

APPENDIX 1**REVIEW OF THE LOCAL DEVELOPMENT PLAN 2014-2029****1.0 INTRODUCTION**

1.1 This report sets out the details of which policies in the Approved Local Development Plan (LDP) should be considered for review and the extent of the reasons for review.

1.2 List of appendices accompanying this paper

- Appendix A – Summary Table of Policies and required action on them
- Appendix B – Background to the decision to review the LDP in February 2021

2.0 BACKGROUND

2.1 Maldon District Council's Local Development Plan (LDP) was approved on the 17th July 2017. It sets out the planning strategy for growth in the District for the period up to 2029. It demonstrates how Maldon District Council will deliver sustainable development across the District and provides a spatial strategy for the delivery of the required employment, homes, retail, community facilities and infrastructure provision. It has a number of component parts which sit alongside the spatial strategy. These include development management policies and strategic site allocations.

2.2 Under regulation 10A of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) local planning authorities must review local plans, and Statements of Community Involvement at least once every 5 years from their adoption date to ensure that policies remain relevant and effectively address the needs of the local community. In effect this means that under the regulations from the 17th July 2022 the approved LDP is in its review period.

2.3 It is important that any review of the LDP must be in compliance with the Planning and Compulsory Purchase Act 2004, the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended), the 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. In addition, the methodology of the review of the LDP has 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 and will become essential when the project moves to policy writing stage.

2.4 When considering a review of a local plan, 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 5-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;
- the impact of changes to higher tier plans;
- 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.

2.5 The National Planning Policy Framework (NPPF) has been updated three times since the approval of the LDP in 2017: in 2018, 2019 and 2021. The National Planning Policy Guidance has also been updated numerous times since 2017. Therefore, since the LDP was approved there have been many changes to national policy and this has had an effect on the conformity of the policies in the plan.

2.6 The evidence base of the approved LDP is in many respects out of date. The approved plan was started in 2010 and the plan period runs from 2014. Most of the evidence comes from this period with some updates around the time of the examination of the plan in 2017. This impacts on the continued credibility of the policies because they are seeking to deliver on out of date information. This in itself makes many of the policies in the Plan out of conformity with paragraph 31 of the NPPF which states.

"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."

2.7 Paragraph 17 of the NPPF states

"the development plan must include strategic policies to address each local planning authority's priorities for the development and use of land in its area".

What this means is set out at paragraph 20 of the NPPF.

"Strategic policies should set out an overall strategy for the pattern, scale and design quality of places, and make sufficient provision for:

a) housing (including affordable housing), 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 Paragraph 21 in the NPPF goes on to state,

“Plans should make explicit which policies are strategic policies. These should be limited to those necessary to address the strategic priorities of the area (and any relevant cross-boundary issues), to provide a clear starting point for any non-strategic policies that are needed. Strategic policies should not extend to detailed matters that are more appropriately dealt with through neighbourhood plans or other non-strategic policies.”

2.9 The approved LDP does not set out its policies in the way described above as it predated the requirement to. Most of the policies in the present Plan are a mixture of strategic and non-strategic development management policies, with the emphasis on development management rather than strategic. Only policies S2, S3, S4, S5, S6 and E1 could be considered as true form strategic policies, and these will be discussed in more detail below. Therefore, the LDP is out of conformity with the format required by paragraphs 17, 20 and 21 of the NPPF.

2.10 The NPPF at paragraph 16 states.

“Plans should:

a) be prepared with the objective of contributing to the achievement of sustainable development;

b) be prepared positively, in a way that is aspirational but deliverable;

c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees;

d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals;

e) be accessible through the use of digital tools to assist public involvement and policy presentation; and

f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).

2.11 In regard to paragraph 16, and as will be described in more detail below, many of the policies in the present Plan do not conform to clause d) or clause f) in that they are not clearly written and unambiguous. For the decision maker it is difficult to understand what is required of them. It is also difficult for those submitting applications to know what they need to do in order to gain planning permission. The policies in some cases do not serve a clear purpose, have not set out what they are trying to achieve and have negative wording attached to them. There is much duplication of detail throughout the Plan with many aspects of policy appearing over and over again, including detail from national policy which is unnecessary.

3.0 HAS A REVIEW OF THE LDP BEEN TRIGGERED?

3.1 As set out above at paragraph 2.2, the 5-year period for a review was legally triggered on the 17th July 2022. This means that all other earlier reasons for carrying out a review are no longer relevant and have been overtaken by the legal trigger to review. The Council at a meeting in February 2021 determined to start its review a year early and set out at Appendix A is a recap of the reasons why this decision was made.

