

APOLOGIES Committee Services
Email: Committee.clerk@maldon.gov.uk

DIRECTOR OF STRATEGY,
PERFORMANCE AND
GOVERNANCE
Paul Dodson

31 August 2022

Dear Councillor

You are summoned to attend the meeting of the;

COUNCIL

on **THURSDAY 8 SEPTEMBER 2022 at 7.30 pm**

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

Please Note: All meetings will continue to be live streamed on the [Council's YouTube channel](#) for those wishing to observe remotely. Public participants wishing to speak remotely at a meeting can continue to do so via Microsoft Teams.

To submit a question in writing please complete a [Public Access form](#) (to be received no later than 12noon two clear working days before the Council meeting). All requests will be considered on a first-come, first-served basis.

A copy of the agenda is attached.

Yours faithfully



Director of Strategy, Performance and Governance





AGENDA COUNCIL

THURSDAY 8 SEPTEMBER 2022

1. **Chairman's notices**

2. **Apologies for Absence**

3. **Minutes - 6 July 2022** (Pages 9 - 20)

To confirm the Minutes of the Council meeting held on 6 July 2022 (copy enclosed).

4. **Minutes - 25 August 2022** (Pages 21 - 26)

To consider the Minutes of the extraordinary Council meeting held on 25 August 2022 (copy enclosed).

5. **Declaration of Interest**

To disclose the existence and nature of any Disclosable Pecuniary Interests, Other Registrable interests and Non-Registrable Interests relating to items of business on the agenda having regard to paragraph 9 and Appendix B of the Code of Conduct for Members.

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

6. **Public Questions**

To receive questions from members of the public, of which prior notification in writing has been received (no later than noon two clear working days before the day of the Council meeting).

Should you wish to submit a question please complete the online form at www.maldon.gov.uk/publicparticipation.

7. **Chairman's Announcements**

8. **Minute Book**

To consider the recommendations coming forward from the Committees detailed below. Please note that the Minutes of these meetings are not enclosed as they have not been approved at Committee level.

a) **Performance, Governance and Audit Committee - 21 July 2022**

Agenda Item 8 – Equality, Diversity and Inclusion Action Update – Annual Review

Recommended that the Council's constitution be updated to reflect gender neutral terms rather than him / chairman from the options as set out in section 3.5 this report (see extract below), and member salutations are removed as standard practice.

- 3.5 The Council's constitution and current practices use the term 'chairman' and 'him'. However, the Association of Democratic Officers confirm it is best practice to move away from gender specific titles and this would also be in keeping with the EDI policy. Many Councils have already adopted this working practice. This report recommends removing the word "Chairman" and replacing it with "Chair" or "Chairperson" and also ensuring the use of his/her, s/he, or better still non-binary language: "their/them/they" as appropriate, accepting that an individual may refer to themselves or want to be addressed as "Chairman" or "Chairwoman" or other term, if they so wished.

b) Overview and Scrutiny Committee - 28 July 2022

Minute No. 7 – Scrutiny Workplace Item – Five Year Housing Land Supply (5YHLS)

Recommended that the Council pauses the current review methodology of the LDP, all Members be invited to an extraordinary meeting of the Council to consider options with regard to the methodology used and considers a partial review of the LDP as required rather than a full change to the Council's current Strategy.

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

To note that since the last Council, up until Wednesday 31 August 2022 (Council agenda dispatch) the following Committees have met, and to receive any questions in accordance with Council and Committee Procedure Rule 6 (2).

Central Area Planning Committee	29 June 2022
North Western Area Planning Committee	7 July
District Planning Committee	13 July
Strategy and Resources Committee	14 July
South Eastern Area Planning Committee	20 July
Performance, Governance and Audit Committee	21 July
Central Area Planning Committee	27 July
Overview and Scrutiny Committee	28 July
North Western Area Planning Committee	10 August
South Eastern Area Planning Committee	17 August

10. **Notice of Motions**

a) Notice of Motion - Councillor K M H Lagan (Pages 27 - 32)

In accordance with notice duly given under Procedure Rule 4, Councillor K M H Lagan to move the following Motions, duly seconded by Councillor S P Nunn.

Preamble

Due to high levels of upset and criticism and concerns being raised to ward members from residents and businesses regarding the how assets and

concessions are allocated by the Council, Cllr K M Lagan (seconded by Cllr S P Nunn), submitted a motion for a complete review of parts of the scheme of delegation and inclusion of ward members across the district to be part of the decision making processes on certain aspects of the council assets and operational matters which was debated by full council on 31st March 2022. At this meeting the recommendation for the motion was to be and referred to PGA Committee for consideration. A report from the Director of Strategy, Performance and Governance that was submitted to that committee for the meeting on 9th June 2022, which concluded that the motion as submitted was 'flawed'. With this information it was decided by the proposer and seconder to withdraw the motion at the committee and that this was the recommendation reported and approved at full council.

The report identified that the motion negated the delegated powers by introducing a process involving a member working group, but also identified that it was conceivable to have the existing delegations revised to enable matters relating specifically to Promenade to be dealt with by exception.

The intention of this motion therefore is simply to ensure that Maldon's ward members are involved in a macro number of matters that impact the operation and management of the town's primary assets and as a matter of course, to ensure local representation is considered in robust and transparent decision making.

It is not the intention to involve member's in general day to day activities on the Promenade and Quay but to focus on key issues that would provide better outcomes for the council in terms of reputation and effectiveness in the way it conducts business.

As the motions impact on the constitution and the scheme of delegation, it has been checked that such amendments can be made and therefor it is the request of the proposer and seconder that the motions are supported to show our residents that we are listening.

Therefore the Motions below are submitted.

MOTION 1

That Motion 2 be recommended to the PGA committee for review and consideration and any recommendations brought to full council.

MOTION 2

To enable a more inclusive process, that the scheme of delegation be updated to include active elected member participation in decision making for certain matters at Maldon's much loved Promenade Park and Historic Quay.

Part A

To amend the scheme of delegation currently as is:

Part 3 – Responsibility and Functions section 44 – (a)- Parks and Open Spaces, (b) Formal recreation area and any building therein and the letting of stall, kiosks and other operations thereon including the lettings such as funfairs, circuses, and other short term lettings;

To be:

Part 3 – Responsibility and Functions section 44 – (a)- Parks and Open Spaces, (b) Formal recreation area, other operations thereon including the lettings such as funfairs, circuses, and other short term lettings;

With the inclusion of Maldon Ward members, officers and Maldon members work together to consider proposals for the letting of kiosks and stalls.

And part B –

Asset management.

That 56 (d) (e) that are:

(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.*

Please see accompanying report of the Director of Strategy, Performance and Governance with Officers' response to these Motions.

b) Notice of Motion - Councillor A S Fluker

In accordance with Notice duly given under Procedure Rule 4, Councillor A S Fluker to move the following Motion, duly seconded by Councillors M W Helm and K M H Lagan.

Preamble

Elected Members who represent the community are, aside from other functions and duties, responsible for the 'place shaping' of the district.

During 2014-2029 Local Development Plan process all members were involved in the progression and subsequent agreement of emerging policies. For example, Members considered whether or not to allocate one large site for growth or opt for several smaller ones, likewise the principals of Garden Suburbs. There were also long and protracted debates concerning 'pepper potting' and the sustainability credentials of rural villages.

Members were directly involved in decision making through a series of meetings of Council, and as a result residents and other interested parties could see for themselves the democratic process of 'place shaping' taking place.

The review of the Local Development plan has included a 'call for sites' of which some have been considered by Officers as being acceptable. This has resulted in residents and others believing that the future development of these sites is a fait accompli which has caused much consternation with residents and more notably with the Crouch Valley Defence Group who object to over one thousand new properties being built in Althorne.

It should be noted that members have not agreed these policies.

It is accepted that the emerging policies of site allocations have been discussed by Working Groups of the Council but previously these hugely important decisions including the associated overarching policies were debated and agreed by Council on an ongoing basis.

For clarity the terms of reference of the Working Group agreed by the Extraordinary Meeting of Council on 25th August deals only with the assessment of the Five-Year Housing Supply.

In summary it is considered that generally members have had little formal input into the decisions regarding the allocations of sites and that opportunities to consider other options and new policies have not been the subject of democratic input or scrutiny by members.

Motion to Council

That Council calls an extraordinary meeting to take place in not less than 10 working days to consider the emerging policies of the review of the 2014- 2029 Local Development Plan and specifically the allocation of sites including those in Althorne ward.

11. **Questions in accordance with Procedure Rule 6(3) of which notice has been given**
12. **Updating of the Constitution and Report of the Corporate Governance Working Group** (Pages 33 - 36)

To consider the report of the Director of Strategy, Performance and Governance, (copy enclosed).
13. **Performance, Governance and Audit Committee and the Corporate Governance Working Group** (Pages 37 - 38)

To consider the report of the Monitoring Officer, (copy enclosed).
14. **Member Training Criteria** (Pages 39 - 42)

To consider the report of the Director of Strategy, Performance and Governance (copy enclosed).
15. **A12 Chelmsford to A120 Widening Scheme - Development Consent Order** (Pages 43 - 50)

To consider the report of the Director of Strategy, Performance and Governance (copy enclosed).
16. **Questions to the Leader of the Council in accordance with Procedure Rule 1 (3)(m)**
17. **Business by reason of special circumstances considered by the Chairman to be urgent**
18. **Exclusion of the Public and Press**

To resolve that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following 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.
19. **Management of Resources** (Pages 51 - 62)

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

20. **Commercial Options for Princes Road** (Pages 63 - 66)

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

NOTICES

Recording of Meeting

Please note that the Council will be recording and publishing on the Council's website any part of this meeting held in open session.

