



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

**to
STRATEGY AND RESOURCES COMMITTEE
15 JUNE 2021**

DUTY TO CO-OPERATE STRATEGY – APPROVAL TO CONSULT

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to recommend a new Duty to Co-Operate Strategy be approved for targeted consultation, to establish a firm foundation for the Local Development Plan (LDP) Review’s engagement other Duty to Co-Operate bodies.

2. RECOMMENDATIONS

- (i) That the Draft Duty to Co-Operate Strategy as set out in **APPENDIX A** for a targeted consultation with all other Duty to Co-Operate bodies be approved;
- (ii) That following consultation, an updated Duty to Co-Operate Strategy be brought back to the Strategy and Resources Committee, with appropriate amendments for final approval.

3. SUMMARY OF KEY ISSUES

3.1 Background

- 3.1.1 At its meeting on 23 February 2021, the Council resolved to update its statutory Local Development Scheme 2021-2024 and bring forward a review of the Local Development Plan (LDP).
- 3.1.2 Section 110 of the Localism Act 2011, inserted S33A into the Planning and Compulsory Purchase Act 2004 establishing a legal duty on all local authorities and other specific prescribed bodies to co-operate with each other to address matters relevant to their areas.
- 3.1.3 To help meet this obligation, this Strategy establishes the Maldon District Council’s commitment, as a ‘strategic policy-making authority’ to implement the Duty to Co-Operate (DTC) for its LDP Review. It sets out a framework of who it will make every effort to co-operate with, how it will seek to co-operate with them, when it will co-operate and what mechanisms it will put in place to record and ensure that co-operation occurs ‘constructively, actively and on an on-going basis’.
- 3.1.4 Although the DTC is not a duty to agree, the Council understands the value to the District’s communities and the wider geographic area of seeking co-operation on strategic and cross-boundary planning matters in a focused, positive and structured way.

3.2 Strategic and Cross Boundary Matters

3.2.1 The National Planning Policy Framework (NPPF) identifies strategic policies (and therefore strategic issues) as those which set the overall strategy for the pattern, scale and quality of development and make sufficient provision for:

- a) Housing, including affordable, employment, retail, leisure and other commercial development;
- b) Infrastructure for transport, telecommunications, security, waste management, water supply, waste water, flood risk and coastal change management, and the provision of minerals and energy (including heat);
- c) Community facilities, such as health, education and cultural; and
- d) Conservation and enhancement of the natural, built and historic environment including landscapes and green infrastructure and planning measures to address climate change mitigation and adaptation.

3.2.2 Strategic or cross-boundary matters are therefore those of the above, which are larger than local issues and that cannot be dealt with effectively by one local planning authority alone.

3.3 Duty to Cooperate Bodies

3.3.1 The Town and Country Planning (Local Development) (England) Regulations 2012 (as amended) establish the following bodies as being subject to the DTC. These would be the bodies the Council would consult on the Draft DTC Strategy and upon adoption, co-operate with:

- a) Essex County Council;
- b) Neighbouring and other Essex local planning authorities – Braintree, Chelmsford, Colchester, Rochford, Tendring, Uttlesford, Basildon, Castle Point, Harlow, Southend on Sea, Thurrock, Brentwood and Epping Forest;
- c) Civil Aviation Authority;
- d) Mid and South Essex Clinical Commissioning Group;
- e) Environment Agency;
- f) Essex County Highways Authority;
- g) Highways England;
- h) Historic England;
- i) Homes England;
- j) Local Nature Partnership (led by Essex Wildlife Trust);
- k) Natural England;
- l) NHS England;
- m) Marine Management Organisation;
- n) Mayor of London;
- o) Office of Road and Rail;
- p) South East Local Enterprise Partnership; and
- q) Transport for London.

3.4 Relationship with Corporate Plan

- 3.4.1 The Council's Corporate Plan 2021-2023 agreed in March 2021 provides a renewed framework of council priorities. It sets out 19 outcomes that focus the council's work across four strategic themes – Place, Prosperity, Community and Performance & Value.
- 3.4.2 Given its cross-cutting nature, many of the outcomes can be connected to the work of the LDP Review. Outcome 18: Meaningful Engagement however, establishes that the council will *“use engagement with our residents, businesses, partners and staff to inform our decision-making”*.
- 3.4.3 The Corporate Plan also adopted new Core Values for the council to use at all times to deliver its outcomes, including “Collaborate to Deliver”. This demonstrates that by co-operating with others, we already recognise the difference it can make to our communities.

3.5 Member Engagement

- 3.5.1 The Planning Policy Working Group considered the Draft DTC Strategy on 27 May 2021.
- 3.5.2 It noted in its discussion that:
- It was not a duty to agree, but the council needed to demonstrate that it had tried its hardest to find a way forward with partners, or the LDP could fail;
 - Issues in the District to do with education places would be a DTC matter with Essex County Council and members would also be engaged in those conversations;
 - It is not a legal requirement for us to have a DTC Strategy, but it does provide us with clarity in how we intend to approach the duty, including to a future LDP Planning Inspector;
 - Consulting on the strategy will help ensure it remains fit for purpose and affected partners are given the opportunity to refine it further so that it can work for them too;
 - The new Planning Bill could impact on the council by removing the Duty, however it remains the law at present and the council needs to continue to meet it until that changes;
 - The duty is regarded by the Government as a Member and Officer activity and sometimes the engagement of both representative groups of the council will be needed to seek to resolve issues otherwise faced by the DTC.

3.6 Consultation and Adoption

- 3.6.1 Should the Strategy be approved for consultation, it will be sent to the Duty to Co-Operate bodies listed above for a six-week targeted consultation. Any comments received would, in turn, be considered and changes made to the Strategy as appropriate before seeking the final Strategy's approval at a later date.

4. CONCLUSION

- 4.1 The Draft DTC Strategy 2021 is considered to be a clear, robust and effective approach to define how the council will manage its legal duty for co-operation with

other DTC bodies during the LDP Review and it is recommended to the Committee for approval to consult.

5. IMPACT ON STRATEGIC THEMES

- 5.1 The Strategic Themes of Place, Prosperity and Community seek to manage the council's response to strategic issues facing the District and the DTC Strategy will help ensure that Maldon District Council is better prepared to engage constructively and on an on-going basis with public bodies also subject to the Duty.

6. IMPLICATIONS

- (i) **Impact on Customers** – The DTC Strategy will assist in the engagement with specific bodies also subject to the same legal duty.
- (ii) **Impact on Equalities** – None itself. The LDP Review will however include an Equalities Impact Assessment (EQIA) as part of its evidence base to inform preparation of policies that meet the requirements of the Equality Act 2010.
- (iii) **Impact on Risk** – The DTC Strategy will help to reduce the risk that the LDP Review will fail legal duties that are not resolvable at Examination in Public and would result in the Plan being withdrawn.
- (iv) **Impact on Resources (financial)** – The LDP Review and Local Development Scheme had a programme budget agreed at Council on 23 February 2021. The DTC Strategy does not increase the need for resources.
- (v) **Impact on Resources (human)** – The DTC Strategy will not cause a negative impact on human resources, but it will be supported and delivered by officers and members.
- (vi) **Impact on the Environment** – The DTC Strategy should help to ensure any environmental benefits from the LDP Review are maximised where engagement with other DTC bodies is required.
- (vii) **Impact on Strengthening Communities** - The DTC Strategy should help to ensure any community benefits from the LDP Review are maximised where engagement with other DTC bodies is required.

Background Papers: None.

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