4.0 STRATEGIC POLICIES?

4.1 As set out above there have been numerous changes to national planning policy and guidance since the approval of the LDP in 2017.

4.2 The way the housing requirement is calculated for local plans has changed. When the Plan was originally prepared, each Local Planning Authority calculated their own Objectively Assessed Housing Need, based on population forecasts. For the LDP this was calculated as 260 dwellings per annum, with the LDP target being set above this at 310 per annum. The approved plan however does not make clear why the figure of 310 per annum was chosen, which it should do.

4.3 In 2018, the Government introduced the National Standard Methodology for calculating housing need, this was to reduce the time and money spent on calculating the housing target at district level and agreeing it at Local Plan Examinations.

4.4 The housing target in the Local Plan review will need to be based on the NPPF's Standard Methodology, with additional headroom added to give flexibility in delivery across the plan period and delivery of infrastructure as evidenced. The housing requirement figure calculated using the Standard Methodology is presently 314 per annum.

4.5 As set out at paragraph 2.8, only policies S2, S3, S4, S5, S6 and E1 could be considered as true form strategic policies. Therefore, there is an absence in the present plan of strategic policies in a form as required by national planning policy. These strategic policies should set out the District's priorities for the

development and use of land in its area as paragraph 17 of the NPPF requires. This means that as a minimum any reviewed LDP will have to include the following strategic policies.

- SP1 – Settlement Pattern
- SP2 – Growth (this is where the housing requirement, housing trajectory, Employment floorspace/land and Gypsy, Traveller and Travelling Showpeople pitch requirements are set out)
- SP3 – Central Area Masterplan
- SP4 – Climate Change, Flood Risk and Renewable Energy
- SP5 – Built, Natural and Historic Environment
- SP6 – Strategic Infrastructure
- SP7 – Major Projects

4.6 This means that all the policies in the LDP connected with these matters will have to be reviewed because they contain a mixture of strategic matters and non-strategic development management matters. This in effect is nearly all the policies. On top of this all the policies of the plan have been analysed to see if they are in of conformity with national policy and its associated guidance and if the evidence base is still relevant and in date.

4.7 The main details for the methodology of the review of the LDP are set out in the Council report which this paper accompanies. In brief the following steps should be taken in order to ensure a local plan is legally and policy compliant.

Step	Example 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 & Consultation – Councils</p>	<ul style="list-style-type: none"> • Evidence Study Updates looking at key environmental, economic

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.