Fire

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**MINUTES of
COUNCIL
6 JULY 2022**

PRESENT

Chairman	Councillor R G Boyce MBE
Councillors	M G Bassenger, Miss A M Beale, Mrs P A Channer, M R Edwards, Mrs J L Fleming, CC, A S Fluker, M S Heard, M W Helm, B B Heubner, J V Keyes, C Mayes, S J N Morgan, C P Morley, N G F Shaughnessy, P L Spenceley, W Stamp, CC, Mrs J C Stilts, Mrs M E Thompson and S White

125. CHAIRMAN'S NOTICES

The Chairman welcomed everyone to the meeting and went through some general housekeeping arrangements for the meeting.

126. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors V J Bell, R P F Dewick, M F L Durham cc, K M H Lagan, S P Nunn, R H Siddall, N J Skeens, E L Stephens and C Swain.

127. DECLARATION OF INTEREST

Councillors Mrs J L Fleming and W Stamp declared a non-pecuniary interest as a Member of Essex County Council in any matters pertaining to the County Council.

128. MINUTES OF THE STATUTORY ANNUAL COUNCIL - 12 MAY 2022

RESOLVED that the Minutes of the Statutory Annual Council meeting held on 12 May 2022 be approved and confirmed.

129. PUBLIC QUESTIONS

It was noted in accordance with the Council's public speaking protocol the following question had been received from Mr Lance Peatling:

"Can the council clarify the comments by the officer at the previous meeting with respect to a grant of monies to undertake the proposed feasibility study with regard to new council offices. The officer insinuated that by virtue of a grant that the tax payers of MDC would not be bearing the cost of the study. This is blatant obfuscation by council officers as all public monies are either raised on the back of taxpayers or grafted onto their backs through the issuance of public

debt. Can the council clarify that this is the case, mind officers of the council as to not making misleading comments and commit to clarity with respect to spending public money, however so derived?"

The Leader of the Council advised that the Council was given an £80k grant from One Public Estate to undertake a feasibility study regarding the Council Offices. If following feasibility and a subsequent full business case the decision was taken to proceed with the final phase of development, £60k of the grant was repayable and the Council had the opportunity to apply for further funding opportunities. If rejected the grant was not required to be repaid.

One Public Estate was an established national programme delivered in partnership by the Office of Government Property (OGP) within the Cabinet Office and the Local Government Association. It provided practical and technical support and funding to councils to deliver ambitious property-focused programmes in collaboration with central government and other public sector partners.

130. CHAIRMAN'S ANNOUNCEMENTS

The Chairman of the Council referred the Vice-Chairman and himself attending a number of functions. He advised the Council and asked it be noted that Bryan Harker had been given the Freedom of Heybridge Basin. The Chairman informed the Council of the recent passing of former Councillor David Howse who had been a Member for 16 years from 1995 – 2011 and twice Vice-Chairman of the Council. A few moments of quiet contemplation were then held in memory of Mr Howse.

131. STRATEGY AND RESOURCES COMMITTEE - 25 MAY 2022

Councillor S White, Chairman of the Strategy and Resources Committee presented the recommendation coming forward from her Committee, regarding the following Motion.

With regards fiscal propriety, public interest, and value to customers the Director of Resources in his role under S151 Local Government Act 1972 brings forward an Autumn Budget for consideration by Council.

Councillor White proposed that the Motion in the name of Councillor A S Fluker not be agreed. This proposal was duly seconded.

In response to a question, the Chairman explained that when this and the other Motions under this agenda item had been referred to Committees the Monitoring Officer had advised that they would come back as a recommendation to the Council.

Councillor Fluker spoke to his motion and following this the Chairman moved the proposal which was duly agreed.

RESOLVED that the Motion in the name of Councillor A S Fluker (as detailed above) not be agreed.

132. PERFORMANCE, GOVERNANCE AND AUDIT COMMITTEE - 9 JUNE 2022

Councillor W Stamp, Chairman of the Performance, Governance and Audit (PGA) Committee presented the three recommendations coming forward from her Committee to the Council.

Agenda Item 6 – Notice of Motion – Council Constitution and Scheme of Delegation

RESOLVED that the Council notes the position as now advised by Councillor K M H Lagan to withdraw his Motion and takes no further action on this Motion.

Agenda Item 7 – Notice of Motion – Council Constitution and Questions to the Leader

Councillor Stamp presented this Motion (as set out below) and referring to the recommendation from the PGA Committee proposed that it not be agreed. This proposal was duly seconded.

Part 4 of the Rules of Procedure, Rule 1, 3 (m) be amended from:

(m) 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).

to:

(m) 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 allocated to the asking of questions. Where the Leader or (Deputy Leader in their absence) is unable to answer a question, the answer will be given by a written response from the Leader to all members within 5 working days.

Councillor Fluker presented his motion which he advised was about allowing the right amount of time at Council meetings for spontaneous scrutiny of the Leader of the Council. He then called on the Leader of the Council to change her mind and propose that the recommendation from the PGA Committee was not agreed and agree the Motion as tabled. A brief debate ensued.

In response to a question regarding the debate of the Motion, the Chairman provided further clarification as to why these Motions were coming forward as recommendations from Committees. He explained that the Monitoring Officer had prepared a report for the next meeting of the Corporate Governance Working Group to address the issue and make the constitution clear that once a motion is referred to a Committee it becomes the property of that Committee to resolve.

The Chairman moved the proposal and upon a vote being taken this was duly agreed.

RESOLVED that the Motion in the name of Councillor A S Fluker (as detailed above) not be agreed.

Agenda Item 14 – Notice of Motion – Referred by Statutory Annual Council

RESOLVED that the Council notes the position as now advised by Councillor A S Fluker to withdraw his Motion and takes no further action on this Motion.

133. JOINT STANDARDS COMMITTEE - 16 JUNE 2022

Councillor Mrs J L Fleming, Chairman of the Joint Standards Committee presented the recommendation coming forward from her Committee (as set out on the agenda) regarding the following motion from Councillor A S Fluker:

“With regards to openness, transparency, and public interest the Council writes to the Planning Inspector appointed by the Secretary of State, Mr Terrence Kemmann-Lane JP DipTP FRTPI MCMI, asking him to evidence his findings of ‘substantive’ ‘unreasonable behaviour’ and pre-determination by ‘elected members’, and that the Council appoints an Independent Person to conduct a review of the decision notice and report their findings to Council.”

The Chairman suggested that the matter be referred to the Overview and Scrutiny Committee as he felt this was the most appropriate Committee.

It was proposed and duly seconded that that in respect of the Motion the Council rejects the call for an external investigation but accepts the findings of the Inspector, that Council emphasises the need for more objective and evidence-based decision-making in the future and that the matter of planning decision making be referred to the Overview and Scrutiny Committee.

Councillor Fluker presented his motion and referred to further correspondence and a breach in the code of conduct which he requested be made available to the Overview and Scrutiny Committee. In response the Monitoring Officer explained this related to Member investigation and was confidential until brought forward to the Joint Standards Committee. The issue regarding whether there was a breach in the code of conduct had been dealt with under the complaints procedure and resolved.

The Chairman moved the proposal which upon a vote being taken was duly agreed.

RESOLVED that in respect of the Motion (detailed above) the Council rejects the call for an external investigation but accepts the findings of the Inspector, that Council emphasises the need for more objective and evidence-based decision-making in the future and that the matter of planning decision making be referred to the Overview and Scrutiny Committee.

134. MINUTES OF MEETINGS OF THE COUNCIL

The Council noted the list of Committees that had met before and since the last meeting of the Council, up until Tuesday 28 June 2022 for which Minutes had been published.

135. STATEMENT OF THE LEADER OF THE COUNCIL

Councillor Mrs P A Channer, Leader of the Council (the Leader) made a statement (attached at **APPENDIX 1** to these Minutes) setting out the Council’s report and programme for the remainder of the municipal year. The statement referred to a number of areas, including:

- the challenges faced due to the increased cost of living, including the prioritisation of resources, partnership working and investing time and effort to fulfil core services;
- supporting residents and communities to improve quality of life and increase social value;
- the Commercial Strategy, essential to the Council’s financial sustainability.
- the new ‘One Maldon District’ Group which brings together agencies such as the Police, NHS, schools and the Council.

- partnership working, progressing commercial activities, bidding for government funds and giving younger residents a voice through a Youth Council.
- working with Essex County Council to develop a transport strategy and launch the Council's Investment Prospectus;
- the return of tourism to the District and the planned reopening of the Splash Park in the summer;
- updating the Customer Engagement Strategy;
- continuation of the Local Development Plan review and beginning work on to renew the Council's Corporate Plan;
- engaging with communities and partners to support climate action, recover and boost the Council's economy and build capacity and resilience of communities.

The Leader thanked Officers for their continued dedication, commitment, professionalism and passion. She finished presentation of her statement to the Council advising how the Council continued to strive and do more than the minimum and looked forward to seeing what could be achieved with partners and communities in the coming months.

In her response to the statement from the Leader of the Council, the Deputy Leader of the Opposition, Councillor Mrs J L Stilts thanked the Leader for allowing her to have a copy of her speech ahead of the meeting. She commented that the Opposition commended the statement, was pleased to see the Council's reception open and that it was supporting residents. She noted that the Council was committed to the Climate Action Plan and improving healthcare in the District and supported the work undertaken by the One Maldon District Group. Councillor Stilts advised the Opposition was pleased that tourism had opened up and looked forward to seeing what could be achieved by the Council working together with partners for the future.

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

In accordance with Procedure Rule 6(3) the Chairman advised that the following question had been received from Councillor A S Fluker:

With reference to the Decision Notice and Costs Decision Notice regarding the Planning Appeal determined on 24 March 2022 Ref/APP/X1545/W/21/3281036 Land South of Charwood and East of Orchard House, Stoney Hills, Burnham-on-Crouch, CM0 8QA, can the Council confirm why the appeal was not defended and why a rebuttal was not sent to the Planning Inspectorate?

