



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

**to
PLANNING AND LICENSING COMMITTEE
24 JANUARY 2019**

PLANNING POLICY UPDATE

1. PURPOSE OF THE REPORT

- 1.1 This report provides an update on local, sub-regional and national planning policy matters including Duty to Cooperate and Essex Local Plans, and legislative changes as they affect planning policy. In particular the Report contains details of the National Planning Policy Framework 2018.
- 1.2 Separate reports have been prepared for this Committee on:
- The Recreational Avoidance Mitigation Strategy (RAMS).
- 1.3 The wide range of policy matters in this report may affect the policies of the Council, procedures and decision making. Therefore, further reports may need to be made to the Committee for decision.

2. RECOMMENDATION

That the Committee receives and comments on the Planning Policy update outlined in this report.

3. SUMMARY OF KEY ISSUES

3.1 Duty to Cooperate and other Plans and Strategies

- 3.1.1 Below is a table of the stage each plan has reached, where known.

Council	Plan	Stage
Basildon Borough	Basildon Local Plan 2014-2034	Consultation on the Revised Publication Draft Local Plan ended on the 17 December 2018.

Council	Plan	Stage
Braintree District	Braintree District Local Plan	As reported to the July 2018 Committee, the joint strategic plan for Braintree, Colchester and Tendering is under review following the receipt of a letter from the Inspector. No firm timetable is available on when the work requested by the Inspector will be completed. The North Essex Local Plan Section 1 Additional Sustainability Appraisal Method Scoping Statement (December 2018) is out for consultation until the 1 February 2019.
Brentwood Borough	Draft Local Plan Preferred Site Allocations	The Pre-Submission Brentwood Local Development Plan was considered at an extraordinary meeting of the Council on 8 November 2018.
Castle Point Borough	Castle Point Local Plan	The Secretary of State has intervened in the production of the Local Plan. At an extraordinary Meeting of the Council on 28 November, it was decided (by 1 vote) not to accept a recommendation to approve a Regulation 19 consultation for the New Local Plan 2018. The Council has been in contact with the Ministry in regards to intervention, but have not been issued with a course of action.
Chelmsford City	Chelmsford Local Plan	The Examination for the Chelmsford Local Plan took place from the 20 November – 14 December 2018.
Colchester Borough	Local Plan 2017 – 2033	See Braintree above.
Epping Forest District	Epping Forest District Local Plan	The Epping Forest Local Plan was submitted to the Secretary of State on the 21 September 2018. The examination will run from the 12 February to the 23 May 2019.
Harlow	Harlow Local Development Plan	Pre-Submission Publication consultation of the Local Plan closed on the 6 July 2018.

Council	Plan	Stage
Rochford District	Rochford Local Plan	Issues and Options consultation closed in March 2018. A Preferred Options consultation is planned for October-November 2019.
Southend	Southend Local Plan to 2034	Preferred Approach -Autumn / Winter 2019. Pre-submission – Autumn / Winter 2020. Submission – Spring 2020.
Tendring District		See Braintree above.
Thurrock	Thurrock Local Plan	No information available.
Uttlesford District	Uttlesford Local Plan	A consultation on the Addendum of Focussed Changes to the Pre-Submission Local Plan ended on the 27 November 2018.

- 3.1.2 An Officer attended a Duty to Cooperate meeting with Castle Point Borough Council in November. The South Essex authorities, Chelmsford and Maldon attended. The purpose of the meeting was to discuss their unmet housing need requirements. Castle Point is not looking to Chelmsford or Maldon to meet their long term need.

