- b) the ability to access new resources;
- c) to provide new and better ways of delivering services;
- d) to forge new relationships.

1.2.2 A partner is defined as either:

- a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project or;
- b) a body whose nature or status give it a right or obligation to support the project.

1.2.3 Partners participate in projects by:

- a) acting as a project deliverer or sponsor, solely or in concert with others;
- b) acting as a project funder or part funder;
- c) being the beneficiary group of the activity undertaken in a project.

1.2.4 Partners have common responsibilities:

- a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation;
- b) to act in good faith at all times and in the best interests of the partnership’s aims and objectives;
- c) be open about any conflict of interests that might arise;
- d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors;
- e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature;
- f) to act wherever possible as ambassadors for the project.

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E.1.3 Key controls

1.3.1 The key controls for Council partners are:

- a) if appropriate, to be aware of their responsibilities under the Council's financial regulations and procedures together with *Contract Procedure Rules*;
- b) to ensure that risk management processes are in place to identify and assess all known risks;
- c) to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise;
- d) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences;
- e) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

E.1.4 Responsibilities of the Director of Resources

1.4.1 To advise on effective controls that will ensure that resources are not wasted.

1.4.2 To advise on the key elements of funding a project. They include:

- a) a scheme appraisal for financial viability in both the current and future years;
- b) risk appraisal and management;
- c) resourcing, including taxation issues;
- d) audit, security and control requirements;
- e) carry-forward arrangements.

1.4.3 To ensure that the accounting arrangements are satisfactory.

1.4.4 To maintain a register of all contracts entered into with external bodies.

1.4.5 To ensure that spending has occurred in line with the terms and conditions and any eligibility criteria.

E.1.5 Responsibilities of Directors

1.5.1 To ensure that, before entering into agreements with external bodies the Council's legal advisors are consulted.

1.5.2 To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared.

1.5.3 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council.

1.5.4 To ensure that all agreements and arrangements are properly documented.

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- 1.5.5 To provide appropriate information to the Director of Resources to enable a note to be entered into the Council's Statement of Accounts concerning material items.

E.2. EXTERNAL FUNDING

E.2.1 Why is this important?

- 2.1.1 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies provide additional resources to enable the Council to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Council's overall plan.

E.2.2 Key controls

- 2.2.1 The key controls for external funding are:
- a) to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood;
 - b) to ensure that funds are acquired only to meet the priorities approved in the policy framework by the Council;
 - c) to ensure that any match-funding requirements and future revenue implications are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

E.2.3 Responsibilities of the Director of Resources

- 2.3.1 To ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- 2.3.2 To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.
- 2.3.3 To ensure that audit requirements are met.

E.2.4 Responsibilities of Directors

- 2.4.1 To ensure that all claims for funds are made by the due date.
- 2.4.2 To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

E.3. WORK FOR THIRD PARTIES

E.3.1 Why is this important?

- 3.1.1 Legislation enables the Council to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risk associated with this work is minimised and that such work is intra vires.

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E.3.2 Key controls

3.2.1 The key controls for working with third parties are:

- a) to ensure that proposals are costed properly in accordance with guidance provided by the Director of Resources;
- b) to ensure that contracts are drawn up using guidance provided by the Director of Resources and that the formal approvals process is adhered to;
- c) to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

E.3.3 Responsibilities of Director of Resources

3.3.1 To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

E.3.4 Responsibilities of Directors

3.4.1 To ensure that the approval of the appropriate Programme committee is obtained before any negotiations are concluded to work for third parties.

3.4.2 To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Director of Resources.

3.4.3 To ensure that appropriate insurance arrangements are made.

3.4.4 To ensure that the Council is not put at risk from any bad debts.

3.4.5 To ensure that no contract is subsidised by the Council.

3.4.6 To ensure that, wherever possible, payment is received in advance of the delivery of the service.

3.4.7 To ensure that the service has the appropriate expertise to undertake the contract.

3.4.8 To ensure that such contracts do not impact adversely upon the services provided for the Council.

3.4.9 To ensure that all contracts are properly documented.

3.4.10 To provide appropriate information to the Director of Resources to enable a note to be entered into the Statement of Accounts.

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Appendix F

F. FINANCIAL LIMITS

F.1. General

F.1.1 Throughout these regulations, there are references to financial limits. These limits will need to be reviewed on a regular basis and, consequently, the latest figures have been consolidated in this appendix in order to facilitate any future changes. The regulations which contain financial limits are listed below:

F.1.2 Virements between Directorates require the approval of the Finance & Corporate Services Committee subject to the authorisation limits set out below. For the purpose of virements, salaries are to be considered as a Directorate in their own right and are under the control of the Head of Paid Service.

F1.3 The use of reserves is to be approved through the same authorisation process as virements where not approved as part of the annual budget or accounts processes, or have specific delegation.

F.1.4 The financial limits for approval of revenue virements and revenue supplementary estimates are set out below:

(a) Virements within same Directorate

Relevant Director and Director of Resources

(b) Virements between different Directorates

- (i) Up to **£20,000** – Director and Director of Resources and reported quarterly to members via email.
- (ii) Over **£20,000** up to **£50,000** - Director, Director of Resources in consultation with relevant Programme committee Chairman; and reported to the next Finance & Corporate Services Committee meeting;
- (iii) Over **£50,000** - the Finance & Corporate Services Committee.

(c) Supplementary Estimates

- (i) Up to **£20,000** – Director and Director of Resources in consultation with the Chairman of the Finance & Corporate Services Committee and the Leader and reported to the next Finance & Corporate Services Committee;
- (ii) Over **£20,000** – the Finance & Corporate Services Committee.

NB One of the Council's budget policies is to only agree supplementary estimates in exceptional circumstances.

F.1.5 A capital scheme (an identifiable project) is where expenditure exceeds **£10,000**.

F.1.6 The financial limits for approval of capital virements and capital supplementary estimates are the same as for revenue.

F.1.7 Any excess expenditure over the approved contract sum of more than **5%** or **£10,000** whichever is the greater must be reported to the Programme committee (Appendix B paragraph 2.19.8).

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FINANCIAL REGULATIONS AND FINANCIAL PROCEDURES

Appendix F

- F.1.8** The asset register shall contain all assets with a value in excess of **£10,000** (Appendix C paragraph 5.3.1).
- F.1.9** All items with a value in excess of **£500** shall be included in inventories (Appendix C paragraph 5. 4.15). IT assets (laptops, monitors, printers etc but excluding IT peripherals) are an exception to this limit as are more desirable, and are all recorded on the IT inventory.
- F.1.10** Finance & Corporate Services Committee approval is required to declare land surplus to requirements where the value exceeds **£10,000** (Appendix C paragraph 5.4.4).
- F.1.11** Finance & Corporate Services Committee approval is required to write-off bad debts in excess of **£10,000** (Appendix D paragraph 2.3.3), in the case of Non Domestic Rates Debts this is increased to **£20,000**.
- F.1.12** Finance & Corporate Services Committee approval is required to make ex-gratia payments in excess of **£2,000** (Appendix D paragraph 4.4.4).
- F.1.13** Finance limits relating to contracts are contained in the Council's ***Contract Procedure Rules***.

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FINANCIAL REGULATIONS AND FINANCIAL PROCEDURES

Appendix G

G. BANK MANDATE

- G.1. Cheques are only to be issued in emergencies and will be from the contingency cheque book.
- G.2. Cheques above £10,000 shall be countersigned by the Director of Resources or, in his/her absence, the Director of Service Delivery or the Director of Strategy Performance and Governance.
- G.3. Amendments to cheques can be countersigned by the above and additionally the Resources Specialist Manager for cheques up to £10,000.
- G.4. Manual CHAPS payments shall be signed by any of the following:
- a) Director of Resources
 - b) Director of Service Delivery
 - c) Director of Strategy Performance and Governance
- G.5. All arrangements with the Council's financial institutions shall be made by the Director of Resources who shall be authorised to operate such banking accounts/investments/financial instruments as he/she may consider necessary.
- G.6. All cheques shall be ordered only on the authority of the Director of Resources or under arrangements made by him/her.
- G.7. All cheques shall be ensured are kept in safe custody by the Director of Resources until issue.
- G.8. All instructions relating to the Council's banking accounts, shall be authorised by the Director of Resources or Officers authorised by him or her.
- G.9. Payments may be made by BACS or CHAPS electronic transmission subject to two electronic signatures; and submission by an authorised card holder authentication. Responsibility for the delegation of authorisation below Director level and limits applicable is set by the Director of Resources.

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Appendix H

Total Value	Category	Authorisation Level
Up to £5,000	Electronic Orders	<i>Authorised buyer</i>
£5,001 to £50,000	Invoice Authorisations, Electronic Order Approvals, Mileage and Expenses Claims	<i>Line Manager</i>
Above £50,001*	Invoice Authorisations and Order/Contract Approvals	<i>Director</i>

H. AUTHORISATION ARRANGEMENTS

* Note requirement for written contracts above £50,000 – See Section 16.2 of Contract Procedure Rules.

Definitions (as per Contract Procedure Rules)

Approved Buyer- An Officer designated by a Director who is authorised to generate electronic orders on behalf of the Council.

Line Manager - An *Officer* designated by the *Director* to exercise the role reserved to the line manager by the contract procedure rules, this will be a Level 2 Manager.

Director- One of three Directors responsible for operational delivery of services

I. DELEGATIONS**I.1.1 Introduction**

- 1.1.1. The Status of financial regulations section (Section one in this document) refer to Directors and Officers delegating their responsibilities per these financial regulations. Delegation should be given in writing, however there are instances where this isn't necessary or not possible due to sickness/leave. These delegations are only applicable where decisions/actions are required urgently and the relevant officer is not available and written delegation has not been made as not known required.
- 1.1.2. There are statutory delegations for statutory posts, the Monitoring Officer and Returning Officer, who have a Deputies. Written delegation is not required for these posts to act in the full capacity.
- 1.1.3. Other Officer delegations: -

Officer	Delegation given to:
Service Director	Another Service Director
Group Manager	Service Director

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CONTRACT PROCEDURE RULES

Document Control Sheet

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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.

APPENDIX A
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CONTI

RULES



MALDON DISTRICT COUNCIL

Contract Procedure Rules

Approved by Council December 2017

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All costs stated in these contract procedure rules are exclusive of VAT, Staff **costs** and fees. Terms appearing in the definitions appendix are ***italicised***.

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A BRIEF GUIDE TO CONTRACT PROCEDURE RULES

These contract procedure rules (issued in accordance with section 135 of the 1972 Local Government Act) are intended to promote good purchasing practice and public accountability and deter corruption. Following the rules is the best defence against allegations that a purchase has been made incorrectly or fraudulently.

Officers responsible for purchasing or disposal must comply with these contract procedure rules when undertaking Procurement on behalf of the Council. Council employees and third party service providers have a duty to report breaches of Contract Procedure Rules to an appropriate senior manager and the Monitoring Officer.

These rules apply to all relevant contracts.

These rules apply to Officers and Members.

For the purposes of these rules, where there is a requirement for communication to be in writing, this shall be deemed to include e-mail and fax transmissions as well as hard copy.

- Follow the rules if you purchase goods or services or order building work.
- Take all necessary legal, financial and professional advice.
- Declare any personal financial interest in a contract. Corruption is a criminal offence.
- Conduct any *Best Value* review and appraise the purchasing need.
- Check whether there is an existing *Corporate Contract* you can make use of before undergoing a competitive process.
- Normally allow at least four weeks for submission of bids (not to be submitted by fax or e-mail).
- Keep bids confidential.
- Complete a written contract or council order before the supply or works begin.
- Identify a contract manager with responsibility for ensuring the contract delivers as intended.
- Keep records of dealings with suppliers.
- Assess each contract afterwards to see how well it met the purchasing need and *Value for Money* requirements.

In accordance with the *Constitution*, the *Director of Resources* shall have the power to make amendments from time to time to these contract procedure rules after consultation with the Monitoring Officer.

PART 4 – RULES OF PROCEDURE

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SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

1. BASIC PRINCIPLES

All purchasing and disposal procedures must:

- Ensure value for money and propriety in spending of public money; be consistent with the highest standards of integrity
- consider all necessary procurement, legal, financial and professional advice
- Comply with all legal requirements and these rules
- Ensure that the Council is not exposed to unnecessary risk and likelihood of challenge arising from non-compliant procurement activity
- Consider and incorporate necessary health and safety, inclusion and diversity, and safeguarding children and vulnerable adults' requirements.
- Not be influenced by Non-Commercial considerations other than those permitted by law.
- Comply with the Council's Procurement Strategy.
- Support the council's corporate and departmental objectives, plan and policies

2. OFFICER RESPONSIBILITIES

2.1 Officers

- 2.1.1 *Officers* responsible for purchasing or disposal must comply with these contract procedure rules, *Financial Regulations*, the Code of Conduct and with all UK and European Union binding legal requirements. *Officers* must ensure that any *Agents*, *Consultants* and contractual partners acting on their behalf also comply.

All officers should undertake procurement in a manner which avoids any potential conflicts of interest.

2.1.2 *Officers* must:

- *Obtain all appropriate authorisations and check that appropriate budget provisions exist before procurement*
- Have regard to the guidance in the *Purchasing Guidance*
- Check whether a suitable *Corporate Contract* exists before seeking to let another contract; where a suitable *Corporate Contract* exists, this must be used unless there is an auditable reason not to keep the records required by Rule 6
- Take all necessary legal, financial and professional advice.

- 2.1.3 When any employee either of the authority or of a service provider may be affected by any transfer arrangement, *Officers* must ensure that the Transfer of Undertaking (Protection of Employment) (*TUPE*) issues are considered and obtain legal advice before proceeding with inviting *Tenders* or *Quotations*.

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2.2 Directors

2.2.1 *Directors* must:

- Ensure that their staff comply with Rule 2.1 Keep registers of: Contracts Completed by signature, rather than by the council's seal (see Rule 16.3)
- Arrange their safekeeping on council premises exemptions recorded under Rule 3.2.
- Ensure that where exemptions are obtained under section 3 that they are recorded and stored.

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3. EXEMPTIONS, COLLABORATIVE AND E-PROCUREMENT ARRANGEMENTS

- 3.1 The council has the power to waive any requirements within these contract procedure rules for specific projects.
- 3.2 Where a proposed contract is likely to exceed the European Union (*EU*) *Threshold*, *Directors* have no delegated powers and the matter has to be determined by the council (see Rule 3.1). No exemption can be used if the EU Procedure applies or if the Total Value exceeds £24,999.
- 3.3 Where an exemption is necessary because of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to council services, the *Officer* and the *Director of Resources* may jointly approve the exemption but they must prepare a report for the next Strategy and Resources Committee to support the action taken.
- 3.4 All exemptions, and the reasons for them, must be recorded using the form in the *Purchasing Guidance*. Exemptions shall be signed by the *Officer* and countersigned by the *Director of Resources* and where appropriate the Chairman of the Strategy and Resources Committee.
- 3.5 The *Director of Resources* must be consulted prior to commencing any procurement process using Office of Government Commerce (OGC) Buying Solutions Contracts. The terms and conditions of contract applicable to any OGC arrangement, including the requirement to undertake competition between providers, must be fully complied with.
- 3.6 *Financial Officers* must monitor the use of all exemptions.
- 3.7 In order to secure *Value for Money*, the authority may enter into collaborative procurement arrangements. The *Officer* must consult the *Director of Resources* and the *Monitoring Officer* where the purchase is to be made using collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium.
- 3.7.1 All purchases made via a local authority purchasing consortium are deemed to comply with these contract procedure rules and no exemption is required. However, purchases above the *EU Threshold* must be let under the *EU Procedure*, unless the consortium has satisfied this requirement already by letting their contract in accordance with the *EU Procedures* on behalf of the authority and other consortium members.
- 3.7.2 Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the contract procedure rules of the leading organisation, will be deemed to comply with these contract procedure rules and no exemption is required. However, advice must be sought from the *Resources Directorate*.
- 3.8 The use of e-procurement technology does not negate the requirement to comply with all elements of these contract procurement rules, particularly those relating to competition and *Value for Money*.

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CONTRACT PROCEDURE RULES

4. RELEVANT CONTRACTS

4.1 All *Relevant Contracts* must comply with these contract procedure rules. A *Relevant Contract* is any arrangement made by, or on behalf of, the authority for the carrying out of works or for the supply of goods, materials or services. These include arrangements for:

- The supply or disposal of goods;
- The hire, rental or lease of goods or equipment;
- The delivery of services, including (but not limited to) those related to:
 - The recruitment of staff
 - Land and property transactions
 - Financial and Consultancy Services

4.2 *Relevant Contracts* do not include:

- Contracts of employment which make an individual a direct employee of the authority, or
- Agreements regarding the acquisition, disposal, or transfer of land (for which *Financial Regulations* shall apply).

4.3 CONTRACT VALUE CALCULATION

Contract value means the estimated aggregate or recurring value payable in pounds sterling exclusive of Value Added Tax over the entire contract period including any extensions of the contract.

Where the contract term without fixed length the estimated value of the contract should be calculated by monthly value of spend multiplied by 48 in accordance with Regulation 8 of the EU regulations.

Contracts must not be artificially underestimated or disaggregated into two or more separate contracts where the effect is to avoid the application of Contract Procedure Rules or English Law.

Where a framework agreement is planned the contract value must be calculated to include the total value of all of the individual contract arrangements envisaged under the Framework Agreement.

4.4 EXTENSIONS AND VARIATIONS

Contracts may only be extended or varied if all of the following conditions have been met - the extension or variation is in accordance with the terms and conditions of the existing contract;

the contract has not been extended before the extension or variation has an approved budget allocation;

For advice regarding acceptance thresholds for contract extensions and variations please contact the Director of Resources.

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SECTION 2: COMMON REQUIREMENTS

5. STEPS PRIOR TO PURCHASE

- 5.1 The *Officer* must appraise the purchase, in a manner commensurate with its complexity and value and taking into account any guidance in the *Purchasing Guidance*, by:
- Taking into account the requirements from any relevant *Best Value* review appraising the need for the expenditure and its priority defining the objectives of the purchase.
 - Assessing the risks associated with the purchase and how to manage them considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium.
 - Consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring.
 - Drafting the terms and conditions that are to apply to the proposed contract setting out these matters in writing if the *Total Value* of the purchase exceeds £50,000
- 5.2 And by confirming that:
- There is Council or delegated approval for the expenditure and the purchase accords with the approved policy framework and scheme of delegation as set out in the *Constitution*

6. RECORDS (ACQUISITIONS AND DISPOSALS)

- 6.1 Where the *Total Value* is greater than £500 but less than £50,000, the following records must be kept:
- Invitations to quote and *Quotations*;
 - A record:
 - of any exemptions and the reasons for them;
 - of the reason if the lowest price is not accepted.
 - Written records of communications with the successful contractor or an electronic record if a written record of the transaction would normally not be produced.
- 6.2 Where the *Total Value* exceeds £50,000 the *Officer* must record:
- The method for obtaining bids (see Rule 8.1);
 - Any *Contracting Decision* and the reasons for it;
 - Any exemption under Rule 3 together with the reasons for it;
 - The *Award Criteria* in descending order of importance;
 - *Tender* documents sent to and received from *Candidates*;
 - Pre-tender market research;

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- Clarification and post-tender negotiation (to include minutes of meetings);
- The contract documents;
- Post-contract evaluation and monitoring;
- Communications with *Candidates* and with the successful contractor throughout the period of the contract.

