



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

to
**COUNCIL (EXTRAORDINARY)
3 NOVEMBER 2022**

MALDON DISTRICT LOCAL DEVELOPMENT PLAN REVIEW

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to provide background information and advice to enable the Council to consider the approved recommendation from the Overview and Scrutiny Committee concerning the Maldon District Local Development Plan (LDP) Review methodology and the extent to which the Plan should be reviewed.

2. RECOMMENDATIONS

- (i) that the report setting out the Maldon District Local Development Plan Review methodology including **APPENDIX 1**, be noted.
- (ii) that the Council consider its decision options as set out in Section 7 of this report to assure itself that the Maldon District Local Development Plan Review methodology is an appropriate lawful and procedural basis from which to conduct the Maldon District Local Development Plan Review.

3. CONTEXT

- 3.1 On 28 July 2022, the Overview and Scrutiny Committee recommended to the Council that:

"the Council pauses the current review methodology of the LDP, all members be invited to an extraordinary meeting of the Council to consider options with regard to the methodology used and considers whether a partial review of the LDP is required rather than a full change to the Council's current Strategy"

- 3.2 The Council, in turn, approved the Committee's recommendation on 23 September 2022.
- 3.3 The Planning Policy Working Group (PPWG) was duly suspended, and its forthcoming work programme to examine emerging evidence and growth options was, in turn paused, with all meetings postponed until further notice.

4. LOCAL DEVELOPMENT PLAN REVIEW 2021+

- 4.1 In order to set the scene, the LDP Review was initiated following a decision of the Council on 23 February 2021 (Minute No. 282 refers) to consider and approve the statutory Plan Review programme called the Maldon District Local Development

Scheme 2021-2024 (or LDS) published in accordance with Section 15 of the Planning and Compulsory Purchase Act 2004.

- 4.2 As set out in the same report to the Council, the district's performance on housing delivery in its Garden Suburbs and Strategic Allocations over three consecutive years had meant the Council had hit its *own* triggers in the approved Policies S2 and S3 of the LDP 2014-2019. The report also noted that the district was experiencing an inability to maintain a Five-Year Housing Land Supply, contrary to the National Planning Policy Framework (NPPF). Combined, it was noted that these factors had the potential to undermine the operation of the planning system in the district and at least a partial review of the LDP was therefore necessary.
- 4.3 The LDS's approval generated a very ambitious and accelerated programme of preparing an LDP Review; much shorter in duration than the project to create the LDP 2014 - 2029 and similar to what was proposed to become a 30-month statutory review programme as set out in the Government's 'Planning White Paper: Planning for the Future' published in August 2020. The LDS foresaw preparation, two rounds of public consultation and submission to the Secretary of State by Spring 2023, followed by an Examination in Public by a Planning Inspector in Summer 2023 and adoption by Autumn 2023. This timetable set the relatively quick pace of preparation and informed the nature of the LDP Review's methodology including how proportionate the Council would be in updating evidence and the extent of Member engagement.
- 4.4 Critical preparation steps before work on the LDP Review could get underway were completed during Spring and Summer 2021. This included the preparation and public consultation on an update of the Maldon District Statement of Community Involvement (SCI), which set out the public and stakeholder engagement approach that would be used for the LDP Review, as well as updating consultation standards for planning applications and planning enforcement. In addition, the Maldon District's first Duty to Cooperate Strategy was prepared and consulted on establishing the Council's approach to engagement with specific public bodies where there was a legal duty during plan-making to engage on strategic and cross boundary matters that cannot otherwise be resolved by one local planning authority area.
- 4.5 On 17 July 2022, the LDP 2014-2029 became five-years old; the anniversary which the law and NPPF observes as meaning at least a partial review of strategic policies is now required.

5. PROCEDURAL METHODOLOGY

- 5.1 First and foremost, the LDP Review must be carried out in accordance with the law and national planning policy and have regard to national guidance that is updated and published from time to time. There are no options for the procedural methodology as failure to follow would render the LDP Review unlawful and unimplementable.
- 5.2 Maldon District Council's current methodology is in compliance with various provisions in the Planning and Compulsory Purchase Act 2004, the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended), the Housing and Planning Act 2016, Planning Act 2008, the Equality Act 2010, the Human Rights Act 1998, the Localism Act 2011, the Environmental Assessment of Plans and Programmes Regulations 2004 and the Conservation of Habitats and Species Regulations 2017. Collectively, this legislation constitutes the core legal framework for the Local Development Plan Review.