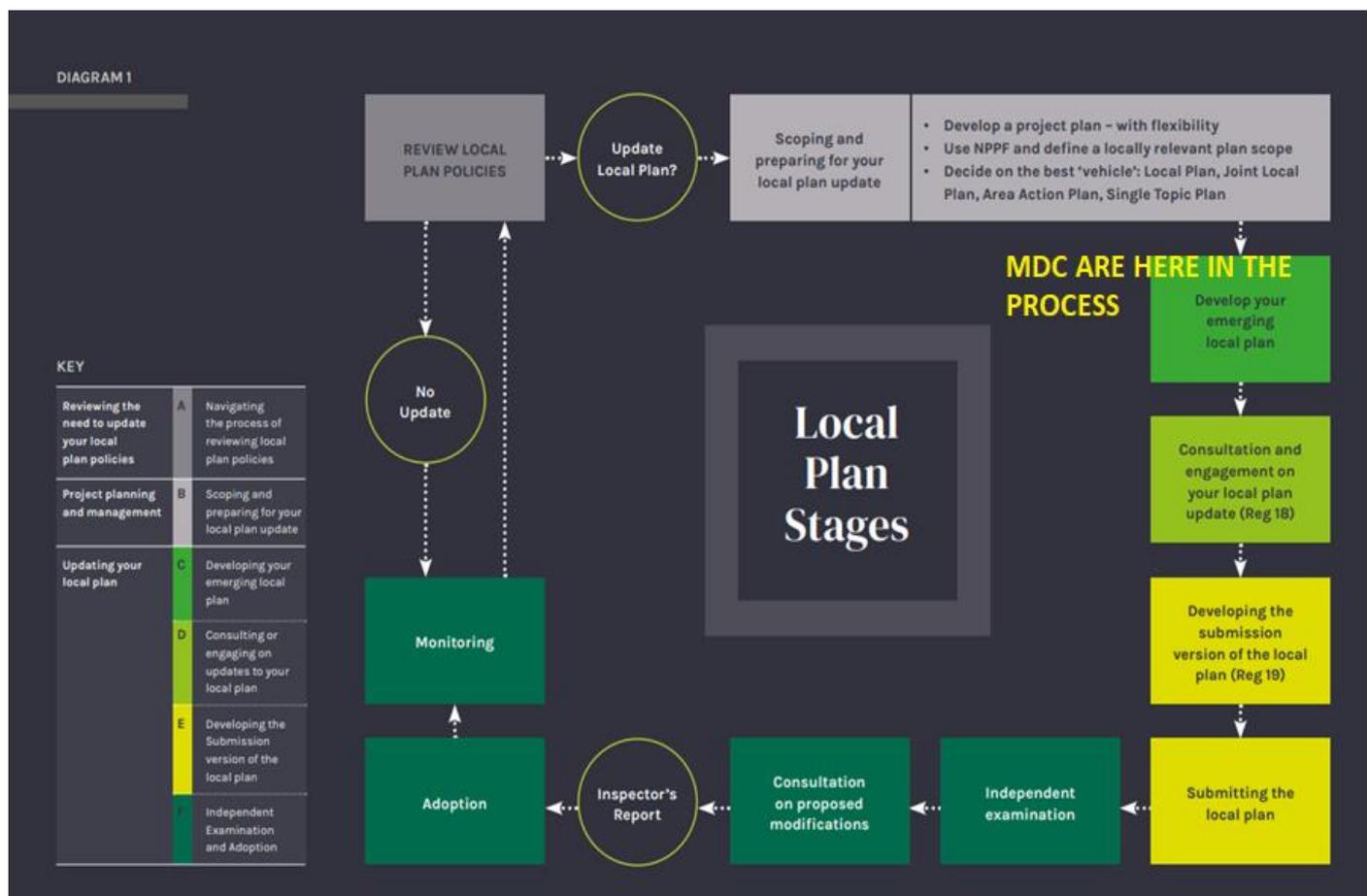
and social matters

- Local Housing Needs Assessment
 - Nature Conservation Study
 - Rural Facilities Study Update
 - Settlement Pattern Review
 - Strategic Flood Risk Assessment
 - Housing and Economic Land Availability Assessment (including Call for Sites)
 - Gypsy, Traveller and Travelling Showpeople Accommodation Assessment Update
 - Employment Land and Premises Study
 - Green Infrastructure Review
 - Infrastructure Review
 - Highway and Transport Modelling
- 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

	<p>statutory bodies including South East Local Enterprise Partnership, Local Nature Partnerships, Anglian Water, Essex and Suffolk Water, etc.</p> <ul style="list-style-type: none"> • Writing an Issues and Options Report & Reg 18 Consultation • Spatial and Policy Options formulation and testing • Preferred Options Report & 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 – Council formally publishes the LDP for consultation for a minimum of 6 weeks. 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
<p>4. Submission LDP for Examination – Council submits the LDP, alongside the 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</p>	<ul style="list-style-type: none"> • Statements of Common Ground • Examination in Public hearings • Main Modifications

consider representations made on the LDP.	
<p>5. Found Sound – 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. The report may recommend main modifications (changes) to the Submitted Plan, where requested by the Council, to make the LDP sound and compliant with procedures. Modifications to any legal duties cannot be made and would result in an unlawful plan.</p>	<ul style="list-style-type: none"> • Inspectors Report • Main Modifications Consultation • Integrated Assessment Update

4.8 Shown another way, the methodology which Maldon District Council 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.



4.9 Section 3 (Paras 15 to 37) of the National Planning Policy Framework (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.

4.10 Para. 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 are either in Local Plans or can be contained in Neighbourhood Plans.

4.11 As permitted by the Planning Act 2008, some development proposals in England are decided by the Government when they are considered to be in the national interest. These are called National Significant Infrastructure Projects, or NSIPs. There are presently two NSIPs in District; the A12 Chelmsford to A120 widening and the Bradwell B new-nuclear power station. The latter proposal by the developer BRB is now paused with no date given for bringing its proposal for the site forward. However, this matter has not gone away, the site is still

identified for new nuclear development in the National Policy Statement EN-6 and the Council needs to consider how it is going to deal with this in the LDP Review. It is not necessary to have a supporting sentence in the plan which presently lies in policy D4.

