

# **Wickham Bishops Neighbourhood Development Plan 2016-2029**

**A report to Maldon District Council on the Wickham  
Bishops Neighbourhood Development Plan**

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## **Executive Summary**

- 1 I was appointed by Maldon District Council in January 2021 to carry out the independent examination of the Wickham Bishops Neighbourhood Development Plan.
- 2 The examination was undertaken by written representations. I visited the neighbourhood plan area on 11 January 2021.
- 3 The Plan includes a range of policies and seeks to bring forward positive and sustainable development in the neighbourhood area. There is a very clear focus on safeguarding its local character and its landscape setting. It proposes the designation of a local green space and retail and business areas.
- 4 The Plan has been underpinned by community support and engagement. It is clear that all sections of the community have been actively engaged in its preparation.
- 5 Subject to a series of recommended modifications set out in this report I have concluded that the Wickham Bishops Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum.
- 6 I recommend that the referendum should be held within the neighbourhood area.

**Andrew Ashcroft**  
**Independent Examiner**  
**10 February 2021**

## 1 Introduction

- 1.1 This report sets out the findings of the independent examination of the Wickham Bishops Neighbourhood Development Plan 2016-2029 (the 'Plan').
- 1.2 The Plan has been submitted to Maldon District Council (MDC) by Wickham Bishops Parish Council (WBPC) in its capacity as the qualifying body responsible for preparing the neighbourhood plan.
- 1.3 Neighbourhood plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently embedded in the National Planning Policy Framework (NPPF) 2012 and its updates in 2018 and 2019. The NPPF continues to be the principal element of national planning policy.
- 1.4 The role of an independent examiner is clearly defined in the legislation. I have been appointed to examine whether or not the submitted Plan meets the basic conditions and Convention Rights and other statutory requirements. It is not within my remit to examine or to propose an alternative plan, or a potentially more sustainable plan except where this arises as a result of my recommended modifications to ensure that the plan meets the basic conditions and the other relevant requirements.
- 1.5 A neighbourhood plan can be narrow or broad in scope. Any plan can include whatever range of policies it sees as appropriate to its designated neighbourhood area. The submitted plan has been designed to be distinctive in general terms, and to be complementary to the development plan in particular. It has a clear focus on maintaining the character and appearance of the neighbourhood area and safeguarding its natural and heritage assets.
- 1.6 Within the context set out above this report assesses whether the Plan is legally compliant and meets the basic conditions that apply to neighbourhood plans. It also considers the content of the Plan and, where necessary, recommends changes to its policies and supporting text.
- 1.7 This report also provides a recommendation as to whether the Plan should proceed to referendum. If this is the case and that referendum results in a positive outcome the Plan would then be used to determine planning applications within the Plan area and will sit as part of the wider development plan.

## 2 The Role of the Independent Examiner

- 2.1 The examiner's role is to ensure that any submitted neighbourhood plan meets the relevant legislative and procedural requirements.
- 2.2 I was appointed by MDC, with the consent of WBPC, to conduct the examination of the Plan and to prepare this report. I am independent of both MDC and WBPC. I do not have any interest in any land that may be affected by the Plan.
- 2.3 I possess the appropriate qualifications and experience to undertake this role. I am a Director of Andrew Ashcroft Planning Limited. In previous roles, I have over 35 years' experience in various local authorities at either Head of Planning or Service Director level. I am a chartered town planner and have significant experience of undertaking other neighbourhood plan examinations and health checks. I am a member of the Royal Town Planning Institute and the Neighbourhood Planning Independent Examiner Referral Service.

### *Examination Outcomes*

- 2.4 In my role as the independent examiner of the Plan I am required to recommend one of the following outcomes of the examination:
- (a) that the Plan is submitted to a referendum; or
  - (b) that the Plan should proceed to referendum as modified (based on my recommendations); or
  - (c) that the Plan does not proceed to referendum on the basis that it does not meet the necessary legal requirements.

- 2.5 The outcome of the examination is set out in Sections 7 and 8 of this report.
- ### *Other examination matters*

- 2.6 In examining the Plan I am required to check whether:
- the policies relate to the development and use of land for a designated neighbourhood plan area; and
  - the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one neighbourhood area); and
  - the Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.
- 2.7 I have addressed the matters identified in paragraph 2.6 of this report. I am satisfied that the submitted Plan complies with the three requirements.

### 3 Procedural Matters

- 3.1 In undertaking this examination I have considered the following documents:
- the submitted Plan;
  - the Basic Conditions Statement;
  - the Consultation Statement;
  - the various supporting documents
  - the SEA/HRA screening report;
  - the Parish Council's responses to the Clarification Note;
  - the District Council's response to the Clarification Note
  - the representations made to the Plan;
  - the approved Maldon District Local Development Plan;
  - the National Planning Policy Framework (February 2019);
  - Planning Practice Guidance (March 2014 and subsequent updates);  
and
  - relevant Ministerial Statements.
- 3.2 I visited the neighbourhood area on 11 January 2021. I looked at its overall character and appearance and at those areas affected by policies in the Plan in particular. My visit is covered in more detail in paragraphs 5.9 to 5.16 of this report.
- 3.3 It is a general rule that neighbourhood plan examinations should be held by written representations only. Having considered all the information before me, including the representations made to the submitted plan, I was satisfied that the Plan could be examined without the need for a public hearing. I advised MDC of this decision once I had received the responses to the clarification note.

## 4 Consultation

### *Consultation Process*

- 4.1 Policies in made neighbourhood plans become the basis for local planning and development control decisions. As such the regulations require neighbourhood plans to be supported and underpinned by public consultation.
- 4.2 In accordance with the Neighbourhood Planning (General) Regulations 2012 WBPC has prepared a Consultation Statement. The Statement sets out the mechanisms used to engage all concerned in the plan-making process. It also provides specific details about the consultation process that took place on the pre-submission version of the Plan (January to March 2019). It captures the key issues in a proportionate way and is then underpinned by more detailed appendices. It is a good example of a Consultation Statement.
- 4.3 The Statement sets out details of the comprehensive range of consultation events that were carried out in relation to the initial stages of the Plan. They included:
- the stalls at various village events;
  - display stands in the primary school and in the library;
  - consultation with local groups;
  - consultation with young people; and
  - the provision of information about the Plan on the Parish Council's website and its Facebook account.
- 4.4 The Statement also provides details of the way in which the Parish Council engaged with statutory bodies. It is clear that the process has been proportionate and robust.
- 4.5 Section 6 of the Statement provides specific details on the issues raised during the consultation process associated with the pre-submission version of the Plan. Section 7 comments about specific matters arising from the Plan's approach to open spaces and local green spaces. A separate audit log of changes after the pre-submission consultation exercise has also been produced. It helpfully describes how the Plan was revised to take account of comments made at that stage.
- 4.6 It is clear that consultation has been an important element of the Plan's production. Advice on the neighbourhood planning process has been made available to the community in a positive and direct way by those responsible for the Plan's preparation.
- 4.7 From all the evidence provided to me as part of the examination, I can see that the Plan has promoted an inclusive approach to seeking the opinions of all concerned throughout the process. MDC has carried out its own assessment that the consultation process has complied with the requirements of the Regulations.

*Representations Received*

- 4.8 Consultation on the submitted plan was undertaken by MDC and ended on 26 November 2020. This exercise generated comments from the following organisations, persons and landowners:
- Environment Agency
  - Mr and Miss Elliott
  - P Brown
  - Mazdev Limited
  - National Grid
  - Gladman Developments Limited
  - Alan Collier
  - Sport England
  - Forestry Commission
  - Historic England
  - Essex County Council
  - Anglican Water Services
  - Essex Bridleways Association
- 4.9 Representations were also received from 21 local residents using MDC's on-line facility for commenting on the Plan. These representations principally commented that the various policies met the basic conditions.
- 4.10 I have taken account of the various representations in examining the Plan. Where it is appropriate to do so I make specific reference to the individual representations in Section 7 of this report.