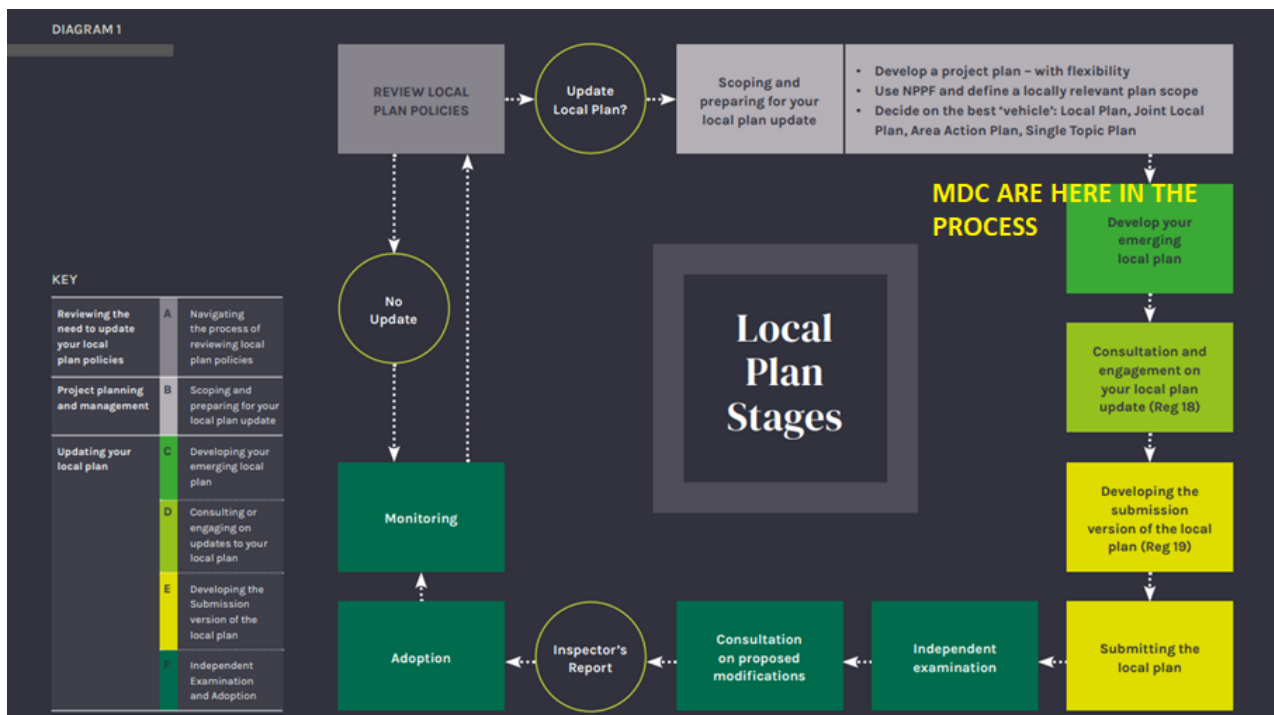
- 5.3 In addition, the methodology has had particular regard to the National Planning Policy Framework (July 2021), Planning Policy for Travellers (2015), the National Planning Policy Guidance (2022) and the National Policy Statement for Energy - EN6 (2011). These are important when commissioning evidence or undertaking studies in the District and will also be relevant when the project moves to policy writing stage.
- 5.4 Compliance with these legislative and policy requirements is imperative for the LDP Review to be found legally compliant and sound at the future Examination in Public and to reduce the risk of a successful Judicial Review. Officers keep these requirements under continual review to determine if legislative or policy changes will impact on the LDP Review methodology meaning it needs adjusting.
- 5.5 Paragraphs 31-32 of the NPPF stipulate that the preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals. It should also be informed throughout by the preparation of a Sustainability Appraisal (SA), that includes a Strategic Environmental Assessment (SEA) that ensures the LDP can evidence that its new, or updated policies have been iteratively informed by these statutory assessments. In the interests of transparency, there is an audit trail of how policy option generation and the selection of the preferred policy approach has been reached. In addition, the Plan must also be subject to a Habitat Regulations Assessment (HRA) and Equality Impact Assessment (EQIA) to ensure new and updated policies have regard to the associated legislation.
- 5.6 The basic methodological steps that will ensure the legal and policy compliance needed to prepare the LDP Review are as follows:

