

# **Maldon District Council**

## **Local Development Plan Review**

Duty to Co-operate Strategy

Temporary Cover

September 2021

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## 1. Our Strategy

- 1.1. The Localism Act 2011 established a legal duty on all local authorities and prescribed bodies as defined in Town and Country Planning (Local Development) (England) Regulations 2012) to co-operate with each other to address strategic matters relevant to their areas.
- 1.2. This Strategy establishes MDC's commitment, as a 'strategic policy-making authority' to implement the Duty to Co-operate (DTC) for its Local Development Plan Review (LDP Review).
- 1.3. It sets out a framework of who we will make every effort to co-operate with, how we will seek to cooperate with them, when we will co-operate and what mechanisms we will put in place to record and ensure that co-operation occurs 'constructively, actively and on an on-going basis' as required by Section 110 of the Localism Act 2011.
- 1.4. Although the DTC is not a duty to agree, the Council understands the value to the District and the wider geographic area of seeking co-operation on strategic and cross-boundary planning matters in a focused, positive and structured way.
- 1.5. Concurrently, MDC will continue to work 'constructively, actively and on an on-going basis' with nearby strategic policy-making authorities on their own statutory Local Plan preparation or reviews, as well as other prescribed bodies.

### Impact of Planning Reform

- 1.6. The Government's Planning White Paper: Planning for the Future was published in 2020 setting out a series of proposals to reform the planning system in England, with the intention on streamlining and modernising the planning process. Proposal 3 included removing the Duty to Co-Operate test, albeit that the Government announced that it would be giving further consideration to the way in which strategic, cross boundary issues can be adequately planned for. A new Planning Bill was announced in the Queen's Speech 2021.
- 1.7. For as long as there remains a legal duty to co-operate with other prescribes bodies, this Strategy will be the approach used to deliver those obligations so as not to delay plan-making in Maldon District. Any changes to legislation or national policy that follows as a result of planning reforms will be considered at a later date.

### Consultation

- 1.8. This Strategy was subject to a 6-week targeted consultation with all other bodies subject to the legal duty and the feedback received was used to shape the final strategy, as documented in its Statement of Consultation.

## 2. Our Approach

### Maldon District Corporate Plan

- 2.1. Maldon District Council's Corporate Plan 2021-2023 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. Given its cross-cutting nature, many of the outcomes can be connected to the work of the LDP Review. Outcome 18: Meaningful Engagement establishes that MDC will “*use engagement with our residents, businesses, partners and staff to inform our decision-making*”.
- 2.2. The Corporate Plan also sets out Core Values which MDC will 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.

### National Policy & Guidance

- 2.3. The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) set out specific requirements or advice for how the DTC can be effectively discharged.
- 2.4. The DTC seeks to ensure that councils deliver effective strategic planning through their local plans by working with other councils beyond their administrative boundaries. This is to help to ensure that social, environmental and economic issues are addressed having considered the most relevant spatial scale, rather than just administrative boundaries. There is also recognition that the outcomes of the DTC for these issues require positive, constructive and continuous partnership working between councils.
- 2.5. MDC has taken the NPPF and PPG into account in preparing this Strategy including:
  - As a strategic policy-making authority, MDC will collaborate to identify relevant strategic matters to address in the LDP Review;
  - Recognising that effective and on-going joint working between strategic policy-making authorities and relevant bodies is integral to the production of a positively prepared and justified strategy, determining where additional infrastructure is necessary and how development needs will be planned for;
  - Preparing, maintaining and publishing Statements of Common Ground, documenting the cross-boundary matters being addressed and progress in co-operating between bodies to address them.
- 2.6. The timetable for preparing the LDP Review and other policy and guidance is set out in the latest [Local Development Scheme](#) (LDS).
- 2.7. The 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, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);
- c. Community facilities (such as health, education and cultural infrastructure); 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.

2.8. Strategic matters are therefore those which are larger than local issues that cannot be dealt with by one local planning authority alone.

### Purpose of Strategy

2.9. The Strategy therefore describes to neighbouring and nearby local planning authorities (See Map in **Appendix 2**) and prescribed bodies what co-operation and engagement arrangement they can expect from MDC on any strategic, cross boundary planning matters identified and how they can participate in ensuring they are adequately considered to ensure that they can positively influence the evolution of the LDP Review and shape the proposals as they emerge.

## 3. Our Audience

3.1. The Strategy is aimed at neighbouring and nearby local planning authorities, Essex County Council and a range of other prescribed bodies as defined in legislation and guidance. These are listed in **Appendix 1** and these bodies are reciprocally required to co-operate with MDC on strategic, cross-boundary planning matters of concern.