**5 The Neighbourhood Area and the Development Plan Context***The Neighbourhood Area*

- 5.1 The neighbourhood area consists of the parish of Wickham Bishops. Its population in 2011 was 1829 persons living in 806 houses. It was designated as a neighbourhood area on 7 November 2016. It is located to the south-east of Witham and the A12. The neighbourhood area is predominantly rural in nature and much of its area is in agricultural use.
- 5.2 The principal settlement in the neighbourhood area is Wickham Bishop. It is an attractive village based around the intersection of several roads. Its principal retail and commercial facilities are located along The Street. The village enjoys the benefits of both a library and a very substantial modern village hall. St Bartholomew's Church occupies a prominent position on the western edge of the village.
- 5.3 The remainder of the neighbourhood area consists of a very attractive agricultural landscape. Beacon Hill and Great Totham are located to the immediate north-east and to the south-east respectively of the neighbourhood area.

*Development Plan Context*

- 5.4 The Maldon District Local Development Plan was approved in July 2017. It sets out the basis for future development in the District up to 2029. Wickham Bishops is identified as one of a series of larger villages in the settlement hierarchy (Policy S8). The Plan identified larger villages as settlements with a limited range of services and opportunities for employment, retail and education. They serve a limited local catchment and contain a lower level of access to public transport.
- 5.5 Policy S8 of the Local Development Plan offers support for sustainable developments within defined settlement boundaries. It also comments that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. In this context outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided it is for the limited range of development set out for such locations in national policy. Wickham Bishops has its own defined settlement boundary which closely follows the existing built-up area of the village.
- 5.6 The following other policies in the Local Development Plan are also particularly relevant to the Wickham Bishops Plan:
- |           |  |
|-----------|--|
| Policy S7 | Prosperous Rural Communities                               |
| Policy D1 | Design Quality and Built Environment                       |
| Policy D2 | Climate Change and Environmental Impact of New Development |
| Policy D3 | Conservation and Heritage Assets                           |
| Policy E3 | Community Services and Facilities                          |
| Policy E5 | Tourism  |
| Policy H2 | Housing Mix  |
| Policy N2 | Natural Environment and Biodiversity                       |
| Policy T1 | Sustainable Transport                                      |
| Policy T2 | Accessibility  |
- 5.7 Table 2 of the excellent Basic Conditions Statement usefully highlights the key policies in the development plan and how they relate to policies in the submitted Plan. This is good practice. It provides confidence to all concerned that the submitted Plan sits within its local planning policy context.
- 5.8 The submitted neighbourhood plan has been prepared within its wider development plan context. In doing so it has relied on up-to-date information and research that has underpinned previous and existing planning policy documents in the District. This is good practice and reflects key elements in Planning Practice Guidance on this matter.

*Unaccompanied Visit*

- 5.9 I visited the neighbourhood area on 11 January 2021.
- 5.10 I drove into Wickham Bishops from the A12/Witham to the west. This gave me an initial impression of its setting and the character in general, and its relationship to the strategic highways network in particular.
- 5.11 I parked in the village hall car park. I saw the scale and significance of this facility in the village. Given the compact nature of the village I was able to carry out the majority of the visit on foot. I looked initially at the groups of shops and commercial services in The Street. I saw the way in which the southern of the two separate groups was well served with parking facilities.
- 5.12 I then walked to the recreation grounds off Great Totham Road. In addition to the two formal facilities, I saw the Rainbow Field and its attractive established trees and the recently-planted avenue of trees. I then walked through the playing fields onto Handleys Lane. I was able to see the other component parts of the proposed local green space to the north and west of the Lane.
- 5.13 I continued to the northern end of Handleys Lane and then onto the Little Braxted War memorial. I then walked back into the village via Kelvedon Road and then the footpath connecting that road to the sports facilities. I then walked along the southern end of Handleys Lane and along Tiptree Road so that I could see the proposed local green space from a different viewpoint. In doing so I saw Mackmurdo Place. Its naming reinforced the connection between the late Arthur Mackmurdo and the neighbourhood area.
- 5.14 I then walked to the west of the village and looked at the Church and the burial ground on the opposite side of Church Road. I saw the way in which several people were walking along Church Road for their daily exercises and following social distancing guidelines in an exemplary fashion.
- 5.15 I then drove around the western part of the neighbourhood area. I saw the significance of the River Blackwater in the local landscape and the cluster of historic buildings where the B1018 crosses the River.
- 5.16 I finished my visit by driving to Beacon Hill and Great Totham. This helped me to understand the relationship between the different settlements in this part of the District.

## 6 The Neighbourhood Plan and the Basic Conditions

- 6.1 This section of the report deals with the submitted neighbourhood plan as a whole and the extent to which it meets the basic conditions. The submitted Basic Conditions Statement has helped considerably in the preparation of this section of the report. It is a well-presented and informative document. It is also proportionate to the Plan itself.
- 6.2 As part of this process I must consider whether the submitted Plan meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. To comply with the basic conditions, the Plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State;
  - contribute to the achievement of sustainable development;
  - be in general conformity with the strategic policies of the development plan in the area;
  - be compatible with European Union (EU) obligations and the European Convention on Human Rights (ECHR); and
  - not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 (7).
- 6.3 I assess the Plan against the basic conditions under the following headings.  
*National Planning Policies and Guidance*
- 6.4 For the purposes of this examination the key elements of national policy relating to planning matters are set out in the National Planning Policy Framework (NPPF) issued in February 2019. This approach is reflected in the submitted Basic Conditions Statement.
- 6.5 The NPPF sets out a range of core land-use planning issues to underpin both plan-making and decision-taking. The following are of particular relevance to the Wickham Bishops Neighbourhood Plan:
- a plan led system– in this case the relationship between the neighbourhood plan and the approved Maldon District Local Development Plan;
  - delivering a sufficient supply of homes;
  - building a strong, competitive economy;
  - recognising the intrinsic character and beauty of the countryside and supporting thriving local communities;
  - taking account of the different roles and characters of different areas;
  - highlighting the importance high quality design and good standards of amenity for all future occupants of land and buildings; and
  - conserving heritage assets in a manner appropriate to their significance.
- 6.6 Neighbourhood plans sit within this wider context both generally, and within the more specific presumption in favour of sustainable development. Paragraph 13 of the NPPF indicates that neighbourhoods should both develop plans that support the strategic needs set out in local plans and plan positively

to support local development that is outside the strategic elements of the development plan.

- 6.7 In addition to the NPPF I have also taken account of other elements of national planning policy including Planning Practice Guidance and ministerial statements.
- 6.8 Having considered all the evidence and representations available as part of the examination I am satisfied that the submitted Plan has had regard to national planning policies and guidance in general terms subject to the recommended modifications included in this report. It sets out a positive vision for the future of the neighbourhood area within the context of its role in the settlement hierarchy. In particular it includes a policy on its retail and business facilities, and other policies to safeguard its very special natural and built environment. The Basic Conditions Statement maps the policies in the Plan against the appropriate sections of the NPPF.
- 6.9 At a more practical level the NPPF indicates that plans should provide a clear framework within which decisions on planning applications can be made and that they should give a clear indication of how a decision-maker should react to a development proposal (paragraph 16d). This was reinforced with the publication of Planning Practice Guidance in March 2014. Paragraph ID:41-041-20140306 indicates that policies in neighbourhood plans should be drafted with sufficient clarity so that a decision-maker can apply them consistently and with confidence when determining planning applications. Policies should also be concise, precise and supported by appropriate evidence.
- 6.10 As submitted the Plan does not fully accord with this range of practical issues. The majority of my recommended modifications in Section 7 relate to matters of clarity and precision. They are designed to ensure that the Plan fully accords with national policy.