Step	Example of Maldon District Council (MDC) Activities
<p>1. Preparation Steps</p>	<ul style="list-style-type: none"> • Maldon District Local Development Scheme (LDP Review timetable) • Maldon District Statement of Community Involvement • Maldon District Duty to Cooperate Strategy • Preparing and Maintaining a Project Plan • Forming and managing a Project Budget • Securing necessary Project Staffing Resources or External Skills • Developing the Project Procurement Strategy
<p>2. Initial Evidence Gathering and Consultation – Councils formulate initial aims and objectives of Local Plan. Begin evidence gathering process, including assessing requirements for Sustainability Appraisal and Strategic Environmental Assessment. Hold initial discussions and consultations with local communities and businesses, Duty to Cooperate partners and other relevant bodies and organisations.</p>	<ul style="list-style-type: none"> • Evidence Study Updates looking at key environmental, economic and social matters <ul style="list-style-type: none"> • Local Housing Needs Assessment • Nature Conservation Study • Rural Facilities Study Update • Settlement Pattern Review • Strategic Flood Risk Assessment • Housing and Economic Land Availability Assessment

Step	Example of Maldon District Council (MDC) Activities
	<p>(including Call for Sites)</p> <ul style="list-style-type: none"> • Gypsy, Traveller and Travelling Showpeople Accommodation Assessment Update • Employment Land and Premises Study • Green Infrastructure Review • Infrastructure Review • Highway and Transport Modelling <ul style="list-style-type: none"> • Duty to Cooperate meetings and engagement to identify Strategic & Cross Boundary Issues with neighbouring authorities, Essex County Council (including Highway Authority), Greater Essex authorities, Mid-South Essex NHS Integrated Care Partnership, NHS England, Natural England, Environment Agency, Homes England, Mayor of London, Transport for London, Historic England, Civil Aviation Authority, Office for Road and Rail and Marine Management Organisation. • Engagement with other statutory bodies including South East Local Enterprise Partnership, Local Nature Partnerships, Anglian Water, Essex and Suffolk Water, etc. • Writing an Issues and Options Report and Reg. 18 Consultation • Spatial and Policy Options formulation and testing • Preferred Options Report and Reg. 18 Consultation • Integrated Assessment Scoping and Appraisal – including Sustainability Appraisal & Strategic Environmental Assessment, Habitat Regulation Assessment, Equality Impact Assessment, Health Impact Assessment
<p>3. Publication LDP – The Council formally publishes the LDP for consultation for a minimum of six weeks. The Council will need to show how it has taken into account the views given through the consultation and may make changes to the Plan before proceeding to the next stage.</p>	<ul style="list-style-type: none"> • Evidence refinement • Integrated Assessment review

Step	Example of Maldon District Council (MDC) Activities
<p>4. Submission LDP for Examination – The Council submits the LDP, alongside the evidence, consultation representations and other required documents, to the Planning Inspectorate. The Inspectorate arrange for the LDP to be scrutinised through an Examination in Public. During the Examination, the Inspector will be testing the LDP for soundness; legal procedural compliance and whether the Council has met the Duty to Cooperate. The Inspector will consider representations made on the LDP.</p>	<ul style="list-style-type: none"> • Statements of Common Ground • Examination in Public hearings • Main Modifications
<p>5. Found Sound / Unsound – The Inspector will write a report, setting out whether he or she is satisfied the LDP is sound; meets the legal procedural requirements and the Duty to Cooperate. If unsound, without modification, the Inspector will recommend main modifications (changes) to the Submitted Plan if requested to do so by the Council, to make the LDP sound and compliant with procedures. Modifications to any legal duties cannot be made and if these are found it would result in an unlawful plan and the Council would have to start elements of its plan-making again.</p>	<ul style="list-style-type: none"> • Inspectors Report • Main Modifications Consultation • Integrated Assessment Update
<p>6. Adoption – After the Council has received the Inspector’s Report and consulted on any main modifications, it must formally adopt the LDP before it can become part of the Development Plan for the District, which would enable it to be used in the determination of planning applications.</p>	<ul style="list-style-type: none"> • Statutory Decision of the Council

5.7 Shown another way, the methodology which MDC is currently following is the same as that illustrated below in the Local Government Association's Planning Advisory Service Local Plan Route Mapper (Oct. 2021). In this diagram, the Council is at the "C - Develop your emerging Local Plan" stage.



