



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

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to  
**COUNCIL (EXTRAORDINARY)  
25 AUGUST 2022**

**OFFICER RESPONSE TO MEMBER MOTION – FIVE YEAR HOUSING LAND SUPPLY**

**1. PURPOSE OF THE REPORT**

- 1.1 The purpose of this report, in response to a Member motion is to establish a Five-Year Housing Land Supply (5YHLS) Working Group and to set out the proposed Terms of Reference for the Working Group.

**2. RECOMMENDATIONS**

- (i) That a Five-Year Housing Land Supply Working Group is established to consider the circumstances of calculating and maintaining a Five-Year Housing Land Supply in the District;
- (ii) That the Working Group consists of three Conservative, three Independent Group and three non-aligned Members;
- (iii) That the Council approves the Terms of Reference for the Working Group as set out below.

**3. BACKGROUND**

- 3.1 This report sets out Officer recommendations for the establishment of a working group to review the methodology of the Council's 5-year housing land supply (5YHLS), as per the motion to Council set out below:

**3.2 Motion to Council**

“That at the request of Cllr Kevin Lagan and Cllr Adrian Fluker you call an Extraordinary Meeting of Maldon District Council within 7 days following the debate over the Briefing Document headed ‘Topic – 5 Year Housing Land Supply’ which was tabled under Agenda Item 7 at the meeting of the Overview and Scrutiny Committee on 28th July 2022 to consider the following motion:

- (i) That a working group is established to consider the 5-year Housing Land supply and that recommendations from this working group come back to full council for ratification.
- (ii) That the working group consists of three 3 conservative, 3 Independent Group and 3 non-aligned members plus one person who is not a member of Maldon district Council.”

- 3.3 Paragraph 11 of the National Planning Policy Framework (NPPF) requires local planning authorities to apply a 'presumption in favour of sustainable development' when making planning decisions concerning plan-making and planning application decision-making. For decision-making, it qualifies that it means where there are no relevant Development Plan policies, or the policies which are most important are out-of-date (which includes when a Local Planning Authority cannot demonstrate a 5YHLS of deliverable housing sites, with the appropriate buffer applied), the local planning authority should be granting planning permission, unless the NPPF policies that protect specific environmental assets provide a clear reason to refuse the development, or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the rest of the NPPF.
- 3.4 Paragraph 74 of the NPPF states furthermore that "Local Planning Authorities should identify and update annually, a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategies policies, or against their local housing need, where the strategic policies are more than five-years old".
- 3.5 The member motion set out in paragraph 3.2 requests the review of the Council's 5YHLS, this can be achieved by establishing a 5YHLS Working Group 2022 which can be tasked by the Council through specific Terms of Reference (as outlined below).

#### **Proposed Working Group's Terms of Reference**

The Five-Year-Housing Land Supply Working Group 2022 be tasked with:

- Confirming the methodology that is used by Maldon District Council to determine the Five-Year-Housing Land Supply, including any criteria for when approved housing units can be included, or excluded;
- Comparing any alternative 5YHLS methodologies that can be evidenced as having been used successfully in other English Local Planning Authorities;
- The working group may seek independent professional external advice
- Recommending to Council the methodology that should be used in the future to continue to monitor and report on the Maldon District 5YHLS .

#### **3.6 Appointment of Working Group Members**

- 3.6.1 The Motion to Council proposes the inclusion of ten Working Group members; three Conservative, three Independent Group and three non-aligned Members plus one person who is not a member of Maldon District Council.
- 3.6.2 Membership of the Working Group requires approval of the Council, the nominations for the three Conservative and three Independent Members are to be made by the respective Group Leaders and nominations for the non-aligned members and the independent person must be made by the Council.
- 3.6.3 It is considered that the inclusion of an external member to the Working Group, whilst possible, may leave the Council open to a future challenge to the 5YHLS methodology. On this basis Officers have recommended that the Working Group be limited to nine Councillors, but that the Working Group is given the ability by the Council, through its Terms of Reference, to be able to seek independent, professional external advice. This has been added to the Terms of Reference proposed.

## 4. CONCLUSION

- 4.1 Considering the Council's local planning authority statutory duties, the requirements of the NPPF and the concerns of the Overview and Scrutiny Committee about the implications of the District's 5YHLS, a "Five-Year Housing Land Supply Working Group" is recommended to be established to explore this matter in further detail and report findings and recommendations back to the Council once complete.

## 5 IMPACT ON STRATEGIC THEMES

- 5.1 This report impacts to a greater degree of the Council's Strategic Theme of Place and Corporate Outcome 3: Deliver the housing the District needs, given the relationship between having enough land allocated for housing in the District and enough homes with planning permission to enable delivery within five years.

## 6 IMPLICATIONS

- (i) **Impact on Customers** – The Five-Year Housing Land Supply Working Group will help ensure that the Council is doing all it can to remedy its housing land supply position, as required by national policy, which will otherwise continue to post an unallocated development risk to communities in the District.
- (ii) **Impact on Equalities** – The proposed Five-Year Housing Land Supply Working Group's members will be drawn from elected councillors at Maldon District Council.
- (iii) **Impact on Risk** – The lack of a Five-Year Housing Land Supply has been on the Council's Corporate Risk Register since 2018; with quarterly monitoring on the descending trend of the district's land supply being reported, as required, to Committees. The proposed Working Group will help ensure there is adequate Member engagement and assurance on the steps being taken to improve the performance against this risk and reduce the impact it will otherwise have on the District.
- (iv) **Impact on Resources (financial)** – The lack of a Five-Year Housing Land Supply (or Three-Year Housing Land Supply where there are made Neighbourhood Plans) is a material consideration in the determination of planning applications, or the consideration of planning appeals by the Planning Inspectorate. The latter can lead to costs being awarded against the Council in the event decisions to refuse an application, are subsequently overturned, with the land supply being part of the reason for the appeal's success. This will always be a direct cost to the Maldon District council taxpayer. The proposed Working Group will help ensure the methodology used for determining the Five-Year Housing Land Supply which informs planning applications/ appeals is robust, complies with the National Planning Policy Framework and national guidance; as well as being consistent with other local planning authorities.
- (v) **Impact on Resources (human)** – The creation of a Five-Year Housing Land Supply Working Group will have an impact on the Council's human resources, insofar as officers of the council will be required to support the Working Group as part of their day-to-day work; however, with adjustments in other work priorities this impact can be adequately managed.

- (vi) **Impact on the Environment** – The creation of a Five-Year Housing Land Supply Working Group will not have an impact on the environment.
- (vii) **Impact on Strengthening Communities** – The creation of a Five-Year Housing Land Supply Working Group will not have a direct role in strengthening communities.

Background Papers: None.

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