*Contributing to sustainable development*

- 6.11 There are clear overlaps between national policy and the contribution that the submitted Plan makes to achieving sustainable development. Sustainable development has three principal dimensions – economic, social and environmental. It is clear that the submitted Plan has set out to achieve sustainable development in the neighbourhood area. In the economic dimension the Plan includes policies for home-working (Policy Ec01) and for employment and retail uses (Policy Ec02). In the social role, it includes policies on community facilities (Policy F04), on community assets (Policy F05) and on lifetime homes (Policy H02). In the environmental dimension the Plan positively seeks to protect its natural, built and historic environment. It has specific policies on wildlife and biodiversity (Policy En01/02), on views and vistas (Policy En03) and on the designation of a local green space (Policy En05). The Parish Council has undertaken its own impressive assessment of this matter in the submitted Basic Conditions Statement.

*General conformity with the strategic policies in the development plan*

- 6.12 I have already commented in detail on the development plan context in Maldon in paragraphs 5.4 to 5.8 of this report.
- 6.13 I consider that the submitted Plan delivers a local dimension to this strategic context. The Basic Conditions Statement helpfully relates the Plan's policies to policies in the development plan. Subject to the recommended modification in this report I am satisfied that the submitted Plan is in general conformity with the strategic policies in the development plan.  
*European Legislation and Habitat Regulations*
- 6.14 The Neighbourhood Plan General Regulations 2015 require a qualifying body either to submit an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 or a statement of reasons why an environmental report is not required.
- 6.15 In order to comply with this requirement MDC undertook a screening exercise (July 2020) on the need or otherwise for a Strategic Environmental Assessment (SEA) to be prepared for the Plan. The report is thorough and well-constructed. As a result of this process, it concluded that the Plan is not likely to have any significant effects on the environment and accordingly would not require SEA.
- 6.16 The screening report also included a separate Habitats Regulations Assessment (HRA) of the Plan. It concludes that the Plan is not likely to have significant environmental effects on a European nature conservation site or undermine their conservation objectives alone or in combination taking account of the precautionary principle. As such Appropriate Assessment is not required.
- 6.17 The HRA report is both thorough and comprehensive. It takes appropriate account of the significance of the Essex Estuaries SAC, the Blackwater Estuaries SPA/Ramsar, the Dengie SPA/Ramsar and the Colne Estuary SPA/Ramsar sites. It provides assurance to all concerned that the submitted Plan takes appropriate account of important ecological and biodiversity matters.
- 6.18 Having reviewed the information provided to me as part of the examination, I am satisfied that a proportionate process has been undertaken in accordance with the various regulations. In the absence of any evidence to the contrary, I am entirely satisfied that the submitted Plan is compatible with this aspect of European obligations.
- 6.19 In a similar fashion I am satisfied that the submitted Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights (ECHR) and that it complies with the Human Rights Act. There is no evidence that has been submitted to me to suggest otherwise. In addition, there has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known. On the basis of all the evidence available to me, I

conclude that the submitted Plan does not breach, nor is in any way incompatible with the ECHR.

*Summary*

- 6.20 On the basis of my assessment of the Plan in this section of my report I am satisfied that it meets the basic conditions subject to the incorporation of the recommended modifications contained in this report.

**7 The Neighbourhood Plan policies**

- 7.1 This section of the report comments on the policies in the Plan. In particular, it makes a series of recommended modifications to ensure that they have the necessary precision to meet the basic conditions.
- 7.2 My recommendations focus on the policies themselves given that the basic conditions relate primarily to this aspect of neighbourhood plans. In some cases, I have also recommended changes to the associated supporting text.
- 7.3 I am satisfied that the content and the form of the Plan is fit for purpose. It is distinctive and proportionate to the Plan area. The wider community and the Parish Council have spent time and energy in identifying the issues and objectives that they wish to be included in their Plan. This sits at the heart of the localism agenda.
- 7.4 The Plan has been designed to reflect Planning Practice Guidance (Section 41-004-20190509) which indicates that neighbourhood plans must address the development and use of land.
- 7.5 I have addressed the policies in the order that they appear in the submitted plan. Where necessary I have identified the inter-relationships between the policies.
- 7.6 For clarity this section of the report comments on all policies whether or not I have recommended modifications in order to ensure that the Plan meets the basic conditions.
- 7.7 Where modifications are recommended to policies they are highlighted in bold print. Any associated or free-standing changes to the text of the Plan are set out in italic print.

*The initial section of the Plan (Sections 1-2)*

- 7.8 These initial parts of the Plan set the scene for the range of policies. They do so in a proportionate way. The Plan is presented in a professional way. It makes a very effective use of well-selected photographs and maps. A very clear distinction is made between its policies and the supporting text. It also highlights the links between the Plan's objectives and its resultant policies.

- 7.9 The Introduction addresses the background to neighbourhood planning. It comments about how the Plan has been prepared and how it will be used within the Plan period. The Plan defines the Plan period on its front cover. However, it does not do so within the document itself. I recommend a modification to remedy this matter.

*At the end of paragraph 1.1.5 add: 'The Plan period is 2016 to 2029'*

- 7.10 Section 1.2 describes keys elements of the neighbourhood area. It does so in a very effective fashion. It includes a map of the designated neighbourhood area (Map 1) It is comprehensive in its coverage and includes information on its location and its demographic profile. It helpfully sets the scene for the Plan.
- 7.11 Section 1.3 comments about the way in which the community was engaged in the preparation of the Plan. It overlaps with the submitted Consultation Statement.
- 7.12 Section 2 sets out a comprehensive vision and related objectives for the Plan. The Plan includes nine distinctive objectives. A key strength of the Plan is the way in which the objectives provide the basis for the resultant policies. In all cases the objectives are distinctive to the neighbourhood area. It is clear that the policies flow from the evidence base and the supporting text. This leads to a series of policies arranged under four headings as follows:
- Economy;
  - Environment;
  - Facilities; and
  - Housing.
- 7.13 The remainder of this section of the report addresses each policy in turn in the context set out in paragraphs 7.5 to 7.7 of this report.

Policy WBEC 01 Home Working

- 7.14 This policy seeks to facilitate and support home-working. In the current circumstances it is particularly timely. Its first part is general. Its second part comments about the importance of new dwellings incorporating ultrafast broadband connectivity.
- 7.15 I recommend that the first part of the policy acknowledges that not all proposals for home working would constitute development. Otherwise, it meets the basic conditions. Essex County Council suggests that the scope of the second part of the policy is broadened to incorporate all buildings in order to take account of its Superfast Essex Programme. Its suggestion is entirely appropriate in principle. However, it is not essential to ensure that the Plan meets the basic conditions. In any event, the policy refers simply to home-working and it is beyond my role to expand the nature/applicability of the policy.