The Director of Service Delivery responded advising that the planning application was refused planning permission by the District Planning Committee contrary to Officer recommendation. It was standard practice for the Local Planning Authority to defend all planning appeals submitted against the decision of the Council.

Whilst the planning appeal was allocated to a planning officer there was an error on the part of both the managing officer and the case officer in managing the workload and as a result a defence of the appeal was not submitted to the Planning Inspectorate. On behalf of the service, the Director of Service Delivery apologised for this oversight.

As previously highlighted to Members one of the key issues appeared to revolve around the management of officer's workload and the ability of officers to easily have

an overview on what deadlines individual officers have approaching. This process issue was something that the Planning Team had already looked to deal with including changing the approach to case conferences and the delivery of the planning dashboard. This issue would be further refined through the Planning Improvement Plan mentioned at the last meeting of the Performance Governance and Audit Committee.

137. NOTICE OF MOTION

In accordance with Procedure Rule 4, the Chairman advised of the receipt of two motions proposed by Councillor A S Fluker and seconded by Councillors R P F Dewick and M W Helm.

In respect of Motion A (as set out below) the Chairman determined that this would be referred to the Overview and Scrutiny Committee for resolution.

Motion A:

1. That Council considers the Inspectors Notice and in particular paragraph 18 and takes the appropriate action.
2. That Council considers whether the 'unreasonable behaviour' of members in determining the application resulted in the appeal being lost and a costs of £230,000 being paid to the appellant and takes the appropriate action.
3. That Council considers, bearing in mind members overturned the Planning Officers recommendation to approve the application, why no members attended the appeal to evidence and give weight to their decision.
4. That Council considers why members went against the Officers decision to approve the application, the advice that Council was unlikely to win any appeal and considers why under those circumstances the appeal was defended at a cost of £30,000.

Councillor Fluker presented his second Motion (Motion B) to the Council and outlined his reasons for bringing the Motion forward which included to ensure that the Council received updates on the plans for the Princes road site so any proposed plans could be brought forward quickly. He then proposed that Motion B (as set out below) be agreed.

Motion B:

That Council receives regular updates from the Director of Service Delivery regarding the delivery of his plan to improve the service area and that extraordinary costs associated with the delivery of the plan are reported to Council.

In response the Leader of the Council explained that the Director of Service Delivery was acting diligently to deliver the plan and both herself and the Deputy Leader had regularly meetings with him. She advised that an all Member briefing and further briefing of the Performance, Governance and Audit Committee had recently taken place and outlined how all Members would be involved in the decision making through the remit of Committees. The Leader recommended that the Council did not support the Motion for the reasons she had outlined.

Following further discussion and in response to a question from the Chairman, Councillor Fluker confirmed he did not wish to withdraw his Motion and commented that a number of the Council's customers were desperate to see this plan delivered.

The Chairman put the Motion in the name of Councillor Fluker to the Council and upon a vote being taken this was declared lost. The Chairman advised that the Motion was therefore not agreed.

RESOLVED

- (i) That Motion A (as set out above) be referred to the Overview and Scrutiny Committee for resolution.
- (ii) That Motion B (as set out above) not be agreed.

138. MAKING THE GREAT TOTHAM NEIGHBOURHOOD PLAN

The Council considered the report of the Director of Strategy, Performance and Governance seeking approval to formally 'make' the Great Totham Neighbourhood Plan (GTNP) (Appendix 1 to the report) and the Village Design Statement (Appendix 2), part of the Development Plan. It was noted that following referendum the GTNP automatically became part of the statutory Development Plan for the District.

The GTNP had been developed by the Parish Council through extensive engagement, culminating in a Referendum on 9 June 2022. The report presented the results of this and explained that as 89% of the votes cast were in favour of the plan the District Council was required to complete the statutory process by formally 'making' the GTNP part of the development plan for the District. The Decision Statement (attached as Appendix 3 to the report) would also be published.

The Leader of the Council moved the recommendation set out in the report. This was duly seconded and agreed by assent.

RESOLVED that the Council 'makes' the Great Totham Neighbourhood Plan in accordance with Section 38(A)(4) of the Planning and Compulsory Purchase Act 2004.

139. PUBLIC SPACE PROTECTION ORDER - CONSULTATION REVIEW

The Council considered the report of the Director of Strategy, Performance and Governance seeking Members' approval to continue with the legislation of dog control in specific places (as set out in Appendix 3 to the report) within the District under the Public Space Protection Order (PSPO) section of the Anti-Social Behaviour Crime and Policing Act 2014. It was noted that if approved this legislation would be valid for three years.

Members were reminded that on 1 February 2019 the Council had implemented a PSPO to manage dog control across the District which allowed Officers to enforce against dog fouling by way of issuing fixed Penalty Notices to those failing to 'pick up' after their dogs. A consultation to extend the PSPO for a further three years had been undertaken between 20 April and 31 May 2022 and Appendix 1 to the report detailed the consultation responses received. Maps of those specific public places where dogs would continue to be required to be on a lead during specific times of the year were detailed in Appendix 2.

RESOLVED

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

- (ii) that the proposed legislation of dog control in specified places within the District under the Public Space Protection Order section of the Anti-Social Behaviour Crime and Policing Act 2014, be adopted without further amendment as detailed within Section 5 and Appendix 3 to the report.

140. APPOINTMENT TO OUTSIDE BODIES AND CORPORATE GOVERNANCE WORKING GROUP

The Council considered the report of the Director of Strategy, Performance and Governance seeking appointments for two outside bodies and a vacancy on the Corporate Governance Working Group, as follows:

- **Safer Essex Group** – A Member representative had been requested on this Group and its Terms of Reference were attached as Appendix A to the report.
- **Police, Fire and Crime Panel** – The Panel had advised that representatives had to be from the same political group and therefore the Council was asked to revise the appointments made at the Statutory Annual Council meeting in May 2022.
- **Corporate Governance Working Group** – Councillor Mrs P A Channer had been appointed to this Group by the Council but was also allocated a seat as the Leader of the Council. There was therefore a vacant seat on the Working Group which needed to be filled.

The Leader of the Council presented the report and proposed that Councillor B B Heubner be appointed to the Safer Essex Group and Councillor Mrs J L Fleming to the Corporate Governance Working Group. This proposal was duly seconded.

Councillor Mrs J L Stilts proposed that Councillor C Mayes be appointed as the substitute Member on the Police, Fire and Crime Panel. This proposal was duly seconded.

In response to a question, the Leader advised that all Members should make sure that Minutes of Outside Bodies were loaded onto Mod.Gov for all Members to view.

The Chairman put the proposals to the Council and upon a vote being taken these were duly agreed.

RESOLVED

- (i) that Councillor B B Heubner be appointed to the Safer Essex Group for the remainder of the municipal year;
- (ii) that Councillor C Mayes is appointed as the substitute Member on the Police, Fire and Crime Panel.
- (iii) that Councillor Mrs J L Fleming is appointed to the vacancy on the Corporate Governance Working Group.

141. CHANGE OF DATE TO STATUTORY ANNUAL COUNCIL 2023

The Council considered the report of the Director of Strategy, Performance and Governance seeking a revision to the date of the Statutory Annual Council meeting in 2023. The proposed change was to allow time for Members onboarding and constitutional processes following the planned District Council elections in May 2023.

RESOLVED the date of the Statutory Annual Council meeting for 2023 is moved to Thursday 18 May 2023.

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

There were none.

143. 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 Part1 of Schedule 12A to the Act, and that this satisfies the public interest test.

144. LEGAL ACTION

The Council considered the report of the Director of Service Delivery providing Members with an update on the current position of an ongoing matter and seeking Members' agreement of the next steps.

The report provided detailed background information regarding the matter and how the related licence was due to expire at the end of August 2022. The Senior Specialist Legal outlined the action available to the Council following expiry of the licence.

A debate ensued and in response to questions raised Officers provided the Council with further information.

Councillor A S Fluker proposed that recommendation (ii) as set out in the report be amended to detail a weekly rate of £1,000 and that this be agreed by the Council. This proposal was duly seconded and upon a vote being taken was agreed.

RESOLVED that if contractors have been confirmed to remove the vessel within 28 days of the expiry of the licence that the licence be extended for this period at a weekly rate of £1,000 per week.

145. COMMERCIAL OPTIONS FOR PRINCES ROAD - UPDATE

The Council considered the report of the Director of Resources providing an update on progress made with the Commercial Options for the Princes Road project following the Council's approval in March 2022 to commence a feasibility review.

An update on the three key workstreams identified was set out in the report. Officers provided further updates at the meeting and it was noted that feedback was currently being sought from staff and Members regarding specific office space requirements which would feed into the specifications. It was noted that Officers would be working with the Corporate Projects Working Group prior to reporting back to the Council in September.

RESOLVED that Members note the contents of the report.

There being no other items of business the Chairman closed the meeting at 9.26 pm.

R G BOYCE MBE
CHAIRMAN

Leader's Summer Statement

In my Budget speech to Council back in February, I spoke of how 2021/22 had been a challenging one for Maldon District Council both financially and operationally. In today's speech I want to look forward and wish to focus everyone's thoughts on the challenges we all face due to the increased cost of living, the additional financial pressures on this authority and on all public services. With these pressures must come opportunity and a renewed focus.

In times of austerity, we can't just simply blame everything on lack of funds. We must ensure our approaches, behaviours, and governance act as positive enablers and not as barriers that prevent us from doing the right thing. We often forget to look back and recognise that we do things now for less money, with better outcomes. It hasn't been easy, but it has sharpened our thinking and has tested our most talented staff.

Whilst we must continue to prioritise our resources, work in partnership where possible and invest our time and effort in areas that will fulfil core services, we also need to help support our residents and communities to improve quality of life and increase social value and support them with the increased cost of living that we are all experiencing.