3.2 M25 junction 28 improvement scheme – consultation

- 3.2.1 The M25 junction 28 plays a vital role in connecting the M25 with the A12, as well as providing local access to Brentwood via the A1023 (Brook Street). It is a heavily used roundabout mainly controlled by traffic lights. It is operating at full capacity, with traffic queues and lengthy delays: Up to 7,500 vehicles per hour currently travel through the roundabout at peak times which can lead to a number of incidents.
- 3.2.2 Traffic in the area is expected to increase by up to 40% by 2037, so without intervention, delays are expected to be at least five times longer, there will be a 25% reduction in average speeds through the junction and potential constraints on future growth and air quality.
- 3.2.3 Between November 2016 and January 2017 Highways England consulted on three options. All diverted traffic away from the roundabout, with a new dedicated loop road between the M25 anti-clockwise and the A12 east bound, but each option required a different approach to achieve this.
- 3.2.4 The preferred route, received the most support from consultees, and provides a new two-lane loop road between the M25 anticlockwise and the A12 eastbound carriageways. It also introduces a second exit road from the M25 anti-clockwise onto the new loop road, provides a new bridge to allow the loop road to pass over the M25 anti-clockwise entry road and introduces an overbridge to support the A12 eastbound exit road to allow the proposed loop road to pass underneath and join the A12 eastbound carriageway.

- 3.2.5 This scheme is a Nationally Significant Infrastructure Project. As such, it requires a Development Consent Order (DCO) to obtain the necessary approvals to construct and operate the scheme. Consultation on the M25 junction 28 improvement scheme runs until the 28 January 2019. The DCO submission is expected to be made in the Autumn 2019, with works starting in June 2021. The scheme does not significantly affect Maldon District so no response is planned.
- 3.3 **Supplementary Planning Documents (SPD) and other policy documents**
- 3.3.1 The consultation for the Green Infrastructure Strategy SPD ended on the 23 January 2019. Further details on the outcome of the consultation will be brought to this Committee in March.
- 3.4 **Community Infrastructure Levy (CIL)**
- 3.4.1 Work on updating the Community Infrastructure Levy (CIL) evidence base has been completed. This includes an update of the Infrastructure Delivery Plan (2014) and an update to the Viability Study (2014).
- 3.4.2 The Government consulted on changes to CIL alongside the recent NPPF consultation (see Minute No. 2018/1011). The Government published its response in *Supporting housing delivery through developer contributions: Reforming developer contributions to affordable housing and infrastructure* in October 2018 – the key issues relevant to Maldon are set out below. The report states that in order to implement the changes new legislation and/or amendments to legislation will be required. Therefore, progress on approving a charging schedule remains paused.
- 3.5 **Reducing complexity and increasing certainty**
- 3.5.1 The Government intends to change planning guidance to make it easier to adopt and revise CIL charging schedules and to reduce unnecessary delays to plan making.
- 3.5.2 At the moment Councils have to undertake two rounds of consultation on draft charging schedules. The requirement to consult on a draft charging schedule will remain, but the requirement for two consultations will be removed. This will ensure that the Council can decide the best approach to consultation, and would allow the Council to submit a schedule for examination quicker.
- 3.5.3 Local Authorities resource constraints have an impact on the willingness to revise a charging schedule. As a result CIL rates are less than what it should be. The process to set and revise a CIL Charging Schedule will be streamlined by aligning the requirements for evidence on infrastructure need and viability with the evidence required for plan making.
- 3.5.4 The Government intends to lift the pooling restriction for developer contributions. So that the Community Infrastructure Levy remains an effective mechanism for collecting contributions towards addressing the cumulative impact of development, the Government is proposing to introduce measures to incentivise uptake and continued use of the Levy. This suggests that the Government do not intend abolishing CIL.

- 3.5.5 It is currently quite complex to award CIL exemption to a developer, for example, if a commencement notice has not been received prior to starting work on site, the developer loses the right to receive any exemption. The Government proposes a more proportionate approach to administering exemptions such as, making changes to the penalties associated with the failure to submit a Commencement Notice prior to development being started. This will ensure that any penalty is set at a proportionate level and will not result in the whole liability becoming payable immediately.