6.3 Records required by this rule must be kept for six years after the end of the contract. However, written documents which relate to unsuccessful *Candidates* may be electronically scanned or stored by some other suitable method after 12 months from award of contract, provided there is no dispute about the award.

7. ADVERTISING, APPROVED LISTS AND FRAMEWORK AGREEMENTS

7.1 Identifying and Assessing Potential Candidates

7.1.1 *Officers* shall ensure that, where proposed contracts, irrespective of their *Total Value*, might be of interest to potential *Candidates* located in other member states of the EU, a sufficiently accessible advertisement is published.

7.1.2 Generally, the greater the interest of the contract to potential bidders from other member states, the wider the coverage of the advertisement should be. Examples of where such advertisements may be placed include:

- The council's website
- Portal websites specifically created for contract advertisements (all contracts with a Total Value exceeding £24,999 must be advertised on the Contracts Finder website)
- National official journals,

or

- The Official Journal of the European Union (OJEU) / Tenders Electronic Daily (TED) (even if there is no requirement within the *EU Procedure*).

7.1.3 *Officers* are responsible for ensuring that all *Candidates* for a *Relevant Contract* are suitably assessed. The assessment process shall establish that the potential *Candidates* have sound:

- Economic and financial standing;
- Technical ability and capacity to fulfil the requirements of the authority.

7.3 Framework Agreements

7.3.1 The term of a *Framework Agreement* must not exceed four years and, while an agreement may be entered into with one provider, where an agreement is concluded with several organisations, there must be at least three in number.

7.3.2 Contracts based on *Framework Agreements* may be awarded by either:

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- applying the terms laid down in the *Framework Agreement* (where such terms are sufficiently precise to cover the particular call-off) without reopening competition, or
- where the terms laid down in the *Framework Agreement* are not precise enough or complete for the particular call-off, by holding a mini competition in accordance with the following procedure:
- inviting the organisations within the *Framework Agreement* that are capable of executing the subject of the contract to submit written *Tenders*;
- fixing a time limit which is sufficiently long to allow *Tenders* for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract;
- awarding each contract to the tenderer who has submitted the best *Tender* on the basis of the *Award Criteria* set out in the specifications of the *Framework Agreement*.

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SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

8. COMPETITION REQUIREMENTS FOR PURCHASE, DISPOSAL AND PARTNERSHIP ARRANGEMENTS

The *Officer* must calculate the *Total Value*.

The following procedures apply where there are no other procedures which take precedence. Other procedures may include agency agreements with government. If in doubt, *Officers* must seek the advice of the Director of Resources.

8.1 Purchasing – Competition Requirements

- 8.1.1 Where the *Total Value* for a purchase is within the values in the first column below, the *Award Procedure* in the second column must be followed. *Short-listing* shall be done by the persons specified in the third column.

Total Value	Award Procedure	Short listing
Up to £5,000	At least one and preferably up to three <i>Quotations</i> . (confirmed in writing where the <i>Total Value</i> exceeds £500)	<i>Officer</i>
£5,001 to £24,999	The Receipt of three written <i>Quotations</i> (this requirement may be waived with the written consent of the <i>Director of Resources</i> in consultation with the Chairman of the Finance & Corporate Services Committee).	<i>Officer and Line Manager</i>
£25,000 to £50,000	<i>Quotations</i> sought by advertisement on Contracts Finder	<i>Officer and Line Manager</i>
£50,001 to <i>EU Threshold</i>	<i>Invitation to Tender</i> by advertisement on Contracts Finder	<i>Officer, Line Manager and Director</i>
<i>Above EU Threshold</i>	<i>EU Procedure</i> or, where this does not apply, <i>Invitation to Tender</i> by advertisement on Contracts Finder	Consult the <i>Essex Procurement Hub</i> – see Rule 8.1.4

- 8.1.2 Where it can be demonstrated that there are insufficient suitably qualified *Candidates* to meet the competition requirement, all suitably qualified *Candidates* must be invited.
- 8.1.3 An *Officer* must not enter into separate contracts nor select a method of calculating the *Total Value* in order to minimise the application of these contract procedure rules.
- 8.1.4 Where the *EU Procedure* is required, the *Officer* shall consult the *Essex Procurement Hub* to determine the method of conducting the purchase.

PART 4 – RULES OF PROCEDURE**CONTRACT PROCEDURE RULES****8.2 Assets for Disposal**

8.2.1 Assets for disposal must be sent to public auction (including electronic auction sites such as eBay) except where better *Value for Money* is likely to be obtained by inviting *Quotations* and *Tenders*. (These may be invited by advertising on the council's internet site.) In the latter event, the method of disposal of surplus or obsolete stocks/stores or assets other than land must be formally agreed with the *Director of Resources*.

8.2.2 In the first instance surplus vehicles, plant and equipment should be offered to Parish Council's within the District at a fair price (sold as seen) agreed by the *Director of Resources* in consultation with the relevant *Director*.

8.3 Providing Services to External Purchasers

8.3.1 The *Director of Resources* and *Financial Regulations and procedures* must be consulted where contracts to work for organisations other than the authority are contemplated.

8.4 Collaborative and Partnership Arrangements

8.4.1 Collaborative and partnership arrangements are subject to all UK and EU procurement legislation and must follow these contract procedure rules.

8.4.2 If in doubt, *Officers* must seek advice of the *Essex Procurement Hub*.

8.5 The Appointment of Consultants to Provide Services

8.5.1 Consultant architects, engineers, surveyors and other professional *Consultants* shall be selected and commissions awarded in accordance with the procedures detailed within these contract procedure rules and as outlined below.

Total Value	Award Procedure	Short listing
Up to £5,000	At least one and preferably up to three <i>Quotations</i> . (confirmed in writing where the <i>Total Value</i> exceeds £500)	<i>Officer</i>
£5,001 to £24,999	The receipt of three written <i>Quotations</i> (This requirement may be waived with the written consent of the <i>Director of Resources</i> in consultation with the Chairman of the Finance and Corporate Services Committee).	<i>Officer and Line Manager</i>
£25,000 to £50,000	<i>Quotations</i> sought by advertisement on Contracts Finder	<i>Officer and Line Manager</i>
£50,001 to EU Threshold	<i>Invitation to Tender</i> by advertisement on Contracts Finder	<i>Officer, Line Manager and Director</i>

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Above EU
Threshold

EU Procedure or, where this does
not apply, *Invitation to Tender* by
advertisement on Contracts Finder

Consult the *Essex
Procurement Hub* –
see Rule 8.1.4

- 8.5.2 The engagement of a *Consultant* shall follow the agreement of a brief that adequately describes the scope of the services to be provided and shall be subject to completion of a formal letter or contract of appointment.
- 8.5.3 Records of consultancy appointments shall be maintained in accordance with Rule 6.
- 8.5.4 *Consultants* shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the relevant *Director* for the periods specified in the respective agreement.

9. PRE-TENDER MARKET RESEARCH AND CONSULTATION

- 9.1 The *Officer* responsible for the purchase:
- May consult potential suppliers prior to the issue of the *Invitation to Tender* in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential *Candidate*
 - Must not seek or accept technical advice on the preparation of an *Invitation to Tender* or *Quotation* from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential *Candidates* or distort competition, and should seek advice from the *Essex Procurement Hub*.

10. STANDARDS AND AWARD CRITERIA

- 10.1 The *Officer* must ascertain what are the relevant British, European or international standards which apply to the subject matter of the contract. The *Officer* must include those standards which are necessary properly to describe the required quality. The *Director* must be consulted if it is proposed to use standards other than European standards.
- 10.2 The *Officer* must define *Award Criteria* that are appropriate to the purchase and designed to secure an outcome giving *Value for Money* for the authority. The basic criteria shall be:
- 'Lowest price' where payment is to be made by the authority;
 - 'Highest price' if payment is to be received; or
 - 'Most economically advantageous', where considerations other than price also apply.

If the last criterion is adopted, it must be further defined by reference to sub-criteria which may refer only to relevant considerations.

These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant

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environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any other relevant matters.

10.3 ***Award Criteria* must not include:**

- *Non-commercial Considerations*
- Matters which discriminate against suppliers from the *European Economic Area* or signatories to the *Government Procurement Agreement*.

11. INVITATIONS TO TENDER / QUOTATIONS

11.1 The *Invitation to Tender* shall state that no *Tender* will be considered unless it is received by the date and time stipulated in the *Invitation to Tender*. No *Tender* delivered in contravention of this clause shall be considered.

11.2 ***All Invitations to Tender* shall include the following:**

- (a) A specification that describes the authority's requirements in sufficient detail to enable the submission of competitive offers.
- (b) A requirement for tenderers to declare that the *Tender* content, price or any other figure or particulars concerning the *Tender* have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose).
- (c) A requirement for tenderers to complete fully and sign all *Tender* documents including a form of *Tender* and certificates relating to canvassing and non-collusion.
- (d) Notification that *Tenders* are submitted to the council on the basis that they are compiled at the tenderer's expense.
- (e) A description of the *Award Procedure* and, unless defined in a prior advertisement, a definition of the *Award Criteria* in objective terms and if possible in descending order of importance.
- (f) Notification that no *Tender* will be considered unless it is enclosed in a sealed envelope or container which bears the word '*Tender*' followed by the subject to which it relates, but no other name or mark indicating the sender. Proforma *Tender* labels are available from the Committee Services Office. (Refer to TENDERS AND QUOTATIONS – procedure note).
- (g) A stipulation that any *Tenders* submitted by fax or other electronic means shall not be considered with the exception of the Council's electronic tender portal.

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- (h) The method by which any arithmetical errors discovered in the submitted *Tenders* is to be dealt with. In particular, whether the overall price prevails over the rates in the *Tender* or vice versa.
- 11.3 All *Invitations to Tender* or *Quotations* must specify the goods, service or works that are required, together with the terms and conditions of contract that will apply (see Rule 16).
- 11.4 The *Invitation to Tender* or *Quotation* must state that the council is not bound to accept any *Quotation* or *Tender*.
- 11.5 All *Candidates* invited to *Tender* or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis. For contracts with a *Total Value* exceeding £24,999, documentation will need to be uploaded to Contracts Finder at the time of publishing the notice.
- 12. SHORTLISTING**
- 12.1 Any *Shortlisting* must have regard to the financial and technical standards relevant to the contract and the *Award Criteria*. Special rules apply in respect of the *EU Procedure*.
- 12.2 The officers responsible for *Shortlisting* are specified in Rule 8.1.1.
- 12.3 Where *Approved Lists* are used, *Shortlisting* may be done by the *Officer* in accordance with the *Shortlisting* criteria drawn up when the *Approved List* was compiled (see Rule 7.2.2). However, where the *EU Procedure* applies, *Approved Lists* may not be used.
- 13. SUBMISSION, RECEIPT AND OPENING OF TENDERS/QUOTATIONS**
- 13.1 *Candidates* must be given an adequate period in which to prepare and submit a proper *Quotation* or *Tender*, consistent with the complexity of the contract requirement. For contracts with a *Total Value* exceeding £24,999, the minimum term for receipt of tenders or quotations from the date advertised is 35 calendar days. The *EU Procedure* lays down specific time periods (see guidance in the *Purchasing Guidance*).
- 13.2 All *Tenders* must be returned to the *Director of Resources*.
- 13.3 *Tenders* received by fax or other electronic means (e.g. email) must be rejected, unless they have been sought in accordance with an electronic tendering system approved by the *Director of Resources*.
- 13.4 The *Officer* must not disclose the names of *Candidates* to any staff involved in the receipt, custody or opening of *Tenders*.
- 13.5 The *Director of Resources* shall be responsible for the safekeeping of *Tenders* until the appointed time of opening. Each *Tender* must be: Suitably recorded so as to subsequently verify the date and precise time it was received adequately protected immediately on receipt to guard against amendment of its contents recorded immediately on receipt in the *Tender Record Log*.

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- 13.6 The *Director of Resources* must ensure that all *Tenders* are opened at the same time when the period for their submission has ended. Members will be made aware of the opening arrangements should they wish to observe the process. The *Officer* or his or her representative must be present. *Tenders* must be opened in the presence of two officers representing the *Director of Resources*, neither of whom can be the *Officer*. Where the *Total Value* is more than the *EU Threshold*, one must be the *Director of Resources* or Officer designated by the *Director of Resources*.
- 13.7 Upon opening, a summary of the main terms of each *Tender* (i.e. significant issues that are unique to each *Tender* submission and were not stated in the *Tender* invitation documents such as *Tender* sum, construction period, etc.) must be recorded in the *Tender Record Log*. The summary must be initialled on behalf of the *Director of Resources*.

14. CLARIFICATION PROCEDURES AND POST-TENDER NEGOTIATION

- 14.1 Providing clarification of an *Invitation to Tender* to potential or actual *Candidates* or seeking clarification of a *Tender*, whether in writing or by way of a meeting, is permitted. However, discussions with tenderers after submission of a *Tender* and before the award of a contract with a view to obtaining adjustments in price, delivery or content (i.e. post-tender negotiations) must be the exception rather than the rule. In particular, they must not be conducted in an *EU Procedure* where this might distort competition, especially with regard to price.
- 14.2 If post-tender negotiations are necessary after a single-stage *Tender* or after the second stage of a two-stage *Tender*, then such negotiations shall only be undertaken with the tenderer who is identified as having submitted the best *Tender* and after all unsuccessful *Candidates* have been informed. During negotiations tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the *Tender* documents. *Officers* appointed by the relevant *Director* to carry out post-tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.
- 14.3 Post-tender negotiation must only be conducted in accordance with the guidance issued by the Solicitor who, together with the *Director of Resources*, must be consulted wherever it is proposed to enter into post-tender negotiation. Negotiations must be conducted by a team of at least two *Officers*, one of whom must be from a service independent to that leading the negotiations.
- 14.4 Where post-tender negotiation results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered.

15. EVALUATION, AWARD OF CONTRACT, & DEBRIEFING CANDIDATES

- 15.1 Apart from the debriefing required or permitted by these contract procedure rules, the confidentiality of *Quotations*, *Tenders* and the identity of *Candidates* must be preserved at all times and information about one *Candidate's* response must not be given to another *Candidate*.

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- 15.2 Contracts must be evaluated and awarded in accordance with the *Award Criteria*. During this process, *Officers* shall ensure that submitted *Tender* prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.
- 15.3 The arithmetic in compliant *Tenders* must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their *Tender*. Alternatively, if the rates in the *Tender*, rather than the overall price, were stated within the *Tender* invitation as being dominant, an amended *Tender* price may be requested to accord with the rates given by the tenderer.
- 15.4 *Officers* may accept *Quotations* and *Tenders* received in respect of proposed contracts, provided they have been sought and evaluated fully in accordance with these contract procedure rules and, in respect of proposed contracts that are expected to exceed £250,000, the approval of the relevant Committee has been secured.
- 15.5 For tenders up to the EU threshold it is best practice to inform all tenderers of the intention to award and give unsuccessful tenderers an opportunity to request feedback on their submission.
- 15.6 The *Officer* shall debrief in writing all those *Candidates* who submitted a bid about the characteristics and relative advantages of the leading bidder. No information, other than the following, should be given without taking the advice of the Solicitor:
1. How the *Award Criteria* were applied
 2. The prices or range of prices submitted, in either case not correlated to
 3. *Candidates'* names
 4. The names of *Candidates* where there were three or more *Candidates*.
- 15.7 If a *Candidate* requests in writing the reasons for a *Contracting Decision*, the *Officer* must give the reasons in writing within 15 days of the request. If requested, the *Officer* may also give the debriefing information at Rule 15.6 above to *Candidates* who were deselected in a pre-tender *Shortlisting* process.

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SECTION 4: CONTRACT AND OTHER FORMALITIES

16. CONTRACT DOCUMENTS

16.1 Relevant Contracts

16.1.1 All *Relevant Contracts* that exceed £50,000 shall be in writing.

16.1.2 All *Relevant Contracts*, irrespective of value, shall clearly specify:

- what is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done);
- the provisions for payment (i.e. the price to be paid and when);
- the time, or times, within which the contract is to be performed;
- the provisions for the council to terminate the contract.

16.1.3 The council's order form (electronic order system) or standard terms and conditions issued by a relevant professional body must be used wherever possible.

16.1.4 In addition, every *Relevant Contract* of purchase over £50,000 must also state clearly as a minimum:

- that the contractor may not assign or sub-contract without prior written consent;
- any insurance requirements;
- health and safety requirements;
- ombudsman requirements;
- data protection requirements, if relevant;
- that charter standards are to be met if relevant;
- race relations requirements;
- Disability Discrimination Act requirements;
- Freedom of Information Act requirements;
- where *Agents* are used to let contracts, that *Agents* must comply with the council's contract procedure rules;
- a right of access to relevant documentation and records of the contractor for monitoring and audit purposes if relevant.

16.1.5 The formal advice of the Solicitor must be sought for the following contracts:

- where the Total Value exceeds EU Threshold;
- those involving leasing arrangements;
- where it is proposed to use a supplier's own terms;
- those involving the purchase of application software with a Total Value of more than £50,000;
- those that are complex in any other way.

PART 4 – RULES OF PROCEDURE**CONTRACT PROCEDURE RULES****16.2 Contract Formalities**

16.2.1 Agreements (Contracts and Orders) shall be completed as follows:

Total Value	Method of Completion	By
Up to £5,000	Electronic order	<i>Authorised buyer</i> (see Rule 16.2.3)
£5,001 to £50,000	Electronic order	<i>Authorised Buyer</i> approved by <i>Line Manager</i> (see Rule 16.2.3)
Above £50,001	Signature on written contract	<i>Director or Head of Paid Service</i> (see Rule 16.2.3)

16.2.2 All contracts must be concluded in writing or by email before the supply, service or construction work begins.

16.2.3 The *Officer* responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it.

16.2.4 All contract documents must be placed in the central repository in accordance with *Financial Regulations*.

16.3 Sealing

16.3.1 Where contracts are completed by each side adding their formal seal, such contracts shall be signed in accordance with the Council's Constitution.