5.8 Section 3 (Paras. 15 to 37) of the NPPF sets out the national policy expectations for Plan-Making which all Local Planning Authorities must follow. It starts by advising that for the planning system to be genuinely plan-led, succinct and up-to-date plans should provide a positive vision for the area, a framework for addressing housing needs and other economic, social and environmental priorities and a platform for local people to shape their surroundings.

5.9 Paras. 17 to 19 sets out the Government's plan-making framework. It establishes that the statutory Development Plan is a combination of Strategic and Non-Strategic Policies for an area. The Development Plan must include Strategic Policies to address the Local Planning Authorities' priorities for the development and use of land in its area which corresponds with legal duties set out in Section 19 (1B-1E) of the Planning and Compulsory Purchase Act 2004. It can also include non-strategic policies which can be found in either Local Plans or Neighbourhood Plans.

5.10 What are Strategic Policies?

5.10.1 Strategic Policies are those which, when read alongside each other as a whole and discrete part of the LDP provide a clear strategy for bringing sufficient land forward, at a sufficient rate, to address objectively assessed needs over the Plan Period, in line with the presumption of sustainable development. This includes planning for, and allocating, sufficient sites to deliver the strategic policies of an area.

5.10.2 Strategic Policies are in turn defined by the NPPF as those which "...set an overall strategy for the pattern, scale and design quality of places and make sufficient provision for:

- Housing (including affordable housing), employment, retail, leisure and other commercial development.
- 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).

- Community facilities (such as health, education, and cultural infrastructure); and
- 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.

5.10.3 Plans are now required to make explicit which policies are Strategic Policies so they are distinguishable from Non-Strategic Policies in LDPs or Neighbourhood Plans. They should be limited to those that are necessary to address the strategic priorities of the area and relevant cross-boundary issues. They should not extend to detailed matters that are more appropriately dealt with through Neighbourhood Plans or other Non-Strategic policies, but they will provide a clear starting point for any Non-Strategic policies that are also needed.

5.10.4 Strategic Policies are tasked with looking ahead over a minimum of 15 years from adoption so the Development Plan can anticipate and respond to long-term requirements and opportunities. They can look ahead at least 30 years where larger scale developments such as new settlements or significant extensions to existing villages or towns to take account the likely timescale for delivery.

5.10.5 Non-Strategic policies conversely are defined by the NPPF as those which "set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities, establishing design principles...and setting out other development management policies".

5.10.6 When conducting the first review of the Maldon District LDP 2014-2029, as it predates the Para. 17 NPPF requirement for having a Strategic and Non-Strategic policy format, the review must therefore ensure that it reformats the LDP to ensure compliance. The decision as to whether the Council therefore has the freedom to conduct a full or partial review of the LDP is not as flexible as it could be for some local planning authorities with more recent LDPs that are already in this format, such as the neighbouring Chelmsford City Council's Local Plan. Maldon District's LDP Review will look different, and policies will end up being renumbered and renamed to ensure compliance with national policy and the law.

5.10.7 Para. 31 of the NPPF states that the preparation and review of all policies should be underpinned by relevant and up-to-date evidence. Some of the evidence used for the approved LDP is now substantially out of date, such as the Strategic Flood Risk Assessment last prepared in 2007 or the Nature Conservation Study in 2010.

5.10.8 Para. 32 of the NPPF advises that Local Plans should be informed throughout their preparation by a Sustainability Appraisal (SA) that meets the relevant legal requirements. This will help ensure the LDP Review can demonstrate how it has addressed relevant economic, social and environmental objectives. Significant adverse impacts on these objectives should be avoided and wherever possible, alternative options should be chosen by the Council which reduce or eliminate such impacts and this then documented. Where significant adverse impacts are unavoidable, suitable mitigation measures should be proposed by the Council in its policies, or compensatory measures considered where these are not possible. The approach for the Maldon District LDP Review has been to bring this into an Integrated Assessment to meet the requirements set out in 5.5 of this report, as well as including a Health Impact Assessment.

5.11 Maintaining Effective Cooperation

5.11.1 Paras. 24-27 cover the Duty to Cooperate. MDC is required by law to cooperate with other local authorities, the County Council and other prescribed bodies on strategic matters that cross administrative boundaries and cannot be addressed effectively by one body alone.