**At the beginning of the first part of the policy add: 'Insofar as planning permission is required'**

## Policy WBEc 02 Business and Retail Areas

- 7.16 This policy highlights the importance of the existing business and retail areas to the well-being of the parish. They are located at Snows Corner and in The Street. I saw their significance during my visit. The policy supports proposals which would enhance these areas and identifies the basis on which proposals which would involve the loss of business uses would be determined.
- 7.17 The policy also has two other parts. The first requires the existing parking facilities at the business and retail areas to be retained. The second offers support for tourism related activities. In its response to the clarification note WBPC confirmed that this part of the policy was intended to apply throughout the neighbourhood area.
- 7.18 The substantive part of the policy is appropriate to the neighbourhood area and to the role of the village in the District settlement hierarchy. However, I recommend that it takes account of the 2020 update to the Use Classes Order which introduced important changes to retail/business categories within the Order. I also recommend that Map 3 is replaced by a map at a scale which shows the identified business areas. I also recommend that the part of the policy which offers support to the enhancement of the identified areas is clearer in its scope and relates to individual properties.
- 7.19 I recommend modifications to the part of the policy on car parking so that its applicability relates to the existing car parking areas – there is nothing in the substantive policy to suggest that there is scope for the extension of the retail/business areas and as such the policy does not need to comment about the provision of car parking.
- 7.20 I also recommend that the part of the policy on tourism clarifies its general applicability throughout the parish.
- 7.21 Finally I recommend that the policy title is broadened to take account of its incorporation of tourism issues.

**In the first sentence after ‘business areas’ add ‘(as shown on Map 3)’**

**Replace the second sentence with: ‘Proposals to enhance individual premises within the retail and business areas will be supported’**

**Replace ‘Proposals resulting in loss of local retail and business provision will be required to demonstrate that:’ with ‘Development proposals which would result in the loss of business uses (Class E) or of local community uses (Class F2) will only be supported where:’**

**Replace the parking element of the policy with:**

**‘Development proposals within the identified business and retail areas should safeguard the existing car parking and cycle parking provision. Proposals which would involve the loss of some or all of the existing parking facilities in the relevant business and retail area will only be supported where it can be demonstrated that the spaces concerned are**

**not used on a regular basis and/or that alternative and accessible parking facilities are incorporated within the wider development'**

**Replace the final element of the policy with:**

**'Development proposals for tourist accommodation will be supported where they are compatible with the scale, form and character of their surroundings and would not have an unacceptable impact on the amenity of residential properties in the immediate locality of the site concerned'**

*Revise the policy title to read: 'Business, Retail and Tourism Uses'*

*At the end of paragraph 3.1.7 add: 'The final part of Policy WBEc 02 offers support to further such uses. This part of the policy applies throughout the neighbourhood area'*

*Replace Map 3 with a map at a scale which show the buildings within identified business areas.*

Policy WBEEn 01 Recreational Disturbance

7.22 This is a very specific policy. Its approach is that, where proportionate, all residential development within the zones of influence of European Sites will be required to make a financial contribution towards mitigation measures, as detailed in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The RAMS approach has been designed to avoid adverse in-combination recreational disturbance effects on European Sites.

7.23 The Justification to the policy comments as follows:  
*'A Habitat Regulations Assessment has been completed for the Maldon District Local Development Plan. That assessment, together with the emerging Recreational disturbance Avoidance and Mitigation Strategy (RAMS) for the Essex Coast identify that the in-combination effects of the Plan, together with neighbouring local planning authorities Local Plans and neighbourhood plans are likely to adversely affect the integrity of European designated nature conservation sites ('European Sites').*

*(.....In this context) Maldon District Council is working with ten other Greater Essex local planning authorities, and Natural England, on a RAMS for the Essex Coast. RAMS is a strategic solution to protect the Essex coast from the recreational pressures of a growing population. A RAMS is usually driven by challenges and opportunities arising from planning issues. RAMS generally applies more broadly than at a single designated European site, provides strategic scale mitigation and enables the development of a generic approach to evidence collection and use.'*

7.24 The policy acknowledges that not all of the local planning authorities in Essex have committed to the Essex Coast RAMS. In this context paragraph 3.2.6 comments that '(in) the interim period, before the Essex Coast RAMS is completed, proposals within the zones of influence for recreational disturbance to European sites will need to carry out a project level Habitat

## APPENDIX 1

Regulations Assessment and implement bespoke mitigation measures to ensure that in-combination recreational disturbance effects are avoided and/or mitigated'

- 7.25 I sought clarification from WBPC on the current progress of the RAMS, the extent to which it is practicable and enforceable, and whether it might be a matter for any review of the Plan. MDC helpfully prepared a response for WBPC given the technical nature of the matter and commented as follows:

*'Maldon District Council adopted the Essex Coast RAMS Supplementary Planning Document (SPD) in August 2020. The Essex Coast RAMS will have been adopted by all the partner Councils by mid-February 2021. RAMS tariff contributions are already being collected across the Essex Coast RAMS area. The recruitment of the Delivery Officer is programmed for 2021. The Delivery Officer will implement the mitigation projects, as identified in the Essex Coast Recreational avoidance and Mitigation Strategy*

*RAMS SPD does not have to be adopted for the issue to be present and need to be addressed. The core issue is that development that has the potential to impact on coastal European designated sites are required to be compliant with the Habitat Regulations. The Essex Coast RAMS is already considered in the determination of planning applications. The lack of an agreement to provide for the tariff, and thus to demonstrate that there will not be an adverse effect on the designated sites, has been used as a reason for refusal. This approach has been supported by PINS Inspectors in their appeal decision letters.*

*Natural England expects Neighbourhood Plans within the Essex Coast RAMS SPD area to include a RAMS policy. The Essex Coast RAMS SPD will shortly be adopted by all the partner Councils. It would be inappropriate to leave its inclusion to future review of the Wickham Bishops Neighbourhood Plan'*

- 7.26 I have taken account of these very helpful responses. On the basis of all the evidence I am satisfied that it is appropriate for the submitted Plan to address this important strategic issue. Given the wider progress that is being made both on the RAMS SPD and the wider collaborative approach being taken by local authorities the strategic context is likely to be established by the time that the neighbourhood plan will reach its final procedural stages and, subject to a successful referendum, be made. In the event that this is not the case MDC will be able to respond to the policy as it sees fit. The incorporation of a policy of this nature will ensure a positive outcome within the submitted Plan to an important strategic matter.
- 7.27 I recommend modifications to the policy based on a suggested revised approach as suggested by MDC. The modifications shift the policy to one which addresses the broader habitats mitigation in general, and the effects of the Essex Coast RAMS SPD in particular. The indirect advantage of this approach is that it will future-proof the policy within the Plan period. I also recommend technical modifications to the Justification.

**Replace the policy with:**

**‘All residential development within the zones of influence of European Sites should make an appropriate financial contribution towards mitigation measures, as detailed in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document, to avoid adverse in-combination recreational disturbance effects on European Sites.**

**All residential development within the zones of influence should deliver all measures identified (including strategic measures) through project level Habitat Regulations Assessment (HRAs), or otherwise, to mitigate any recreational disturbance impacts in compliance with the Habitat Regulations and Habitats Directive’**

*In paragraph 3.2.4 replace ‘ten’ with ‘twelve’*

Policy WBEEn 02 Biodiversity and Natural Habitats

- 7.28 This policy takes a positive approach towards biodiversity and natural habitats. The Justification provides comprehensive information on this matter together with a summary of the key findings of a biodiversity audit report prepared by Essex Ecology Services in 2019. The policy has a general approach which is then underpinned by a series of more detailed development principles.
- 7.29 I recommend three modifications to the policy to ensure that it meets the basic conditions. The first incorporates a series of detailed word changes as suggested by Essex County Council insofar as they are necessary to ensure that the Plan meets the basic conditions. The second applies the development principles in a proportionate fashion to the development concerned and presents the principles as a series of bullet points. The third repositions the final three principles as separate elements of the policy.