3.6 Increasing market responsiveness

- 3.6.1 CIL Regulation 40 uses Building Cost Information Service (BCIS) All in-Tender Price Index, this index reflects changes in contractor costs and is used in some cases for the costs of delivering infrastructure. However, contractor costs do not necessarily increase at the same rate as house price inflation. This means that the impact that a rate has on the viability of development reduces over time and the local authority collects less than could otherwise be the case.
- 3.6.2 The Government will be consulting on amendments to the CIL regulations in 2019, including indexation of Levy rates and the way in which it would be implemented. This will help ensure that Levy rates remain responsive to changes in market conditions.
- 3.6.3 The Government proposal was to allow CIL charging schedules to be set based on the existing use of land, to allow local authorities to capture a better amount and the value generated through planning permission. The Government considers that there is enough flexibility in the CIL Regulations that, through the use of differential Levy rates, will allow local authorities to achieve a better amount. Changes to planning guidance will allow differential rates be set more effectively.

3.7 Improving transparency and increasing accountability

- 3.7.1 Changes to the National Planning Policy Framework and the Viability Planning Practice Guidance (PPG) are designed to improve transparency for developer contributions. The Viability PPG sets out the approach to reporting on developer contributions through an Infrastructure Funding Statement – this will now be on a statutory basis.
- 3.7.2 Regulation 123 of the CIL Regulations enables local authorities to publish lists of infrastructure they intend to fund through CIL and it prohibits the use of S106 planning obligations to provide contributions to fund infrastructure on this list. These restrictions will be removed. New reporting standards, which are set out in the Infrastructure Funding Statement, will address concerns about ‘double dipping’.

3.8 Introducing a Strategic Infrastructure Tariff

- 3.8.1 The Government recognises the potential for a Combined authority or joint committee (with strategic planning powers) to seek funding support similar to Mayoral CIL for a piece of strategic infrastructure or to address the cumulative impact that the strategic infrastructure will have. This is known as a Strategic Infrastructure Tariff. This will encourage cross boundary planning supporting the delivery of strategic infrastructure.

3.9 National Planning Policy Framework

3.9.1 The Government published the revised National Planning Policy Framework (NPPF) on 24 July 2018. The NPPF came into effect on the day of its publication. Although revisions to national planning policy do not automatically translate into the need to review the Local Development Plan, the Government expects local planning authorities to reflect the NPPF where necessary in a review of the local plan. Therefore, the Council has reviewed the Local Development Plan (LDP) against the NPPF to identify whether revision is required.

3.9.2 The NPPF is a strategic planning policy document and therefore does not contain the level of detail set out in the LDP, nor does it address matters that are specific requirements of development in Maldon, for example the provision of a Site Waste Management Plan for strategic allocations. The LDP also needs to reflect a wide range of national planning legislation, such as that for the Community Infrastructure Levy, Neighbourhood Planning and the Community Right to Buy. Such details are not repeated in the NPPF.

3.9.3 In general, the majority of LDP policies are consistent with the NPPF. However, there are a few minor inconsistencies and areas where the NPPF introduces new policy which the LDP is silent on. In those cases, the NPPF would take precedence.

3.9.4 These are:

- **LDP Paragraphs 2.17-2.19:** establishes the housing target for the District to meet the objectively assessed housing need. The NPPF introduces a standardised methodology which would form the basis for the objectively assessed housing need in future. However, the new standard method identified a housing requirement of 302 dwellings a year not too dissimilar to the LDP target of 310 so this is not considered to be an issue of concern;
- **Policy E2:** defines a network of town centres but is silent on a hierarchy of town centres and primary shopping areas as required by the NPPF. A town centre hierarchy ensures that the mix of uses relates to the role and function of each centre and its catchment area. A primary shopping area would be the area where retail development should be concentrated. In future this would replace the use of retail frontages, on which the NPPF is silent.
- **Policy E2:** requires proposals for retail space outside town centres demonstrate that there are no town centre sites that are available, suitable and viable. The NPPF only requires such sites to be available and suitable.
- **Policy E6 and paragraphs 4.44-4.49:** Support a range of programmes and funding initiatives to generate skills, training and educational development. These are not planning related issues and therefore the NPPF does not address these matters.
- **Policy H1:** identifies the threshold for seeking affordable housing provision as more than 10 units, whereas the NPPF states the threshold is 10 or more units. This means that affordable housing can be sought from more schemes in the District.
- **Policy H2:** the NPPF requires planning policies to identify the size, type and tenure of housing for people wishing to build or commission their own home.

