



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

**to
PLANNING AND LICENSING COMMITTEE
18 JULY 2019**

**LOCAL DEVELOPMENT SCHEME - REVIEW OF 2005 - 2007 SUPPLEMENTARY
PLANNING DOCUMENTS**

1. PURPOSE OF THE REPORT

- 1.1 The report seeks approval to revoke five Supplementary Planning Documents (SPDs) prepared between 2005 and 2007 following review against the current adopted Local Development Plan 2017 and its supporting SPDs, the National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG).
- 1.2 The five SPDs are:
- Children's Play Spaces SPD, Adopted March 2006 (**APPENDIX 1**)
 - Developer Contributions Guide SPD, Adopted September 2006 (**APPENDIX 2**)
 - Accessibility to Buildings SPD, Adopted December 2006 (**APPENDIX 3**)
 - Heybridge Basin Timber Yard SPD, Adopted February 2007 (**APPENDIX 4**)
 - Sadd's Wharf SPD, Adopted September 2007 (**APPENDIX 5**)

2. RECOMMENDATIONS

- (i) That the Committee recommends to the Council the revocation of the five SPDs prepared and approved between 2005 and 2007.

To the Council:

- (ii) That the five Supplementary Planning Documents (as detailed in paragraph 1.2 above) prepared and approved between 2005 and 2007 be revoked.

3. SUMMARY OF KEY ISSUES

- 3.1 The Local Development Scheme (LDS) is approved by the Council (Minute No. 930 refers). The LDS is a statutory requirement relating to the preparation of Local Development Documents which the Council must comply with. The purpose of the LDS is set out in a report to the Committee dated 7 March 2019.

- 3.2 The approved LDS states at Paragraph 22: *The five outstanding documents [SPDs] will be reviewed in 2019 to establish whether their content remains relevant. A formal decision whether to revoke, retain or update these documents will be made by Council in September 2019.*
- 3.3 The 7 March 2019 report to the Committee at Paragraph 3.1.4 recommended a review of the 2005 to 2007 SPDs to test their content and relevance against the adopted Local Development Plan (LDP) 2017, the National Planning Policy Framework (NPPF) (2019) and National Planning Policy Guidance (NPPG) (continually updated). The following paragraphs set out the review of each of the five SPDs in turn.
- 3.4 **Children's Play Spaces SPD, Maldon District Local Development Framework, March 2006 (APPENDIX 1)**
- 3.4.1 The SPD is considered out of date because the policies it supports relate to the 2005 Maldon District Replacement Local Plan. These policies have been superseded by the adopted LDP policies, in particular: *Policy N3 Open Space, Sport and Leisure* and *Policy D1 Design and Built Environment*. The recently adopted Green Infrastructure Strategy SPD supplements LDP Policy N3 and refers to up to date local and national policy. The Maldon District Design Guide SPD Technical Document: *'Landscape and Green Infrastructure (including open space, Sport and Play Facilities, Biodiversity and Trees)* supplements LDP Policy D1 and refers to up to date local and national policy guidance. The national guidance referred to in the 2006 SPD is inconsistent with current national policy and guidance and is superseded by the NPPF (2019) Paragraphs 96-100 and the NPPG (Paragraph 001 ID: 37-001-20140306).
- 3.4.2 There has been a significant shift in the provision and management of children's play spaces since the SPD was adopted. The SPD focusses on the need for children's play spaces in identified parts of the District (as evidenced in the preparation of the SPD) or as required through developments to specific adopted standards (National Playing Fields Association – now Fields in Trust). The children's play spaces are passed to Local Authority services to maintain as stated: *'generally led by Leisure and Recreation Departments'*. The SPD also states: *'The 2005 Replacement Local Plan does not identify any further land for development of new housing' and 'demand for new play space will arise from the redevelopment of existing sites as identified in the Urban Capacity Study'*. It goes on that NEAPs (Neighbourhood Equipped Areas of Play): *'will be mostly accommodated on land already owned by the District Council'*. These statements are out of date and have been superseded by LDP Policy S3 Place Shaping, requiring the Garden Suburb strategic allocations to provide: *'well managed open spaces'* by land management organisations and through Section 106 (S106) contributions and planning conditions to approved outline applications independent of Council services. Policy S4 Maldon and Heybridge Strategic Growth, LDP requires the Garden Suburb strategic allocations to have *'adequate provision of youth and children's facilities'* funded via S106 contributions.
- 3.4.3 The SPD refers to out of date Census information from 2001 and funding calculations at 2006 levels for the provision of children's play spaces derived from new development. The 2001 Census information is superseded by the 2011 Census information, costs for children's play spaces are calculated at current levels and the Community Infrastructure Levy Regulations 2010 (as referenced in Policy N3, LDP) have been published that allow developers to make a fixed charge levied on new

development to fund identified infrastructure. The Council's and Government's positions on the Community Infrastructure Levy (CIL) are as set out in the report to Committee dated 24 January 2019, paragraphs 3.4 – 3.8.1 and within the LDS Paragraphs 15-20.