16.3.2 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal.

16.3.3 A contract must be sealed where:

- the Council may wish to enforce the contract more than six years after its end;
- the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services.

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17. BONDS AND PARENT COMPANY GUARANTEES

- 17.1 The *Officer* must consult the *Director of Resources* about whether a *Parent Company Guarantee* is necessary when a *Candidate* is a subsidiary of a parent company and:
- the *Total Value* exceeds £250,000; or
 - award is based on evaluation of the parent company; or
 - there is some concern about the stability of the *Candidate*.
- 17.2 The **Officer must consult the *Director of Resources* about whether a *Bond* is needed:**
- where the *Total Value* exceeds £250,000, or
 - where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the *Candidate*.

18. PREVENTION OF CORRUPTION

- 18.1 The *Officer* must comply with the *Code of Conduct* and must not invite or accept any gift or reward in respect of the award or performance of any contract. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the statutes referred to in Rule 18.2 below.
- 18.2 The following clause **must** be put in every written Council contract:
- “The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor’s behalf do any of the following things:*
- (a) *offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done), or*
 - (b) *commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972, or*
 - (c) *commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees. Any clause limiting the Contractor’s liability shall not apply to this clause.”*

19. DECLARATION OF INTERESTS

- 19.1 If it comes to the knowledge of a member or an employee of the authority that a contract in which he or she has a pecuniary interest as described in the Code of Conduct has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Monitoring Officer. The Monitoring Officer shall report such declarations to the appropriate *Committee*.

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- 19.3 A shareholding in a body not exceeding a total nominal value of £1,000 or 1% of the nominal value of the issued share capital (whichever is the less) is not a pecuniary interest for the purposes of this standing order.
- 19.4 The *Monitoring Officer* shall maintain a record of all declarations of interests notified by members and *Officers*.
- 19.5 The Director of Strategy, Performance and Governance shall ensure that the attention of all members is drawn to the Council's Local Code of Conduct when taking office.

SECTION 5: CONTRACT MANAGEMENT

20. MANAGING CONTRACTS

- 20.1 *Directors* in sponsoring departments are to name contract managers for all new contracts. All contracts must have a named council contract manager for the entirety of the contract.
- 20.2 Contract Managers must follow the procedures set out in the council's *Purchasing Guidance*.

21. RISK ASSESSMENT AND CONTINGENCY PLANNING

- 21.1 A business case must be prepared for all procurements with a potential value over the *EU Threshold*. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.
- 21.2 For all contracts with a value of over £50,000, contract managers must:
- maintain a risk register during the contract period;
 - undertake appropriate risk assessments and for identified risks;
 - ensure contingency measures are in place.

22. CONTRACT MONITORING, EVALUATION AND REVIEW

- 22.1 All contracts which have a value higher than the *EU Threshold* limits, or which are *High Risk*, are to be subject to monthly formal review with the contractor. The review may be conducted quarterly if permitted by the *Director of Resources*.
- 22.2 For all contracts with a value higher than the *EU Threshold* limits, or which are *High Risk*, an annual report must be submitted to the relevant Committee.
- 22.3 The Council's approved *project management methodology* must be applied to all contracts deemed to be *High Risk*, *High Value*, or *High Profile*.
- 22.4 During the life of the contract, the *Officer* must monitor in respect of:

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- performance;
- compliance with specification and contract cost;
- any *Value for Money* requirements;
- user satisfaction and risk management.

22.5 Where the *Total Value* of the contract exceeds £250,000, the *Officer* must make a written report to the relevant Committee evaluating the extent to which the purchasing need and the contract objectives (as determined in accordance with Rule 5.2) were met by the contract. This should be done normally when the contract is completed. Where the contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent contract.

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DEFINITIONS APPENDIX

Agent	A person or organisation acting on behalf of the council or on behalf of another organisation.
Approved Buyer	<i>Officer</i> Designated by a <i>Director</i> who is authorised to generate electronic orders on behalf of the Council.
Approved List	A list drawn up in accordance with Rule 7.2.
Award Criteria	The criteria by which the successful <i>Quotation</i> or <i>Tender</i> is to be selected (see further Rules 10 and 11.2e).
Award Procedure	The procedure for awarding a contract as specified in Rules 8, 10 and 15.
Best Value	The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the council. This terminology has now in many instances been superseded by <i>Value for Money</i> .
Bond	An insurance policy: if the contractor does not do what it has promised under a contract with the council, the council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the council against a level of cost arising from the contractor's failure.
Candidate	Any person who asks or is invited to submit a <i>Quotation</i> or <i>Tender</i> .
Chief Finance Officer	The Officer Designated Chief Finance Officer (Section 151 Officer) by the Council.
Code of Conduct	The respective Codes regulating the conduct of Members and Officers.
Committee	A Committee which has power to make decisions for the Council, for example a joint Committee with another local authority, but not the scrutiny Committee.
Commissioning & Procurement Strategy	The document setting out the council's approach to commissioning and procurement, setting out key priorities for the next few years.
Constitution	The constitutional document approved by the council which: <ul style="list-style-type: none"> • allocates powers and responsibility within the council and between it and others; • delegates authority to act to the <i>Committees</i>, and

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Officers;

- regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.

Consultant	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the council has no ready access to employees with the skills, experience or capacity to undertake the work.
Contracting Decision	Any of the following decisions: <ul style="list-style-type: none"> • composition of <i>Approved Lists</i>; • withdrawal of <i>Invitation to Tender</i>; • whom to invite to submit a <i>Quotation</i> or <i>Tender</i>; • <i>Shortlisting</i>; • award of contract; • any decision to terminate a contract.
Corporate Contract	A contract let by the <i>Council</i> to support the council's aim of achieving <i>Value for Money</i> .
Director	One of three Directors responsible for operational delivery of services and designated as such in the <i>constitution</i>
Director of Resources	Director responsible for financial and procurement activities and internal audit
Essex Procurement Hub	The council's central procurement partner charged with providing strategic direction and advice to secure <i>Value for Money</i> in the Council's procurement activities. The hub also has EU regulations legal expertise.
EU Procedure	The procedure required by the EU where the <i>Total Value</i> exceeds the <i>EU Threshold</i> .
EU Threshold	The contract value at which the EU public procurement directives apply.
European Economic Area	The 27 of the 28 members of the European Union, and Norway, Iceland and Liechtenstein.
Financial Officer	The most senior <i>Officer</i> representing the <i>Director of Resources</i> or designated by him/her to provide financial advice to the <i>Director</i> .
Financial Regulations and	The financial regulations and procedures outlining <i>Officer</i> responsibilities for financial matters issued by the <i>Chief</i>

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procedures	<i>Finance Officer</i> in accordance with the <i>Constitution</i> .
Framework Agreement	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
Government Procurement Agreement	The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the <i>European Economic Area</i> are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.
High Profile	A high-profile purchase is one that could have an impact on functions integral to council service delivery should it fail or go wrong.
High Risk	A high-risk purchase is one which presents the potential for substantial exposure on the council's part should it fail or go wrong.
High Value	A high-value purchase is where the value exceeds the <i>EU Threshold</i> values.
Invitation to Tender	Invitation to tender documents in the form required by these contract procedure rules.
Key Decision	Decisions that are defined as key decisions in the <i>Constitution</i> .
Line Manager	An <i>Officer</i> designated by a <i>Director</i> to exercise the role reserved to the Line Manager by the contract procedure rules, this will be a Level 2 Manager (i.e. managers that report directly to a Director).
Members	Persons currently elected to serve on the Council
Monitoring Officer	The <i>Officer</i> defined as such in the <i>Constitution</i>
Nominated Suppliers and	Those persons specified in a main contract for the discharge

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Sub-contractors	of any part of that contract.
Non-commercial Considerations	<ul style="list-style-type: none"> a) The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters'). b) Whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only. c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy. d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes'). e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors. f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees. g) Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support. h) Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959. Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of undertakings. (Protection of Employment) Regulations 1981 (<i>TUPE</i>) may apply.
Officer	The Officer designated by the Director to deal with the contract in question.
Parent Company Guarantee	<p>A contract which binds the parent of a subsidiary company as follows:</p> <ul style="list-style-type: none"> • if the subsidiary company fails to do what it has promised under a contract with the council, the council can require the parent company to do so instead.
Priority Services	Those services required to be tendered as defined in the EU public procurement directives.
Procurement	The document setting out the council's approach to

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Strategy	procurement and key priorities for the next few years.
Project Management Methodology	The process set up by the Council to ensure that a project is executed in a disciplined and structured manor
Purchasing Guidance	The suite of guidance documents, together with a number of standard documents and forms, which supports the implementation of these Contract Procedure Rules. The guidance is available on the council's intranet.
Quotation	A quotation of price and any other relevant matter (without the formal issue of an <i>Invitation to Tender</i>).
Relevant Contract	Contracts to which these contract procedure rules apply (see Rule 4).
Resources Directorate	The directorate of the Council that includes responsibility for discharging the Council's procurement responsibilities
Service	The services provided by the Council are currently broken down into three directorates, each under the responsibility of a <i>Director</i> .
Short-listing	The process of selecting <i>Candidates</i> who are to be invited to quote or bid or to proceed to final evaluation.
Solicitor	Any Solicitor designated by the Council's Chief Executive or the Monitoring Officer.
Standing Orders	Part of the Council's <i>Constitution</i> called Council and Committee Procedure Rules on how business shall be conducted at meetings..
Supervising Officer	The <i>Line Manager's</i> immediate superior.
Tender	A <i>Candidate's</i> proposal submitted in response to an <i>Invitation to Tender</i> .
Tender Record Log	The log kept by the <i>Director of Resources</i> to record details of <i>Tenders</i> (see Rule 13.5).
Total Value	<p>The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows:</p> <p>(a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period.</p>

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- (b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months.
- (c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48.
- (d) for feasibility studies, the value of the scheme or contracts which may be awarded as a result.
- (e) for *Nominated Suppliers and Sub-contractors*, the total value shall be the value of that part of the main contract to be fulfilled by the *Nominated Supplier or Sub-contractor*.

TUPE

(Transfer of Undertakings (Protection of Employment) Regulations 2006)
(SI 2006 No.246)

Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the authority is transferred from one organisation (e.g. private contractor, local authority in-house team) to another (e.g. following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.

Value for Money

Value for money is not the lowest possible price; it combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.

PART 4 – RULES OF PROCEDURE

OFFICER EMPLOYMENT AND DISCIPLINARY PROCEDURE RULES

CONTENTS

- 1. Recruitment and appointment (Declarations)**
- 2. Seeking support for appointment**
- 3. Recruitment and appointment of Directors**
- 4. Appointment of Head of the Paid Service, Monitoring Officer and S151 Officer ('Statutory Officers')**
- 5. Other Appointments**
- 6. Disciplinary Action**
- 7. Other staff**

1. RECRUITMENT AND APPOINTMENT (DECLARATIONS)

- 1.1 The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.
- 1.2 No candidate so related to a councillor or an officer will be appointed without the authority of the Head of Paid Service or an officer nominated by that person.

2. SEEKING SUPPORT FOR APPOINTMENT

- 2.1 The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- 2.2 No councillor will seek support for any person for any appointment with the Council.

3. RECRUITMENT AND APPOINTMENT OF DIRECTORS

- 3.1 Directors are those posts designated as such in Article 10 of the Council's Constitution
- 3.2 Where the Council proposes to appoint a Director and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:
 - a) draw up a statement specifying:
 - (i) the duties of the officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;

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- b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

3.3 The Appointments Board of the Council will appoint Directors.

4. APPOINTMENT OF HEAD OF THE PAID SERVICE, MONITORING OFFICER AND S151 OFFICER ('STATUTORY OFFICERS')

4.1 These 'Statutory Officers' will be appointed by the Appointments Board.

5. OTHER APPOINTMENTS

5.1 Officers below Director

5.1.1 Appointment of officers below Director, other than the Head of Paid Service, Monitoring Officer, S151 Officer or assistants to political groups is the responsibility of the relevant Director or their nominee, and may not be made by councillors.

(Note: The Council by resolution on 25 July 2019 agreed that the appointment of Managers who report directly to Directors will be dealt with by the Appointments Board as a temporary measure until 31 December 2019).

5.2 Assistants to Political Groups

5.2.1 Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6. DISCIPLINARY ACTION

6.1 Head of the Paid Service, Monitoring Officer and Chief Finance (S151) Officer and Directors not in a statutory role

6.1.1 The dismissal of or taking disciplinary action against the Head of the Paid Service, Monitoring Officer and Chief Finance (S151) Officer, and a Director not in a statutory role, shall be exercised by the Council through its Investigating and Disciplinary Committee (and Panel). Any of those Officers may be suspended whilst an investigation takes place into the particular allegation. That suspension will be on full pay and terminate no later than two months from the day on which the suspension takes effect unless the Designated Independent Person appointed in connection with the investigation directs that the suspension should be continued beyond that point or should be otherwise varied in some way.

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6.2 Dismissal of Officers, and the involvement of Independent Persons.

- 6.2.1 No decision to dismiss may be taken by the Council in respect of any of the above officers except in accordance with a recommendation of the Council's Investigating and Disciplinary Panel constituted in accordance with the Local Authorities (Standing Orders) England (Amendment) Regulations 2015 and including at least two Independent Persons appointed by the Council under appointed under the Localism Act 2011. No notice of dismissal shall be given to any of those officers unless the dismissal is first approved by a meeting of full Council.

7. OTHER STAFF

- 7.1 Councillors will not be involved in the disciplinary or dismissal action against any officer below Director except where such involvement is necessary for any investigation or inquiry into alleged misconduct. In all other respects such action will be taken by the relevant Director or an officer nominated by that person. The Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to Councillors in respect of disciplinary or dismissal action.

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APPENDIX A
PART 5 – CODES AND PROTOCOLS

INTRODUCTION

An effective local authority is one where Members and Officers understand their different roles and responsibilities and have an effective working relationship to ensure quality service delivery to the community. The way in which Members and Officers interact and behave is core to the ethical framework of public service. There are established codes of conduct for both Members and Officers, some embodied in statute and others developed locally. These govern conduct and form the basis of the working relationship between Members and Officers.

The Council strives to maintain the highest possible ethical standards in order to ensure lasting public confidence in all of its activities. The various codes of conduct, protocols and procedures governing the activities of both Members and Officers have been brought together in an overarching framework as part of the Council's Constitution.

The Member Code of Conduct is embodied in statute. Many of the other codes and protocols do not have such a clear statutory basis but they build upon the Nolan Principles of Public Life and Section 28(1) of the Localism Act 2011, which is appended to the Code. These standards reinforce the basic principles of individual ethical behaviour and both Members and Officers working in partnership to serve the community at the same time as upholding the integrity, values and ideals of public service.

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DISPENSATION OF MEMBERS

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**Dispensations for Disclosable Pecuniary Interests, Other
Pecuniary Interests and Non-Pecuniary Interests**

**DISPENSATIONS FOR DISCLOSABLE PECUNIARY INTERESTS, OTHER
PECUNIARY INTERESTS AND NON-PECUNIARY INTERESTS**

The following dispensations are granted to all members and co-opted members of Maldon District Council until the next ordinary election of the Council to enable them to participate in debates and to vote on any such matter, notwithstanding that they may have a Disclosable Pecuniary Interest, Other Pecuniary Interest or a Non-Pecuniary Interest in the business being transacted and also the provisions of the Local Code of Member Conduct and Council and Committee Procedure Rule 15:

- (a) School meals or school transport and travelling expenses – where a member is a parent or guardian of a child in full time education, or where a member is a parent governor of a school, unless the decision relates particularly to the school which his child attends.
- (b) An allowance, payment or indemnity given to members.
- (c) Any ceremonial honour given to members.
- (d) Setting council tax under the Local Government Finance Act 1992.
- (e) Where the decision to be made does not affect the member's financial position or the financial position of a person or body described in paragraph 8.1 (a) and (b) of the Local Code of Member Conduct.
- (f) Where the decision to be made does not relate to the determination of any approval, consent, licence, permission or registration in relation to the member or a person or body described in paragraph 8.1 (a) and (b) of the Local Code of Member Conduct.

Standards Committee
30 July 2015
Minute Reference No. 294

NB References to paragraph 8.1(a) and (b) of the Local Code of Conduct in (f) above should now refer to paragraph 6.1(a) and (b) of the revised Code of Conduct adopted on 7 April 2016

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APPENDIX A
PART 5 – CODES AND PROTOCOLS



MALDON DISTRICT COUNCIL

LOCAL CODE OF CONDUCT

ORIGINALLY ADOPTED 5 JULY 2012

REVISED VERSION – ADOPTED 7 APRIL 2016

PART 5 – CODES AND PROTOCOLS

LOCAL CODE OF CONDUCT

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PART 5 – CODES AND PROTOCOLS

PART ONE – GENERAL PROVISIONS

INTRODUCTION AND INTERPRETATION

- 1.1 As a Member you are a representative of Maldon District Council (“the Authority”) and the public will view you as such. Therefore your actions impact on how the Authority as a whole is viewed and your actions can have both positive and negative impacts on the Authority.
- 1.2 This Code as a whole is consistent with “Nolan Principles” which are set out in paragraph 3.1 below and the provisions of S29(1) Localism Act 2011
- 1.3 In this Code:
- “meeting” means any meeting of:
 - (a) the Authority;
 - (b) any of the Authority’s committees, sub-committees, joint committees, joint sub-committees or areas committees;
 - (c) whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members;
 - (d) any briefings by officers and site visits organised by the Authority.
 - “relevant period” means the period of 12 months ending with the day on which you give notification to the Authority’s monitoring officer of any disclosable pecuniary interests you had at the time of the notification.
 - “profit or gain” includes any payments or benefits in kind which are subject to Income Tax
 - “beneficial interest” means having an economic benefit as a legal owner or holding it on trust for the beneficial owner, having a right to the income from the land or securities or a share in it or the right to the proceeds of sale or share of part of the proceeds of sale
 - “Member” includes a co-opted member.

1. WHO DOES THE CODE APPLY TO?

- 1.1 This Code applies to all Members of the Authority including co-opted members.
- 1.2 It is your responsibility to comply with the provisions of this Code.

2. WHAT DOES THE CODE APPLY TO?

- 2.1 You must comply with this Code whenever you conduct the business of your authority (which includes the business of the office to which you are elected or appointed) or act, claim to act or give the impression you are acting as a representative of your authority.

PART 5 – CODES AND PROTOCOLS

- 2.2 Where you act as a representative of the Authority:
- (a) on another relevant authority, you must, when acting for that other Authority, comply with that other Authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with the Authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. RULES OF CONDUCT

Principles of Public Life

- 3.1 As a Member of Maldon District Council you shall have regard to the Seven Principles of Public Life.