4.12 The Council needs to consider how it is going to deal with any and all national infrastructure projects that could impact the District. To do this, it is proposed to have a Major Projects policy. This will help to ensure that if these matters do come forward, the Council is in a firm policy position to negotiate maximum benefits for the District, irrespective of its view of the development.

4.13 It is proposed to split the LDP into two documents;

- The Strategic and Local Policies Document
- The Settlement Proposals Document

Both of these will be worked up together and there will be one examination. This will ensure that the reviewed document conforms to the national policy requirement to

“be accessible through the use of digital tools to assist public involvement and policy presentation”

4.14 There is a national drive to put local plans onto a digital platform given the LDP is a huge document in terms of its size and the number of site plans in it. By splitting it up, it makes it more accessible for residents/developers to download and easier to read and understand. It will be important to consider how the plan is presented and what its Policies Map looks like and keep this in mind whilst it is being prepared.

5.0 SPATIAL VISION AND OBJECTIVES

5.1 The Local Development Plan (LDP) responds to the aims, needs and ambitions of the people, businesses and key organisations which have a stake in the District's future. The present LDP Vision 2014-2029 states.

"The District's unique heritage and countryside will be protected by maintaining high design standards and adhering to the principles of sustainable development. Over the Plan period the District will grow sustainably to meet objectively assessed housing needs, taking into account environmental and infrastructure constraints. This approach will maintain the quality of life for the community and ensure the delivery of new affordable homes and infrastructure. It will also protect our local services, provide for our District's business needs, and retain the identity of our villages. Growth will be concentrated in the most sustainable, accessible and appropriate locations taking into account constraints and the need to protect valued local countryside.

The District's strong associations with the coast and our natural, historic and built heritage will make it a location of choice for people, businesses, day visitors and tourists. We will ensure the sustainable growth of the tourism sector by protecting our designated sites, internationally important wildlife, our estuarine environment, salt marshes, unique heritage, beautiful countryside and picturesque towns and villages. Our economy will be based on a highly productive skilled workforce ensuring success in the local, national and global economy. Maldon Town will be a focus for regeneration in order to ensure its continuing success as the District's main economic, social and cultural hub."

5.2 This was one of the key matters that was consulted on in the Issues and Options Consultation carried out between January and March 2022. The present LDP Vision and Objectives do not take into account the climate emergency declared by the Council in 2021, nor the national focus on climate change and this will need to be addressed in an updated vision and objectives, taking into account the comments made during the consultation exercise.

5.3 POLICY S1 – SUSTAINABLE DEVELOPMENT

5.4 This policy sets out the key principles that relate to sustainable development in the District. It repeats aspects of all the other policies in the Plan. The clarification text does not relate to the policy and offers no explanation as to what it means as required by the NPPF.

5.5 Clause 1 has training opportunities in it, which are not a land use planning consideration and should be removed.

5.6 It is not clear how the policy relates back to the Sustainability Appraisal which was carried out on the LDP, yet it is referenced in the explanatory text.

Overall, because this policy is repeating other aspects of the Plan and appears to add nothing to the overall delivery of the Plan, it would be advised to review it and ensure that it does relate back to an updated Sustainability Appraisal and this is clearly set out in the policy.

CONCLUSION: REVIEW POLICY

6.0 HOUSING

POLICIES S2, S3, S4, S5 AND S6

6.1 The housing policies in the LDP are considered out of date, except policy S5 which covers the Maldon and Heybridge Central Area.

6.2 Policy S2 sets out that the majority of new strategic growth will be delivered through sustainable extensions to Maldon, Heybridge, and Burnham-on-Crouch in the form of garden suburbs and strategic allocations. A proportion of new development will be directed to the rural villages to support rural housing needs. Policies S3, S4 & S6 cover the Strategic Allocations and Garden Suburbs in detail.

6.3 These are the policies which are associated with the housing requirement, housing trajectory and site allocations. Out of the 12 allocated sites, 2 still do not have planning permission. One of the allocated sites S2(h) is unlikely to come forward, given that it has to find a replacement sports facility in order to do so and one was not identified in the LDP. The other site S2(b), has yet to be issued with its planning permission.

6.4 One of the key strategic tasks in any local plan review is to reassess the Housing Requirement, Employment Land Requirement, Gypsy, Traveller and Showpeople's pitch and plot requirement and allocate additional sites to ensure a continuous planned supply of housing and employment land. The NPPF states at paragraph 22.