3.2. The Strategy should be helpful to other relevant bodies that MDC might need to co-operate with when preparing the LDP Review. These include the Local Enterprise Partnership, NHS Clinical Commissioning Group and private sector utility and infrastructure providers as set out in **Appendix 1**. These other bodies could have a key role in supporting the Council in its LDP Review, developing the evidence base, testing development options and commenting on draft policies.

3.3. The Strategy is not aimed at other important LDP Review consultees such as statutory consultees (that are not Duty to Cooperate bodies) such as local residents, community groups, Parish & Town Councils, landowners, developers, utility providers or emergency services as these are not specifically listed as DTC bodies by Regulations. However, MDC will engage and consult these people and organisations on its LDP Review, Supplementary Planning Documents and when considering planning applications, it receives. How this will take place is set out in a separate statutory document called the [Statement of Community Involvement](#) (SCI).

## 4. Our Approach to Duty to Cooperate

- 4.1. Co-operation on preparing the LDP Review will be a two-way process between different authorities and bodies. Our timetables for strategic documents will not always be aligned and we must respect the differences in each other's organisation's responsibilities.

### Scoping Strategic & Cross-Boundary Issues

- 4.2. We will seek to scope out the strategic cross boundary issues facing the District as early as possible in the plan-making process. We will engage the Duty to Cooperate bodies individually and through any existing forums, as frequently as is necessary through formal meetings, informal meetings (virtual where possible), in writing and by commenting on plans and strategies developed by each other; so we can help shape each other's direction.
- 4.3. Throughout the LDP Review process, the list of strategic cross boundary matters and opportunities for joint working between prescribed bodies will be kept under review by MDC and influence the engagement and cooperation activities promoted.

### Engagement Arrangements

- 4.4. MDC will build-on existing and established joint working mechanisms that exist at an officer/member level (or both), as set out in **Appendix 3** and will only seek to establish a new engagement approach where there is a gap to ensure strategic issues are not disjointed from other strategic conversations.
- 4.5. Co-operation arrangements MDC propose to consider using include:
- Joint Member Meetings, Committees and Working Groups;
  - Joint Officer Meetings, Boards and Associations;
  - Commissioning of joint evidence base studies and reports;
  - Joint or aligned plans across Council areas;
  - Joint mechanisms for considering unmet housing or Gypsy & Traveller needs;
  - Memorandums of Understanding as a framework for co-operation;
  - Getting key decisions in writing from other authorities/ bodies;
  - Confirming understanding/ intentions in writing;
  - Partnership agreements or joint statements of policy/ strategy; and
  - Iteratively prepared Statements of Common Ground.
- 4.6. These arrangements will be undertaken in addition to statutory LDP Review and planning application consultations and any general correspondence issued by MDC.
- 4.7. MDC will seek to ensure that co-operation and engagement is undertaken by both Members and Officers. It will also ensure that arrangements for co-operation are fit for purpose and reasonable and will consider any feedback it receives from another prescribed body if they should feel that the co-operation is not being successful.

## Disagreement

- 4.8. MDC recognises that there may be future instances where an offer of co-operation from MDC to another party is declined, or agreement on shared-policy outcomes or approach cannot be achieved. Although the DTC is not a duty to agree, MDC will make every effort to ensure that strategic cross-boundary planning matters are properly identified and addressed as the LDP Review develops through its preparation stages and that any major disagreements are resolved, as far as practically possible, before submission to the Secretary of State for Examination in Public by the Planning Inspectorate.
- 4.9. Where it is considered necessary, MDC will use an independent arbitrator to try to reach a resolution with other parties.

## 5. Demonstrating Compliance

### Comprehensive & Robust Evidence

- 5.1. The DTC is a legal requirement and is the first thing the Planning Inspectorate will assess before considering whether the Plan is sound. To do this, the Planning Inspectorate will require comprehensive and robust evidence to demonstrate that the duty has been met, which will be considered at the Examination in Public in 2022/2023.

### Statements of Common Ground

- 5.2. The PPG expects councils to prepare a single Statement of Common Ground covering all strategic-plan making authorities. MDC consider that in practice this could become a rather complex process to manage given the different discussions and strategic issues, vary authority to authority. To be pragmatic, where possible, MDC propose to have a common first section of the Statement of Common Ground (SOCG), which is shared between all strategic plan-making authorities<sup>1</sup>. This would be supplemented with all detailed strategic cross-boundary matters addressed issue by issue between individual authorities or groups of authorities.
- 5.3. For the remainder of the SOCGs, MDC will seek to use an iterative, three-phased steps to a SOCG as illustrated in **Appendix 4** to record its engagement in co-operating. SOCGs will detail key information, provide clear signposting and links to evidence on websites where at all possible.