Selflessness..... Holders of public office should act solely in terms of the public interest.

Integrity..... Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity..... Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness..... Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty Holders of public office should be truthful.

Leadership..... Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

These general principles are the underlying principles behind the rules of conduct set out below.

General Obligations

- 3.2 You must treat others with respect.
- 3.3 You must uphold the law.

PART 5 – CODES AND PROTOCOLS

- 3.4 You must comply with any request of the authority's Monitoring Officer or Section 151 Officer, in connection with an investigation conducted in accordance with their respective statutory powers.
- 3.5 You must not:
- (a) do anything which may cause the Authority to breach any of the equality enactments;
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be:
 - (i) a complainant;
 - (ii) a witness; or
 - (iii) involved in the administration of any investigation or proceedings.in relation to an allegation that a Member (including yourself) has failed to comply with the Authority's code of conduct; or
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.
 - (e) conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;
 - (f) make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, the Authority.

Confidential Information

- 3.6 You must not:
- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the Authority;
 - (b) prevent another person from gaining access to information to which that person is entitled by law.

PART 5 – CODES AND PROTOCOLS

Conferring an advantage or disadvantage

3.7 You must:

- (a) not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
- (b) when using or authorising the use by others of the resources of the Authority:
 - (i) act in accordance with the Authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes).
- (c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

PART 5 – CODES AND PROTOCOLS**PART TWO – MEMBERS INTERESTS****4. DISCLOSABLE PECUNIARY INTERESTS¹**

4.1 You have a Disclosable Pecuniary Interest in any business of the Authority if it is of a description set out in 4.2 below and is either:

- (a) An interest of yours; or
- (b) An interest (of which you are aware) of a spouse, civil partner or a person you are living with as a spouse or civil partner (“known as Relevant Persons”).

4.2 A Pecuniary Interest is an interest which relates to or is likely to affect:

- (a) Any employment, office, trade, profession or vocation carried on by you or a Relevant Person for profit or gain;
- (b) Any payment or provision of any other financial benefit (other than from the Authority) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (c) Any contract for goods, services or works which has not been fully discharged between you or a Relevant Person and the Authority or a body in which you or they have a beneficial interest;
- (d) A beneficial interest in any land in the Authority’s area;
- (e) a licence of any land in the Authority’s area (alone or jointly with others) that you or a Relevant Person occupy for a month or longer;
- (f) any tenancy where to your knowledge (a) the landlord is the Authority and (b) the tenant is a body in which you or a Relevant Person has a beneficial interest;
- (g) Any beneficial interest in securities of a body where:
 - 1. that body (to your knowledge) has a place of business or land in the area of the Authority and
 - 2. either:
 - a. the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - b. the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class.

¹ The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out the pecuniary interests specified for the purposes of Chapter 7 of Part 1 Section 30(3) of the Localism Act 2011

PART 5 – CODES AND PROTOCOLS

5. OTHER PECUNIARY INTERESTS

- 5.1 You have a pecuniary interest in any business of the Authority where it relates to or is likely to affect:
- (a) any person or body who employs or has appointed you;
 - (b) any contract for goods, services or works made between the Authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraph 4.2(g) which has been fully discharged within the last 12 months;

6. NON-PECUNIARY INTERESTS

- 6.1 You have a non-pecuniary interest in any business of the Authority where it relates to or is likely to affect:
- (a) anybody of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;
 - (b) anybody:
 - (i) exercising functions of a public nature;
 - (ii) directed to charitable purposes; or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).of which you are a member or in a position of general control or management;
 - (c) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
 - (d) a decision in relation to that business which might reasonably be regarded as affecting your wellbeing or the wellbeing of a relevant person to a greater extent that the majority of:
 - (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
 - (ii) (in all other cases) other council tax payers, ratepayers or inhabitants of the Authority's area.

7. DISCLOSURE OF INTERESTS (DISCLOSABLE PECUNIARY INTERESTS, OTHER PECUNIARY INTERESTS AND NON-PECUNIARY INTERESTS)

- 7.1 Subject to sub-paragraphs 7.2 to 7.3, where you have a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.

PART 5 – CODES AND PROTOCOLS

- 7.2 Sub-paragraph 7.1 only applies where you are aware or ought reasonably to be aware of the existence of the Relevant Person's Interest.
- 7.3 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 7.1 but by virtue of paragraph 10 (Sensitive Information) details of the interest are not registered in the Authority's published Register of Members' Interests and the interest is a Disclosable Pecuniary Interest you need not disclose the nature of the interest to the meeting

8. EFFECT OF INTERESTS ON PARTICIPATION

8.1 Disclosable Pecuniary Interests

- (a) If you are present at a meeting of the Authority or of any committee, sub-committee, joint committee or joint sub-committee of the Authority and you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and you are aware of that Interest:
- (i) You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting;
 - (ii) You must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the Authority's proper officer.
- (b) If you have a Disclosable Pecuniary Interest in any business of the Authority you must not seek improperly to influence a decision about that business.

8.2 Other Pecuniary Interests

- 8.2.1 If you have an Other Pecuniary Interest in any business of the Authority which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement in the public interest and you are present at a meeting of the Authority at which such business is to be considered or is being considered you must:
- (a) disclose the existence and nature of the interest in accordance with paragraph 7.1 (but subject to paragraph 7.3); and
 - (b) withdraw from the room or chamber where the meeting considering the business is being held unless you have obtained a dispensation from the Authority's proper officer.

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PART 5 – CODES AND PROTOCOLS

PART THREE – REGISTER OF MEMBERS INTERESTS

9. REGISTRATION OF MEMBERS' INTERESTS

9.1 Subject to paragraph 10, you must, within 28 days of:

- (a) this Code being adopted by or applied to the Authority; or
- (b) your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the Authority;

register in the Authority's Register of Members' Interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

- (i) Disclosable Pecuniary Interests as referred to in paragraph 4 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner in so far as you are aware of their interests at that time;
- (ii) Other Pecuniary Interests referred to in paragraph 5 that you have.
- (iii) Non-Pecuniary Interests referred to paragraph 6 that you have.

9.2 Subject to paragraph 12, you must within 28 days of becoming aware of any new Disclosable Pecuniary Interest as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner or change to any Disclosable Pecuniary Interest registered under paragraphs 9.1 (i) or (ii) above by providing written notification to your Authority's Monitoring Officer

10. SENSITIVE INFORMATION

10.1 Where you have a Disclosable Pecuniary Interest referred to in paragraph 6 or pecuniary interest referred to in paragraph 7 and the nature of the interest is such that you and the Authority's monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the Authority's Register then copies of the register available for inspection and any published version of the Register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.

10.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 10.1 is no longer sensitive information, notify the Authority's monitoring officer.

10.3 In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation.

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11. REGISTER OF GIFTS AND HOSPITALITY

- 11.1 You must within 28 days of receipt, notify the Authority's monitoring officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a member from any person or body other than the Authority.
- 11.2 The monitoring officer will place your notification on a public register of gifts and hospitality.
- 11.3 This duty to notify the monitoring officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

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ANNEXE TO CONSTITUTION

Part 5

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

December 2017

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PART 5 – CODES AND PROTOCOLS

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APPENDIX A
PART 5 – CODES AND PROTOCOLS

1 BACKGROUND AND INTRODUCTION

- 1.1 This document sets out the way in which the Maldon District Council (“the Council”) will discharge its planning functions and responsibilities, in particular the determination of planning applications and related matters. In this document, the term “Planning Committees” means the Area Planning Committees and/or the Planning and Licensing Committee. It will also apply to meetings of the District Planning Committee called to deal with defined strategic planning applications.
- 1.2 This document applies to Members and Officers at all times when involved in the planning process. (This includes, where applicable, when part of decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers, the public and consultative meetings). It applies as equally to planning enforcement matters as it does to planning applications.
- 1.3 This Guidance supplements the Members’ Code of Conduct. It is unlikely that there will be any conflict between the two documents but, if there is, the provisions of the Members’ Code of Conduct will take precedence.
- 1.4 One of the key purposes of the planning system is to manage development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that the local planning authority, both planning officers and the planning committee, make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for suggesting that a decision has been partial, biased or not well founded in any way.
- 1.5 An important reference document is Probity in Planning for Councillors and Officers (April 2013) issued jointly by the Local Government Association and the Planning Advisory Service.

2 COUNCILLORS AND OFFICERS – ROLES, RELATIONSHIPS AND CONDUCT

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

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- 2.2 Both Councillors and Officers are guided by codes of conduct. Councillors have signed up to the Council's own Local Code of Conduct and must have regard to and follow this in all their official actions. Breaches of the Code may result in complaints to the Council's Monitoring Officer who may decide to refer the matter to the Standards Committee. Should a breach of the Code be found, sanctions may be imposed on the Councillor concerned. Breaches of the code may also result in complaints of maladministration to the Local Government Ombudsman.
- 2.3 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of this Code may result in disciplinary action by the Institute. The Council also has in place a Code of Conduct for its staff. In addition to these Codes, its Council and Committee Procedural Rules govern the conduct of Council business, and the Protocol on Member/Officer Relations sets out in greater detail and provides guidance on how the working relationship between Councillors and Officers should operate.
- 2.4 Councillors must not instruct officers to make a particular recommendation nor to take a particular course of action other than through a decision of the Council or one of its committees. Officers must give objective, impartial planning advice, based on their professional judgement and not be compromised or influenced by political considerations. Chartered Town Planners may only advocate their own professional view. Under the Local Government and Housing Act 1989 the Council is able to place restrictions on the outside activities of senior and other designated Officers, particularly in relation to membership of political parties and other Councils.
- 2.5 The Council's Local Development Plan is adopted in the interests of the whole community, following public consultation. It therefore reflects the overall public interest, rather than those of individuals or organisations. Councillors and Officers must support the Council's planning policies and make decisions in accordance with them, unless there are sound planning reasons for not so doing.
- 2.6 In dealing with planning applications, Councillors will be acting both as representatives of the people and also as decision makers, objectively considering all relevant issues and deciding upon them. Councillors will justifiably take into account matters of public concern, representations they have received and an assessment of what may or may not be appropriate for the area.
- 2.7 Not all planning decisions are a matter of planning law or policy. Many decisions require an element of judgment, and therefore Councillors need to retain a fair and open-minded approach to the decision making process. So too will Officers in determining applications under delegated powers. In addition, Officers through their professional responsibilities will be involved in the processing of planning applications including negotiating with and providing assistance to applicants and their agents and also members of the public.

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

3 COUNCILLORS' TRAINING

- 3.1 Planning is a complex area, and planning decisions are open to challenge both on appeal and in the courts. It has long been a constant theme of national advice, that all Councillors regardless of their experience should receive adequate training to assist them in the performance of their duties.
- 3.2 All Councillors will be required to have completed an agreed programme of training prior to being able to take part in decision making in planning applications and related matters. Once this training has been completed, it will remain valid for a period of three years, and then refreshed. Councillors who have not undertaken the agreed training programme will be able to participate in the discussion but not vote on planning applications and related matters.
- 3.3 The training programme in planning will be determined by the Director of Strategy, Performance and Governance, in consultation with the Leader and Deputy Leader and the Chairman and Vice-Chairman of Planning & Licensing Committee.
- 3.4 In addition, all Councillors will be given regular updates to keep them informed of important changes in legislation, procedures or practices. Officers will also arrange training on more specialised planning issues and all members of the Council will be strongly encouraged to attend.

4 PROBITY IN THE PLANNING PROCESS

- 4.1 Involvement in the planning process creates considerable potential for conflicts of interest, whether it is through an issue directly affecting a Councillor or an Officer, or indirectly in terms of family, friends or possibly an organisation with which he or she is associated. It is a fundamental principle that decisions should not be made by those who have a pecuniary interest in the outcome. This is vital to avoid public confidence in the planning system being eroded.
- 4.2 The general rule is that a Councillor or Officer should not use his or her position to further a private or personal interest, rather than the general public interest, or give grounds for any suspicion. The key issue is whether a member of the public would reasonably think that they might be influenced by their interest.

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

Pre-determination/Pre-disposition

- 4.4 Councillors taking planning decisions are required to have an ‘open mind’ and listen to all the evidence before taking a decision. The Localism Act 2011 (S25) provides Members with a degree of assurance should they wish to indicate their views in advance without fear of being regarded as having pre-determined the issue and subsequently excluded from the decision making. To do so may still indicate pre-judgment of the application and expose the Council to the possibility of legal challenge.
- 4.5 The intended effect of the Localism Act provision has still to be determined in the courts, but even if it were held to reduce the prospect of or prevent a legal challenge to the validity of a decision it offers no protection against allegations of maladministration or a breach of the Local Code of Conduct. Members should not make up their minds until they have read the relevant committee reports, heard the evidence and considered the representations, including any public speakers. It is important that Members hear all the evidence and representations prior to reaching a decision.
- 4.6 The concept of pre-determination is different to that of pre-disposition. While carefully wishing to avoid any show of bias of view, it is acceptable for a Member to indicate a view, and even campaign, on planning issues in a general way. This is relevant where Members of a Planning Committee are also Parish/Town Councillors and where they may wish to contribute to a particular discussion at a more local level. Members must still avoid specific statements on how they will vote on individual planning applications or types of planning application prior to the relevant District Council Planning Committee meeting to avoid any impression of bias and pre-determination. If such statements have been made, they should declare an interest, withdraw from the Chamber and not take part in the debate or vote.
- 4.7 Councillors on a Planning Committee who are also members of Town or Parish Councils may speak and vote at Town or Parish and District levels if they are genuinely willing to listen to the later debate and weigh the considerations material to the later decision.

Interests and the Local Code of Conduct

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

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- 4.9 Members of Planning Committees who are also Parish/Town Councillors should be aware of the potential repercussions of their involvement in the consideration of planning proposals at Parish/Town Council level. They should make it clear at that time that any views they may express, including the exercise of a vote, on the comments to be made to the District Council, can only be based on the information available to the Parish/Town Council at that time.
- 4.10 Members of Planning Committees not affected by an interest through being Parish/Town Councillors are equally advised to take great care about responding to local opinion and publicly declaring a firm view on a proposal at an early stage. It is important that they do not ‘fetter their discretion’, but rather leave themselves free to reach a view at District Council level, based on all the facts and information.
- 4.11 The Local Code of Conduct sets out requirements and guidance for Councillors, for the registration and declaration of interests. These must be followed scrupulously and Councillors should review the situation regularly. It must be borne in mind that not only should impropriety be avoided but also any appearance, or grounds for suspicion, of improper conduct.
- 4.12 It is for the individual Councillor to decide whether he or she has an interest in any matter considered by a Planning Committee, and if so whether that interest is a pecuniary or non-pecuniary or other one. Councillors with a pecuniary interest must not speak or vote in the decision making process. The Local Code of Conduct explains the effect of interests on participation.
- 4.13 When declaring an interest at a committee meeting this should be done at the relevant point in the meeting or as soon during the consideration of the matter that the interest becomes apparent. Councillors should be clear and specific in identifying the item on the agenda in which they have an interest and, if so, the nature of that interest. Councillors do not need to declare interests that are not covered by the Code of Conduct, e.g. that they know the applicant, agent or an objector, or that they use the premises the subject of the application. If they feel that such an interest is material they should explain the nature and relevance of it.
- 4.14 Officers must declare any personal or financial interest in any planning matter before the Council, must not deal with such matters on behalf of the Council and must not give advice to Councillors or other Officers on them. An Officer with a personal or financial interest in a planning matter must withdraw from any relevant committee meeting whilst that matter is discussed. Planning Officers must maintain their professional integrity and should avoid becoming associated in the public mind with representatives of the development industry or environmental or other pressure or amenity groups.

Gifts and Hospitality

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

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5 PRE-DISCUSSION AND LOBBYING

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

Lobbying

- 5.2 Lobbying is an attempt to influence Councillors' views in order to achieve a particular decision. It can be by applicants, agents or objectors or by other Councillors. Lobbying may be verbal or by the circulation of letters or documents to all or some Councillors. Planning decisions must be made strictly on the facts and policies relating to each application. Lobbying can, unless care and common sense are exercised by all parties concerned, lead to the impartiality and integrity of a Councillor being called into question.
- 5.3 Notwithstanding the provisions of s.25 of the Localism Act 2011 (as mentioned in 4.2 above) when being lobbied, Councillors, and members of a Planning Committee in particular, should take care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such circumstances they should restrict themselves to giving procedural advice, including suggesting to those who are lobbying that they should speak or write to the relevant Officer in order that their opinions can be included in the Officer's report to the Committee. If they do express an opinion they should make it clear that they will only be in a position to take a final decision after having received and considered all the relevant evidence and arguments at the Committee meeting.
- 5.4 A Committee member who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If a Member responds to lobbying by deciding to go public in support of, or against, a particular outcome it would be very difficult for that Member to argue convincingly when the Committee takes its decision that he has carefully weighed the evidence and arguments presented at committee. Although not amounting to a disclosable or other pecuniary interest according to the Code of Conduct the proper course of action for such a Member would be to make an open declaration not to vote. However, this is a severe restriction on the Member's wish - duty, even – to represent the views of the electorate. Councillors should therefore generally avoid organising support for or opposition to a planning application and avoid lobbying other Councillors. Such actions can easily be misunderstood by parties to the application and by the public.
- 5.5 Councillors should not excessively lobby fellow Councillors regarding their concerns or views nor attempt to persuade them that they should decide how

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to vote in advance of the meeting at which any planning decision is to be taken.

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

Pre-application discussion

- 5.7 It is likely that in certain cases discussions will take place between potential applicants and Officers prior to the submission of a planning application. Such discussions may be beneficial in terms of applications being prepared for submission which can then proceed without undue delay to determination. Potential appeals may be avoided by good communication at an early stage of the process. Advice given should be consistent and based on the development plan and material considerations. An approved protocol for Pre-Application Discussions is at Appendix 2.
- 5.8 If Councillors receive information that is relevant to a prospective planning decision they must declare that information to the relevant planning officers and to the committee. Discussions with applicants, agents or objectors should be reported and any correspondence made available to officers before the committee meeting. Where information has been provided to Councillors or Officers on a confidential basis, it shall not be disclosed to third parties.
- 5.9 Where Councillors are acting as agents for people pursuing a planning matter with the Council or submitting planning applications on behalf of their employers as part of their job, they should make it clear to their clients that they cannot and will not use their position as a Councillor to influence the outcome of an application.
- 5.10 Councillors should not meet applicants or agents or third parties in connection with a current application. If Councillors do agree to meet they should only do so in the presence of a planning officer. Councillors should listen and may ask questions but should not comment nor seek to negotiate. They must make clear that any views they express are personal, rather than those of the Council. A note should be taken of the meeting and placed on the application file. The fact that a Councillor has discussed any proposal with the applicant, agent, supporters or objectors must be made clear when the application is before the Committee for determination.