**In the opening part of the policy insert ‘and ancient woodlands’ after ‘veteran trees’ and then delete ‘(NPPF) ancient woodland’ later in the same sentence**

**Replace ‘New development should seek to’ with ‘As appropriate to their scale, nature and location development proposals should’**

**Insert bullet points at the beginning of each of the development principles**

**Repositions the final three principles from the other principles and display them as separate elements of the policy.**

Policy WBEEn 03 Special Views and Vistas

- 7.30 This policy identifies a series of special views and vistas. Their identification overlaps with the work which has been undertaken on the Landscape Character Assessment. Paragraph 3.2.17 helpfully sets out the broader

relationship between the various views and the topographical setting of the parish within the Blackwater Valley and on the Tiptree Ridge.

- 7.31 The policy both describes the views and the reasons for their identification. In its response to the clarification WBPC provided the following details about how the views were identified:

*'The proposed viewpoints were initially identified from residents' input and were modified, as a result of the Regulation 14 consultation. In this survey, residents were asked to identify viewpoints which were considered of importance in terms of the rural character of the Parish, beauty and tranquillity, preservation of iconic views and vistas such as the view down the Blackwater valley to the river, and the spire of St. Bartholomew's Church. Those in the Plan reflect residents' views, a number having been identified by them'*

- 7.32 I am satisfied that the policy has been carefully-developed. The identified views capture much of the spirit and the character of the parish. In addition, the policy takes a balanced and non-prescriptive approach. I recommend that the 'protect or enhance' element of the policy is modified to bring the clarity required by the NPPF. Plainly in some cases it will be impracticable for new development to enhance the identified views or vistas. I also recommend a modification to correct an error in the map numbers referenced in the policy. Otherwise, the policy meets the basic conditions.

**In the first part of the policy replace:**

- 'protect or enhance' with 'protect or, where practicable, enhance'
- 'Map 5' with 'Map 6'
- 'provided' with 'provide'

Policy WBEEn 04 Open Spaces

- 7.33 This policy comments about open spaces. It has three related parts as follows:

- supporting proposals for, or which would include, open spaces, community woodlands and appropriate connections;
- the retention and enhancement of a series of identified open spaces; and
- ensuring that development proposals do not result in the coalescence of individual settlements.

- 7.34 I am satisfied that the first element of the policy meets the basic conditions. In a similar fashion the third part of the policy generally meets the basic conditions – I recommend a detailed modification to the wording used to bring the clarity required by the NPPF.

- 7.35 The second element of the policy identifies a series of parcels of land situated around the built-up part of the village. In the main they are in agricultural use. The parcel of land to the east of the village (off Handleys Lane) which is proposed as a local green space in the Policy WBEEn 05 is also proposed as an Open Space. In this and other cases the proposed Open Spaces also

extend outside the parish. This element of the policy has attracted a representation from Mazdev Ltd in relation to one of the identified Open Spaces.

- 7.36 I sought clarity from WBPC on the approach which it had taken on this matter. It acknowledged that the protection of the countryside beyond settlement boundaries was already addressed by Policy S8 of the adopted Local Development Plan. However, it commented that that the submitted policy would give further clarity, detail and certainty to the situation in the parish. It also commented that the submitted Plan proposes Open Spaces to connect with the Districtwide policy of protection of the countryside outside of the development boundaries.
- 7.37 I have considered this matter very carefully. Taking account of all the information available I recommend that this element of the policy is deleted. I have come to this conclusion for three related reasons. The first is that the protection of the countryside is already fully and properly safeguarded by Policy S8 of the Local Development Plan. That policy follows the approach in national policy, and in doing so identifies the limited types of development which would be supported in such locations.
- 7.38 The second is that the Plan has misinterpreted the definition of Open Space in the NPPF. National policy considers open spaces in a very specific fashion in its reference to ‘open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity’
- 7.39 The third is the way in which the policy is evidence-based. On the one hand it has arisen directly from the Plan preparation process and the associated community engagement processes. However, on the other hand the Plan has not produced any specific evidence to support the identification of Open Spaces either in their own right and/or to demonstrate that the general approach in Policy S8 of the Local Development Plan is insufficient to achieve the safeguarding of the parcels of land concerned.
- 7.40 I also recommend consequential modifications to the Justification.

**Delete the second component of the policy.  
In the third component of the policy replace ‘and minimises.... villages’ with ‘and do not result in the coalescence of Wickham Bishops with any other settlement’**

*Delete Map 7*

*Replace paragraphs 3.2.19 to 3.2.22 with:  
‘The Village Design Statement (2010) showed overwhelming support for open spaces, greens and verges retaining their rural character. It emphasised the importance of the open agricultural land around the village.  
The first part of the policy offers support to proposals which would provide or enhance open spaces or community woodland in the neighbourhood area.*

*The second part of the policy seeks to ensure that built development on the edge of Wickham Bishops does not result in its coalescence with surrounding settlements. This is particularly important given its proximity to both Beacon Hill and Great Totham.*

*This policy generally conforms to Maldon District Local Development Plan 2014 – 2029 – Policy S8. It is supported by The Landscape Character Analysis (The Landscape Partnership 2019) and has regard to National Planning Policy Framework'*

#### Policy WBEEn 05 Local Green Space

- 7.41 This policy proposes the designation of a local green space (LGS) on parcels of land surrounding Handleys Lane. Paragraph 3.2.23 of the Plan comments about the reasoning which underpins the proposed designation as follows:  
*'The Handleys Lane Local Green Space is identified as valuable to maintain the green lung of the village and its rural character; to maintain the rural feel of the village and to prevent the sense of overdevelopment and urbanisation which so many residents wish to resist. The Local Green Space adjacent to the byway on Handleys Lane is seen as a valuable calm relaxing haven within the centre of the village. The byway is a much-used pedestrian route through the village avoiding roads and providing linkages to the shop, doctors surgery and facilities in the village. The byway has trees and shrubs either side but there are views to both sides across the fields and beyond'*
- 7.42 The wider proposed LGS consists of four separate parcels of land located both to the west and to the east of Handleys Lane as follows:
- the paddock to the west of Handleys Lane (Elliott land);
  - the meadow to the north and west of Handley's Lane (Collier land);
  - the southern recreation area/sports pitches to the east of Handleys Lane; and
  - the northern recreation area/sports pitches to the east of Handleys Lane
- 7.43 The proposed designation has attracted separate objections from the owners of the two parcels of land to the west of Handleys Lane. The representations raise issues particular to each site. However, in general terms they comment about the extent to which the sites concerned are demonstrably special to the local community and hold a particular significance as required by the NPPF for LGS designations.
- 7.44 The Justification for the proposed LGS comments extensively about the relationship between the parcels of land and Handleys Lane. In this context I sought clarification from WBPC on the extent to which it had assessed the proposed LGS against the criteria in paragraph 100 of the NPPF. In its response WBPC submitted an assessment that was prepared in 2018 whilst the Plan was being developed. I have taken this assessment into account in coming to my own judgement on the extent to which the proposed LGS meets the criteria in the NPPF. Where it is appropriate and necessary to do so I

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comment on the four separate parcels of land within the proposed LGS. This approach reflects their different characters and uses.

*In reasonably close proximity to the community it serves*

- 7.45 I am satisfied that the proposed designation meets this criterion. It is located to the immediate north east of the village. Access into the eastern parcels of land is readily achieved from both Handleys Lane and from Great Totham Road

*Demonstrably special to the local community and holds a particular significance*

- 7.46 Given the different nature of the component parts of the proposed LGS I comment on each in turn in this part of the report as follows:

Handleys Lane – This is an attractive historic lane which runs through the centre of the proposed LGS. It is bordered by hedgerows and trees.

The paddock (Elliott land) – This component of the site is a paddock. At the time of my visit there was no evidence of equestrian use. Based both on my own observations of this parcel of land and the information in the 2018 LGS Assessment supplied by WBPC I do not find any specific evidence or information to justify that this part of the proposed LGS is demonstrably special to the local community.