The LDP does not identify the need for self-build housing. The Council's Self Build Register contains this information.

- **Policy H2:** the NPPF states that the size, type and tenure of housing needed for different groups should be assessed and reflected in policy. Policy H2 is silent: however paragraph 5.17 refers developers to the Strategic Housing Market Assessment (SHMA) where the mix is identified.
- **Paragraph 5.7:** the NPPF requires up to date evidence to support planning policies, however the LDP does not identify an evidence base for the policy on houseboats.

3.9.5 None have an adverse impact upon the way the Council undertakes its statutory planning function and it is considered that the LDP can still operate effectively and deliver its aims and objectives as intended. Based on the above, officers consider that at this stage there is no need to review the LDP in part or by preparing a new plan.

3.10 **Reforming developer contributions: Technical consultation on draft regulations**

3.10.1 The Government issued a consultation on the draft regulations amending the Community Infrastructure Levy Regulations 2010 in December 2018. Due to the timing of the consultation and this Committee the response has been delegated for agreement by the Chairman of this Committee and the Director of Strategy, Performance and Governance. A full report will be brought to March committee detailing the response.

3.11 **Neighbourhood Planning**

3.11.1 Six parishes are actively preparing Neighbourhood Plans. All are progressing towards the first of the formal consultation stages (the Regulation 14 consultation). Most parishes expect to reach this milestone in the first half of 2019. Depending on the response rate and the issues raised, and whether any of the Plans need amending, each Plan could be submitted within a few months of the Regulation 14 consultation finishing.

Neighbourhood Plan	Regulation 14 consultation – approximate timeframe	Additional Information
Althorne	Under consideration	Two community participation events were held at the start of 2018. Consultants should be appointed shortly to help prepare the parish questionnaire.
Great Totham	Spring 2019	Grant funding has been secured to engage Navigus Planning Ltd to assist with the Plan. A village survey to every household in the Parish resulted in a good 45% response rate. Results are to be discussed with the consultant in January 2019.
Langford and Ulting	Spring 2019	The draft Plan will be updated to align with the LDP and NPPF. All amendments proposed by the Examiner to be accepted. Another Regulation 14 consultation will

Neighbourhood Plan	Regulation 14 consultation – approximate timeframe	Additional Information
		take place in Spring 2019. The Parish Council held meetings with the two landowners of preferred sites at the end of October and is setting up meetings with three housing associations to provide for three affordable housing units.
Mayland	Summer 2019	Work is continuing on the Plan's Vision and objectives. A Plan display was held at the June music festival day. A final call for sites was widely publicised in the November 2018 "Mayland May!", on the Parish Council website and notice boards. The results along with the previous two surveys will be mapped in January 2019. Final selection will be guided by housing survey responses. Since 1970 Mayland / Maylandsea has expanded at the rate of 20 houses per year - this would be the upper limit, survey results indicate 10.
Tollesbury	Spring 2019	During Summer-Autumn 2018 26 policy items have been produced. The Neighbourhood Plan (NP) Committee are intending to appoint a planning consultant in 2019 to help develop the Plan. Consultation is planned for April 2019, with submission at the end of June.
Wickham Bishops	Early 2019	The draft Plan is currently undergoing its Strategic Environmental Assessment Screening Opinion consultation with the statutory consultees. A Regulation 14 consultation will follow in early 2019. An online Survey will capture feedback from residents. Essex Wildlife Trust is undertaking a biodiversity audit to support the Plan. The local landowners affected by the proposed allocation of the two Local Green Spaces have been contacted.