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Planning Enforcement

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

Contact with Application Case Officer

- 5.12 Councillors will often need to contact the Planning Case Officer on development proposals. Contact should however be limited to requests for factual information and the seeking of advice on progress and the nature of consultation responses received. While Councillors are encouraged to discuss their concerns with Officers, they must not attempt to influence or pressure Officers in the making of particular recommendations. If a Councillor is unhappy with the way in which a case is progressing, the matter should be discussed with a senior officer of at least Team Leader level.
- 5.13 Officers should remain free of any outside influence to make recommendations on planning matters based on their own professional judgements and having regard to all material and other considerations. Councillors should not put improper pressure on Officers for a particular recommendation and, as required by the Code of Conduct, should not do anything which compromises, or is likely to compromise, their impartiality.

Availability and Veracity of Information

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

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6 PLANNING DECISION MAKING AND RELATED PROCESSES

Committee Decisions

- 6.1 All planning applications to be determined by a Committee will be the subject of comprehensive, written reports from Officers. These reports will describe the site and the proposal, relevant planning history, development plan policies and other material considerations including, where appropriate, national or local guidance, and also representations made by statutory consultees, local residents and other interested parties. They will also contain an assessment of the proposal against those considerations and a reasoned recommendation. Reports will contain all the relevant material known at the time when produced and published as part of the Agenda for a particular meeting. Councillors should endeavour to obtain factual information from officers prior to the meeting. This can assist in reducing delays which may be caused by deferment to obtain further information.
- 6.2 Sometimes applicants and objectors write directly to Committee Members, after the report has been published, commenting on the report or providing further material. If Planning Services have not been copied into the correspondence, Committee Members should forward any correspondence to the Case Officer as soon as possible.
- 6.3 Any information material to the decision-making process that is received subsequent to the publication of the Committee Agenda and no later than noon on the last working day prior to the meeting will be reported to the Committee at its meeting. At the meeting, the Planning Officer will advise if the late material raises any matters which should be taken into account by the Committee. The Officer report and last-minute papers should be read and plans/photographs seen before decisions are made. Councillors will also have an opportunity to put questions to Officers and hear the views of their fellow Councillors, the Applicants and other third parties during the course of the debate.
- 6.4 The law requires that where the Development Plan is relevant to a decision, then that decision should be taken in accordance with it, unless material considerations indicate otherwise (s54A, Town and Country Planning Act, 1990). The Development Plan is therefore the starting point of the decision making process. Proposals having been identified as amounting to a departure from the Development Plan need to be advertised as such. An Officer recommendation to approve contrary to the Development Plan would need to be justified in the most careful terms, and if the Committee is mindful to approve then the application may then need to be referred to the Secretary of State.
- 6.5 Planning decisions will not always be dictated by planning law or policy. They will sometimes be matters of fine judgment where the balancing of considerations may be difficult. The Officer's report and recommendation will be founded on adopted planning policy and guidance. Planning Committee Members should take care, if expressing any opinion on the

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planning applications before them, that they confine their comments to matters which are material planning considerations. Regardless of any political group discussion prior to the Committee meeting, Committee Members must consider applications on their merits and not simply feel bound by decisions made at group meetings. Committee Members cannot be “whipped” to vote in a particular way; this advice is supported by the Local Government Ombudsman. Any decisions taken in this way may be viewed as maladministration and could be subject to legal challenge.

- 6.6 Where Councillors disagree with the Officer recommendation, a proposition can be made to overturn that recommendation. The Committee remains bound by law to make decisions in accordance with the Development Plan and all other material planning considerations. It will therefore need to demonstrate that this requirement has been met in its deliberations, making clear what material considerations are leading it to a decision contrary to professional advice. Failure to do so could result in an appeal against the decision, with potential for an award of costs against the Council in the event that unreasonable behavior on its part is found. It could also render a decision subject to legal challenge (judicial review).
- 6.7 A proposition contrary to an Officer recommendation, together with the reasoning behind it, needs to be clearly presented and will be recorded in the Minutes. It must then be seconded. Before any debate, the Chairman shall afford the Officers an opportunity to respond to the proposition by way of advice on the implications in terms of risk. Depending on the circumstances and complexity of the case it may be that Officers will need to consider those implications in greater detail and report back. Any proposal for deferment must be disposed of ahead of any conclusion being reached on the decision itself. The Chairman will summarise, or cause to be summarised, the salient points of the debate and will seek to ensure the terms of the proposition are clearly understood before putting the matter to the vote.
- 6.8 Whilst the Committee must clearly set out the reasons for its decisions contrary to Officer recommendation, the final drafting of conditions and reasons will normally be carried out by Officers. Reasons for refusal must be clear, unambiguous and justified by the evidence of the case. Conditions attached to permissions should be necessary, relevant to planning and the proposed development, enforceable, precise and reasonable in all other respects. The text of non-standard conditions and reasons will be determined by the Director of Strategy, Performance and Governance in consultation with the Committee Chairman (or Vice Chairman in his/her absence) following the meeting. The same mechanism will be used for the updating of any planning conditions agreed by a Committee which may be required through the passage of time between the Committee decision and the issue of a decision notice consequent upon completion of a S106 agreement/planning obligation.
- 6.9 During Committee Meetings, everything said may be scrutinised by Applicants, objectors, legal advisers and the Press, so Councillors and Officers should be circumspect. Councillors who serve on a Planning Committee should ensure they do not speak to members of the public, or pass or accept

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notes from them, during the course of a meeting. Councillors who leave the room during the Meeting should avoid speaking to any Applicants or objectors/supporters who may be waiting outside the room. Councillors who leave the room during debate or whilst an application is before the Committee will not take part in the debate or vote on that application.

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

Decisions delegated to Officers

- 6.11 Not all decisions on planning applications and related matters will be taken by a Committee. The Council has agreed, and will keep under review, a Scheme of Delegation (alongside the Terms of Reference of Committees) which enables decisions to be taken by responsible Officers. Decisions taken under delegated powers will be subject to the same process and analysis of the facts and all material considerations, as if they were referred to a Committee for determination. A statement to support each delegated decision will be produced and placed on the case file as a matter of record and also for the benefit of interested Councillors and the public.
- 6.12 Officers take instructions from Councillors only through a decision of the Council or one of its Committees. In the exercise of delegated powers, Officers may in certain cases be required to consult with individual Councillors, and take the views of those individual Councillors into consideration. Officers must always act impartially and advise the Council according to their own professional opinion.

Deferments

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

Public Attendance at Committee Meetings

- 6.14 All planning applications referred to a Committee for determination will be considered in public session and all background information will be made available for public inspection upon publication of the agenda papers, unless there are specific reasons for not disclosing or publishing 'exempt information' in accordance with the Local Government Act 1972. Applicants, agents and members of the public, representatives of Parish/Town Councils may speak on planning applications being considered at the meeting. The Council's public participation scheme is at Appendix 4.

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7 DEVELOPMENT PROPOSALS BY THE COUNCIL, COUNCILLORS AND OFFICERS

- 7.1 Committee Terms of Reference provide for the determination of planning applications for the District Council's own development or affecting Council land and applications submitted by Council Members or Officers, by a Planning Committee rather than under delegated powers.
- 7.2 Such applications will be processed and handled no differently to any other application and the requirements of the Town and Country Planning legislation and ministerial guidance will be followed in the usual way. Officer recommendations and Committee decisions will be made strictly on planning merits without regard to any financial or other gain which might accrue to the Council if the development is permitted, or to other issues which may need more properly to be considered by another Committee of the Council. It is important that the Council not only treats, but is seen to treat such applications the same as any other.
- 7.3 Councillors or Officers proposing to submit a planning application should notify the Monitoring Officer. If a Councillor or Officer submits a planning application, they should take no part in its processing by the authority at any point. It is important that neither Councillors nor Officers take any part in the preparation of Local Development Plan policy or supplementary planning guidance they may influence, or be seen as influencing, with a view to future planning proposals they may wish to submit.

8 PLANNING APPEALS

- 8.1 A Planning Appeals Protocol has been approved and is at Appendix 5. In the event of a decision taken to refuse contrary to the recommendation of the Director of Strategy, Performance and Governance, the Committee may nominate a Member to assist in agreeing the precise reasons for refusal and with the preparation and presentation of the Council's case should the decision be appealed.
- 8.2 As referred to earlier, Officers must always act impartially and advise the Council of their professional opinion. Chartered Town Planners are obliged to follow the Royal Town Planning Institute's Code of Professional Conduct. Whilst Chartered Town Planners appearing as the Council's expert witnesses at planning inquiries and hearings have a duty to set out the Council's case, they must, if asked, give their own professional view in accordance with that Code.
- 8.3 The Council is at risk of an award of costs against it if the Planning Inspector finds that there has been unreasonable behaviour. Common examples of unreasonable behaviour are failure to comply with procedural requirements for inquiries or hearings, failure to provide planning evidence to support reasons for refusal, and failure to take into account relevant policy statements in departmental guidance.

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9 COMMITTEE SITE VISITS

- 9.1 Committee site visits can cause delay and additional costs and should only be used when the expected benefit is substantial. A site visit is only likely to be necessary if the impact of the proposed development is difficult to assess from the plans and any supporting material, including any photographs taken by Officers. Site visits may be arranged following publication of the agenda and before the actual meeting.

Where requested at the actual meeting, the reason must be clearly set out by the proposer and recorded in the Minutes. All site visits must be carried out in accordance with the Council's agreed guidelines set out in Appendix 1 to this document.

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

10 PLANNING OBLIGATIONS

- 10.1 Under section 106 of the Town and Country Planning Act 1990, the Council as local planning authority may seek planning obligations in connection with grant of planning permission. Planning Obligations may be given by way of unilateral undertaking or agreement, and for the most part will regulate the use or development of land as distinct from the controls that may be available through the imposition of planning conditions. In addition, they may be used to secure off-site improvements or financial contributions towards local infrastructure provision.
- 10.2 To avoid any public mistrust or suspicion, it is important that arrangements in connection with planning obligations are operated in accordance with the principle that planning permission may not be bought or sold. The Council must conduct any negotiations and arrangements in a way which is seen to be fair, open and reasonable.
- 10.3 If a planning obligation is created in isolation or before a planning application is determined, a copy will be placed as required in Part 1 of the statutory Planning Register and therefore made available for public inspection. Similarly, if a planning obligation is created following determination of an application, a copy will be placed in Part 2 of the Register.

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11 ADMINISTRATION

Monitoring of Decisions

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

Records management

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

Complaints

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

12 INTERPRETATION

- 12.1 The Head of Paid Service, Legal and Democratic Services Manager and Director of Strategy, Performance and Governance, as appropriate, will provide advice or clarification on any matters of a planning nature contained within this document or otherwise. Issues of probity or otherwise requiring interpretation should be referred to the Monitoring Officer.
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APPENDIX 1

MALDON DISTRICT COUNCIL
Planning Services

GUIDELINES FOR COMMITTEE SITE VISITS

- 1) Committee site visits may be arranged following publication of the Committee report but prior to the meeting following consultation between the Director of Strategy, Performance and Governance and the Chairman of the relevant Committee and the Ward Member(s). Site visits will otherwise only be arranged when the Committee at the meeting cannot fully assess the implications of a development proposal on the basis of the information provided at the Committee meeting and individual Members' informal inspections of the site.
- 2) The time and date will be agreed with Members at the meeting of the Committee or otherwise with the Chairman of the relevant Committee.
- 3) The applicant / agent will be contacted to obtain permission to enter the land and to ensure that the time proposed is convenient. The applicant / agent will be advised of the purpose of the visit and the way in which the visit will be conducted.
- 4) Having confirmed the time and date all Members and ex Officio Members of the Committee will be advised in writing of the time and date of the visit together with a note (or map) of the suggested assembly point. In the case of a site visit by the Planning and Licensing Committee, the Ward Member(s) if not members of the Committee will also be invited.
- 5) Upon arrival at the site the visit will be led by the Chairman or the Vice-Chairman of the Committee. A Planning Officer will be present with the case file and necessary drawings to illustrate the proposal.
- 6) In the event of the applicant, agent or land owner being present the purpose of the visit will be explained and the Committee will request that it be allowed to conduct its visit unaccompanied.
- 7) At no time during the Committee site visit shall the merits of the proposal be discussed with either the applicant, agent, landowner or any third party who may have an interest in the proposal.
- 8) After the site visit, a note of the Members' attendance will be placed on the file.
- 9) The application will be referred direct to the next available meeting of the appropriate committee for determination.

(Approved by the Planning and Licensing Committee – 22 August 2002
- Minute No.222 refers)(Updated January 2017)

MALDON DISTRICT COUNCIL PLANNING APPEALS PROTOCOL

1. ROLE OF MEMBERS IN COMMITTEE PLANNING APPEALS

1.1 Householder Appeal

- 1.1.1 The Member role is a collective Committee responsibility given that the critical factor with householder appeals, which do not involve providing any additional supplementary statements, is to ensure that the Committee's reasons for overturning Officer report recommendations are clear and based on sound planning reasons.

1.2 Member Involvement in Written Representation, Informal Hearing & Public Inquiry Appeals

- 1.2.1 Where the Committee overturns a recommendation, in addition to agreeing the reasons for refusal it would be sensible for the Committee to identify which member(s), subject to being suitably briefed, should to be involved with any subsequent appeal to help strengthen the Councils case. There are three options available to Committee any of which may be selected at the time the Committee decision is taken and thereby recorded in the Minutes. The Member(s) nominated by Committee to engage with any subsequent appeal include:

The Chairman of the Committee.

The Chairman of the Committee, and a local ward Member.

The proposer /or seconder of the motion at Committee.

- 1.2.2 It should be made clear that the nominating of a Member is not mandatory and entirely at the discretion of the determining Committee. Where a Member is nominated it is important that he/she understands the nature of the role as set out below, and that their appearance at a hearing or inquiry will be wholly as a representative of the Council to support the case around the Committee's decision.

1.3 Written Representation Appeal

- 1.3.1 Written representation appeals are the quickest and simplest appeals requiring Member involvement. They require a statement and site visit but these appeals are usually for smaller scale development such as a single dwelling or change of use.

- 1.3.2 Where the Committee overturns the recommendation the nominated Member will be engaged with the following:

Letter sent to advise the nominated Member about the appeal, the name of the case officer and the date the Statement is due;

Nominated Member should liaise with the case officer if required to discuss the policies, content to provide the outline for the Council Statement and cost claim (if relevant). Members' comments need to be made in writing to the case Officer.

Typed statement with any necessary appendices to be prepared by the case officer. The nominated Member to review the Councils statement and make amendments where required and send back to the Officer.

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APPENDIX 2

Nominated Member to be advised of the date of the site visit.

1.4 Informal Hearing Appeal

- 1.4.1 Where the Committee overturns the recommendation the nominated Member(s) will be engaged with the following:

Letter sent to advise the nominated Member about the appeal, the name of the case officer and the date the Statement is due;

The nominated Member should liaise with the case officer if required to discuss the policies, content to provide the outline for the Council Statement and cost claim (if relevant). Member comments where required need to be made in writing and forwarded to the case Officer.

Typed statement with any necessary appendices to be prepared by the case officer or planning consultant. The nominated Member to review the Council's statement and make amendments where required and send back to the Officer.

Prior to the hearing, a meeting will be held between the Member and case officer and external witnesses and solicitor if necessary to consider the issues and the appellant's case.

Nominated Member to attend the Informal Hearing either in an observer or as part of the Council team.

Nominated Member to be advised of the date of the site visit.

1.5 Public Inquiry

- 1.5.1 Where the Committee overturns the recommendation the nominated Member(s) will be engaged with the following:

Letter sent to advise the nominated Member about the appeal, the name of the case officer and the date the Statement is due.

The nominated Member should liaise with the case Officer to discuss the policies, content to provide the outline for the Council Statement and cost claim (if relevant). Member comments where required need to be made in writing and forwarded to the case Officer.

Typed statement with any necessary appendices to be prepared by the case officer or planning consultant. The nominated Member to review the Council's statement and make amendments where required and send back to the officer.

Prior to the Public Inquiry, a meeting will be convened by the Council's legal representative between the Member, the case officer and any external witnesses / experts where necessary to consider the issues / tactics and the appellant's case.

Nominated Member to attend the Public Inquiry either in an observer or as part of the Council team.

Nominated Member to be advised of the date and attend the site visit where required.

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APPENDIX 2

1.6 Director of Strategy, Performance and Governance

- 1.6.1 In managing the Planning Appeal process the Director of Strategy, Performance and Governance will:
- Determine on a case by case basis where it would be necessary to either seek the nominated Member or an external planning consultant to represent the Council at either an Informal Hearing or Public Inquiry.
- Wherever practical seek to recover the Council's costs from applicants in preparing for and undertaking an appeal.
- Where required, request the local Ward Member assistance in circumstances where local knowledge is paramount and invaluable to the appeal including appeals that may arise from planning enforcement action and a refusal of a Certificate of Lawfulness.

1.7 The Role of Members as Private Individuals and Parish /Town Councillors

- 1.7.1 In situations where Members have clearly demonstrated a 'closed mind' on a planning application prior to consideration by Committee, they will not be permitted to be involved in the determination of that application or the subsequent appeal statement or process. In this case, or where a Member does not support the Council decision irrespective of the type of appeal, a Member may decide to make their submissions to an appeal which will be in either a personal capacity only or in their role as a Town / Parish Councillor.
- 1.7.2 It may be that on occasions electors may expect that their Ward Member(s) will attend a hearing or inquiry to further represent their interests and view. This can be seen as part of the democratic process, and a Ward Member wishing to do so should take the opportunity of first being fully briefed by Officers on all the issues the subject of the appeal.

2. REVIEW OF REASONS FOR REFUSAL

- 2.1 On occasions during the course of an appeal the Council may formally be requested by or on behalf of the appellant to reconsider its reasons for refusal. Any review shall be undertaken at the level the original decision was made and on report of the Director of Strategy, Performance and Governance only.
- 2.2 Where a committee has not formally reconsidered its reasons for refusal, and there is insufficient time to do so, then in order to ensure the Council minimises its exposure to cost awards against it, the Director of Strategy, Performance and Governance in managing the appeal process will act in consultation with the Leader of the Council, the Chairman of Planning and Licensing Committee, the Chairman of the relevant Area Planning Committee and the nominated Member.