To really add value, we must first ensure that our core services are being delivered effectively and efficiently and that we are focussing on our finances and delivering a balanced budget for the coming years. We continue to seek opportunities with other authorities to identify where services can be shared, something that is becoming common practice for all financially pressured local authorities.

In March this year, the Council published its Commercial Strategy, which is essential to our financial sustainability in the long term. This strategy and commercial thinking are vital to generate income from our assets and estate and to realise the projects in our commercial pipeline.

As well as bringing forward commercial projects, one of the key aims of the commercial strategy is to 'Be more commercial in our approach across all viable activities'. Through our new Corporate Strategy, I want to see the same approach to quality of life and social value, in that we look at how we achieve them through the way in which we deliver all of our services, and that we are taking the opportunity to build social value into everything we do.

A good example of this is how we ensure that we maximise the health and wellbeing outcomes from our leisure contracts. As well as ensuring value for money, I want to ensure that they are accessible to all of our residents and enable health benefits that will contribute to the well-being of the whole community. It is striking to see the impacts of the pandemic, we must help to prevent additional burden on the NHS and enable residents to live healthier, more active lives.

Again, in March, we held the first meeting of the new 'One Maldon District' Group. Our health is influenced by a range of factors, including access to housing, employment, education, exercise and living in a safe community. This group brings together agencies such as the police, NHS, schools, and Maldon District Council, alongside businesses and voluntary groups to look at how, collectively we can improve the health and wellbeing of the District. Through this group we want to build on the learning and partnership working we developed through our Districts covid response.

In addition to this, I also want to put a spotlight on the current funding bids and investment plan work we have underway for Levelling Up and the UK Shared Prosperity Fund as these are a priority

for the Council at the moment. All funding we successfully secure for the District is going help bring forward exciting projects that achieve outcomes for our people, place, and communities.

Alongside partnership working, progressing commercial activities, and bidding for government funds, we also have a responsibility to give our younger residents a voice through a Youth Council and encourage them to feed their views into initiatives that help them gain new skills and to encourage them to lead climate action.

Our Climate Action Strategy, Our Home, Our Future continues to deliver activities against our pledges and officers are working with Essex County Council to develop a transport strategy. Our new Climate Action Officer starts with us in at the end of August and will help to engage with communities and enable further positive change.

We are all pleased that the District is open again for tourism and inward investment, both of which were impacted by the pandemic. We must ensure we help to promote the District and will be doing this through working with partners at Essex County Council through the Promoting Essex project and through the launch of our Investment Prospectus.

Residents and visitors have welcomed recent events and we look forward to the opening of the Splash Park this summer, delivered through our latest contracts with Places Leisure and Amphora. We mustn't forget however that a lot of time and effort still goes into event planning and delivery. To avoid becoming victims of our own success and to support this, I expect to see an events and concessions strategy come forward in the autumn.

During this year, we will also update our Customer engagement strategy. We have made great strides in developing improved online access to our services and support, and we've had great feedback on how accessible our online services are. Even so, we are ensuring that our new Customer Engagement Strategy takes an Equality led approach to ensure that all members of the community have a route to contacting us and accessing our services that is appropriate to them and their needs. Currently if an in-person appointment is required this can be arranged at our reception desk and will be offered between 10am and 4pm Monday-Friday.

Our Local Development Plan Review will continue during 2022/2023 with the next step being for the Council to formally review the comments and opinions people kindly gave in response to the Issues and Options Document consultation at the start of this year. We appreciate the time invested by residents, businesses, and communities to make responses and we will consider this feedback when reviewing the LDP, as well as how we can ensure the council meets its legal and national policy obligations.

So, we will engage, when/where appropriate, in opportunities to support climate action, recover and boost our economy, build the capacity and resilience of our communities. But we are not without challenges and we must continue to look and work with our partners in areas like:

- (i) Economic and cultural renewal; following the pandemic and development of jobs that underpin our wellbeing
- (ii) Equality of opportunity; through connectivity infrastructure, public transport, access to education and skills, that will maximise potential and supporting our young people in getting the best start in life.
- (iii) Tackling social challenges, social isolation, physical and mental well-being, access to health and care and pockets of deprivation.

The Levelling Up White Paper and subsequent Bill presents an opportunity to reset the relationship between central and local government and put councils at the heart of delivering the Government's ambitious programme to improve opportunities in all parts of the country.

We are already playing an active role in the North Essex Economic Board. Together with 5 other North Essex authorities, the Board is responsible for driving and delivering growth to a population of 835,000 and 41,000 businesses.

Through engagement of the Essex Leaders and Chief Executives discussions about Levelling Up and devolution it is planned, via working groups, to explore the potential opportunities that devolution could offer in terms of improving outcomes for residents and businesses.

In September, we will begin work to renew our Corporate Plan. This will give the authority, along with our residents and local businesses the opportunity to inform and set out priorities for the future. I am keen that we use this opportunity to focus on the quality of life of residents.

We have achieved a lot in the last two years even though gripped in the restrictions and impacts of the pandemic. We now march forward with positivity, ambition and with intent on collaborative working to enable delivery of the best outcomes we can for our communities.

I want to close by saying all of this work and more is delivered by only 197.62 FTE (headcount 223) number of staff . I thank each and every one of them for their continued dedication, commitment, professionalism and passion. As a small local authority, prioritising what can be delivered will always be a tough decision to make and one that has to be balanced against budgets, demand, and capacity to deliver. This authority continues to strive to do more than the minimum. I look forward to seeing what we can achieve with our partners and communities in the coming months.



**MINUTES of
COUNCIL
25 AUGUST 2022**

PRESENT

Chairman	Councillor R G Boyce MBE
Vice-Chairman	Councillor S P Nunn
Councillors	M G Bassenger, Miss A M Beale, V J Bell, M F L Durham, CC, M R Edwards, Mrs J L Fleming, CC, A S Fluker, A L Hull, K M H Lagan, N G F Shaughnessy, R H Siddall, P L Spenceley, W Stamp, CC, E L Stephens, C Swain, Mrs M E Thompson and S White

1. CHAIRMAN'S NOTICES

The Chairman welcomed everyone to the meeting and went through some general housekeeping arrangements for the meeting.

2. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Mrs P A Channer, M S Heard, M W Helm, B B Heubner, J V Keyes, S J N Morgan, C P Morley and Mrs J C Stilts.

3. DECLARATION OF INTEREST

Councillor W Stamp declared she was a Member of Essex County Council (ECC) and advised there were no items relating to the County Council on the agenda. She sought guidance from the Monitoring Officer as to which category of interest this would fall under.

The Monitoring Officer advised that there was no need to declare membership of ECC if there was no relevant agenda item, however if there was it would be an other registrable interest as in part 2 of the Register of Interests form as ECC was a body that had public responsibilities and duties.

Councillor Stamp clarified that she therefore had no interest.

Councillor M F L Durham declared an other registrable interest as a Member of ECC.

Councillor Mrs J L Fleming declared a registrable interest as a Member of ECC.

4. NOTICE OF MOTION

In accordance with notice duly given under Procedure Rule 4 the Council received a Motion from Councillors A S Fluker and K M H Lagan as set out on the agenda.

Councillor Lagan put his Motion as follows:

- (i) That a working group is established to consider the Five-Year Housing Land Supply (5YHLS) and that recommendations from this working group come back to full council for ratification.
- (ii) That the working group consists of three conservative, three Independent Group and three non-aligned members plus one person who is not a member of Maldon District Council.

This was duly seconded.

At this point, Councillor W Stamp advised that she wish to table an amendment to recommendation (ii).

The Chairman then moved recommendation (i) for approval. This was duly agreed.

Councillor Fluker proposed that the Council agree recommendation (i) but in addition that the Working Group also consider the procedures used by Officers to initially approve and recommend development sites following the call for sites process. In response the Chairman advised this was not a valid amendment because it changed the notice of motion. Councillor Lagan confirmed he had agreed to the amendment.

The Lead Legal Specialist and Monitoring Officer advised the Council that he agreed with the Chairman that the proposal from Councillor Fluker was a different Motion as the call for sites was unrelated to the 5YHLS. Councillor Fluker would need to submit a Rule 4 Motion because it is a completely separate subject.

Councillor R H Siddall suggested that the matter raised by Councillor Fluker came into the Terms of Reference (ToR) of the Local Development Plan Policy Working Group and perhaps this Working Group could consider those sites.

The Chairman advised that the Council would now move onto recommendation (ii).

Councillor Stamp proposed that recommendation (ii) be amended, and the Working Group consist of four Conservative, four Independent and four non-aligned Members and an independent person. This proposal was duly seconded. The Chairman advised that this was a valid amendment.

There were some discussions regarding having an independent person on the Working Group. A number of Members, including the Chairman highlighted how the Working Group could call witnesses / experts and request evidence from anyone.

Councillor C Swain proposed that in the Terms of Reference the word 'professional' be amended to 'expert'.

The Chairman advised that the Council had agreed that a 5YHLS Working Group be set up. He then wished to break recommendation (ii) down and populate the Working Group with Members' nominations and then vote on the independent person.

Following further discussion Councillor Stamp amended her earlier proposal removing the request for an independent person. This amendment was duly seconded.

In response to a question the Chairman advised that he hoped the Working Group would report to the Council in November 2022.

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

The Chairman then put the amendment in the name of Councillor Stamp to the Council.

For the recommendation:

Councillors M G Bassenger, M R Edwards, A S Fluker, A L Hull, K M H Lagan, S P Nunn, N G F Shaughnessy, P L Spenceley, W Stamp and S White.

Against the recommendation:

Councillors Miss A M Beale, V J Bell, R H Siddall, E L Stephens, C Swain and Mrs M E Thompson.

Abstention:

Councillors R G Boyce, M F L Durham and Mrs J L Fleming.