The meadow (Collier land) – This component of the site is used as a meadow. At the time of my visit there was no evidence of grazing use. Based both on my own observations of this parcel of land and the information in the 2018 LGS Assessment supplied by WBPC I do not find any specific evidence or information to justify that this part of the proposed LGS is demonstrably special to the local community.

The southern recreation area – This component of the site is an important recreational facility in the village. The built facilities off Great Totham Road do not detract from its overall openness and attractiveness. There is a well-used footpath running through this parcel of land in a SW-NE direction from Great Totham Road to Kelvedon Road.

The northern recreation area – This component of the site operates in a complementary fashion to the parcel of land to its south. It includes only a small changing facility and as such has a very open character. It provides direct access to Handleys Lane to its west.

*Local in scale and not an extensive tract of land*

- 7.47 The size of the component elements of the proposed LGS are as follows:
- The paddock 1.0 hectares
  - The meadow 1.7 hectares
  - The two recreation areas 4.6 hectares
  - The remainder 0.5 hectares

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In this context I am satisfied that each of the elements is local in scale. When put together they amount to 7.8 hectares. In my view this is a figure which becomes an extensive tract of land.

- 7.48 Having considered all the evidence on this matter I am satisfied that the two recreation areas to the east of Handleys Lane and Handleys Lane itself meet the criteria for LGS designation. In particular in combination, they are an attractive open recreational area intersected by footpaths. Handleys Lane is directly connected to these two recreation areas. In coming to this judgement, I am also satisfied that the proposed LGS designation adds value to the existing protection for the two recreation sites in the Local Development Plan. Collectively they form an important green space on the eastern side of the village and provide for both formal and informal recreational activities.
- 7.49 In addition, I am satisfied that their proposed designation as a LGS accords with the more general elements of paragraph 99 of the NPPF. Firstly, I am satisfied that the approach is consistent with the local planning of sustainable development. The designation does not otherwise prevent sustainable development coming forward in the neighbourhood area and no such development has been promoted or suggested. Secondly, I am satisfied that the LGS (as recommended to be modified) is capable of enduring beyond the end of the Plan period. Indeed, it is an established element of the local environment and has existed in its current format for many years. In addition, no evidence was brought forward during the examination that would suggest that the local green space (as proposed to be modified) would not endure beyond the end of the Plan period.
- 7.50 In contrast I recommend that the two parcels of land to the west of Handleys Lane are removed from the proposed LGS designation. In my assessment their character, appearance and land uses do not meet the 'demonstrably special' criterion for LGS designation in the NPPF. In particular they are similar to other agricultural parcels of land on the edge of the village. In addition, they are located in the countryside beyond the settlement boundary where countryside policies apply. Whilst I understand WBPC's contention that they add to the attractiveness and tranquillity of Handleys Lane I am not satisfied that this is a matter which would warrant their designation as LGS.
- 7.51 I appreciate that this judgement will be a disappointment to WBPC. However, it is based purely on an assessment of the parcels of land concerned against the criteria for LGS designation in the NPPF. It should not be taken as an expression about the potential for development on the sites concerned. In any event there is a history of planning applications for built development on the two parcels of land being refused as follows:
- Elliott Land (16/01495 and dismissed appeal) - Proposal for five houses
  - Collier Land (17/00028) – Proposal for fifteen houses
- MDC will be able to determine any future applications for development on the parcels of land based on the policies in the development plan at that time.
- 7.52 The policy initially takes the matter-of-fact approach towards LGSs as set out in the NPPF that development will not be supported within a LGS other than in very special circumstances. Thereafter it adopts more of a balancing act in

attempting to identify a limited number of circumstances where development might be supported on designated LGSs. Given the location of the proposed LGS (as included in the submitted Plan) I can understand the circumstances which have caused WBPC to design the policy in this way. Nevertheless, I recommend a modification so that the policy takes the matter-of-fact approach in the NPPF. The recommended modification also takes account of the recent case in the Court of Appeal on the designation of local green spaces and the policy relationship with areas designated as Green Belts (2020 EWCA Civ 1259).

7.53 In the event that development proposals affecting the designated LGS come forward within the Plan period, they can be assessed on a case-by-case basis by MDC. In particular MDC will be able to make an informed judgement on the extent to which the proposal concerned demonstrates the 'very special circumstances' required by the policy. This may be particularly relevant as the two parcels of land concerned as actively in sport and recreational use. I recommend that the supporting text clarifies this matter.

7.54 I also recommend wider consequential modifications to the Justification.

**Replace the policy with:**

**'The recreation areas off Great Totham Road and Handleys Lane (as shown on Map 8) are designated as a local green space.**

**Development proposals within the designated local green space will only be supported in very special circumstances'**

*Revise Map 8 to show the recommended extent of the Local Green Space and to show its boundaries at an appropriate scale.*

*Replace paragraphs 3.2.23 to 3.2.25 with:*

*'The quiet, peaceful, friendly nature of the village, combined with its rural character, surrounded by beautiful countryside and green open spaces was cited by many residents in the 2018 survey as an important characteristic of the village. Policy WBen05 seeks to capture this character by designating the recreation areas to the north of Great Totham Road as Local Green Space.*

*Its designation meets the various criteria for such designations in the NPPF. In particular the land is an attractive open green space on the edge of the village and provides for a range of formal recreational activities. The land is also well-used for informal recreation. There is a well-used footpath running through the southern parcel of land in a SW-NE direction from Great Totham Road to Kelvedon Road. Handleys Lane is an attractive footpath in its own right and provides direct connections to the adjacent recreation areas. It is well-used by local people*

*The policy follows the matter-of-fact approach in national planning policy (NPPF paragraph 101). In the event that development proposals come forward on the local green space within the Plan period, they can be assessed on a case-by-case basis by the District Council. In particular it will be able to make an informed judgement on the extent to which the proposal concerned*

*demonstrates the 'very special circumstances' required by the policy. This may be particularly relevant as the local green space actively in sport and recreational use'*

Policy WBEEn 06 New Development and Flood risk

- 7.55 This policy seeks to prevent new development adding to flood risk in the neighbourhood area and to support the use of sustainable drainage facilities. The Justification draws attention to a series of local issues including the critical drainage area to the east of the neighbourhood area and the Sustainable Drainage Systems Design Guide for Essex.
- 7.56 I recommend that the policy is replaced with one which relates more closely to the NPPF and to the development management process. Whilst its format and purpose remain largely unchanged it incorporates the following modifications:
- an initial section which captures its approach in a more general fashion;
  - a closer relationship with Section 14 of the NPPF
  - a more nuanced relationship between the policy and the scale and the location of the development concerned – as submitted the policy applies to all development when many minor/domestic proposals would not necessarily have any direct impact on the policy.

**Replace the policy with:**

**'Development proposals should take account of the relationship between the site concerned and the drainage and water disposal profile of the neighbourhood area taking into account the current and future impacts of climate change so as to avoid, where possible, flood risk to people and property.**

**Development proposals will not be supported in areas at highest risk from surface water flooding. As appropriate to their scale, nature and location, development proposals should incorporate sustainable drainage principles to ensure that flood risk will not be increased either on or off site.**

**All new development proposals should be safe and flood resilient for their lifetime. In addition to their role in providing water management measure, and where practicable, sustainable drainage systems should be designed to be multi-functional and deliver benefits for wildlife, amenity and landscape. Surface water runoff from new developments should be discharged in a self-contained fashion and to appropriate standards in place at the time of the determination of the planning application concerned'**

Policy WBF 01 Burial Ground

- 7.57 This policy sets out support for potential extensions to the current burial grounds/cemeteries in the parish. It is designed as a criteria-based policy.
- 7.58 The Justification helpfully comments about the current provision and clarifies that the policy's focus is on the potential extension of such facilities rather than the development of new facilities. On this basis the criterion about a sustainable location is unnecessary and I recommend its deletion. I also recommend that the second and third sentences of the policy are restructured so that they would appear as criteria of the main part of the policy.
- 7.59 Otherwise the policy approach meets the basic conditions. It will assist in delivering the social dimension of sustainable development in the parish.