1. **Scoping SOCG** – these will set out the initial parties in discussion, the geographic area covered, the governance arrangements that are available, the strategic cross-boundary matters that exist between the authorities and any existing cooperation arrangements that exist that could continue to apply. These would be developed during policy and evidence activities undertaken to support Regulation 18 of the Town and Country Planning (Local Development) (England) Regulations 2012.

2. **Draft SOCG** – these will be version-controlled documents building on the Scoping SOCG and establish the matters agreed, outstanding matters, the process that are proposed to be used to seek a resolution or reach an agreement where possible, any potential additional signatories whose help may be needed to address the strategic issue and when the review of the SOCG can be expected. These would be developed during policy and evidence activities undertaken to support Regulation 18 and 19 of the Town and Country Planning (Local Development) (England) Regulations 2012.

3. **Final SOCG** – these will be the version which sets out the matters agreed, any matters which cannot be agreed, the governance arrangements to manage them into the future and all signatories party to them. These would be developed during policy activities undertaken to support Regulation 22 and 24

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<sup>1</sup> The Marine Management Organisation will only be an additional signatory

of the Town and Country Planning (Local Development) (England) Regulations 2012.

5.4. It is proposed that the final versions of SOCG will:

- Describe and show on a map the geographical areas the statement applies to;
- Set out the key strategic matters addressed;
- Set out the plan-making authorities and signatories responsible for joint-working arrangements;
- Detail the governance arrangements for the cooperation process and how it will be kept up to date;
- Set out how strategic cross boundary issues concerned with development needs of the District, the capacity of the area to meet those needs and the proposed distribution. If there is any unmet need, it will set out the extent and what agreement has been reached (or not) about how needs could be redistributed;
- Set out how the strategic cross boundary issues which relate to environmental or infrastructure assets regulated, owned or maintained by other public bodies subject to the DTC have been considered in the context of development needs and whether any agreements have been reached on the principles of mitigation or long-term management;
- Include a record of where agreement have or have not been reached on key strategic matters, including the process used to reach them; and
- Confirm whether each Statement relates to any other Statements covering the same or part of the same area.

5.5. SOCG will remain in draft form until they are signed by all signatories, which may mean they are not published until the submission of the Local Development Plan or its Examination in Public. Drafts will be water-marked to aid clarity.

## Record Keeping & Reporting

5.6. MDC will regularly record and report on co-operation and engagement activities, what decisions have been reached and why and what outcomes have been reached for LDP Review. These will be reported in summary form annually in the Authority Monitoring Report (AMR) and may be reported through other formal mechanisms, such as to through reports to the Strategy & Resources Committee or Council.

5.7. For the LDP Review, this evidence will be set out in a DTC Statement of Compliance submitted to the Secretary of State alongside the LDP Review. This will highlight to the Planning Inspector how preferred strategic approaches and policies have resulted from effective cooperation and joint-working.

## Appendix 1 – Relevant Duty to Cooperate Bodies

1.1. The following 'Duty to Cooperate' bodies as set out in the Town & Country Planning (Local Planning) (England) Regulations 2012 (as amended) are relevant to the preparation and implementation of the Maldon District Local Development Plan Review:

- Essex County Council
- Neighbouring and Essex local planning authorities including Braintree, Chelmsford, Colchester, Rochford, Tendring, Uttlesford, Basildon, Castle Point, Harlow, Southend-on-Sea, Thurrock, Brentwood and Epping Forest;
- Civil Aviation Authority;
- NHS Mid & South Essex Clinical Commissioning Group;
- Environment Agency;
- Essex County Highways Authority;
- Highways England;
- Historic England (as the Historic Buildings and Monuments Commission for England)
- Homes England;
- Natural England;
- NHS England (as the National Health Service Commissioning Board);
- Marine Management Organisation;
- Mayor of London (Greater London Authority);
- Office of Road and Rail; and
- Transport for London.

1.2. In addition, Planning Practice Guidance (Paragraph 030 Reference ID: 61-030-20190315), whilst Local Enterprise Partnerships and Local Nature Partnerships are not subject to the requirements of the duty, LPAs, county councils and prescribed bodies must cooperate with them. LPAs must also have regard to their activities when they are preparing their Local Plans, so long as those activities are relevant to plan-making.