The Chairman advised that this was duly agreed, and the substantive motion was that the Working Group consists of four conservative, four Independent and four non-aligned members plus one person who was not a member of Maldon district Council.

Member's attention was drawn to the Officers' report, responding to the Motion and setting out the proposed ToR for the 5YHLS Working Group. In presenting the report the Director of Strategy, Performance and Governance highlighted Officers' comments in paragraph 3.6.3 regarding the proposed independent person. Members noted the Officer comments that inclusion of an external member to the Working Group may leave the Council open to a future challenge to the 5YHLS methodology. In response to a question regarding future challenge, the Strategy, Policy and Communications Manager provided further detail in respect of this and explained how the process and methodology had to be able to withstand a high court challenge.

The Chairman advised that the Council would now consider the matter of the independent person and sought clarification from the Lead Legal Specialist and Monitoring Officer. The Officer advised that the Council had decided the number of Maldon District Councillors who would make-up the Working Group and were now to decide if there should be a non- Council member.

Following further discussion Councillor Lagan advised that he wished to withdraw the part of his Motion regarding appointing one person who is not a member of Maldon District Council. This was duly seconded.

Moving onto the ToR for the Working Group, the Director of Strategy, Performance and Governance explained that the ToR sought for the Working Group to confirm the methodology that was currently used and comparing any 5YHLS methodology that could be evidenced as having been used successfully in other Local Planning Authorities.

The Chairman then sought nominations for Members to be appointed to the Working Group and they were as follows:

- On behalf of the Conservative Group, Councillor Mrs M E Thompson proposed Councillors Mrs P A Channer, M F L Durham, S J N Morgan and Mrs M E Thompson.
- On behalf of the Independent Group, Councillor R H Siddall proposed Councillors M R Edwards, R H Siddall, Mrs J C Stilts and C Swain.

- Councillor Stamp proposed that Councillors K M H Lagan, A S Fluker, P L Spenceley and M G Bassenger be appointed as the non-aligned Members.

These nominations were duly agreed by the Council.

The Director of Strategy, Performance and Governance highlighted section 3.5 of the Officers' report which set out the proposed ToR. Members were advised of the importance to ensure that the ToR were clear and did not allow for any confusion or debate once the 5YHLS was agreed and referred back to the Council.

Councillor Stamp proposed the following amendments to the Terms of Reference:

- Confirming the methodology ~~or evidence~~ that ~~is could be~~ used by Maldon District Council to determine the Five-Year-Housing Land Supply, including any ~~criteria for when evidence based circumstances or studies regarding~~ approved housing units can be included, or excluded;
- Comparing any alternative 5YHLS ~~reporting~~ methodologies that can be evidenced as having been used ~~successfully and not challenged and found to be flawed~~ in any other English Local Planning Authorities;

Councillor Stamp advised how she wanted the ToR to be more flexible and the Working Group able to look at everything. A number of Members commented on the proposed amendments. The proposed amendments were not agreed.

Councillor Swain proposed that the word 'confirming' in the first bullet point be changed to 'considering'. The Chairman put this change to the Council and this was duly agreed.

Councillor Swain repeated his earlier proposition that reference to 'professional' in the third bullet point be changed to 'expert'. Following some discussion, the Chairman put this proposal to the Council and upon a vote being taken it was not agreed.

The Chairman then moved the Terms of Reference as set out in the report with the agreed amended wording to bullet one. This was duly agreed.

RESOLVED

- (i) That a Working Group is established to consider the Five-Year Housing Land Supply and that recommendations from this Working Group come back to the Council for ratification;
- (ii) That the following Members be appointed to the Five-Year Housing Land Supply Working Group 2022:

Conservative Members	Councillors Mrs P A Channer, M F L Durham CC, S J N Morgan and Mrs M E Thompson
Independent Members	Councillors M R Edwards, R H Siddall, Mrs J C Stilts and C Swain
Non-Aligned Members	Councillors M G Bassenger, A S Fluker, K M H Lagan and P L Spenceley.

- (iii) That the Terms of Reference for the Working Group be approved as set out below:

The Five-Year-Housing Land Supply Working Group 2022 be tasked with:

- Considering the methodology that is used by Maldon District Council to determine the Five-Year-Housing Land Supply (5YHLS), including any criteria for when approved housing units can be included, or excluded;
- Comparing any alternative 5YHLS methodologies that can be evidenced as having been used successfully in other English Local Planning Authorities;
- The Working Group may seek independent professional external advice
- Recommending to the Council the methodology that should be used in the future to continue to monitor and report on the Maldon District 5YHLS .

There being no other items of business the Chairman closed the meeting at 8.19 pm.

R G BOYCE MBE
CHAIRMAN

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

**to
COUNCIL
8 SEPTEMBER 2022**

NOTICE OF MOTION – COUNCIL CONSTITUTION AND SCHEME OF DELEGATION

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to provide background information and advice to enable the Council to consider the implications of the Notice of Motion submitted by Councillor K M H Lagan.

2. RECOMMENDATION

That the Council considers the implications of the Notice of Motion in the light of the advice provided in this report and the further clarification required as mentioned in paragraphs 4.2.3 and 4.2.9 below.

3. SUMMARY OF KEY ISSUES

- 3.1 Formal Motions submitted by Councillor K M H Lagan under Procedure Rule 4 have been received and are set out on the agenda. The Chairman proposes to deal with Motion 2 at this meeting rather than it stand referred to a Committee, thus dispensing with Motion 1.
- 3.2 The terms of the Motions are as follows:

Motion 1

That Motion 2 be recommended to the PGA committee for review and consideration and any recommendations brought to full council.

Motion 2

To enable a more inclusive process, that the scheme of delegation be updated to include active elected member participation in decision making for certain matters at Maldon's much loved Promenade Park and Historic Quay.

Part A

To amend the scheme of delegation currently as is:

Part 3 – Responsibility and Functions section 44 – (a)- Parks and Open Spaces, (b) Formal recreation area and any building therein and the letting of stall, kiosks and other operations thereon including the lettings such as funfairs, circuses, and other short term lettings;

To be:

Part 3 – Responsibility and Functions section 44 – (a)- Parks and Open Spaces, (b) Formal recreation area, other operations thereon including the lettings such as funfairs, circuses, and other short term lettings;

With the inclusion of Maldon Ward members, officers and Maldon members work together to consider proposals for the letting of kiosks and stalls.

And part B -

Asset management.

That 56 (d) (e) that are:

(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.

To be:

(d) Following consultation and input from Maldon Ward members on proposed options for assets, 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 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, referral to the Strategy and Resources Committee is required.

4. REVIEW OF PROPOSED CHANGES

4.1 Background context

- 4.1.1 The Council's Scheme of Delegation has its foundations in law (Section 101 of the Local Government Act 1972), has been in place for several years, and was reaffirmed when the Council's new Constitution was adopted in 2019. The intention of the Scheme is to provide clear parameters within which Officers can act without the need for a Council or Committee decision. The Director of Service Delivery has delegated powers to deal with operational matters relating to parks and open spaces, and in this respect 'parks' would include Promenade Park, Maldon, and the seating shelter would be regarded as a building within that park. He also has delegated powers in relation to Asset Management subject to certain parameters.
- 4.1.2 The preamble to the Motions refers to another recent Motion by Councillor Lagan review these aspects of the Scheme of Delegation which was subsequently withdrawn following a report to the Performance, Governance and Audit Committee advising that Motion was flawed and sought to introduce a process which would negate the exercise of delegated powers. The new Motion seeks to revise the existing delegations to enable, in part, matters relating specifically to Promenade Park, Maldon to be dealt with by exception. The preamble adds that the intention is simply to ensure that Maldon's Ward Members are involved "in a macro number of matters that impact the operation and management of the town's primary assets and as a matter of course, to ensure local representation is considered in robust and transparent decision making". It is further stated that it is not the intention to involve Members in general day to day activities but to focus on key issues that would provide better outcomes for the Council in terms of reputation and effectiveness in the way it conducts business.

- 4.1.3 It is vital that the remits of decision-making, whether expressed through Committee terms of reference or a scheme of delegation, are clear and uncomplicated. It is not unusual however for the exercise of certain delegated powers to be conditional on prior consultation with named Members, as is currently the case with leases above a certain annual value or tenure.

4.2 **Review of the proposed changes**

- 4.2.1 Paragraph 44 of the Scheme of Delegation gives the Director of Service Delivery flexibility to deal with a wide range of Community and Leisure activities. Since operational issues are generally accepted as being of a low level and very much 'day to day', then in a sense they need not ordinarily require to be included in an expression of delegated powers. They are there however for clarity and the avoidance of any doubt and would apply to parks and open spaces and formal recreation areas etc. across the entire District.
- 4.2.2 The proposed change would see the removal from delegation of the ability to deal with any buildings on formal recreational areas and also the letting of any stall or kiosk. This would mean anything relating to a building on a recreation area in the District would need to be referred to a Committee. The proposal introduces into the delegation the inclusion of Maldon Ward Members working together with Officers to consider proposals for the letting of kiosks and stalls. This is not made specific to Promenade Park and implies a process for the involvement but is not expressed in any specific way. While an expectation rather than a requirement, how such involvement may work in practice can, and perhaps should be developed outside the Scheme of Delegation.
- 4.2.3 The proposed changes on Asset Management are more specific to require prior consultation with Maldon Ward Members on proposed options for assets and existing asset management arrangements and value / tenure limits. While prior consultation can be a caveat on the exercise of delegated power it should be understood that the power remains with the Director and he needs only to take into account any comments received. It may be worth clarifying the extent of consultation envisaged here – to seek prior consultation with the actual Ward Members rather than all the Members for the Maldon Town area would at least be consistent with certain aspects of Planning delegation. Again, the existing delegation relates to Asset Management for the District as a whole and not involving just parks and open spaces, and therefore any change would need to specify that consultation is only required in relation to a site or sites within the town of Maldon.
- 4.2.4 The final proposal would simply take Asset Management for leases between the value of £15k and £25k out of delegation (despite the existing prior consultation caveat) and put them within the terms of reference of the Strategy and Resources Committee.
- 4.2.5 It is worth reiterating to the Council the same observations that were put to the Performance, Governance and Audit Committee when considering the previous motion. The Council as a landowner makes day to day operational decisions to lease areas for various periods in line with the Constitution and relevant policy / strategy set by Members. Where a long-term commitment or significant income/expenditure is involved, decisions are taken by Members. Over 200 leases and licences are currently managed – these include moorings, business kiosks, leisure facilities and parks as well as the use of the Council Offices. In addition, many requests for short term and summer concessions are managed. Standard terms and conditions are used, subject to variation to fit individual circumstances and requirements.