5.11.2 Strategic policy-making authorities like MDC should collaborate to identify the relevant strategic matters which they need to address in their plans. The NPPF sees effective and on-going joint working as integral to the production of a positively prepared and justified strategy. To demonstrate compliance, Statements of Common Ground have to be prepared, documenting the cross-boundary matters being addressed and the progress to cooperating to address these. MDC's approved approach is set out in its approved Duty to Cooperate Strategy, which is being followed in the LDP Review Methodology. The Duty to Cooperate outputs will also therefore inform the approach the council needs to take to its Strategic Policy review in the LDP.

5.12 Non-Strategic Policies

5.12.1 Paras. 28 to 30 cover non-strategic policies. These are defined as those used by Local Planning Authorities and Neighbourhood Plan groups to set out more detailed policies for different areas, neighbourhoods and types of development. This includes:

- Allocating sites for different types of development to deliver the strategy;
- Specifying how infrastructure and community facilities will be provided locally;
- Establishing design-principles for the built environment;
- Conserving and enhancing the natural and historic environment; and
- Setting out Development Management policies.

5.12.2 They take their steer from the Strategic Policies and should only be included in an LDP if they are necessary to deliver its Strategy. If they cannot pass that test, they should not be in the LDP; although they may be suitable in a non-planning strategy instead, or a Supplementary Planning Document (SPD).

5.12.3 Neighbourhood Plans prepared by Local Councils are also classed as Non-Strategic Policies of the Development Plan. They cannot promote less growth than the Strategic Policies for the area, nor undermine the Strategic Policies. Once in force (or 'made' as the process is known) policies in a Neighbourhood Plan take precedence over existing Non-Strategic policies in a LDP covering the Neighbourhood Area where there is otherwise a conflict, unless they are superseded by new Strategic or Non-Strategic policies in an LDP Review that are adopted subsequently.

5.13 Is there an option for a Full or Partial Review of Maldon District LDP?

5.13.1 If one looks to the NPPF, Para. 33 states "*Policies in Local Plans...should be reviewed to assess whether they need updating at least once every five years, and then should be updated as necessary*". This requirement was added into legislation and the NPPF in April 2018; less than a year after the Maldon District LDP was approved by the Secretary of State. The approved LDP had already had foresight however to build into Policies S2 and S3, triggers as to when a review should happen

should housing delivery slowdown in Garden Suburbs or Strategic Allocations. This trigger was met earlier in 2021 and reported to Council in February 2021.

5.13.2 The NPPF goes on to advise that reviews should be completed no later than five years from the adoption date of a plan and should take into account changing circumstances of the area, or any relevant changes in national policy.

5.13.3 When considering a review, the Council can consider information such as (but not exclusively):

- conformity with national planning policy;
- changes to local circumstances; such as a change in Local Housing Need;
- their Housing Delivery Test performance;
- whether the authority can demonstrate a five-year supply of deliverable sites for housing;
- whether issues have arisen that may impact on the deliverability of key site allocations;
- their appeals performance;
- success of policies against indicators in the Development Plan as set out in their Authority Monitoring Report;
- plan-making activity by other authorities, such as whether they have identified that they are unable to meet all their housing need;
- significant economic changes that may impact on viability; and
- whether any new social, environmental or economic priorities may have arisen.

5.13.4 In early 2021, officers reviewed the extent to which the approved LDP would need to be reviewed considering continued compliance with national policy that had changed since it was written; the age and continued relevance of evidence; the corporate context; success of policies being defended at planning appeals; and areas of the plan which were silent on the Council's position or intent. This appraisal concluded that the format of the LDP 2014 - 2029 pre-dated the format now expected by the law and NPPF that sets out an expectation for Strategic Policies very distinctively to Non-Strategic Policies. This has meant that for Maldon District Council, the LDP Review must address this format change and would not, as a result, look or read similar to the LDP 2014 – 2029; even if the Strategy did not change. The LDP 2014 - 2029 was prepared most actively between 2010 and 2014 when it was first submitted to the Government. This meant Maldon District Council was successful in having one of the first Local Plans to be submitted under the then new NPPF, but as a result of this early achievement, it has not benefitted from changes being integrated into its planning policies that have become a national policy requirement since it was approved; something which newer plans in Essex already adhere to.

5.13.5 Added to this, some of the more critical evidence the LDP 2014 - 2029 was based on is now out of date and other policy requirements did not exist to the extent that they are adequately covered in the LDP. This included the Nature Conservation Study and Strategic Flood Risk Assessment which are now over a decade old, predating the NPPF, modern principles such as Biodiversity Net Gain, Climate Action, Net Zero. Related evidence is no longer therefore a sound basis from which to make all planning judgements about land use or development management and there are policy gaps which mean there is no local influence on how these national objectives will operate in the Maldon District.