Originally endorsed by Planning and Licensing Committee - November 2012

ENFORCEMENT POLICY

**PLANNING ENFORCEMENT
POLICY, PRACTICE and GUIDANCE**



March 2018

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APPENDIX 3

Maldon District Council

Planning Policy Enforcement Guidance

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APPENDIX 3

1.0 INTRODUCTION

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

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

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

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

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

Maldon District Council – Enforcement Objectives

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

1.6. These objectives are:

- To promote compliance with planning requirements
- To remedy the undesirable effects of unauthorised development
- To bring unauthorised activity under control to maintain the credibility and

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achieve the purpose, of the planning system

- To strike an acceptable balance between protecting the amenity of the citizens of Maldon and other interests of acknowledged importance, and allowing development to take place
- To provide a service that will pursue pro-active initiatives that would improve the environment and built heritage, safeguard the amenities of the area and support the policies of the development plan

Expediency and the Public Interest

- 1.7. In considering whether to take any enforcement action, the determining issue for the Council will be whether the breach of planning control causes significant harm and it is in the public interest to take enforcement action.
- 1.8. Severe harm to public amenity will normally arise through those breaches of planning control which involve unauthorised works to a Listed Building, unauthorised works within a Conservation Area and unauthorised development which is contrary to Development Plan Policies. Action can also be taken to require owners to improve the appearance and condition of land and property, in the interests of local amenity.

The Council's Enforcement Objectives

- 1.9. An owner or occupier of land can, without a specific planning permission or certificate of lawful use, be at a disadvantage if they subsequently intend to dispose of their interest in the land in question, and have no evidence of any permission having been granted for development. The Council appreciates that some developments have occurred over time and have gone unnoticed, but it has to investigate when complaints are made, or consider through their own investigations that matters need to be formalised.
- 1.10. The Council will be responsive to all potential enforcement matters and will pursue the following key objectives:
 - Respond to complaints about potential unauthorised development
 - Ensure that development is carried out in accordance with planning approvals
 - Be fair and take action that is proportionate to the breach or offence, in a responsive, helpful and consistent manner

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2.0 POLICY POSITION National Policy

- 2.1. The Council is mindful that enforcement action is a discretionary power but it is important that Local Authorities develop their own policy on enforcement matters. The Council will take action when it is expedient to do so, and any action will be commensurate with the seriousness of the breach of control.
- 2.2. It is only an offence to carry out development without planning permission in certain instances. Section 73A of the Town and Country Planning Act 1990 (as amended) specifically provides that planning permission may be granted to regularise development already carried out.
- 2.3. Government Policy Guidance makes it clear that enforcement action should not be taken simply to remedy the absence of a planning permission where development is otherwise acceptable on its planning merits. However, it is important that the Council responds to complaints and seeks to remedy breaches of planning control.

Other Planning Policy Guidance

- 2.4. Some breaches are more serious than others, and some require immediate action, for example, to prevent the destruction of an historic fabric or structure, an important tree or belowground archaeology. Apart from the seriousness of the breach, the following matters have to be taken into consideration:
 - The Adopted Maldon District Local Development Plan constitutes the Development Plan for the District.
 - Through the Localism Act 2011, the Government has introduced a new tier of planning at the neighborhood level. Local communities will be able to prepare a Neighborhood Development Plan for their area which sets out specific planning policies.
 - Although they are not part of our statutory development plan, supplementary planning guidance documents (SPDs) (such as planning frameworks and briefs and conservation area appraisal and management strategies) play an important role in our planning decisions.
 - The National Planning Policy Framework (NPPF) was published on 27 March 2012. Amongst other things, the new guidance replaces many existing Planning Policy Statements (PPSs), Planning Policy Guidance notes (PPGs) and Circulars. The guidance is a material consideration in planning decisions.
 - The Planning Practice Guidance was first published on 6th March 2014. It was a result of a commitment to reform the Planning system to make it simpler, clearer and easier for people to use, allowing local communities to shape where development should go and not go.
 - The provisions of the Human Rights Act 1998 when making decisions relating to planning enforcement.

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- The principles of the Enforcement Concordat; Good Practice Guide for Small Businesses 1998 are proposed to continue to be applied. These principles include:
 - There will be openness in dealing with business and others.
 - Enforcers will be helpful, courteous and efficient.
 - Complaints procedures will be publicised.
 - Enforcement decisions will be taken in a proportionate manner.
 - Enforcement officers will strive for high standards of consistency.
 - To take into consideration the planning history of the site
 - To seek specialist help from legal, trees and conservation experts.
 - To be aware of relevant appeal decisions and case law decisions.
 - To note information provided by the owner/occupier or interested parties.

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

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3.0 ESTABLISHING A BREACH OF PLANNING CONTROL

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

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

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

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

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

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

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4.0 THE COUNCIL'S INITIAL INVESTIGATION

How to report a suspected breach

- 4.1 Most investigations into breaches of planning control result from complaints received from members of the public or from Ward Councillors. The Council can be contacted by letter, using the on-line form or email. It is essential that complainants submit details in writing as this avoids ambiguity and provides the Council with an accurate basis on which to proceed with an investigation.
- 4.2 Complaints should be addressed to Enforcement, Planning and Regulatory Services Directorate, Maldon District Council, Princes Road, Maldon, Essex, CM9 5DL (or as stated on the Council's web site) who will then ensure it is dealt with by the appropriate investigating officer(s).
- 4.3 The Council will need the following information before any investigation will take place:
- The precise location of the site or property to which the complaint relate.
 - The exact nature of concern, i.e. the potential breach of planning control.
 - An indication of any harm caused by the breach.
- 4.4 The following information will assist the Council in investigating the alleged breach:
- When the breach occurred.
 - Any information on the identity of the person(s)/organisation responsible, if known.

Confidentiality

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

Anonymous Complaints

- 4.6 Anonymous complaints will not normally be investigated.

Recording Complaints

- 4.7 All complaints of potential breaches are entered onto the enforcement records system upon receipt, and a unique reference is created so that progress on each complaint received can be monitored. The name, address and telephone number of the complainant and the details of the complaint are logged.

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- 4.8 The initial investigation will usually involve checking the planning and any building regulation history of the particular site to establish any relevant development history and whether any conditions have been attached to any approval granted. Sometimes it is also necessary to check other records held by the Council such as council tax or business rates, environmental health records or outside organisations in order to get a complete understanding of events.
- 4.9 A site inspection may prove necessary to establish further facts and evidence. Investigation Officers identify themselves when on site and explain the reasons for the visit. The owner/occupier or people working on the site will be interviewed to obtain factual information and photographs and measurements may also need to be taken. A detailed note is made of the findings in the investigation file, which is used to record all visits and discussions at meetings or on the telephone.

Informing Complainants

- 4.10 Following an initial acknowledgement the Council will keep all complainants informed of progress at the following key stages of the process including, where relevant:
- The initial assessment, advising what action will be taken
 - Any Issue of enforcement notice, or outcome of other action
 - If an appeal has been lodged against a formal notice
 - Closure of the investigation

Rights of Entry

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

Obtaining additional information

- 4.12 In some circumstances, when it has not been possible to establish the facts through normal investigation, or when the co-operation from the owner/occupier is not forthcoming, a formal Planning Contravention Notice (PCN) may be served. This requires the recipient to provide information relating to the breach within 21 days from the date of service of the Notice.
- 4.13 The complainant may occasionally be asked to assist with the investigation, for example, by keeping a diary of events relating to the breach. This is helpful where problems occur in the evenings or at weekends or outside normal working hours. Such help is voluntary, but the evidence may be crucial when assessing whether a breach has occurred and whether further action is considered expedient to remedy the breach.
- 4.14 If there is no breach of planning control evident, then an explanation will be given to the complainant and the file will be closed.
- 4.15 The impact of some developments and activities are more harmful than others. The Council

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

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

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5.0 PRIORITIES FOR ACTION

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

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

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

5.3 Complaints classified as ‘Immediate’ – investigation within 1-2 working days

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

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5.4 Complaints classified as ‘Urgent’ - investigation within 15 working days

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

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

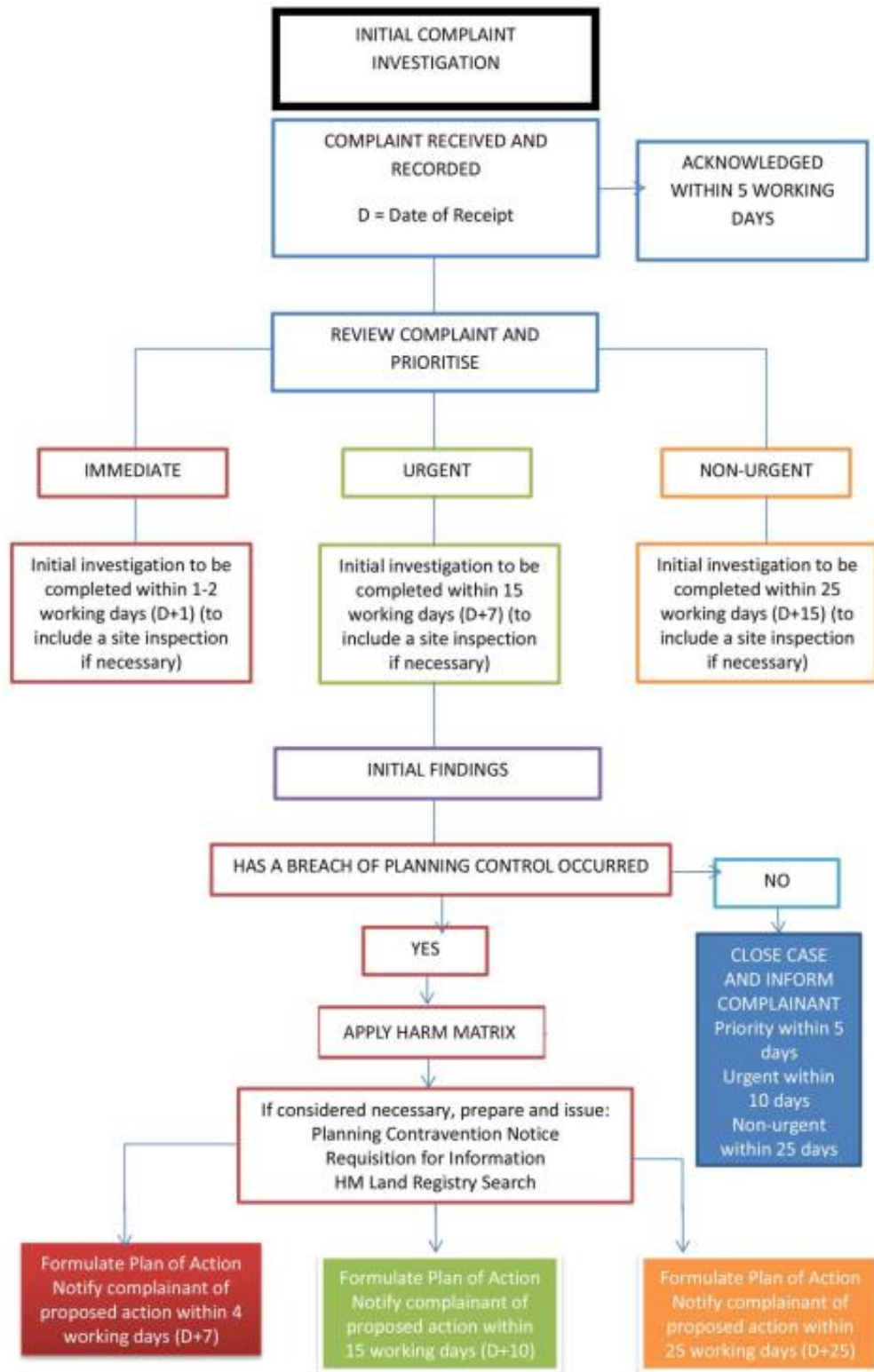
- Other changes of use
- Other building works/condition of land/compliance with conditions
- Advertisements and satellite dishes (not attached to trees or listed buildings) (conservation areas to be prioritised)

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Initial Investigation Flow Chart

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



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6.0 ASSESSING THE COMPLAINT

- 6.1 An important element of the Council's Enforcement Policy is a prioritisation or **Harm Assessment Matrix**. A number of local authorities have adopted an approach which attracts scores depending on the nature and location of an alleged breach of planning control. Maldon Council first adopted this approach in April 2014. Following an initial site visit by an officer, an assessment of the breach is carried out in order to determine what level of officer time will be dedicated to investigating the breach further.
- 6.2 The matrix sets out a minimum score which needs to be achieved in order to justify further investigations. A score below 5 would normally result in no further action by the Planning Enforcement Team other than an invitation to submit a retrospective in an attempt remedy/regularise the breach.
- 6.3 As detailed in the next section scores are based on matters of fact i.e. does it relate to a listed building or if the site is in a conservation area, plus matters of judgement i.e. whether the breach would result in irreversible harm or if permission was granted, would the development result in an undesirable precedent.

HARM ASSESSMENT CRITERIA

1. IS THE BREACH?

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

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

2. HIGHWAY SAFETY

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

3. OTHER SAFETY ISSUES

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

4. CAUSING STATUTORY NUISANCE

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

5. COMPLAINANT

Self-explanatory

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6. AGE OF BREACH

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

7. DEGREE OF HARM

Is the harm widespread or localised?

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

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

8. IRREVERSIBLE HARM

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

9. FLOOD RISK

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

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

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

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

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

12. LISTED BUILDING OR AFFECTING THE SETTING

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

13. SPECIAL AREAS

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

14. SENSITIVE AREAS

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

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

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15. UNDESIRABLE PRECEDENT

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

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7.0 WHAT HAPPENS WHEN BREACHES OF PLANNING CONTROL ARE CONFIRMED?

- 7.1. The majority of breaches of planning control are resolved informally and by negotiation with the owner/occupier. Formal action only takes place when it is expedient, and where other means to resolve the problem have failed. **It is a last resort.** The Council will take effective enforcement action when it is essential to protect the amenity of the area, the public or highway safety, and to maintain the integrity of the development management process within the District. The impact of some developments are more harmful than others and therefore action will be in the public interest and commensurate with the breach of planning control.
- 7.2. Authorised officers will normally decide whether formal notices are justified, in accordance with agreed policies, and action will be approved under the powers delegated to The Director of Strategy, Performance and Governance or through the relevant committee/councillor involvement according to the Council's Constitution at the time.
- 7.3. When it is clear that there is a breach of planning control, the Council will draw this to the attention of the person responsible and advise them of the most appropriate course of action. These may be:
- If the breach is minor with no significant effects – no further action required
 - If the development is such that it is in line with relevant local plan policies – the Council will usually invite a 'retrospective' application for planning permission
 - If the breach is likely to be immune from enforcement action due to the passage of time – an application for a Certificate of Lawfulness will be invited if permission is unlikely to be granted – the Council will ask for the use to cease, or unauthorised development to be removed. A suitable period of time is allowed, depending on what needs to be done. For example, tenants must be allowed reasonable time to find somewhere else to live
 - As a last resort, formal notices can be issued, such as a Breach of Condition Notice or Enforcement Notice, if it is considered expedient having regard to the development plan policies and other material considerations. This is a discretionary decision, which is made on a case by case basis. The Council must be able to justify taking formal action and be sure that the steps specified in the notice and the period for compliance with each step, are reasonable
 - In extreme cases, the Council can serve a notice to require any relevant activity to cease (a Stop Notice or Temporary Stop Notice) and there is provision to obtain a planning enforcement injunction to restrain an actual or apprehended breach of planning control

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- When a Breach of Condition Notice has been served and has not been complied with, the person who has been served with the notice can be prosecuted in the Magistrates Court
 - When an Enforcement Notice takes effect but is not complied with, any owner/occupier or person who has control of, or has an interest in the land, can be prosecuted in the Magistrates Court
 - Where appropriate, and if other means have not secured a cessation of the breach being enforced against it, the Council will consider using its default powers to take direct action to remedy the breach of planning control, recovering the cost from the owner or placing a legal charge on the land
 - When it is considered expedient not to pursue enforcement action against a breach of planning control, so no further action will be taken
- 7.4. A robust case supported by evidence needs to be made to ensure any subsequent appeal and prosecution can be supported.

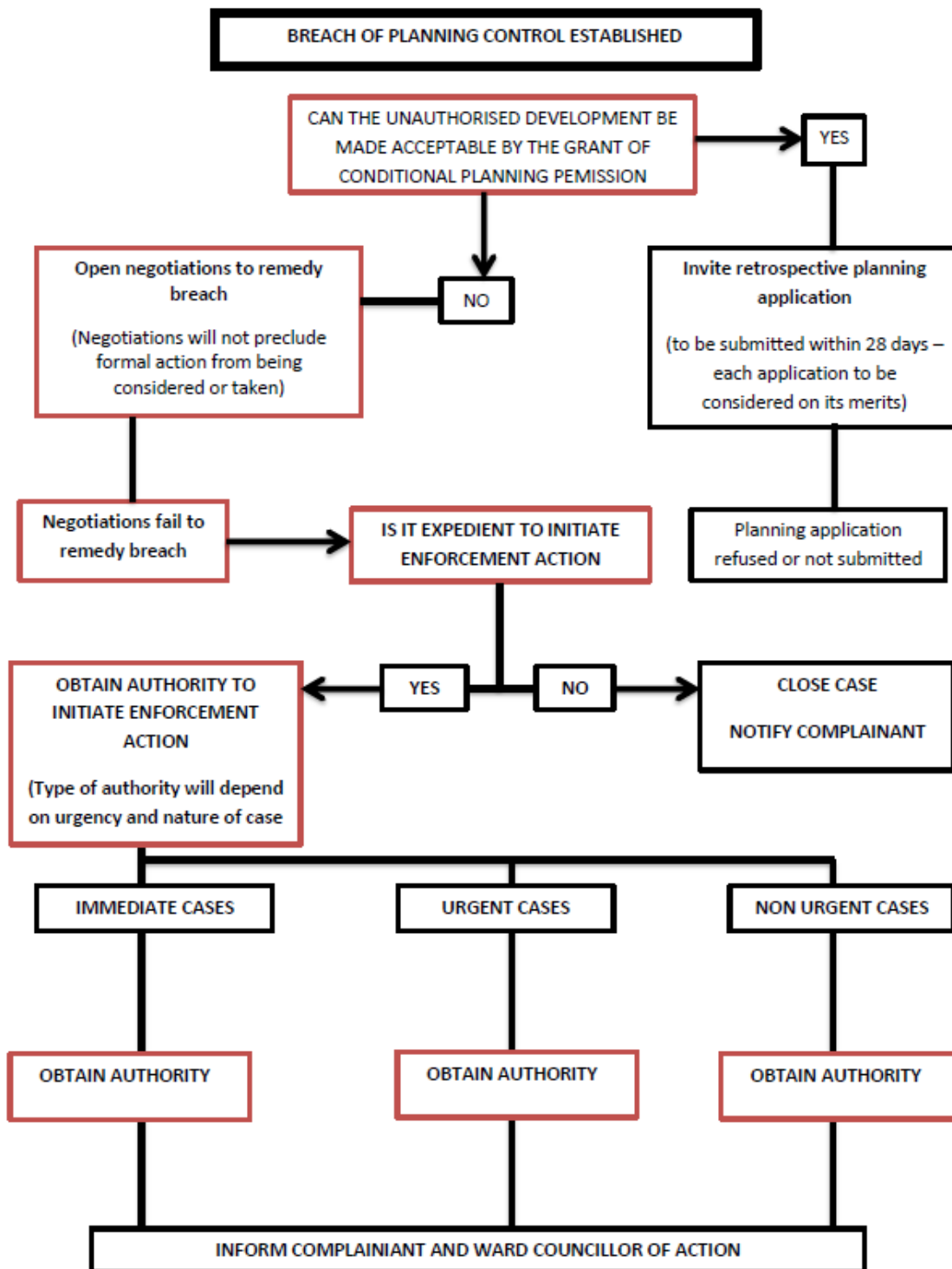
Breach of Planning Control Confirmed

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

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ENFORCEMENT PROCEDURES FLOW CHART



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8.0 SECURING COMPLIANCE WITH AN ENFORCEMENT NOTICE

- 8.1 An offence occurs when an owner/occupier fails to comply with the requirement of an enforcement notice.
- 8.2 The Council will take action when the terms of an enforcement notice have not been complied with. Such action may involve:
- Prosecution of the parties concerned in the local courts
 - The issue of an injunction through the court system
 - Direct, or ‘default’ action
- 8.3 The Council will usually seek to bring the matter to a successful conclusion as quickly as possible through the pursuit of action in the courts. If someone is found guilty of failing to comply with the terms of an enforcement notice, a maximum fine of £20,000 may be imposed by the court. If the Notice is still not complied with, a further prosecution may be brought and this is likely to continue until the Notice has been complied with.
- 8.4 The Council will not necessarily withdraw from taking action in the courts once this has commenced, and this may apply even where the breach of planning control may be rectified before the case is heard.
- 8.5 In the case of a persistent offence against an unauthorised activity, an injunction may be sought through the County Court or High Court. More severe penalties may be imposed in these circumstances if the offence continues.
- 8.6 In exceptional circumstances, the Council will consider taking direct or default action to remedy a breach of planning control. This may involve the use of contractors to enter a site and physically remove or put right unauthorised building work. Such circumstances are likely to arise for example when the breach of planning control has not been remedied, despite the imposition of fines by the Courts or for continued breaches of planning control. In such cases, the Council will seek to recover its costs, in the form of a charge on the land for example, or by other means.
- 8.7 If an enforcement notice is served against a development, which is subject to a planning or listed building appeal which is currently under consideration by the Planning Inspectorate, the outcome of such an appeal may be awaited before taking further action to secure compliance with an enforcement notice. When an appeal has been dismissed, compliance with the requirements of an enforcement notice will then be pursued.

