



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

**to
STRATEGY AND RESOURCES COMMITTEE
16 SEPTEMBER 2021**

APPROVAL OF DUTY TO CO-OPERATE STRATEGY

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is for the Committee to consider the feedback received from the targeted consultation responses on the Draft Duty to Co-Operate Strategy and any changes that are considered necessary to address this and then approve the Maldon District Duty to Co-Operate Strategy 2021 to support the delivery of a lawful and sound Maldon District Local Development Plan Review.

2. RECOMMENDATIONS

- (i) That the Committee notes the responses received to the Duty to Co-Operate Strategy targeted consultation and recommended changes as summarised in the Maldon District Duty to Co-Operate Statement of Consultation as set out in **APPENDIX 1**;
- (ii) that the updated Maldon District Duty to Co-Operate Strategy as set out in **APPENDIX 2**, be approved.

3. BACKGROUND

- 3.1 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 approved Local Development Plan (LDP) 2014 - 2029.
- 3.2 Section 110 of the Localism Act 2011, inserted S33A into the Planning and Compulsory Purchase Act 2004 establishing a legal duty on local planning authorities and other specific prescribed bodies to co-operate with each other to address strategic cross boundary matters relevant to their areas.
- 3.3 Strategic policies are identified by the National Planning Policy Framework (NPPF) as being 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.
- 3.4 Strategic 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.
- 3.5 To help determine how the Council should meet this obligation, on 15 June 2021 (Minute No. 105 refers) the Strategy and Resources Committee approved a Draft Duty to Co-Operate Strategy for targeted consultation with all bodies prescribed by the Town and Country Planning (Local Development) (England) Regulations 2012 (as amended).

4. CONSULTATION

- 4.1 A targeted six-week consultation took place between 18 June and 30 July 2021 with the following bodies:
- 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 & 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.
- 4.2 Responses were received from the following seven prescribed bodies, making 25 comments in total:
- Transport for London
 - Environment Agency
 - Essex County Council;
 - Natural England;

- Chelmsford City Council
- Marine Management Organisation; and
- NHS Mid & South Essex Clinical Commissioning Group.

4.3 A Statement of Consultation setting out these comments and the recommended changes is set out in **APPENDIX 1** and as transposed into the final Duty to Co-Operate as recommended for approval in **APPENDIX 2**.

4.4 For the Committee's interest and completeness, an officer from Rochford District Council has advised since the closure of the consultation that it had reviewed the document and had no comments to make.

4.5 **Summary of Comments and Recommended Actions**

4.5.1 Table 1 in **APPENDIX 1** sets out a summary of all comments and recommended actions.

4.5.2 To summarise, all the prescribed bodies that responded to the targeted consultation thanked Maldon District Council (MDC) for consulting them on the Draft Strategy. The overwhelming majority of comments supported the council's proposed approach and either had no specific comments to make or made their own commitments to help MDC in the update of evidence, support the preparation of the Infrastructure Delivery Plan, help test development options and support the preparation of Statements of Common Ground as part of the LDP Review and Duty to Co-Operate processes.

4.5.3 As a result of specific comments made by Essex County Council and the Marine Management Organisation some amendments to the Strategy's text have been made to clarify the council's intentions and ensure it aligns to Planning Practice Guidance.

4.5.4 Essex County Council, Chelmsford City Council and the NHS Mid and South Essex Clinical Commissioning Group have all recognised the new efforts by MDC to establish proactive engagement arrangements with their organisations to support the preparation of the LDP Review and welcome future collaboration through these and any new means.

4.5.5 Essex County Council raised a specific point that a Greater Essex Local Nature Partnership (LNP) and the Local Enterprise Partnership. The LNP is in the early stages of being established and approved by the Government, alongside an outline for a Local Nature Recovery Strategy. This Partnership will involve local authorities including Maldon District Council, as well as business and environmental / community interest groups. Themes that will be covered by the Partnership are the natural environment, biodiversity net-gain, green infrastructure, local nature recovery, climate change and environmental links to planning, economy and health and well-being. The South East LEP already exists but it is not a prescribed Duty To Cooperate (DTC) body. Whilst the Regulations do not explicitly mention LNPs or LEPs as DTC bodies, Planning Practice Guidance has since been updated and now states that "...local planning authorities, county councils in England, and prescribed bodies must cooperate with them. Local planning authorities must have regard to their activities when they are preparing their Local Plans, so long as those activities are relevant to plan-making". The Strategy has therefore been changed to clarify this point.

4.5.6 Finally, it is worth noting that the Marine Management Organisation have offered the council further support via the DTC in helping to understand the role of the South

East Marine Plan, alongside the LDP Review. Officers will make the necessary arrangements for a briefing with the appropriate officers and members at a future day.

5. THE UPDATED STRATEGY'S RELATIONSHIP WITH THE CORPORATE PLAN

- 5.1 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.
- 5.2 Given its cross-cutting nature, many of the outcomes can be connected to the work of the LDP Review and are covered by the updated Strategy. Outcome 18: Meaningful Engagement however, establishes that the Council will *"use engagement with our residents, businesses, partners and staff to inform our decision-making"*.
- 5.3 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 as agreed in the updated Strategy, we already recognise the difference it can make to our communities.

6. CONCLUSION

- 6.1 Following the consultation on the Draft Duty to Co-Operate Strategy 2021 earlier this year, changes have been made to reflect the relevant points made by consultees and it is recommended that the Committee approves the Maldon District Duty to Co-Operate Strategy as set out in **APPENDIX 2**, enabling it to be used when engaging in the duty during the LDP Review and any other strategic cross-boundary issues with prescribed bodies.

7. IMPACT ON STRATEGIC THEMES

- 7.1 The Strategic Themes of Place, Prosperity and Community seek to manage the council's response to strategic issues facing the District and the Duty to Co-Operate 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.

8. IMPLICATIONS

- (i) **Impact on Customers** – The DTC Strategy assists 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 helps 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 will 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 will 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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