**Replace the policy with:**

**'Development proposals for the extension of burial grounds/cemeteries will be supported subject to the following criteria:**

- **they are designed to improve and/or create new biodiversity, habitats and green infrastructure; and**
- **they will not have an unacceptable impact on controlled waters including groundwater and surface water'**

Policy WBF 02 Sustainable Travel

- 7.60 This policy comments about sustainable travel. It has four related elements as follows:
- that priority should be given to pedestrian and cycle movements;
  - the need for development to incorporate safe pedestrian and cycling access;
  - support for improvements to existing footpaths; and
  - the need for new developments to be associated with travel statements and travel plans.
- 7.61 The policy takes an appropriate approach to these important matters. Subject to detailed word changes to ensure that the policy has the clarity required by the NPPF (and which incorporate comments received from Essex County Council as the highways authority) the policy meets the basic conditions. The replacement policy breaks the policy into distinct sections which relate more closely to the development management process.

**Replace the policy with:**

**'Development proposals should give priority to cycle and pedestrian movements and access to public transport.**

**Development proposals should deliver safe pedestrian and cycle connections within development sites and to the wider area, including key destinations. To ensure a comprehensive approach to movement, connections to both public transport and bridleway connections should also be incorporated where it is practicable to do so.**

**Development proposals which incorporate improvements to the existing footpath network (as shown on Map 9) will be supported.**

**As appropriate to their scale and nature new development proposals should incorporate Travel Plans, Transport Assessments and/or Statements in accordance with the Essex County Council Development Plan Policies (2011) or any successor document'**

Policy WBF 03 Highways Safety

- 7.62 This policy comments about highways safety. The Justification provides significant detail about the specific safety issues which exist in the parish.
- 7.63 Plainly these matters are of great importance to the local community. However as submitted the initial part of the policy largely restates national and local policy. The second part of the policy potentially conflicts with national policy in the way in which it may encourage new development to come forward to resolve pre-existing traffic and safety issues or where the proposed improvements to the highways network were not directly related to the development itself.
- 7.64 I recommend modifications to the policy to address these matters. The revised policy has a more positive policy format rather than one which is process-driven. In addition, it identifies the outcome of development proposals which would unacceptably impact on the capacity, efficiency and safety of the local highways network.

**Replace the policy with:**

**'Development proposals should take account of the capacity of the local highways network.**

**Development proposals which would have an unacceptable impact on the efficiency of the local highways network in general, and on its safety in particular will not be supported'**

Policy WBF 04 Community Facilities

- 7.65 This policy celebrates the importance of community facilities in the neighbourhood area. It identifies a series of facilities to which the policy would apply. It has two related parts. The first resists proposals which would involve the loss or harm to the identified facilities. The second supports proposals which would secure and/or enhance their use.
- 7.66 The policy is well-developed. In particular the range of facilities has been carefully selected. I saw their importance to the local community during my visit notwithstanding the effect of Covid-related restrictions on the activities of the more commercially-based of the listed facilities.
- 7.67 The community facilities are listed in the Justification. For clarity I recommend that they are listed in the policy itself.

- 7.68 I also recommend that commercial viability is included within that part of the policy which comments about proposals which would involve the loss of community facilities. This is particularly important to those facilities which, whilst offering important services to the community, are effectively commercial operations. Such an approach would have regard to national policy (NPPF paragraph 57).
- 7.69 I recommend that the order of the two elements of the policy is reversed. This will result in a more positive policy.
- 7.70 Finally I recommend a modification to the wording used in the Justification to avoid any confusion between the identified facilities and the two assets of community value (as addressed in Policy WBF 05).

**Replace the policy with:**

**‘The Plan identifies the following community facilities:**

**[At this point list the names of the facilities in the Justification (without the description of the facility itself)]**

**Development proposals which would enhance the community use of the identified community facilities or help to secure their viability will be supported.**

**Proposals that would result in the loss of the identified community facilities will not be supported unless:**

- **suitable alternate provision exists in the immediate area to serve the community; or**
- **suitable alternative provision is included in the development proposal itself; or**
- **the facility concerned is no longer commercially-viable’**

*In the Justification (3.3.13) replace the second sentence with: ‘Local residents particularly value the following community facilities’*

Policy WBF 05 Community Assets

- 7.71 This policy builds on the approach taken in the previous policy. In this case it has a clear focus on Assets of Community Value. There are two such assets in the parish – the library and the WW2 shelter. The policy has two related parts. The first resists proposals which would involve the loss or harm to the assets. The second supports proposals which would retain and/or extend their use.
- 7.72 The approach taken is both appropriate and distinctive. It will assist in delivering the social dimension of SD in the parish. I recommend that the order of the elements is reversed, and other detailed modification to the wording used so that it has the clarity required by the NPPF. Otherwise, it meets the basic conditions.

**Replace the policy with:**

**‘Development proposals to retain and/or to encourage extended local use of the Assets of Community Value will be supported.**

**Development proposals that will result in the loss of, or unacceptable harm to, an Asset of Community Value will not be supported’**

Policy WBF 06 Developer Contributions

- 7.73 This policy sets out a requirement that development proposals should identify the way in which they would contribute towards the delivery of community development. The policy identifies a series of potential examples of the application of any such funding - wildlife and habitat corridors, accessible wildlife conservation areas, increased footpath and footway provision, highways safety improvements and the delivery of a village pond, community gardens and/or allotments. The policy approach arises from the preparation of the Plan in general, and the findings of the Residents’ Survey in particular.
- 7.74 I sought advice from WBPC on whether the policy was a land use policy or a community action in general, and whether it was reasonable to apply to all development proposals. It advised that:
- ‘We understand that this (policy) would be difficult to apply to extensions of properties.....We believe this should refer to new residential or commercial development. We would be concerned if this (policy) was not the Plan, as we would want to use it to assess new proposals. If this was only in community actions, we would have no means of getting developer contributions specific to local needs. The policy in the Local Development Plan deals with this but residents identified it as a need locally’*
- 7.75 I also sought clarification from MDC about the way in which it was developing its approach towards the potential introduction of a Community Infrastructure Levy. It advised that:
- ‘The Council is currently considering its position with regard to the Community Infrastructure Levy (CIL), having obtained at the end of 2020 updated evidence via a Viability Study and updated Infrastructure Delivery Plan. The decision as to whether the Council will be pursuing CIL will most likely be made in the late spring 2021’*
- 7.76 I have considered the two sets of responses very carefully. In all the circumstances I recommend that the policy is deleted. I have come to this conclusion for two reasons. The first is that its approach takes no account of the Community Infrastructure Levy Regulations (2010 as amended). Regulation 122 requires that planning obligations should only be sought where they meet each of the three following tests – they are necessary to make the development acceptable in planning terms; they would be directly related to the development; and, they would be fairly and reasonably related in scale and kind to the development. As submitted the policy starts from the opposite premise that any development proposal should demonstrate how it could contribute towards the delivery of community infrastructure.