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- 8.8 When the Council believes that an enforcement notice has been complied with, the fact will be confirmed to the owner/occupier of the land and to anyone who has complained about the development or activity.

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9.0 ENFORCEMENT APPEALS

- 9.1 S174 of the Town and Country Planning Act 1990 (as amended) provides a right of appeal against an enforcement notice. The Planning Portal (web site) provides a link to relevant information.
- 9.2 An appeal must be made before the notice takes effect (normally 28 days after the date of issue of the notice). An appeal cannot be entertained if it is made after the date the notice takes effect.
- 9.3 An owner, occupier or any other person, who has an interest in the land, even if a copy of the notice has not been issued on that person, may make an appeal.

Grounds of Appeal

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

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

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

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

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

- 9.6 Enforcement action will only be taken when it appears to the Council that there may have been a breach of planning control. Before taking action, the Council will consider:
- Whether the alleged breach constitute development
 - If it does constitute development, does it need planning permission
 - Whether planning permission been granted

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

- 9.7 When there is any doubt about when the breach of control first took place, before taking enforcement action, the Council will initiate an investigation to establish

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

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

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

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

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

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

Ground G – that the period for compliance is too short

- 9.13 The period for compliance will be a reasonable period having regard to the particular circumstances of the case and the actual or potential harm being caused to the amenity of the area by the unauthorised development.
- 9.14 When particular personal family hardship will result in order to comply with an enforcement notice, the Council will ensure an adequate period for compliance is granted.

An appeal made under Ground A

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

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

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

An appeal made under Grounds F and G

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

Appeal Methods

- 9.18 An appellant may elect an appeal to be heard at a public inquiry, an informal hearing or by way of an exchange of written statements.
- 9.19 It is the Planning Inspectorate who will make the final decision as to the appropriate method of appeal.
- 9.20 Unless complex planning issues or legal issues are involved, the Council will normally request enforcement appeals to be dealt with by way of an exchange of written statements.

Award of Costs

- 9.21 Costs can be awarded against both parties whichever method of appeal is used if either the Council or the appellant is found to have acted unreasonably in accordance with statutory procedures.
- 9.22 When it appears to the Council that an appeal has been made simply to delay or prolong the requirements of a notice taking effect, or if Ground A has been cited where the development is clearly contrary to planning policy, or some other ground is cited which clearly has no chance of success, the Council will apply for an award of costs against the appellant.

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10.0 OTHER PLANNING ENFORCEMENT POWERS

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

10.2 These include:

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

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

Listed Buildings

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

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

Advertisements

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

10.7 Advertisements are divided into three main groups:

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

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

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- 10.9 Any person who displays an advertisement, without consent, is acting illegally. It is open to the Council to take a prosecution in the Magistrates Court for an offence under Section 224 of the Town and Country Planning Act 1990 (as amended).
- 10.10 The Council can issue a Fixed Penalty Notice in relation to the display of an advertisement to any person that there is reason to believe that that person personally affixed or placed the advertisement to, against or upon the land or object on which the advertisement is or was displayed under the Anti- social, Crime and Behaviour Act 2014; this is discussed further below.
- 10.11 Unless the offence is particularly flagrant or repeated, the planning authority may not initially consider it necessary to prosecute for an advertisement offence. Instead, they may invite the advertiser to apply for the consent required and if refused, there will be a right of appeal. The continued display of an advert after consent has been refused, and any subsequent appeal dismissed, may well result in prosecution. The maximum fine on conviction is currently £1,000 with an additional daily fine of one-tenth of the maximum penalty of a continuing offence.
- 10.12 Any display of an advertisement without consent is an offence which is immediately open to prosecution, or in some cases to the removal or obliteration if the Council decide to take such action. If the advertisement identifies the advertiser, the Council must give 48 hours before obliteration or removal takes place, where the regulations apply.
- 10.13 Some advertisement may be displayed on highway land in which case there are powers that Essex County Council (ECC) has to remove these directly. The Council will seek ECC to remove these where complaints are received but in some cases, such as fly posting joint action may be necessary.

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

- 10.14 The Council could take a number of actions including:-
1. Remove the signs directly (with or without an attempt to attempt to recover the costs)
 2. Proceed to prosecute in the magistrates court
 3. Where the signs are on highway land or fixtures seek Essex County Council to take direct action using their highways powers.
 4. Possible use of a Fixed Penalty Notice under the Anti- social, Crime and Behaviour Act 2014.
 5. Do nothing (depending on the scale of the matter)
- 10.15 The only two reasons local authorities can take into account in dealing with advertisements under the Advertisement Regulations are public safety and amenity.

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- 10.16 Failure to comply with these conditions will allow the LPA to immediately serve a removal notice giving a reasonable time for such signs to be removed otherwise the LPA could undertake the work and recover the costs.
- 10.17 **Removal (as the Local Planning Authority):** Local planning authorities have specific powers to deal with unauthorised advertisements under planning legislation and allows local planning authorities to remove and dispose of any display structure which, in their opinion, is used for the display of illegal advertisements. This provision does not apply to signs in a building to which the public have no right of access. Where possible, the owners / advertisers should be notified before removal.
- 10.18 **Prosecution (as the Local Planning Authority):** The local planning authority is empowered to prosecute those who display advertisement signs without consent including the beneficiary of such advertisement signs. The fine for displaying without consent is up to £1,000 (level 3 of the standard scale) and £100 per day as fine if after conviction, the advertisement continues to be displayed. A person shall be deemed to have display an advertisement if is:
- (a) The owner of the property or the occupier of the land on which the advertisement is displayed
 - (a) The advertisement gives publicity to his goods, trade, business or other concerns
- 10.19 Notices should be served on both the owner / occupiers of land on which the advertisement is displayed as well as the beneficiaries of the advertisement unless:
- (a) They have no knowledge of the advertisement displayed
 - (b) They have not given consent to the advertisement displayed
- 10.20 The local planning authorities do not need to give notice of removal if the advertisements are displayed on land or properties belonging to the Council.
- 10.21 **Removal (by the Highway Authority).** The Highway Act 1980 makes provisions for Highway Authorities to remove advertisement signs, painting, etc. affixed to the surface of Highway or any other structure in the Highway. Illegal signs can be removed without giving notice to the perpetrators.
- 10.22 **Prosecution (by the Highway Authority).** Prosecution under the Highway Act 1980 attracts a fine of up to £1000.
- 10.23 **Anti – social behaviour orders (ASBOs).** This was new measure introduced in 1999. Graffiti and fly-posting are defined as an offence and a Penalty Notice can be served. 14 days' notice is required to be given of impending action. This type of action is considered more appropriate where there is an extensive problem of illegal fly posting.

Trees

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- 1.24 Under Section 198 of the Town and Country Planning Act 1990, the local planning authority has the right to make provision for the preservation of trees in their area by issuing a Tree Preservation Order. Any unauthorised works to such protected trees is an offence under Section 210 of the Act. It is an offence to cut down, uproot or wilfully destroy a tree, or wilfully damage, top or lop a tree in such a manner as to likely destroy it. The offence is liable on summary conviction to a fine of up to £20,000.
- 10.25 Trees in Conservation Areas are similarly protected subject to the size of such a tree and under Section 211 and Section 212 of the Act, the same penalties apply.

Land or buildings that adversely affect the amenity of an area

- 10.26 Under Section 215 of the Town and Country Planning Act 1990, the local planning authority may take steps to require land or buildings to be cleaned up when its condition adversely affects the amenity of an area. The Council may serve a notice on the owner and occupier of the land requiring steps to be taken within a specified period.
- 10.27 The notice takes effect after 28 days from date of service. There is a right of appeal to the Magistrates Court and then to the Crown Court, during which time the notice is of no effect. If an appeal is unsuccessful, the notice takes effect and it is an offence not to carry out the steps required. If the notice is not complied with, the Council will consider prosecution proceedings or enter the land and carry out the required works. The costs incurred in carrying out the works will be recovered from the owner of the land.

Proceeds of Crime Act - POCA

- 10.28 The Proceeds of Crime Act 2002 (POCA) sets out the legislative scheme for the recovery of criminal assets with criminal confiscation being the most commonly used power. Confiscation occurs after a conviction has taken place. The aim of the asset recovery schemes in POCA is to deny criminals the use of their assets, recover the proceeds of crime and to deter criminality.
- 10.29 During the enforcement process the authority seeks full recovery of costs, where possible. Consideration will be given to the appropriateness and expediency of the use of POCA powers, including but not limited to the seeking of confiscation orders, in appropriate cases in which a defendant has benefited from criminal conduct or a criminal lifestyle. This will both help cover the costs of enforcement and ensure an effective disincentive to ongoing breaches of planning control.

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11.0 ENFORCEMENT POLICY FOR MALDON DISTRICT COUNCIL

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

POLICY ENF1

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

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

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

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

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

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

- Other changes of use
- Other building works/condition of land

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

POLICY ENF2

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

POLICY ENF3

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

POLICY ENF4

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

POLICY ENF5

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

POLICY ENF6

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

POLICY ENF7

The Council will seek to address certain enforcement matters through other appropriate enforcement agencies such as the County Highway Authority (Essex County Council),

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Natural England and The Environment Agency where they have more immediate or effective enforcement powers.

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APPENDIX 1 to Enforcement Policy

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

Breach of Condition Notice (BCN)

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

Breach of Planning Control

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

Certificate of Lawfulness

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

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

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

GLOSSARY OF TERMS

Default Powers (or Direct Action)

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

Development Orders

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

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

Enforcement Notice

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

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

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

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

Fixed Penalty Notice

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

Injunctions

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

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

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

Local Planning Authority

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

Planning Contravention Notice (PCN)

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

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

Requisition for Information

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

Standing Orders

Standing Orders made under the Council's Constitution grants certain delegated powers approved by the Council to allow the Director of Strategy, Performance and Governance

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and other officers to serve certain notices and initiate prosecution proceedings which are updated from time to time.

Stop Notices

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

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

Proceeds of Crime Act - POCA

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

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

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

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

APPENDIX 2 to Enforcement Policy**ENFORCEMENT HARM ASSESSMENT FORM****SHOULD BE COMPLETED BY AN OFFICER WHO HAS SEEN THE DEVELOPMENT**

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

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

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

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

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

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MALDON DISTRICT COUNCIL

PUBLIC SPEAKING AT PLANNING COMMITTEE MEETINGS

The Scheme and How it Operates

The Council wishes to extend public involvement in the planning process, and members of the public now have the opportunity to put their views on a planning application direct to meetings of the Planning and Licensing Committee and the three Area Planning Committees and also to meetings of the District Planning Committee.

This will apply only to those applications that are to be determined by the Area Planning Committees, and includes all applications for planning permission under Part III of the Town and Country Planning Act 1990 (as amended) and related legislation, and for Listed Building and Conservation Area Consent under the Planning (Listed Buildings and Conservation Areas) Act 1990.

The opportunity will be open to applicants and their agents, supporters, objectors, and also appointed representatives of Parish / Town Councils. Where consideration of an application is deferred for any reason public speaking will be allowed again when the Committee resumes its consideration prior to a decision.

This is intended to supplement rather than replace representations in writing. All representations on planning applications must first be made in writing, and will continue to be taken into account with equal weight in the decision-making process.

Planning Services will communicate with applicants / agents, Parish and Town Councils, and all persons who have submitted written representations to advise them of the relevant arrangements.

All requests to speak must be notified to a Committee Clerk or Planning Officer between 7.00pm and 7.20pm prior to the start of the meeting.

The opportunity to speak will occur as part of the consideration of each planning application, and the normal way of proceeding will be as follows:

- a) The Planning Officer to present the application to the Committee and update as necessary.
- b) The Chairman to announce details of those who wish to speak.
- c) Participants will be called in the following order:
Objector;
Supporter;
Representative of Parish / Town Council;
Applicant / Agent (or supporter in their absence).
- d) Where there are several people wishing to express substantially the same, they will be invited to appoint a single spokesperson who may be able to cover all the points and will be asked to announce who it is he or she represents. In the absence of agreement over this,

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and in the interests of the proper and efficient conduct of the meeting, the Chairman may decide to allow no participation at all.

- e) Each participant will be allowed no more than two minutes to make a statement.
- f) Participants may not ask questions directly of individual Members or Officers.
- g) There will be no discussion between participants and the Committee Members. The Chairman may however find it necessary on occasions to seek clarification from participants in relation to what they have said.
- h) Participants will not be allowed to distribute or display papers, plans, photographs or other material to accompany their submissions.
- i) Where an application for planning permission is followed on the agenda by a related application for listed building consent or conservation area consent, an opportunity to speak will be allowed provided participants confine their comments to the particular issues raised by that related application. The opportunity to speak will occur only once in relation to duplicate (often referred to as “twin track”) applications.
- j) All contributions will be conducted strictly through the Chairman whose ruling on any point of procedure will be final. The Chairman will indicate when the opportunity for public speaking on an application has finished, following which the Committee will continue with its deliberations without further public involvement.
- k) Where planning applications to be determined by the Planning and Licensing Committee are also considered by an Area Planning Committee, the opportunity for public speaking will occur at both Committees.

Advice for participants

Please think about what you propose to say, and try to keep your statement brief and to the point. The Chairman will not allow comments he/she considers to be abusive, defamatory, discriminatory or otherwise inappropriate.

It will help the Committee to receive views that are relevant to planning issues such as –

Impact on the character of the area;

External design, appearance and layout;

Impact on neighbouring properties;

Highway safety;

Planning policy and Government guidance.

It will be unhelpful to the Committee to receive views on such issues as –

Business competition;

Boundary disputes or private rights;

Speculation/developers’ motives;

Moral arguments;

Matters dealt with under separate legislation.

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DEVELOPMENT MANAGEMENT - PROTOCOL FOR MEMBER INVOLVEMENT
IN PRE APPLICATION DISCUSSIONS

1. PROCEDURAL ELEMENTS FOR PRE APPLICATION DISCUSSIONS

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

2. PROTOCOL FOR PRE APPLICATION DISCUSSIONS WITH COUNCILLORS

2.1 Step 1 Initiation of pre-app process

- 2.1.1 For Development Management Forums a prerequisite will be that a formal pre-application enquiry shall have been submitted and an appropriate fee shall have been paid to the Council before any forum is arranged.
- 2.1.2 Within five full working days of a valid Development Management enquiry the details shall be entered onto a Pre-Application Register, held by the Planning Service.

2.2 Step 2 Assessment and arrangement

- 2.2.1 Officers will assess the pre- application proposals against the criteria for strategically important major development as described in Section 5 of this Protocol. Should the proposals be considered to be fitting with this criteria then the case officer will approach the developer with a view to arranging a pre-application with Members. Officers shall seek / pursue two dates (convenient to the Ward Member(s)) with the developer at which a meeting with Councillors can be held (Development Management performance criteria require a first written response to developers to be returned no later than 21 days from the receipt of an enquiry). Subject to these dates being convenient to the Ward Members(s), Councillors shall be notified via an all Member e mail at no fewer than five days before any meeting date. The Development Control Management Forum shall be set for whichever the greatest number of Councillors is available to attend the forum*.

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

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2.3 Step 3 – At the Meeting

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

- a) A senior officer will introduce the purpose of the meeting and advise how it will be conducted. Members will be advised as to the confidentiality status of the proposal. The meeting will be chaired by a senior officer. If at any time the discussion departs from these considerations then the chair will have discretion to close the forum.
- b) Introductions will then be made.
- c) The potential applicant will then present their proposal (the presentation having first been viewed by a Senior Planning Officer and if necessary a legal officer, to ensure that it will not lead Members into negotiations and to check for accuracy).
- d) Members will then have the opportunity to ask questions and seek clarification, but care will need to be taken that personal views are not expressed. They may alert the developer to what they perceive as the likely view of their constituents, but this must be in the context of the LDP or alternative policy framework.
- e) The Chairman will then conclude the meeting. Members may advise Officers of any concerns they may have with the proposal and any elements which they feel would benefit from negotiation with the developer. Officers will provide professional advice and guidance as to what negotiations would be reasonable and align with the Local Development Plan or alternative policy. Negotiations will be undertaken by Officers only.
- f) A Planning Officer will record the meeting and take a note of all present, plus any issues identified. Officers will take appropriate follow up action. The note of the meeting will be placed on file at the earliest opportunity (taking account of the need for commercial confidentiality). The involvement of Members will be recorded in any subsequent committee report.