- 4.2.6 In relation to the proposed changes to 17(d), where a lease has an automatic right to renewal under the Landlord and Tenant Act 1954 the Tenant is entitled to a lease on identical terms to that of the previous lease. The Lease can only be altered by consent. Unless the term is beneficial to the Tenant it is rare for any changes to be agreed. While a rent increase is acceptable there is no realistic room for negotiation, and in a number of cases legislation will dictate the nature of the renewal. Members would therefore have no legal grounds to vary the terms of any agreement. If a tenant is unhappy with any proposed changes then they have the right to take the matter before the Courts for determination. It will be seen that this is very much a legal process with professional Officers best placed to review renewals in that light.
- 4.2.7 It is therefore important that the introduction of a level of consultation does not add time and cost to the asset management process or indeed in any way weaken the negotiating stance of Officers during the course of drafting and reviewing a proposed agreement. Equally, the process to agree new leases and licences can often be time-consuming with updates and changes being made on a number of occasions. To consult on every occasion would make the process very protracted for officers and tenants and introduce uncertainty. This would not fit well with the Council's aspirations as to how best to deal with commercial matters.
- 4.2.8 It is for the Constitution to make clear where the balance between Member and Officer level decision-making should rest and the Council agreed this in 2019 to reflect the transformation and structural change that had occurred. For the most part, the Scheme of Delegation can be seen as largely operational and service delivery oriented, which allows decisions to be taken, and actions authorised by Officers without any conflict with policy and in line with corporate and service objectives. It is not the role of the Scheme of Delegation to set out processes for how things are done.
- 4.2.9 If, as it seems, the intention behind the proposed changes is to enable greater Member involvement in the more operational and day to day matters affecting an area so specific as Promenade Park, Maldon, then this may be achieved without restraining the existing delegation. Under the Member / Officer Relations Protocol Officers are under a general obligation to keep Members abreast of what is happening in their Wards. In addition, and resulting from a related previous scrutiny item, the identified need for a Parks Management Plan has been included as a priority objective for a proposal to be brought forward and reported to the Strategy and Resources Committee. It may be that more meaningful Member involvement can be achieved in this way.

5. CONCLUSION

- 5.1 While the proposed changes are clearer in terms of their intention, the nature of the Member involvement needs further clarification as to what is meant in practice, and consideration needs to be given as to whether this can be achieved in other more meaningful ways.

6. IMPACT ON STRATEGIC THEMES

- 6.1 Good governance will enable delivery of strategic priorities going forwards.

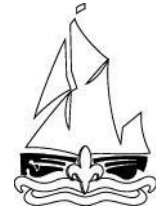
7. IMPLICATIONS

- (i) **Impact on Customers** – None directly, but part of the stated reasoning for the proposed change is to increase Member representational influence on decisions.
- (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.
- (vii) **Impact on Strengthening Communities** – None .

Background Papers: None.

Enquiries to: Paul Dodson, Director of Strategy, Performance and Governance.

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

**to
COUNCIL
8 SEPTEMBER 2022**

**UPDATING OF THE CONSTITUTION AND REPORT OF THE CORPORATE
GOVERNANCE WORKING GROUP**

1. PURPOSE OF THE REPORT

- 1.1 To provide information and recommendations from the Corporate Governance Working Group meeting on 4 August 2022, and to consider this and another matter as part of updating the Constitution.

2. RECOMMENDATIONS

- (i) That the Council agrees to the proposed revisions to Council and Committee Procedure Rules 1(13)(b) and 4(3) as set out in paragraphs 3.2.2 and 3.3.2 of this report;
- (ii) That the Council ratifies the proposed deletion of Procedure Rule 14.

3. SUMMARY OF KEY ISSUES

- 3.1 The Corporate Governance Working Group (the Working Group) met to review the following two proposed changes to the Council and Committee Procedure Rules as part of the Constitution.

3.2 Proposed change to Procedure Rule 1(13)(b) – Council Budget Meeting

- 3.2.1 The existing Rule 1(13) is as follows:

- (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.

- 3.2.2 The Working Group supports the inclusion of proposed additional commentary to clarify the intention behind the confidentiality of any alternative budget proposal or amendment in terms of its existence rather than its nature. Also, to ensure that sufficient time is given to the Finance Team to analyse any alternative budget it is

suggested that the three working days should be described as being clear working days. Rule 1(13)(b) as revised would read as follows (the new wording in italics):

- 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 *clear* working days before the date of the Council meeting. (*For the avoidance of doubt the confidentiality of the alternative proposal or amendment is only restricted to the nature of the proposal or amendment and not its existence*).

3.3 Procedure Rule 4(3) – Notices of Motion to Council

3.3.1 The existing Rule is as follows:

"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."

3.3.2 Given some uncertainty as to the meaning and interpretation of "consideration and report" when a motion is referred to a Committee, the Working Group supports the revision of this Rule to provide clarity and to read as follows (the new wording in italics):

"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 resolution or recommendation depending on the terms of reference of that Committee*".

3.4 Procedure Rule 14 – Record of Attendances

3.4.1 While looking at the updating and revision of the Constitution, the Council is also asked to ratify the proposed deletion of the Procedure Rule 14 – Record of Attendances. This is an old Rule carried over from the original Standing Orders and relates only to a practice which has not been undertaken for some time. It is not a statutory requirement.

4. CONCLUSION

4.1 The first two proposed changes are provided following consideration by the Working Group, and the third has been identified from routine review and updating.

5. IMPACT ON STRATEGIC THEMES

5.1 The recommendations are linked to the performance and efficiency of the Council. Good governance will enable delivery of strategic priorities.

6. 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.
- (vii) **Impact on Strengthening Communities** – None.

Background Papers: None.

Enquiries to:

Stuart Jennings, Corporate Governance Project Officer email: stuart.jennings@maldon.gov.uk.

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REPORT of MONITORING OFFICER

**to
COUNCIL
8 SEPTEMBER 2022**

PERFORMANCE GOVERNANCE AND AUDIT COMMITTEE AND CORPORATE GOVERNANCE WORKING GROUP

1. PURPOSE OF THE REPORT

- 1.1 For the Council to decide whether the Performance, Governance and Audit Committee (the Committee) or Corporate Governance Working Group (the Working Group) should be responsible for reviewing constitutional documents

2. RECOMMENDATIONS

- (i) That the Corporate Governance Working Group ceases to exist;

OR

- (ii) That the Performance, Governance and Audit Committee has removed from its Terms of Reference the responsibility to review constitutional documents.

3. SUMMARY OF KEY ISSUES

- 3.1 Both the Committee and the Working Group have responsibility to review constitutional documents and so their roles significantly overlap. There is therefore a lack of clarity which of the two bodies should making recommendations to Council on changes to the Constitution
- 3.2 The Terms of Reference for the Committee state;
- a) "Review the operation of the Council's Constitution and recommend to the Council on any changes identified.
- b) Reviewing and recommending to the Council on Financial Regulations, Financial Procedures and Contract Procedure Rules"
- 3.3 The Terms of Reference for the Working Group state;
- i) Any core component of the Council's constitution or constitutional documentation, in particular Committee Terms of Reference and Schemes of Delegation, Procedure Rules and Protocols.
- ii) Any decision of the Council, including a new sphere of activity, or other matter that has implications for the Council's corporate governance and constitutional arrangements.
- iii) To review the implications of the Council's decision to cease the submission of Minutes of Committees to meetings of the Council and progress towards greater 'paperless' working arrangements for report to the Council. This will

include examination of possible further initiatives towards paperless working and consideration of any implications arising for the corporate governance and constitutional arrangements of the Council.”

- 3.4 The part iii) is largely redundant because the Council has already moved towards a paperless operation. i) and ii) overlap the Terms of Reference for the Committee.
- 3.5 This Report is not expressing a preference save to mention that a Working Group has the benefit of an informal exchange of information between Members and Officers. Furthermore, the Working Group can compose of Members from all parts of the Council including the Chairman and Leader of the Council if those two are not members of the Committee. Whereas the Committee can review constitutional documents as part of its scheduled meetings and does not need to be separately convened.

4. CONCLUSION

- 4.1 A decision should be made which of the two bodies should be responsible for recommending to the Council any changes required of constitutional documents

5. IMPACT ON STRATEGIC THEMES

- 5.1 None

6. 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)** – Minor because the Working Group needs to be separately convened.
- (vi) **Impact on the Environment** – None.
- (vii) **Impact on Strengthening Communities** – None.

Background Papers: None.

Enquiries to: Simon Quelch, Lead Legal Specialist and Monitoring Officer.



REPORT of DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE

**to
COUNCIL
8 SEPTEMBER, 2022**

MEMBER TRAINING CRITERIA

1. PURPOSE OF THE REPORT

- 1.1 To propose a criteria to fairly manage individual member training approaches, and a process for how this will be managed through the Programmes, Performance and Governance Manager.