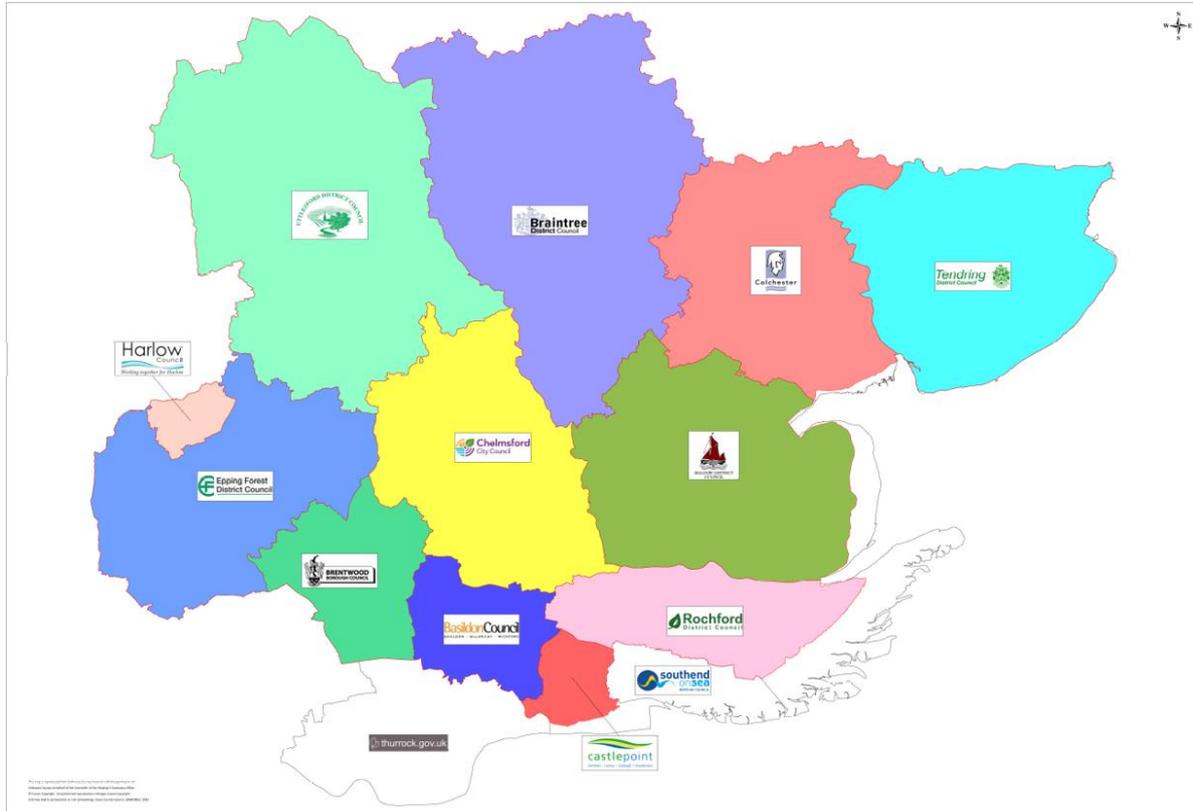
1.3. Therefore, to comply with the PPG, MDC will also cooperate with the:

- Greater Essex Local Nature Partnership<sup>2</sup>; and
- South East Local Enterprise Partnership.

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<sup>2</sup> Once it is formally established by the Government

## Appendix 2 – Strategic Policy Authorities Context Map



(Source: Essex County Council)

### Appendix 3 – Existing Co-Operation Governance Mapping

Public Body	Name of Existing Cooperation Arrangements	Level (Member/Officer)	Strategic Cross Boundary Theme <sup>3</sup>
<b>Essex County Council</b>	MDC & ECC LDP Review Strategic Liaison Group (SLiG)	Officer	ECC statutory functions relating to highways, public transport, minerals and waste planning, flood risk, education, public health & adult social care.
	MDC & ECC Transport Coordination Group (TCG)	Officer	Highways and Public Transport project coordination and delivery
<b>Neighbouring and other Essex Local Authorities</b>	Essex Partnership Board	Member & Officer	Local Government Administration
	Essex Chief Executives' & Leaders' Group (15 LAs)	Member & Officer	Local Government Administration (including Planning, Housing, Economy, Transport, Regeneration) etc.
	Essex Planning Policy Portfolio Holder & Chairman's (14 LPAs and ECC)	Member	Planning, Growth, Design, Infrastructure, Housing
	Essex Planning Officers' Association (14 LPAs and ECC)	Officer	Planning, Growth, Design, Infrastructure, Housing
	North Essex Economic Board (Uttlesford, Chelmsford, Maldon, Braintree, Tendring and Colchester)	Member & Officer	Economy
	Transport East (LGA)	Member & Officer	Strategic Road and Rail Connections & Investment
	Essex Coastal Forum	Member & Officer	Coastline Management & Essex RAMS
	Essex Flood Partnership Board	Member	Flood Risk, Drainage & Investment
	Essex Air Quality and Pollution Group	Officer	Environmental Pollution
Superfast Essex Steering Board	Member	Broadband Investment	