- 5.13.6 Furthermore, as set out in the NPPF, the Strategic Policies must look forward at least 15 years from the date of adoption (except for town centre policies). The LDP 2014 - 2029 only has 6.5 years left to run before its plan period, vision and objectives expire. To comply with the NPPF, the LDP Review will need to add at least 9.5 years onto its plan period (including any associated growth targets uplifts) to meet one of the terms of the Review. The longer the Council takes to prepare its LDP Review, the further forward in time the LDP Review's plan period will have to run for.
- 5.13.7 This early activity in the LDP Review project concluded that whilst only a Partial Review was required to satisfy legal and policy requirements on the Local Planning Authority, a combination of the passage of time since the approved LDP was prepared for submission; the older format it uses which is not explicit as to what is a Strategic or Non-Strategic Policy; the age and currency of its critical evidence and the increasingly shortening plan-period duration mean that the Strategy must be considered for review to remain effective in the future. Given the NPPF's expectation of an intrinsic link between Strategic and Non-Strategic Policies, the latter will also need to be reviewed alongside the Strategic Policies to ensure they are in conformity with the reviewed Strategy. For all intents and purposes therefore, the LDP Review for Maldon District will look and feel like a full review for these reasons.
- 5.13.8 **APPENDIX 1** sets out an up-to-date appraisal of all the LDP 2014 - 2029 policies against key considerations as to whether, or not, they should be reviewed, the extent and the reasons why. This illustrates the scale to which those policies currently in the LDP could be regarded to have less weight in decision-making against the Development Plan in the Maldon District if they were to remain without a review.
- 5.13.9 Whilst it is noted that there are a number of issues with the policies within the approved LDP, the policies are still the Council's approved Development Plan policies and therefore, in accordance with S.38(6) of the Planning and Compulsory Purchase Act 2004, they remain the starting point for the determination of any planning application, unless material considerations indicate otherwise. For the purposes of continued decision-making using these policies by the Council in its role as the Local Planning Authority, this should remain a matter of planning judgement at the time of a planning application or enforcement action, determining how much weight to give to these policies, alongside other material considerations.

6. LDP REVIEW MEMBER ENGAGEMENT APPROACH

- 6.1 As set out in the report to the Council on 23 February 2021 (Minute No. 282 refers), the Council was advised that it would need to give consideration to establishing a Planning Policy Working Group (PPWG) to ensure adequate, cross-party Member engagement in the development of policy and guidance documents set out in the LDS timetable.
- 6.2 On 18 March 2021, the Council established a new PPWG consisting of seven Members of the Council, as permitted by Part 1 (4.2) of the Maldon District Council Constitution. Its purpose was established as an 'advisory group' to support the Strategy and Resources Committee and Council in the legal and sound development of planning policy set out in the LDS.
- 6.3 The Terms of Reference of the PPWG was agreed to:
- a) provide cross-party member engagement and discussion in the work being undertaken to prepare the policy documents set out in the Local Development Scheme;

- b) provide informal feedback and discussion with officers on key draft evidence, documentation and policy options to guide officers formulating recommendations to the Strategy and Resources (S&R) Committee;
- c) provide regular updates to the S&R Committee on its work informing the LDP Review and Supplementary Planning Document (SPD) preparation; and
- d) take an active part in any planning policy training and encourage other members outside of the Working Group to attend that training when offered to the wider Membership of the Council.

6.4 As reported to the Strategy and Resources Committee on 14 July 2022 (Minute No. 170 refers) during 2021 / 22, the PPWG had met eleven times over a 10-month period since its formation.

6.5 During this time the Working Group carried out the following work:

PPWG Date	Activities undertaken
14/5/2021	Introduction to the Planning Policy Team, Programme Overview, discussion about the key risks of the LDP Review project
27/05/2021	Discussion on the Draft Duty to Cooperate Strategy and the Statement of Community Involvement prior to these documents going to the Council and public consultation.
23/06/2021	All Member Workshop
01/07/2021	Briefing on writing the LDP Review, reflections on housing issues in the District. Discussions on items for the next meeting.
05/08/2021	Visioning Outputs, discussion on the Spatial Options approach
02/09/2021	Discussion about the final Duty to Cooperate Strategy and Statement of Community Involvement, following consultation. Team Workstream Update and an update on the Draft Issues and Options Report and Settlement Pattern Review.
07/10/2021	Cancelled - no business
09/11/2021	Update on Issues and Options Report and discussion on the consultation arrangements for the document.
01/12/2021	Cancelled – no business
11/1/2022	Maldon District Community Infrastructure Levy Update. Update on the Housing and Economic Land Availability Assessment (HELAA) and Call for Sites projects. Discussion about the Transport East Strategy Consultation.
08/02/2022	Presentation by the Marine Management Organisation under the Duty to Cooperate about their distinct but complimentary role in the planning system. Issues and options consultation update. Agreement to response to the Essex County Council (ECC) Limebrook Way Primary School, Maldon Consultation.