2. RECOMMENDATIONS

- (i) That Members approve the criteria as set out at **APPENDIX A** as a process when addressing individual training queries;
- (ii) The Programmes, Performance and Governance Manager is authorised to establish an annual training programme of members in accordance with the approved criteria

3. SUMMARY OF KEY ISSUES

- 3.1 There is £2,800 per annum allocated to the member training budget.
- 3.2 In November 2020, Members adopted a draft training plan after an internal audit had recommended that this should be formalised. Link to the decision [Decision - Member Training Plan :: Maldon District Council.](#)
- 3.3 Planning training, Licensing training, Chairmen training, Code of Conduct training and Corporate e-learning were all highlighted and agreed as mandatory as part of this, with planning and licensing also highlighted within the Constitution.
- 3.4 The approach to date for member training has been to deliver the mandatory courses and those identified corporately (e.g. Media training and Equality, Diversity and Inclusion training) and make this available to all Members.
- 3.5 We have also promoted free Local Government Association (LGA) sessions and ad-hoc training courses with a cost, if we are able to afford to offer it out to all Members, e.g. recent flooding planning training.
- 3.6 Officers have had ad-hoc direct approaches for Members to attend training courses, and the attached appendix is proposing a clear criteria for how we might review and action these, including consultation with group leaders and Chairmen of the Performance, Governance & Audit (PGA), Strategy & Resources (S&R) and Overview & Scrutiny (O&S) Committees if the training request is queried, to allow for a more even and transparent process.

3.7 Subject to the criteria at **APPENDIX A** being approved, a Member form will be created for Members to submit any individual request, that will be reviewed against the criteria set out.

3.8 A response will be confirmed, or update given to the member within five working days.

4. CONCLUSION

4.1 The proposal provided gives a set criteria for managing training requests, and it is recommended that Council adopts this.

5. IMPACT ON STRATEGIC THEMES

5.1 The proposal is aimed to support the performance and efficiency corporate goal

6. IMPLICATIONS

- (i) **Impact on Customers** – Not applicable (n/a).
- (ii) **Impact on Equalities** – The approach is set out so that all Members have equal access and understand how to make training requests. Equality, Diversity and Inclusion (EDI) training is one of the funded modules from this year.
- (iii) **Impact on Risk** – As an previous internal audit recommendation, this will help to reduce our risk around formal member training.
- (iv) **Impact on Resources (financial)** – A well-managed member training budget, reducing likelihood of overspend.
- (v) **Impact on Resources (human)** –Staff required to fulfil any training will be approached, but this will have an impact on resource.
- (vi) **Impact on the Environment** – n/a
- (vii) **Impact on Strengthening Communities** – n/a

Background Papers: None

Enquiries to: Cheryl Hughes, Programmes, Performance and Governance Manager

MEMBER TRAINING CRITERIA

Delegation to Programmes, Performance and Governance (PPG) manager to confirm training request

Members complete a request form, answers are reviewed and scored out of 5

- How much is the course? 1 in budget of £90, 2 under £90 but the overall put is limited, 3 between £90 and £149, 4 between £150 and £200, 5 £200 +, or the member has already had training over £90
- Is there a way to provide the information for free? e.g. internal session, LGA 1 only external and this is the best course, 2 only external and other providers are available, 3 officers could provide training but don't have capacity, 4 officers could provide training but will need future scheduling, 5 could easily be delivered in house by officers / via free LGA sessions
- How will it support the member? 1 linked to constitutional requirement, 2 linked to duties as Chairman/ leadership role, 3 linked to committee member duties only, 4 linked to emerging policy, 5 interest only
 - general interest
 - role as a Chairman, Leader, Deputy Leader and Leader of the Opposition
 - role as a committee member
 - compulsory training- constitution (planning, licensing)
 - linked to emerging policy / to understand a new area of council direction
 - other (please state)
- Could we afford to offer it out to all members? 1 yes but unlikely to be appetite, 2 yes and will still have remaining budget, yes but will consume the member budget, 4 would be overbudget but unlikely to be appetite, 5 would be significantly more than value of member budget.
- Could the groups have a member champion and report training back to wider members? Not to be scored, but this is a wider consideration if we cannot afford to offer to all

7 and belowtraining can go ahead

8 - 14consultation with group leaders and main chairs / further diligence required

15- 20training cannot be supported

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

**to
COUNCIL
8 SEPTEMBER 2022**

A12 CHELMSFORD TO A120 WIDENING SCHEME DEVELOPMENT CONSENT ORDER

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to update the Council on the progress that has been made by National Highways on its A12 Chelmsford to A120 Widening Scheme Development Consent Order (DCO) and to seek the Council's approval of an Engagement Mandate that will be used when engaging further with National Highways, neighbouring authorities and the Planning Inspectorate during the Examination stage of the DCO.

2. RECOMMENDATIONS

- (i) that the update on the progression of National Highways Nationally Significant Infrastructure Project Development Consent Order: the A12 Chelmsford to A120 Widening Scheme, its context, engagement to date, the planning performance agreement, the project's next steps and estimated timescales be noted;
- (ii) that the Maldon District A12 DCO Engagement Mandate as set out in 3.6 be endorsed for use by Officers and/ or appointed witnesses at Pre-Examination and Examination stages confirming the extent of the Council's support and concern as a Host Authority concerning the A12 Chelmsford to A120 Widening National Strategic Infrastructure Project (NSIP);
- (iii) that the Director of Strategy, Performance and Governance be given delegated powers to appoint (in writing) specific Officers, as well as external contractors if required, to act as witnesses for Maldon District Council for the A12 DCO Examination; and
- (iv) that the Director of Strategy, Performance and Governance be given delegated authority in consultation with the A12 DCO Member Consultation Group as defined in 3.7 to approve any formal response or statement, as required to be made, from time to time, during the Pre-Examination and Examination stages to either National Highways, or the Planning Inspectorate.

3. BACKGROUND

3.1 Project Context

- 3.1.1 The A12 is an important economic route in Essex and across the east of England. It provides the main south-west / north-east route through Essex and Suffolk, connecting Ipswich with London and the M25.
- 3.1.2 The A12 Chelmsford to A120 Widening Scheme is a 'highways' NSIP as defined by Section 22 of Planning Act 2008 (PA2008) (as amended). It is a proposal to widen the A12 from two to three lanes between Junction 19 (Boreham Interchange, Chelmsford) and Junction 25 (A120 Marks Tey Interchange, Colchester).
- 3.1.3 The project would be delivered by National Highways, a government-owned company charged with operating, maintaining and improving England's motorways and major A-roads; also referred to as the Strategic Road Network (SRN). National Highways is delivering £27.4bn of investment in the SRN between 2020 and 2025 as described in the Department for Transport's Road Investment Strategy 2 (RIS2), which includes a commitment to fund the A12 NSIP scheme.
- 3.1.4 National Highways advise that the section proposed for widening carries high volumes of traffic, with up to 90,000 vehicles every day. Between 9%-12% of this traffic is in the form of Heavy Goods Vehicles (HGVs), which underlines its importance to freight connection, particularly the Ports of Felixstowe and Harwich. It is also an important commuter route, which leads to congestion and delays and means average speeds are particularly slow, despite its A-road status.
- 3.1.5 The project therefore aims to:
- Improve safety for road users and maintenance workers by removing the current private accesses to the SRN and provide alternatives;
 - Reduce traffic congestion by increasing the capacity of the road, making journey times more reliable;
 - Smooth traffic flow by helping the road cope with incidents such as breakdowns and accidents
 - Support economic and housing growth identified in Local Plans in Essex and the surrounding region, by reducing congestion-related delays, improving journey time reliability and increasing overall transport capacity on the A12;
 - Reduce the visual, air and noise quality impacts of the proposed scheme on affected communities on the route; and
 - Reduce severance of communities along the route and provide safer alternative routes away from the A12 for walkers, cyclists, public transport users and horse-riders.
- 3.1.6 Maldon District Council (MDC) is a 'host' local authority for the NSIP, primarily in relation to Junction 22 at Witham that provides access from the A12 to Little Braxted within the Maldon District. However, closure of the existing slip roads, Junctions 20a and 20b at Hatfield Peverel, onto the A12 and construction of a new Junction 21 east of Hatfield Peverel, will also impact connections to the A12, via the B1019 from Maldon and Heybridge where access to the new Junction 21 is proposed to *remain* as being via the Duke of Wellington mini-roundabout at the junction of Maldon Road with The Street, Hatfield Peverel. The Maldon District has specific sections of the A12's 'lane corridors' which cross into the District, via Danbury on the A414 in the

west of the District and the B1022 from the A12 via the Braxteds in the northwest of the District.

- 3.1.7 Separately, there is also the potential location of enabling works including which could affect the District, including the diversion of a high-pressure gas main required to facilitate the route's widening. It should be noted that the diversion of the gas main is considered an NSIP in its own right and would be submitted separately to the A12 NSIP by Cadent; the owner of the UK gas distribution network.

3.2 Engagement to date

- 3.2.1 The project programme for its Development Consent Order (DCO) is now well advanced as there have been five core rounds of public consultation between 2017 – 2021. These were:

Stage	Status	Dates
Non-Statutory A12 Chelmsford to A120 Widening Scheme Route Options (J.19 to 25)	Non-Statutory	23 Jan 2017 to 3 Mar 2017
A12 Chelmsford to A120 Widening (Junctions 23-25) Public Consultation	Non-Statutory	21 Oct 2019 to 1 Dec 2019
Draft Statement of Community Consultation with LPAs	Statutory	29 Jan 2021 to 1 Mar 2021
A12 Chelmsford to A120 Widening Preliminary Design Consultation J19-25	Statutory	22 Jun 2021 to 16 Aug 2021
A12 Chelmsford to A12 Widening Supplementary Design Consultation (inc. Cadent Gas Main Diversion) Nov 2021	Statutory	9 Nov 2021 to 19 Dec 2021

- 3.2.2 MDC has been engaged throughout the pre-application stage of the NSIP with officer technical meetings, Member Forums and community engagement including direct engagement with Parish Councils. A consistent approach to the consultation stages set out above has been made by the Council that has been reported to the former Planning and Licensing Committee and the Strategy and Resources Committee.