3.12 Maldon and Heybridge Central Area Masterplan

- 3.12.1 The Masterplan was adopted by the Council in November 2017. Its Action Plan details 18 projects for delivery in the 'short term' (1-5 years); 'medium term' (5-10 years) and 'long term' (10+ years) which align with delivery of the LDP. The projects have been programmed within these timeframes to reflect inter-dependencies, partners' project plans and in some cases availability of funding.

3.12.2 Project activity in Year 1 is underway and focuses on:

- **Project 2: Lower High Street:** initial stakeholder meetings have been held with town centre businesses, the Maldon Business Forum and the car parking liaison group to brief them on the scope of this project.
- **Project 6: North Quay Regeneration:** desk top evidence gathering and mapping has started to inform the preparation of a development brief for the wider area. Initial engagement with several key landowners/business interests has taken place.
- **Project 10: Enterprise Centre:** Feasibility study has been completed. Awaiting outcome of Local Growth Fund (LGF) R3B funding bid for preferred site.
- **Project 12: The Causeway Strategic Flooding Review:** is underway.
- **Project 15: Destination Hub:** desk top evidence gathering and mapping is underway to inform detailed project activity in Spring 2019.

3.12.3 Officers have progressed project activity in consultation with statutory consultees, stakeholders and reports have been taken to relevant Committees where appropriate, such as on the Enterprise Centre.

3.12.4 A progress report will be prepared for March Planning and Licensing Committee. This will set out progress of the Masterplan programme and identify key project activity.

4. CONCLUSION

- 4.1 This report provides an update to Members on planning policy matters that will or may affect the policies of the Council, procedures and decision making. Planning policy is constantly being updated and this report provides an overview of the key issues nationally and within Essex which could affect the future of the District. Therefore, reports on matters for decision that arise from new planning policy will be made to this Committee as required.

5. IMPACT ON CORPORATE GOALS

- 5.1 The preparation and adoption of the LDP, including supporting evidence and other supplementary planning documents, support corporate goals which underpin the Council's vision for the District and in particular protecting and shaping the District and balancing the future needs of the community and meeting the housing needs of the District.

6. IMPLICATIONS

- (i) **Impact on Customers** – This report provides customers with the most up-to-date progress on planning policy matters. Clear policy and strategy working with other authorities in Essex provides certainty to residents and businesses in the District.

- (ii) **Impact on Equalities** –Planning policy documents, including new regulations and policy documents prepared by the government, are subject to equality analysis.
- (iii) **Impact on Risk** – Up to date planning policy and a five year supply of housing land is required in accordance with the National Planning Policy Framework in order to enable the Council to strategically plan for future needs, growth and sustainable development. The implementation of new legislation will need to be taken after consideration of the risks for the Council and stakeholders.
- (iv) **Impact on Resources (financial and human)** –Any significant change in policy direction would be likely to require additional work or alterations to the evidence base which may have significant financial and human resource implications for the Council. The government have indicated that additional funding may be available to local authorities to implement some of the regulatory and legislative changes.
- (v) **Impact on the Environment** – Up to date planning policy and a five year supply of housing land will enable the Council to promote sustainable development and safeguard the local environment in accordance with the local priorities for the District.

Background Papers:

Maldon District Local Development Plan (2014-2029) – www.maldon.gov.uk/ldp.

Maldon and Heybridge Central Area Masterplan SPD 2017 – www.maldon.gov.uk/SPD.

Planning and Licensing Committee, Minute No. 2018/1011.

National Planning Policy Framework, July 2018

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728643/Revised_NPPF_2018.pdf. Viability PPG:

<https://www.gov.uk/guidance/viability>

Supporting housing delivery through developer contributions: Reforming developer contributions to affordable housing and infrastructure, Ministry of Housing, Communities and Local Government (MHCLG), October 2018 -

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752183/Developer_Contributions_Government_Response.pdf

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