"Strategic policies should look ahead over a minimum 15 year period from adoption, to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure."

6.5 The present LDP's plan period commenced in 2014 and expires in 2029, therefore it only has 6 and half years left of its 15-year life. The Garden Suburbs and Strategic Allocations which already have planning permission have become existing commitments. This means that they now need to be rolled forward as such in any reviewed plan. New site allocations will have to be made to ensure the strategic policies meet a 15-or-20 year evidenced development need. This ensures that the LDP remains in conformity with national policy. Policies S3, S4 and S6, associated with those site allocations have become largely redundant, because planning permission has already been obtained. The policies would only be applied now if any alterations to the existing planning permissions were submitted.

6.6 Policy S2 sets out the actual spatial distribution of growth. It is the growth strategy of the Council, in that, at its basic level, growth will be directed to Maldon, Heybridge and Burnham-on-Crouch. This is still relevant unless changed by a review of the Plan and in effect means new development coming forward should be supported in principle in these settlements, having regard to the other policies in the LDP, their conformity and evidence base.

6.7 The paragraph in Policy S2 which sets out that,

“a proportion of new development will be directed to the rural villages to support rural housing needs,” is unclear. It offers no explanation in the explanatory text; it does not explain what this proportion of housing is. In the housing trajectory this proportion of housing is also not stated.

6.8 The paragraph then goes on to state that “strategic growth in rural villages will be related to the settlement hierarchy.” The paragraph does not set out which tier of the Settlement Hierarchy and it is not explained in the explanatory text, nor does it reference how this type of growth is going to reflect the size, function, and physical capacity of the settlement. If the type of settlement is unknown then it is impossible to reflect the size, function, and physical capacity of development. Also, strategic growth in terms of the LDP is in effect, major growth and this paragraph in the policy would indicate that the Council is supportive of major developments in the rural villages of the District, but there is nothing in the text which explains why this is.

6.9 Therefore, whilst the key strategic direction of growth remains in conformity with national planning policy because it is clear and unambiguous and remains consistent with the tenet of providing growth in sustainable places, the paragraph relating to rural villages is out of conformity with it, in that it does not conform to paragraph 16 of the NPPF as it is not clearly written and unambiguous to all. It is also out of conformity with paragraph 20, in that the necessary detail to make decisions is missing from the overall strategy; the Council is therefore advised to look only to national policy when decision making on the principle of housing development in any area outside Maldon, Heybridge, and Burnham-on-Crouch.

6.10 Policy S5 is slightly different from the other “S” policies in that it is predominantly a strategic policy and a mixed-use policy with an emphasis on regeneration. The policy itself is a positive policy and conforms with national planning policy. The Central Area Master Plan is being successfully brought forward. This policy does not require reviewing and should be carried forward into the next iteration of the LDP as strategic policy SP3.

CONCLUSION – REVIEW POLICIES WITH THE EXCEPTION OF POLICY S3

6.11 **HOUSING MARKET AREA** – In the present LDP, the housing market area is not defined. The Plan does not set out any rationale for which housing market the District lies in. It is a key piece of evidence for the Plan as set out in the Strategic Housing Market Assessment Update 2012 (SHMA).

6.12 National Planning Policy Guidance states that the Housing Market Area should cover a Local Planning Authority’s functional housing and economic geographic area. This then should link-in with the new provision in national policy to produce Statements of Common Ground with strategic partners under the legal Duty to Co-operate. In order to do this the Housing Market Area needs

to be set out clearly in the plan. This also forms another clear link to infrastructure needs that may have cross boundary requirements or issues.

6.13 The Local Housing Needs Assessment 2020 (LHNA), part of the updated evidence for the review of the Plan, has overtaken the evidence in the SHMA Assessment Update 2012 and sets out that the Housing Market Area for Maldon District incorporates both Chelmsford City`s area and Braintree District`s area. Engagement has already taken place under the Duty with both councils as part of the Assessment`s preparation, as well as the Issues and Options Document. This matter does need to be rectified and set out clearly, in a review of the LDP in order to conform to both national planning policy and guidance.