6.6 In addition, two identical All Member Workshops, including the PPWG were held in the week of 23 June 2021 to run through a Maldon District Visioning Exercise, LDP Scope Awareness and work on the principles and scoring for the Settlement Pattern Review.

6.7 From 14 March 2022, the PPWG meetings were opened to non-PPWG members and all Members have been able to attend and contribute to the discussions and debate since. This work has covered:

PPWG Date	Activities undertaken
14/03/2022	Overview of the Terms of Reference for the PPWG, update on project workstreams from Planning Policy Team. Briefing on how planning policy is prepared and what a good policy should look like.
12/04/2022	Discussion on the key metrics from the Issues and Options consultation.
12/06/2022	Cancelled – no business
12/07/2022	Cancelled – no business
09/08/2022	Pre-determination and the LDP Review and the LDP Review Plan Period
06/09/2022	Questions 1-7 in the Issues and Options Consultation, Updating the LDP Review Timetable, changing the approach to engaging with the PPWG, forward plan for PPWG including Growth Options, Issues and Options Representations and emerging evidence findings.
26/09/2022	Growth Options Discussion - <u>postponed</u> following Council decision to pause LDP Review Methodology

6.8 At the meeting of the PPWG on 6 September 2022, to which all Members had been invited, officers presented a proposal to change the way the PPWG would operate going forwards to support the Group's ability to get more engaged in the tasks ahead associated with the LDP Review and to seek to reduce the risk that the programme continues to slip. This had been prompted and informed by feedback from various Members at different times and previous discussion at PPWGs.

6.9 The proposed changes to the PPWG operation to deliver better against its Terms of Reference included that:

- as reported to Strategy and Resources Committee in July 2022, a Forward Plan for PPWG would be prepared, aligned to the LDP Review Project Plan and Local Development Scheme to ensure the input from the PPWG was received at the right time and ensured Members had enough time to engage in the various steps associated with the LDP Review;
- agenda papers would be sent to All Members a week in advance of PPWG to ensure Members had enough time to read material in advance;
- the PPWG would need to focus on the strategic issues concerning the LDP Review and would not be able to cover ward specific matters;
- ward matters could be forwarded directly to officers instead to try and answer queries directly to the individual Ward Members; and
- questions concerning the agenda could be forwarded to officers ahead of the meeting and then answered to all Members, in order to try and focus on key issues only during the meeting.

7. OPTIONS

7.1 **Option 1:** Continue with the LDP Review Methodology and Member Engagement approach as summarised in this report.

7.2 **Option 2:** Amend the LDP Review Methodology and/or Member Engagement approach to provide further assurance.

8. CONCLUSION

- 8.1 The current LDP Review Methodology is ensuring a complex project can be managed to ensure the end-product complies with the law and national policy, whilst remaining in-budget. Member Engagement has been established by the Council through a Planning Policy Working Group to support Members' understanding of the process, the emerging evidence, representations into consultations and in time, policy development. The extent to which the LDP needs to be reviewed and the justification for that extent, informing whether it should be a partial or full review is set out in **APPENDIX 1**.

9. IMPACT ON STRATEGIC THEMES

- 9.1 The Place Strategy with associated Corporate Outcomes supports 'promoting civic pride and maintain the district's environmental quality' 'reducing the impact of waste disposal and pollution on the environment' and 'delivering the housing the district needs', working with partners to maintain and improve the district's resilience to the effects of climate change' and 'deliver sustainable growth and new infrastructure through development'. The LDP Review methodology legally and procedurally ensures evidence, procedural appraisals and policy development must consider these outcomes.
- 9.2 The Prosperity Strategy with associated Corporate Outcomes supports 'enabling future economic / inward investment and new jobs', 'supporting existing local businesses' and 'enhancing and promoting the district's visitor economy'. The LDP Review methodology legally and procedurally ensures evidence, procedural appraisals and policy development must consider these outcomes.
- 9.3 The Community Strategy with associated Corporate Outcomes supports 'working with our communities and partners to improve physical health and wellbeing of our residents', working with our communities and partners to improve the mental health and wellbeing of our residents' and 'working with our communities, schools and partners to improve our children and young people's health and wellbeing, giving them the best start in life'. The LDP Review methodology legally and procedurally ensures evidence, procedural appraisals and policy development must consider these outcomes.