2.4 Step 4 - Pre-application Feedback

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

2.5 Step 5 Additional meetings on request

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

2.5.2 These further meetings will not as a rule involve Councillors. Only at the discretion of the Director of Strategy, Performance and Governance or the express request by ward member/s or relevant committee chairman shall subsequent meetings be the subject of further member engagement. In such circumstances, the case officer will

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approach the Director for a view as to the necessity to invite members, where upon an e mail notification requesting response within 48 hours shall be circulated to Ward Member/s or relevant committee chairman to ascertain any interest in the second (etc.) meeting with the developer.

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

3 PRE-DETERMINATION AND PRE-DISPOSITION

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

- 3.2 The following considerations also apply:

- a) Members should only attend those meetings organised in accordance with this protocol and not arrange private meetings with developers.
- b) Members should promote community aspirations through the Sustainable Community Strategy and the Local Development Plan or alternative policy process.
- c) Members are at the meeting to learn about an emerging proposal, to help identify issues to be dealt with by further submission and negotiation and may wish to avoid expressing any firm view on the proposal which might indicate to third parties that the Member has 'pre-determined' the application. Although the Localism Act 2011 has provided greater freedom on this, the legal position remains that if pre-determination at the planning decision stage is evident, then this could give rise to legal challenge.
- d) Any Planning Committee Member who elects to express a firm view for or against the proposed development at this stage should be mindful that further opinions, advice and evidence may arise during planning application process. So long as Members clearly state that the opinion is subject to receipt of further evidence and advice, and that they have not closed their mind on the matter, this may then be seen as pre-disposition which is legitimate. Officers will be pleased to advise Members further on this prior to any meeting.
- e) Training will be available on request for Members who wish to attend pre application discussions.

4. GENERAL CONCLUSIONS

- 4.1 Pre-application discussions should always be conducted at the appropriate officer level. However, it should be made clear that the views expressed may be subject to

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review by officers at a more senior level or by Members at Committee. Advice should be consistent with statutory plans, government planning policy guidance and statements and any other material considerations.

- 4.2 Officers should make a detailed written note of any pre-application meetings as soon as practicable. Confirmation of the advice given should always be supplied in writing when requested by or on behalf of the applicant or when deemed appropriate by the section manager.
- 4.3 The involvement of Members should be recorded in any subsequent committee report.
- 4.4 In the case of potentially contentious meetings, two or more officers will attend.

5 STRATEGICALLY IMPORTANT MAJOR DEVELOPMENT CRITERIA

5.1 Residential

Any application of 50 dwellings or more; or any outline residential development proposals whose site is 2 hectares or more

Any residential proposal promoted as an allocated site within the LDP.

5.2 Affordable Housing

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

5.3 Non-residential development

Any non-residential development proposal, whose floor area is 1,500 square metres or more or whose site area is 2 hectares or more.

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

5.4 Retail

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

5.5 Mixed use development

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

5.6 Renewable Energy

Wind Turbines

Any wind energy proposals whose output capacity is 1Mw or more or which proposes three or more turbines of 30m or more.

Solar energy

Any Solar energy proposals whose output capacity is 1Mw or more or which proposes 4,000 or more solar panels.

Energy from Waste

Energy from Waste Scheme which is 1MW capacity or more.

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NOTE: Development Management Enquiries - Consideration of other strategic or corporate merit:

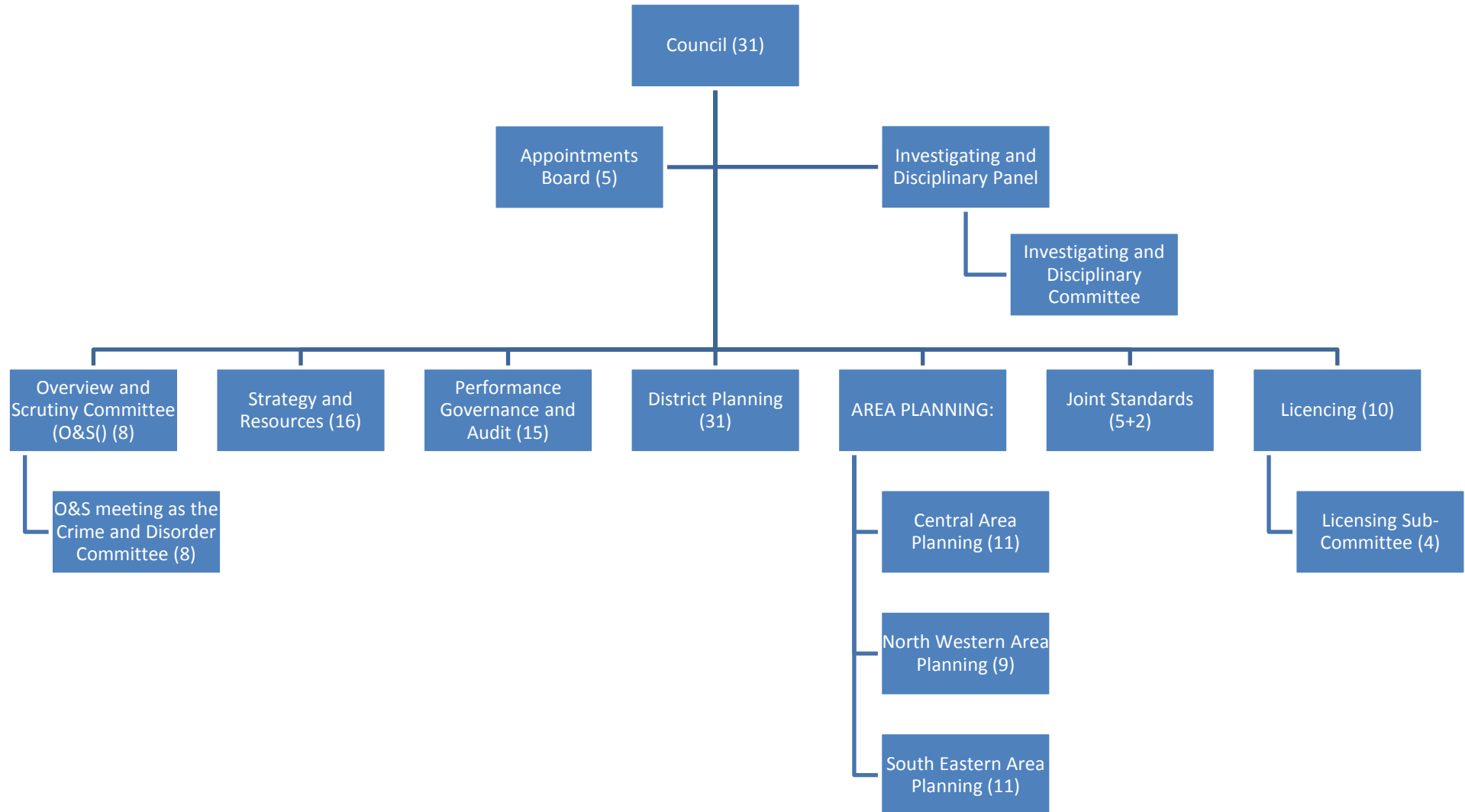
Some applications which do not fit the thresholds or development types outlined above may demand discretion to be exercised as to their specific merits. These enquiries may have a local strategic importance or in some other way make a major contribution to the delivery of corporate objectives. In such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

Updated and endorsed by the Council – 21 December 2017

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PART 6 – MEMBERS OF THE COUNCIL, WARDS, POLLING DISTRICTS AND MEMBERSHIP OF
COMMITTEES AND SUB-COMMITTEES

1. MALDON DISTRICT COUNCIL COMMITTEE STRUCTURE



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WARDS AND POLLING DISTRICTS

CONTENTS

Maldon District Council Wards and Polling Districts

MALDON DISTRICT COUNCIL WARDS AND POLLING DISTRICTS

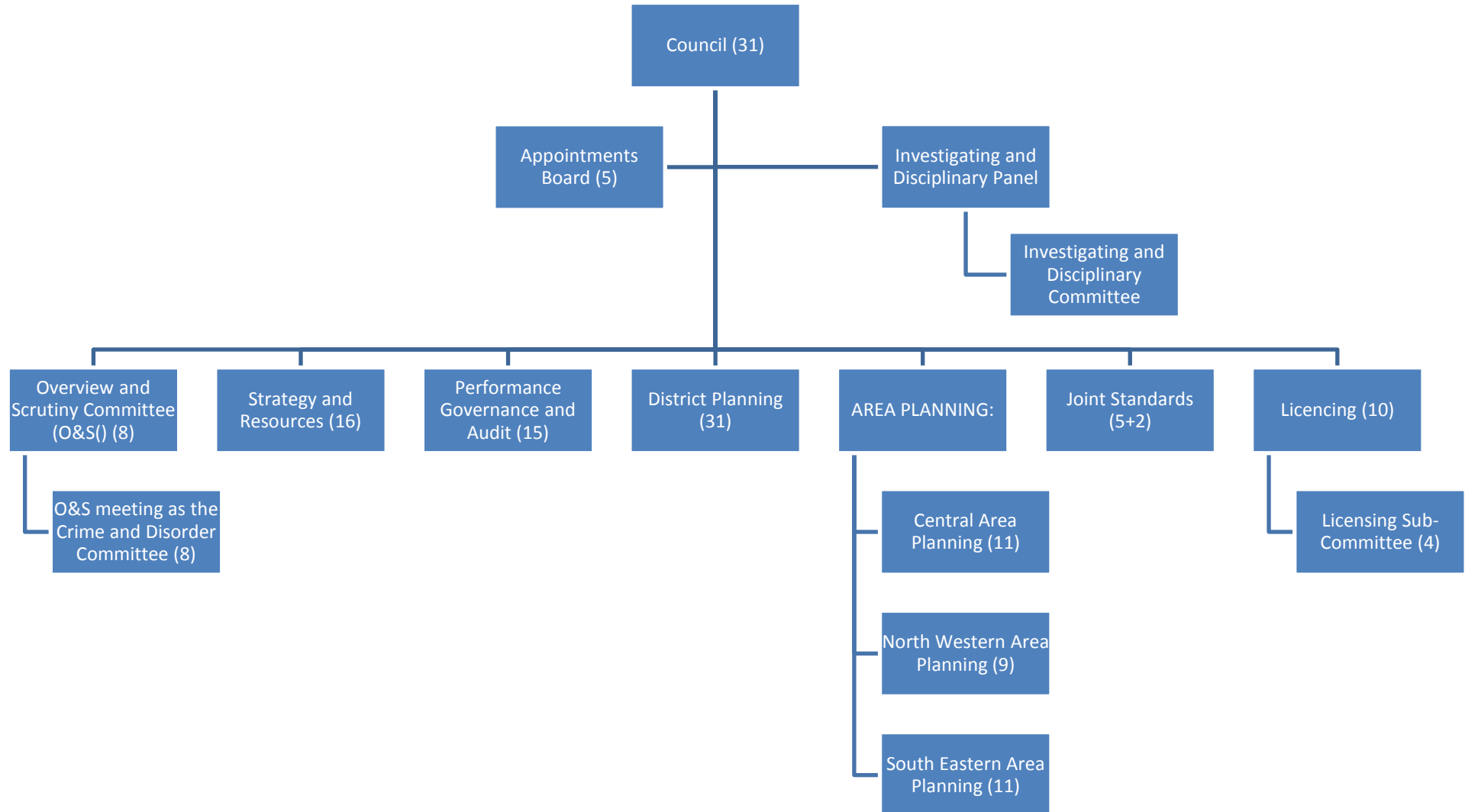
Maldon District Council Ward	Polling Districts Covered
Althorne	Althorne Latchingdon Maylandsea Mundon
Burnham-on-Crouch North	Burnham-on-Crouch North
Burnham-on-Crouch South	Burnham-on-Crouch South
Great Totham	Great Braxted Great Totham North Great Totham South Little Totham
Heybridge East	Heybridge East Heybridge Basin
Heybridge West	Heybridge West
Maldon East	Maldon East
Maldon North	Maldon North
Maldon South	Maldon South
Maldon West	Maldon West
Mayland	Mayland St. Lawrence Steeple
Purleigh	Cold Norton North Fambridge Purleigh Stow Maries
Southminster	Southminster
Tillingham	Asheldham Bradwell-on-Sea Dengie Tillingham
Tollesbury	Tollesbury East
Tolleshunt D'Arcy	Goldhaner Tollesbury West Tolleshunt D'Arcy Tolleshunt Knights Tolleshunt Major

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PART 6 – MEMBERS OF THE COUNCIL, WARDS, POLLING
DISTRICTS AND MEMBERSHIP OF COMMITTEES AND SUB-
COMMITTEES

Maldon District Council Ward	Polling Districts Covered
Wickham Bishops and Woodham	Langford Little Braxted Ulting Wickham Bishops Woodham Mortimer (Hazeleigh) Woodham Mortimer Woodham Walter

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PART 6 – MEMBERS OF THE COUNCIL, WARDS, POLLING DISTRICTS AND MEMBERSHIP OF
COMMITTEES AND SUB-COMMITTEES

1. MALDON DISTRICT COUNCIL COMMITTEE STRUCTURE



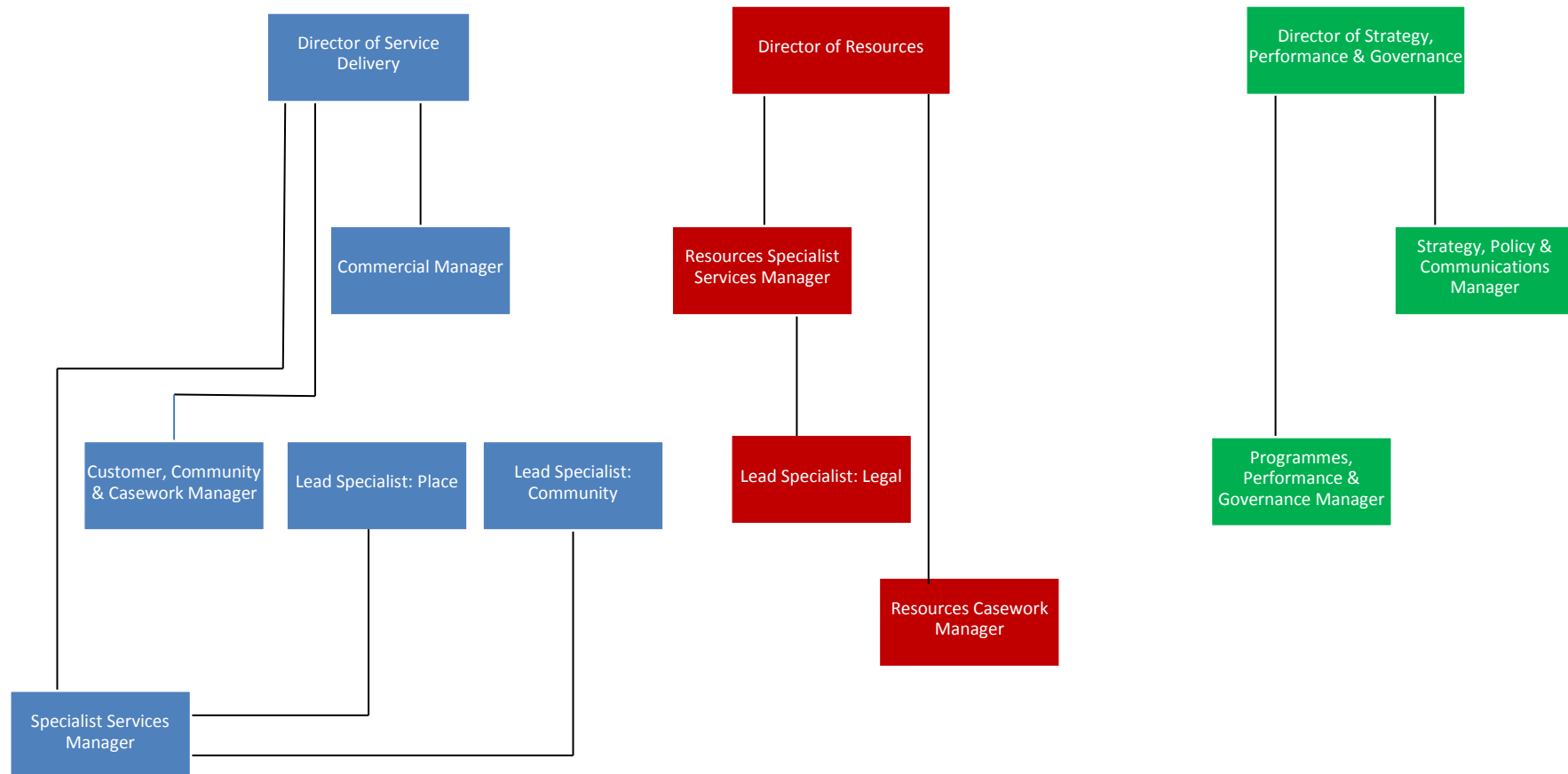
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APPENDIX A
PART 7 - MANAGEMENT STRUCTURE

CONTENTS

1. Maldon District Council Management Structure

1. MALDON DISTRICT COUNCIL MANAGEMENT STRUCTURE



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REPORT of DIRECTOR OF SERVICE DELIVERY

to
COUNCIL
12 SEPTEMBER 2019

PLUME EDUCATIONAL TRUST - REPLACEMENT REPRESENTATIVE

1. PURPOSE OF THE REPORT

- 1.1 To appoint a replacement representative on the Plume Educational Trust.

2. RECOMMENDATION

That a replacement representative on the Plume Educational Trust be appointed.

3. SUMMARY OF KEY ISSUES

- 3.1 At the Statutory Annual Council meeting on 16 May 2019 the Council confirmed the following appointments as Trustees to the Plume Educational Trust:
- Former Councillor A T Cain (to June 2019)
 - Former Councillor P G L Elliott (to June 2021)
- 3.2 Appointments to the Plume Educational Trust are on a four yearly basis and continues even if the appointed representative ceases to be a Member of the Council. The Term of Officer relating to former Councillor Cain has now ended and the District Council therefore needs to nominate and agree a replacement representative for a four year period. Former Councillor Elliott has confirmed that he wishes to continue as a Trustee until June 2021.

4. IMPLICATIONS

- (i) **Impact on Customers** – None.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – None.
- (iv) **Impact on Resources (financial)** – None.
- (v) **Impact on Resources (human)** – None.
- (vi) **Impact on the Environment** – None.

Background Papers: None.

Enquiries to: Richard Holmes, Head of Paid Service, (Tel: 01621 875711).

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