- 7.77 The second is that MDC has yet to implement a Community Infrastructure Levy (CIL). In these circumstances it is inappropriate for a neighbourhood plan to speculate about the outcome of this process. In addition, in the absence of a CIL WBPC would not benefit from any local element of CIL monies generated within the neighbourhood area (at either the standard rate in the absence of a neighbourhood plan or at the higher rate in the event that the Plan was eventually 'made').
- 7.78 However given the obvious importance of this matter to the local community I recommend that a non-land use community action is included within the Plan which sets out the local priorities for the application of the local element of CIL funding in the event that MDC adopts such an approach at some point within the Plan period.

**Delete the policy.**

*Delete 3.3.17 and 3.3.18*

*Introduce an additional section into the Plan after Section 3) as follows:*

***Community Aspirations***

*This section of the Plan addresses a particular Community Action. It arose during the wider preparation of the Plan. Whilst it is not directly a land use matter it has the potential to be delivered within the Plan period.*

*Community Action WBCA1: Local Application of Community Infrastructure Levy Funding*

*In the event that MDC implements a Community Infrastructure Levy (CIL) within the Plan period the Parish Council will apply the local element of CIL funding to the following projects:*

- *wildlife and habitat corridors;*
- *accessible wildlife conservation areas;*
- *increased footpath and footway provision;*
- *highways safety improvements;*
- *the delivery of a village pond, community gardens and/or allotments;*  
*and*
- *the delivery of information boards showing the location of footpaths*

*Justification*

*WBCA1 sets out the Parish Council's approach towards the local use of Community Infrastructure Levy funding in the event that Maldon District Council adopts such an approach.*

*Residents and the Parish Council have identified the need for information boards and a map of the local numbered footpaths for ease of use of local people and visitors. Identification board locations could include the*

*village hall, the church, the playing fields area. In the Residents' Survey (Autumn 2017) there was comment on the lack of infrastructure generally to support any significant increase in housing.*

*The Parish Council will monitor the use and effectiveness of the local application of CIL funding both in general, and as it may overlap with the District Council's strategic application of CIL funding. New priorities may arise within the Plan period'*

Policy WBH 01 Design and Character

- 7.79 This is a particularly effective policy which responds well to the national design agenda. It builds on the Design Statement (2010), the Housing Needs Survey (2016) and the Maldon District Design Guide (2017). It includes a series of distinctive design principles with which new development proposals should conform.
- 7.80 I recommend three modifications to bring the clarity required by the NPPF. The first ensures that the design principles are applied to development proposals on a proportionate basis. Plainly in some cases all the principles will apply to some developments whereas for others only some will be applicable. The second introduces bullet points before the principles so that their relationship to the wider policy is clearer. The third revises the language used in some of the design principles so that they flow more naturally from the revised wording at the beginning of the second part of the policy. Their effect remains unaltered. Otherwise, the policy meets the basic conditions. It will assist in delivering the environmental dimension of sustainable development in the parish.

**Replace 'Development must' with 'As appropriate to their scale, nature and location development proposals should'**

**Insert a bullet point before each of the design principles.**

**Replace the fifth to ninth design principles with the following:**

- **Design new boundary treatments to be sympathetic to the surrounding area in their size, height, character, materials and design;**
- **Where practicable and viable, incorporate features including both energy efficiency measures and green energy generation that improve the environmental performance of the development;**
- **Avoid the incorporation of street lighting in order to maintain the village character and protect dark skies;**
- **Use low level lighting on buildings to reduce impact on dark skies;**
- **Incorporate Building for a Healthy Life 12 principles (or similar such schemes) to allow people to stay in their homes throughout their lifetime**

Policy WBH 02 Lifetime Homes

- 7.81 This policy acknowledges the need for lifetime homes to address the ageing of the local population. It is comprehensively addressed in the justification.
- 7.82 The policy is part policy and part a statement of fact (to the extent that meeting housing needs can be accommodated by the application of Lifetime Homes standards). I recommend that the statement of fact matter is repositioned into the supporting text. The specific standard mentioned has been carefully developed. However, within the Plan period it may be updated and/or other similar standards which would have the same benefits may be introduced. I recommend modifications to remedy these matters. Otherwise, the policy is well-crafted. It will assist in delivering the environmental dimension of sustainable development in the parish.

**Replace the policy with:**

**‘New housing developments should address the local need for older persons’ housing allowing people to stay in their homes throughout their lifetime’**

*In 3.4.8 replace ‘Any new development should also be informed by Building for a Healthy Life 12 standards to enable people to stay in their homes for life (86% of responses in favour)’ with: ‘New development can address the requirements of Policy WBH 02 by being informed by Building for a Healthy Life 12 standards (or equivalent standards which emerge within the Plan period) to enable people to stay in their homes for life (86% of responses in favour)’*

Policy WBH 03 Heritage

- 7.83 This policy comments generally on heritage matters. In doing so it identifies the specific importance of St Peter’s Church and the Trestle Bridge.
- 7.84 In its response to the clarification note WBPC acknowledged that the policy largely repeated national and local planning policies on heritage and could be deleted. I recommend accordingly.
- 7.85 I also recommend that paragraph 3.4.10 is repositioned to the Introduction of the Plan in order to identify the significance of the built heritage in the parish. For clarity I also recommend the inclusion of an additional sentence at the end of the paragraph to highlight that heritage matters are already address fully by both national and local planning policies.

**Delete the policy**

*Reposition paragraph 3.4.10 to the introduction of the Plan. In doing so add the following sentence at the end of the paragraph: ‘National and local planning policies safeguard the historic environment of the parish’*

*Delete paragraph 3.4.11*

Other matters - General

- 7.86 This report has recommended a series of modifications both to the policies and to the text in the submitted Plan. Where consequential changes to the text are required directly as a result of my recommended modification to the policy concerned, I have highlighted them in this report. However other changes to the general text may be required elsewhere in the Plan as a result of the recommended modifications to the policies. It will be appropriate for MDC and the WBPC to have the flexibility to make any necessary consequential changes to the general text. I recommend accordingly.
- 7.87 This flexibility also extends to the numbering of policies in the event that WBPC wishes to renumber some of the policy sequences to take account of the recommend deletion of policies in this report.

*Modification of general text (where necessary) to achieve consistency with the modified policies.*

Other Matters – Acknowledgement in the Plan and additional photographs

- 7.88 In its response to the clarification note WBPC proposed additional persons should be included in the Acknowledgements section. To do so would be entirely appropriate and would be in the spirit of my comments in paragraph 7.87. This would also extend to any additional photographs which the Parish Council might wish to include in the Plan insofar as they are relevant to the approach taken in the Plan itself.

## 8 Summary and Conclusions

### *Summary*

- 8.1 The Plan sets out a range of policies to guide and direct development proposals in the period up to 2029. It is distinctive in addressing a specific set of issues that have been identified and refined by the wider community.
- 8.2 Following my independent examination of the Plan I have concluded that the Wickham Bishops Neighbourhood Development Plan meets the basic conditions for the preparation of a neighbourhood plan subject to a series of recommended modifications.

### *Conclusion*

- 8.3 On the basis of the findings in this report I recommend to Maldon District Council that subject to the incorporation of the modifications set out in this report that the Wickham Bishops Neighbourhood Development Plan should proceed to referendum.

### *Referendum Area*

- 8.4 I am required to consider whether the referendum area should be extended beyond the Plan area. In my view, the neighbourhood area is entirely appropriate for this purpose and no evidence has been submitted to suggest that this is not the case. I therefore recommend that the Plan should proceed to referendum based on the neighbourhood area as originally approved by Maldon District Council on 7 November 2016.
- 8.5 I am grateful to everyone who has helped in any way to ensure that this examination has run in a smooth and efficient manner.

**Andrew Ashcroft**  
**Independent Examiner**  
**10 February 2021**