10. IMPLICATIONS

- (i) **Impact on Customers** – HIGH - The LDP Review will deliver an up-to-date planning policy framework for the Maldon District that is compliant with legislation and policy. Without the Review, the Council's customers which include residents, businesses, statutory consultees, developers and planning agents would have to rely increasingly on the National Planning Policy Framework, rather than the Maldon District Development Plan to inform their planning proposals. The longer the LDP Review is paused for, the longer it will take for it to be reviewed, which could also undermine the confidence local communities have in the planning system when faced with an increasing amount of unallocated development coming forward as the weaknesses in the Development Plan risk undermining its defensibility in planning decisions.
- (ii) **Impact on Equalities** – LOW - The LDP Review, as a suite of policies, is subject to the Public Sector Equality Duty. The LDP Review's Integrated Assessment, which is part of the current methodology includes an Equality

Impact Assessment, which the Council will be able to use to refine its policies to ensure that it is equal and fair to all. The pause of the LDP Review will result in a delay to new policies coming forward that could improve equality in the District.

- (iii) **Impact on Risk** – HIGH – The pause of the LDP Review Methodology and the uncertainty as to when it will restart increases risks to the Local Planning Authority which were otherwise being managed with the LDP Review underway. These risks include:
- Legal compliance with the legislative framework and national policy;
 - The weight that can be attached to the LDP 2014 - 2029 in development management and enforcement decision-making as it continues to age and become out of conformity with national policy or law;
 - The ability to influence proactively which parts of the District can grow as part of a coordinated strategy. This will have an effect on the ability of the Council to influence planning for infrastructure associated with growth.
 - All these risks increase the risk that the Council could be challenged successfully at planning appeals and this subsequently increases the risk of costs being applied against the Council. The highest risk is that the Council could be challenged through the judicial review process because it is not actively seeking to ensure that it develops through a plan-led system.
- (iv) **Impact on Resources (financial)** – HIGH – The longer the LDP Review is paused for, the greater the potential impact on financial resources could be. The budget was approved on 21 February 2021 through an investment of £1.5m based on a programme that could be completed within 24 months. The Project has already spent £222k on additional fixed-term staff in 2021 / 22 with a further £181k committed for 2022 / 23. £28k spent on preparation costs in 2021/2022 with a further £17k committed in 2022 / 23. A further £37k was spent on evidence studies in 2021 / 22, with a further £185k committed in 2022 / 23. This totals £670k The remainder is due to be spent on remaining evidence updates, the statutory consultations, submission, the Examination in Public and Adoption. It is worth noting, the longer the LDP Review project runs for the greater the risk the project budget will have to go much further than originally forecast and could cause budget pressures in future years. This is currently being managed effectively by reprofiling the budget in each financial year and reviewing the budget requirements periodically throughout each financial year to ensure efficiencies are made where possible and spend remains within the budget.
- (v) **Impact on Resources (human)** – MEDIUM – Preparing the LDP Review sits with the Planning Policy and Implementation Team, which is part of the Council's Establishment. A few of the posts in the team are on fixed-term contracts which currently end in mid-2023 / early 2024 – these are paid from the LDP Review budget. The longer the LDP Review is paused the greater the likelihood that the project will either suffer from a lack of staff in its later stages of preparation, or there will need to be a rethink on whether the contracts are extended which will have a human resources and budgetary implications.

- (vi) **Impact on the Environment** – MEDIUM – The LDP Review methodology pause should not impact on the environment directly, as the most important parts of the district’s environment are protected by legislation (such as Sites of Special Scientific Interests (SSSIs)) or national policy that carries more weight (Flood Risk Areas). The delay to the LDP Review however increases the time it will take to put in place positive local planning policy measures that could help address newer goals such as Net Zero and Biodiversity Net Gain.

- (vii) **Impact on Strengthening Communities** – MEDIUM – The LDP Review is likely to generate interest across several communities, fuelling an interest to get to know more about the area’s governance arrangements and power of community voices through public engagement.

Background Papers: None.

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