<sup>3</sup> Not intended to be exhaustive – all strategic cross boundary issues relevant to MDC will be set out in Statements of Common Ground

Public Body	Name of Existing Cooperation Arrangements	Level (Member/Officer)	Strategic Cross Boundary Theme <sup>3</sup>
	Health & Wellbeing Forum	Member & Officer	Public Health
<b>Civil Aviation Authority</b>	n/a	n/a	Airport Regulation & Airspace Management
<b>Environment Agency</b>	Essex Flood Partnership Board; Maldon District Strategic Flooding Projects Group	Member & Officer	River Catchment Management, Shoreline Management, Water, Flood Risk Mitigation
<b>Essex Highways Authority</b>	Local Area Highways Panel	Member	Highways
<b>Highways England</b>	A12 Chelmsford to A120 Widening Scheme Regional Delivery Partnership	Member & Officer	A12/A120 Strategic Routes
<b>Homes England</b>	MDC & Homes England Liaison Meetings	Officer	Housing, Regeneration, Development, Investment
<b>Historic England</b>	None	n/a	Historic environment
<b>Local Nature Partnership</b>	TBC	n/a	Natural environment
<b>Natural England</b>	None	n/a	Natural environment
<b>NHS England</b>	None	n/a	Public Health
<b>Mid &amp; South Essex NHS Clinical Commissioning Group</b>	Maldon Operational Group Maldon & MSE CCG Liaison Meetings	Member & Officer	Primary and Acute Health Care
<b>Marine Management Organisation</b>	None	n/a	Marine Planning
<b>Mayor of London (Greater London Authority)</b>	Wider South East Political Steering Group (LGA)	Member	Opportunities & impacts of Greater London on Wider South East
<b>Office for Road and Rail</b>	None	n/a	Road and Rail Regulation
<b>SELEP</b>	Essex Business Board	Member	Economy
	Coastal Communities Working Group	Officer	Coastal Communities
	Rural Working Group	Officer	Rural Communities
<b>Transport for London</b>	Wider South East Political Steering Group (LGA)	Member	Opportunities & impacts of Greater London Transport system on Wider South East

## Appendix 4 – Model Final Statement of Common Ground

<p><b>Front Cover</b></p> <p>Maldon District Local Development Plan Review Statement of Common Ground</p> <p>Signatories Logos</p>
<p><b>1. Main Parties:</b> <i>A list of bodies which have engaged in the SOCG – short summary of each body to aid contextual understanding)</i></p>
<p><b>2. Applicable Strategic Geography</b> <i>including a map, short description and justification for the strategic planning area that covers the SOCG.</i></p>
<p><b>3. Strategic Matters Considered</b> <i>Define and agree on the strategic/ cross boundary issues</i></p> <p><i>Establish the matters where a policy approach has been <u>agreed</u>, including any support for evidence or complimentary projects or initiatives, or additional partners.</i></p> <p><i>Establish any matters that are <u>outstanding</u>, noting the implications for strategic/cross boundary context and what process will happen to seek to resolve them before the SOCG is finalised, including any arbitration.</i></p>
<p><b>4. Governance Arrangements</b> <i>Define any specific governance arrangements that will be used to make decisions on delivering activities set out in the SOCG</i></p>
<p><b>5. Timetable for review and ongoing cooperation</b> <i>Establish a target date for agreeing the SOCG or when a review may need to be considered.</i></p> <p><i>Establish how strategic issues will be managed on an ongoing basis after plan adoption, any specific mechanisms or partnerships that will be used and how it will be monitored by all signatories.</i></p>
<p><b>6. Signatories</b></p> <p><b><i>Name of Lead Officer and Lead Committee/ Cabinet Member/ Board Member of each Organisation.</i></b></p>