- 3.4.4 The SPD relies on the play and recreation strategies of the Council being kept up to date. It is recognised that the Playing Pitch Strategy (Within the Green Infrastructure Study 2011) and Children's Play Strategy (2007) are out of date.
- 3.4.5 The recently adopted Maldon District Green Infrastructure Strategy SPD at *Principle 5: Improving Access, Fitness and Contact with Nature*, identifies the need for the Playing Pitch Strategy to be reviewed ahead of the LDP review. This review will include a review of children's play provision across all the parishes in the District. The outcome of the Playing Pitch Strategy will inform the LDP review. Once the LDP review is completed a decision can be taken on whether any new or revised SPD are required. This will be added to the LDS and it is envisaged it will be carried out in 2021 ahead of the review of the LDP.
- 3.4.6 The 2006 Children's Play Spaces SPD does not comply with local and national policy and the supporting evidence bases require updating, therefore it should be revoked.
- 3.5 **Maldon District Developer Contributions Guide SPD, September 2006 (APPENDIX 2)**
 - 3.5.1 The SPD is considered out of date because the policies referred to relate to the 2005 Maldon District Replacement Local Plan and are superseded by the current and adopted LDP policies, in particular: *Policy II Infrastructure and Services*. The regional strategy referred to in the SPD was abolished through The Localism Act 2011. The national guidance referred to in the SPD is inconsistent with current national policy and guidance and has been superseded by the rules for planning obligations in the Community Infrastructure Levy Regulations 2010, as summarised in the NPPF Paragraph 56 and the NPPG (Paragraph 002 Reference ID: 23b-002-20190315).
 - 3.5.2 Section 106 and Section 278 contributions, infrastructure requirements and viability remain relevant in the planning process irrespective of whether the Council has an adopted SPD for developer contributions. The Community Infrastructure Levy Regulations 2010 allow developers to make a fixed charge levied on new development to fund identified infrastructure. The Council's and Government's positions on the Community Infrastructure Levy (CIL) are as set out in the report to Committee dated 24 January 2019, paragraphs 3.4 – 3.8.1 and within the LDS Paragraphs 15-20.
 - 3.5.3 Since adoption of the Maldon District Developer Contributions Guide SPD in 2006, the local picture has changed regarding policy, strategic infrastructure requirements and implementation and monitoring of identified infrastructure needs set out in the adopted LDP. The national picture has changed through the tests for planning conditions and obligations set out in Paragraph 56, NPPF and introduction of CIL in the NPPF and guidance in the NPPG.

The 2006 Developer Contributions Guide SPD does not comply with local and national policy and legislation and should be revoked. Future guidance on ‘Developer Contributions’ may be considered once a decision on CIL is made.

3.6 Accessibility to Buildings SPD, Maldon District Local Development Framework, December 2006 (APPENDIX 3)

- 3.6.1 The SPD is redundant because Policy BE2 Inclusive Access and Accessibility from the 2005 Maldon District Replacement Local Plan was not ‘saved policy’ and does not have an equivalent policy within the adopted LDP. The regional strategy referred to in the SPD was abolished through the Localism Act 2011. The national policy referred to in the SPD is obsolete and superseded by the NPPF (Paragraph 127(f)) and the NPPG (Paragraph 006 Reference ID: 26-006-20140306).
- 3.6.2 The SPD was originally prepared to assist in applying the former BE2 policy that set out specific ‘features’ the Council would expect to see within development proposals where access by people with disabilities was necessary. The intentions of the former BE2 policy are generally considered within current documents: the 2018 Maldon District Vehicle Parking Standards SPD, the 2017 Maldon District Design Guide SPD, *C16 Inclusive and Accessible Design* and its supporting Technical Documents (Older Person’s Housing and Technical Housing Standard – Nationally described space standards). The Building Regulations and national planning policy extant at the time have been superseded by The Building Regulations Part M *Access to and use of buildings* and the NPPG (Paragraph: 012 Reference ID: 26-012-20140306 - *Planning should promote access and inclusion*). However, the onus is on the planning process to apply planning conditions for the level of access required for the use of buildings and how they can be accessed by certain groups.
- 3.6.3 The Building Regulations Part M incorporate former Life Time Homes Standards and new sustainability credentials that replace the Code for Sustainable Homes. Part M ‘Access to and use of buildings’ applies 3 categories or levels of accessibility: M4(1) Category 1: Visitable Dwellings; M4(2) Category 2: Accessible and adaptable dwellings and M4(3) Category 3: Wheelchair user dwellings.
- 3.6.4 There is no adopted policy in the LDP that enables the Local Planning Authority (LPA) to require a developer to comply with the higher standards of The Building Regulations with respect to Part M4. Part M4(2) aims to future-proof housing and ensure that housing is sufficiently adaptable to enable residents to continue to live in a dwelling at a time when they are less mobile rather than being required to move. The Council’s evidence base to the LDP demonstrates that the District has an ageing population and as such the Council may aspire to have a policy basis that would enable a more flexible housing stock to be delivered. This will need to be evidenced and considered through the LDP review.
- 3.6.5 The 2006 Accessibility to Buildings SPD is redundant as it has no adopted policy ‘hook’ in the current LDP and should be revoked.