6.14 **SMALL SITES** – National Planning Policy states that,

"Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should:

a) identify, through the development plan and brownfield registers, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare; unless it can be shown, through the preparation of relevant plan policies, that there are strong reasons why this 10% target cannot be achieved.

b) use tools such as area-wide design assessments and Local Development Orders to help bring small and medium sized sites forward;

c) support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes; and

d) work with developers to encourage the sub-division of large sites where this could help to speed up the delivery of homes"

6.15 At the present time, the growth strategy set out in the approved LDP in policy S2 does not conform to the above paragraph in the NPPF (introduced in 2018); in that it does not make any provision for the allocation of smaller sites and did not set out in policy how these types of sites were going to be supported.

6.16 The LDP, in practice has not been delivering on smaller sites either since its approval. At present there are only 223 homes with planning permission on sites of less than 1.0 hectare. There has also been insufficient land put forward in the Housing and Economic Land Availability Assessment (HELAA) on sites of under 1.0 hectare in size. Given that the housing requirement set out in the LDP is 4,650; on small sites there should be at least 465 homes with permission to meet the NPPF`s 10% requirement.

6.17 It is advised that this matter needs to be addressed not only in a reviewed plan, but also going forward in the shorter term. This means that greater weight in decision-making should be placed on small sites coming forward as planning applications on unallocated sites within and adjacent to existing settlement boundaries, in order to offer wider choice to the housing market and develop a good mix of sites. It is advised that until the LDP is reviewed, the principle in decision making for these types of development should now be assessed through national policy, given that both policies S2, in regard to rural villages and S8 in terms of the Settlement Hierarchy are both out of conformity with national policy as set out in this paper.

6.18 **SELF-BUILD HOUSING** - The present LDP does not have a policy for self-build/custom build homes, nor does it consider entry-level housing. This will need to be considered in the reviewed housing policies in order for them to be in conformity with paragraph 62 of national planning policy which states.

"...the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes"

6.19 Self-build housing is mentioned in the LDP in policy H2 – Housing Mix, however, the policy does not set out how this type of housing is going to be delivered or the level of need. The numbers of self-build housing coming forward is low. The numbers of housing units that could come forward for self-build, as evidenced in the LHNA 2020 could be much higher than the numbers on the Council's Self-Build and Custom Housebuilding Register and further consideration should be given to having a separate policy for self-build. More details about policy H2 – Housing Mix are set out below.

CONCLUSION – REVIEW POLICY

6.20 **S8 – Settlement Hierarchy** - This policy is the place where the settlement hierarchy is clarified, and the policy sets out that development will be supported within the defined settlement boundaries, Strategic Allocations and Garden Suburbs. The policy then goes on to list 13 criteria where development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon.

6.21 This is a strategic policy and would need to be set out as such in a reviewed plan as it fundamentally affects where growth can go. This policy is one of the key policies and should be at the front of the Plan as a golden thread which runs throughout the whole plan, at the moment it is following all the other

"S" policies, and this means its importance to the Spatial Strategy is somewhat lost.

6.22 The 13 criteria should be deleted from the policy. This is because, firstly they are, in the context of the NPPF, now seen as non-strategic policy matters and relate to other policies in the plan, as notated at the end of each of the 13 clauses. Secondly, they are repeated from other policies in the plan and therefore unnecessary.

6.23 The settlement hierarchy was based on evidence dating from 2011, and is therefore out of date with no site visits being undertaken at the time to assess the accuracy of data.

6.24 The policy sets out that the Council will support sustainable development within the defined settlement boundaries, but does not clarify why. This links in with the comments on policy S2 in that the Plan is not supporting development of housing on smaller sites of less than 1.0 hectare in size (10% of the housing requirement as per NPPF) in that the hierarchy is not clear enough. The requirements for each level of the hierarchy do not relate back to what is actually on the ground in the District. There are villages with clearly more services and facilities mixed in with villages with less, and hamlets mixed in with smaller villages. This means the policy is out of conformity with paragraphs 16, 20 and 69 of national planning policy in that it is not written clearly and unambiguous, does not support policies which should clearly set out the overall pattern for growth in the district and does not, alongside policy S2 clearly support smaller sites coming forward.

6.25 The policy is contradictory, stating that no development outside of the settlement boundaries, Strategic Allocations and Garden Suburbs will be supported, but then there are 13 criteria where you could have development where the intrinsic character and beauty of the countryside is not adversely impacted upon. There is no clarification text setting out the justification for this statement or setting out how a developer can comply. This is also out of conformity with paragraph 16 of the NPPF. Whilst the policy is being used and cited in appeal decisions, its overall success is obscured by other policy usage and because of the confusing nature of the policy, uses which could be acceptable outside and adjacent to settlement boundaries could be being considered for refusal.