3.3 Submission and Next Steps

- 3.3.1 As the A12 NSIP has progressed, it has become evident that if MDC intends to continue to participate in the DCO process that it will require sufficient officer delegation and resourcing to be able to respond within the tight statutory timescales prescribed in the Planning Act 2008 (PA2008) (Figure 1). National Highways have also requested that any future engagement in the pre-examination stage is secured through a Planning Performance Agreement (PPA) to an accelerated project programme timetable. Advice from the Planning Inspectorate (PINS) strongly recommends that Councils need to ensure that they have sufficient delegated powers in place to make representations on technical issues as they emerge, especially once a DCO application has been submitted for Examination.

Figure 1: Six stages of the NSIP Development Consent Order (DCO) process

*Time in **bold black** are statutory



- 3.3.2 National Highways submitted their DCO to PINS on 15 August 2022; triggering the start of the process by the Planning Inspectorate to determine the application.

Stage	Action	Start date / completion date
Submission of DCO Application	National Highways submitted DCO Application to the Planning Inspectorate	15/08/2022
Adequacy of Consultation Request	PINS write to Host Authorities and interested parties and seek response in 14 calendar days over 'Adequacy of Consultation'.	16/08/2022-29/08/2022
Acceptance of DCO by Planning Inspectorate	Accept or Not Accept the Application	12/09/2022
<i>If Not Accepted, National Highways will need to consider Planning Inspectorate decision and determine what is required to demonstrate adequacy and resubmit at later date.</i>		
If Accepted , DCO can proceed to Examination...		
Pre-Examination	National Highways will seek Statements of Common Ground with key participants	Sept - Dec 2022
Examination of DCO Application	Examination of the DCO Application.	10/01/2023-10/07/2023
Secretary of State decision on DCO Application	National Highways to receive decision from Secretary of State for Transport regarding the DCO.	09/10/2023-20/12/2023

3.4 Adequacy of Consultation Response

- 3.4.1 On 16 August 2022, the Council, as a host authority and key stakeholder, received correspondence from the Planning Inspectorate concerning the Section 55 of the Planning Act 2008 (as amended), also called the "Adequacy of Consultation". The Council had 14 calendar days to respond to the consultation, which closed on 29 August 2022, Bank Holiday Monday. A request to the Planning Inspectorate to extend this by one day to accommodate the Bank Holiday was not responded to. In effect, this meant the Council's response had to be submitted on 26 August 2022.
- 3.4.2 National Highways has to demonstrate to the Planning Inspectorate that for the purposes of Sections 42 (Duty to Consult), 47 (Prepare Statement of Community

Consultation) and 48 (Duty to Publicise) of the Planning Act 2008 that they have met their legal requirements.

- 3.4.3 In evaluating the three duties and in discussions with Essex County Council and other Local Authorities invited to respond, agreement was reached National Highways had done enough to demonstrate compliance with their legal duties; a position Maldon District Council also adopted. However, what was made clear in the response to the Planning Inspectorate was that whilst the minimum requirements for the duties had been met, the effectiveness of what had been done to amend the A12 scheme, as a result of the engagement, was not considered to be satisfactory and this point will be explored vigorously in the Examination.

3.5 Planning Performance Agreement Update

- 3.5.1 Engagement in the DCO process for such large and complex NSIPs can place considerable strain on local authorities limited financial and human resources. NSIPs are not defined as new duties for local authorities however, and engagement in the DCO process is not a supported new burden. There is no requirement in legislation for project promoters to resource local authorities' engagement in the DCO process. This is despite guidance widely acknowledging the important role that local authorities have in providing local knowledge and democratic accountability to support a high-quality development consent application being made, and in the monitoring and management of a DCO when implemented.
- 3.5.2 MDC and all other host local authorities and the Highway Authority are now in advanced negotiations with National Highways to secure PPAs to contribute towards the costs involved in participating in all further stages of the DCO process, including post-consent.

3.6 A12 NSIP Development Consent Order – Engagement Mandate

- 3.6.1 In order to participate effectively in the Examination, it is proposed that an 'Engagement Mandate' is approved by Council to assist Council Officers and external witnesses working for the Council to engage effectively during the Examination. This sets out the supporting principles and primary concerns the Council continues to have which it has sought for changes to be made to the NSIP during previous consultation stages. These remain outstanding and have not been addressed adequately in the submitted National Highway's DCO. Officers and witnesses will use this Engagement Mandate to seek to negotiate changes in full, or in part, to the scheme on the Council's behalf. The Mandate is that the Council:
- 1) Supports the principle of widening the A12 to three lanes in both directions between Chelmsford and the A120 to support improving the capacity of the route to support Maldon District residents and businesses;
 - 2) Seeks to change the scheme at the new Junction 21 at Hatfield Peverel to ensure it includes a new link road between the new junction and Maldon Road to improve access for Maldon District residents and businesses, better serving District growth as set out in the approved Maldon District Local Development Plan 2014-2029 and reduce congestion caused by making no changes in Hatfield Peverel that serves Maldon District; and
 - 3) Seeks to ensure that the enabling works to redirecting the Cadent gas main, selects an alternative route corridor that causes the least biodiversity, landscape and heritage harm to the Maldon District from construction disturbance and ensures it completely avoids a diversion through Blue Mills Nature Reserve, Great Totham.

3.7 Ongoing Member Engagement

- 3.7.1 In accordance with the Planning Act 2008 (as amended), the A12 NSIP DCO Examination will be relatively fast-paced, compared to LDP Examinations for example. As set out in *Figure 1*, if the DCO is accepted by the Planning Inspectorate, the Pre-Examination stage legally cannot last any longer than three months and the Examination cannot last any longer than six months. It is imperative therefore, that Maldon District has a process in place for the NSIP DCO, which enables democratic engagement within those time frames, as it will not be able to wait for Committee / Council cycles.
- 3.7.2 As a practical solution, and following discussions with the Council's Monitoring Officer, it is therefore being proposed that a specific "A12 DCO Member Consultation Group" (the Consultation Group) be established to support the officers and external witnesses delegated with powers to engage with until the end of the Examination to support the sign-off of any decisions associated.
- 3.7.3 Membership of the Consultation Group is proposed to be:
- Leader of the Council;
 - Deputy Leader of the Council;
 - Chairman of the Strategy and Resources Committee; and
 - Ward Members of wards along the A12 route corridor.
- 3.7.4 The Consultation Group would meet as frequently as necessary to ensure that officers are supported by Member soundings throughout the Examination and will ensure that the relevant Members are briefed about progress.
- 3.7.5 The merits of continuing with the Consultation Group after the Examination has finished and should the NSIP be approved by the Secretary of State, can further be reviewed by the Council at a later date.

4. CONCLUSION

- 4.1 It is vital that the Council represents the need for new infrastructure to support residents, businesses and visitors connecting to and from the District and takes the opportunities from proposed new development to improve local connections to and from the District connecting to and from the wider strategic road network.
- 4.2 Individually, as a Host Authority and collectively with the other Host Authorities, including Essex County Council as the Highway Authority, this Engagement Mandate will enable the Council to have a strong voice Pre-Examination and during Examination as part of this DCO process.

5. IMPACT ON STRATEGIC THEMES

- 5.1 The Place Strategy with associated Corporate Outcomes supports 'reducing the impact of pollution on the environment' and 'delivering new infrastructure through development'.

- 5.2 The Prosperity Strategy with associated Corporate Outcomes supports 'enabling future economic/inward investment and new jobs' and 'enhancing the visitor economy'.

6. IMPLICATIONS

- (i) **Impact on Customers** – Medium – This report recommends that delegation is given to officers to effectively respond to the demands of the A12 NSIP DCO, ensuring that customers of the Council, that have previously sought specific engagement with the project due to impacts on their business or residence can ensure, the District Council's voice is heard during the statutory examination.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – Medium – The primary risks are Reputation and Environmental that without the approvals this report is seeking, the ability of the Council to engage effectively in a nationally significant infrastructure project that will otherwise impact on the District's residents and businesses, will be reduced.
- (iv) **Impact on Resources (financial)** –Medium – A PPA with National Highways will assist the Council in meeting some of the additional cost burden created by their NSIP. For this to be effective, it needs to empower officers to work effectively on the Council's behalf during the Pre-Examination and examination.
- (v) **Impact on Resources (human)** – Medium – A PPA with National Highways will assist the Council in meeting some of the additional cost burden created by their NSIP, which will primarily involve in officer expertise being diverted from other corporate projects and priorities. The income from the PPA could therefore support back-filling for essential roles, or the commissioning of specific expertise to support the Examination. Anyone working on the project for MDC needs to be empowered with a clear and effective mandate so that they can work as proactively as possible for the benefit of the District.
- (vi) **Impact on the Environment** – Low – The decision to empower officers and other witnesses and delegate authority for the A12 DCO NSIP does not impact on the environment directly; albeit the project being sought by National Highways will have an environmental impact to the wider region and the District to different extents. Officers need an effective mandate from which to negotiate and seek to influence the Examination to reduce the impact as much as possible.
- (vii) **Impact on Strengthening Communities** – Low – During the preparation of the A12 NSIP DCO, communities and individuals from around the District have been encouraged to participate in the pre-application stages of the project. This report's recommendations do not improve that but the engagement of the Council at the Pre-Examination and Examination stages can help to support this community messaging.

Background Papers: Committee Reports related to non-statutory and statutory consultations.

Enquiries to: Paul Dodson, Director of Strategy, Performance and Governance.

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