3.7 Heybridge Basin Timber Yard SPD, Maldon District Local Development Framework, February 2007 (APPENDIX 4)

- 3.7.1 The SPD is redundant because there is no LDP policy to attach it to Policy E3 Mixed Use Development Heybridge Basin Timber Yard from the 2005 Maldon District Replacement Local Plan has been deleted from the adopted LDP. The Heybridge Basin Timber Yard site is not an allocated development site in the LDP to deliver housing.
- 3.7.2 Any future development proposal for this site would be considered against the adopted Maldon District Design Guide SPD, which supplements the LDP Policy D1 Design Quality and Built Environment and informs all development proposals District-wide.
- 3.7.3 Therefore the 2007 Heybridge Basin Timber Yard SPD is redundant and should be revoked.

3.8 Sadd's Wharf SPD, Maldon District Local Development Framework, September 2007 (APPENDIX 5)

- 3.8.1 The SPD is out of date. Preparation of the SPD was focussed on the 2005 Maldon District Replacement Local Plan Policy M/E/4 and PPS12 – Development Plans 2004 to inform a mixed-use development on the Sadd's Wharf site. The purpose of the SPD was *'to assist developers when drawing up proposals for the redevelopment of Sadd's Wharf and if appropriate to market the site.'*
- 3.8.2 The local and national policy position set out in the SPD has been superseded by LDP Strategic Policy S5, Maldon and Heybridge Central Area and the NPPF (Paragraphs 20-23). The Maldon and Heybridge Central Area Masterplan SPD (2017) supplements LDP Policy S5.
- 3.8.3 The North Quay Regeneration Development Brief, that includes the Sadd's Wharf site, will be forthcoming as set out in the approved LDS February 2019 – February 2021, Paragraph 26. An approved Development Brief for the entire North Quay regeneration area will, in effect, supersede the 2007 SPD.
- 3.8.4 The 2007 Sadd's Wharf SPD is out of date and is inconsistent with local and national policy and should be revoked.

4. CONCLUSION

- 4.1 The five SPDs prepared and adopted during 2005-2007 are, following review, deemed out of date or redundant. The five SPDs do not align with the adopted LDP, 2017 or the 2019 NPPF and NPPG.
- 4.2 The five SPDs are ineffective and, as such, have no material weight in decision making on planning applications and should, therefore, be revoked.
- 4.3 A future review of the LDP will identify any new policy or future SPDs are required.

5. IMPACT ON STRATEGIC THEMES

- 5.1 The adopted LDP and its supplementary planning documents principally support the Strategic Theme of Place as set out in the Corporate Plan that aims to protect and improve the environment for residents and visitors and securing sustainable growth and new infrastructure.

6. IMPLICATIONS

- (i) **Impact on Customers** – Relevant and up to date planning policy documents (including SPDs) provide customers with a robust policy and guidance framework for development proposals.
- (ii) **Impact on Equalities** – Planning policy documents have the potential to identify and manage local equalities issues and must be prepared considering relevant equalities legislation. In addition, the SPDs that are proposed to be revoked were written before the 2010 Equality Act and therefore may not incorporate modern considerations on equality issues.
- (iii) **Impact on Risk** – Out of date and ineffective planning policy documents hold no material weight in the planning process and could heighten risks for inappropriate development and not capturing benefits and opportunities from development proposals.
- (iv) **Impact on Resources (human)** – Review and preparation of planning policy documents is programmed to internal work streams and work plans via the Local Development Scheme (LDS) 2019 - 2021.
- (v) **Impact on Resources (financial)** – The LDS 2019 - 2021 provides a comprehensive resource plan for the delivery of planning policy documents.
- (vi) **Impact on the Environment** – Up to date and relevant planning policy documents promote sustainable development and environmental enhancement.

Background Papers:

Maldon District Council Corporate Plan 2019-2023

Maldon District Local Development Plan (2014-2029)

Local Development Scheme (February 2019 – February 2021)

Planning and Licensing Committee Report 7 March 2019

Planning and Licensing Committee Report 19 January 2019

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