6.26 This therefore could be preventing many of the Plan's key objectives being delivered by restricting development to within settlement boundaries. Over and above the comments made on Policy S2 concerning housing delivery, consideration should be given to whether the use of settlement boundaries for other types of development should continue in the LDP Review as they are constraints to delivery. The evidence for this is now showing in that the District cannot provide 10% of its housing requirement on smaller sites.

CONCLUSION - REVIEW POLICY

6.27 **POLICY H1 – AFFORDABLE HOUSING** - This is the policy which sets out how the Council will deliver affordable housing; the district being divided into sub areas and all housing development over 10 units or 1,000 square metres will be expected to contribute to affordable housing provision. There is a Supplementary Planning Document (SPD) which supports this policy.

6.28 Both the policy and SPD are out of date. SPDs should not contain policy, this is because they have not been subject to examination. Any detail should be set out in the SPD's related LDP policy. The Affordable Housing SPD does contain much additional criteria which should be set out in the policy. It has also been updated to include the new definitions of affordable housing from Annex 2 of the NPPF, but these are not set out in the policy. These definitions now include starter homes and discounted market sale homes. The evidence base which supports both the policy, and the SPD was set out in the Strategic Housing Market Assessment Update 2012, which has been replaced by the Local Housing Needs Assessment 2020. This renders the key matters set out in the policy and SPD out of date. This evidence base will require updating again prior to the submission of the reviewed plan for examination.

6.29 Policy H1 in the LDP did not set an affordable housing target, nor a trajectory for the delivery of affordable housing across the plan period. Planning policy guidance states that the total net need should be converted into an annual flow or trajectory. This trajectory should include any shortfall from the previous plan period. It is unusual, not to have this key information in the policy as this is one of the requirements of national guidance. The review will need to rectify this omission and an affordable housing target and trajectory will have to be set out in a Strategic Policy as per paragraph 20 of the NPPF, so that the delivery of affordable housing can be monitored in a clear and transparent way.

6.30 There are points in the policy which are not clarified in the explanatory section, there is no information on how financial calculations will be assessed for Commuted Sums when onsite affordable housing cannot be provided. The basic information should be in the policy. It is not clear what a developer has to provide in order to prove a site is not viable or who will carry out an assessment of the facts concerning viability. These matters require rectifying in a reviewed policy.

6.31 The policy needs to be split into a Strategic Policy and Non-Strategic policy and the Non-Strategic policies should sit underneath the Strategic housing policies in the plan. Alongside this the SPD will require updating if the view is to keep an SPD. The reviewed policy should reflect the latest government criteria and definitions of affordable housing and set out clearly how the Council is going to support their delivery.

CONCLUSION - REVIEW POLICY AND SPD

6.32 **Policy H2 – Housing Mix** – This policy sets out that the Council will need to provide a suitable mix and range of housing. It also sets out that affordable housing should be integrated in with the rest of development and that it should be built in clusters of no more than 15 to 25 homes. There is a paragraph in this policy about self-build housing.

6.33 Housing mix is a feature of national policy at paragraph 62. The evidence base for this policy is out of date and therefore the information set out in the policy is out of date. The SHMA Assessment 2012 has now been overtaken by the Local Housing Needs Assessment 2020 which sets out a different housing mix than in the policy.

6.34 The policy completely misses its point in that the fundamental piece of information on what the housing mix should be for the District is found in the context and the clarification, but not in the main text of the policy, where it should be. The clarification text of the policy misses' explanations for two of the three paragraphs in the policy. It is not clear why affordable homes should only be in clusters of 15 to 25 homes, there appears to be no evidence cited to support this. The policy is therefore out of conformity with national policy in that it does not conform to either paragraph 16 or paragraph 62 of the NPPF in that it is not written in a clear and unambiguous way and does not set out accurately the needs of the District.

6.35 The aspects of the policy which touch on affordable housing and its integration and self-build housing are not relevant to this policy and these matters should be addressed in separate policies. The policy has also not delivered on its requirement as there have been more 3 and 4 bed homes built each year since the LDP was approved, than 1 and 2 bed homes which it should have delivered. In policy H2, there is no criteria concerning development of ground floor homes and given the growing older population in the District this does need to be considered further.

CONCLUSION - REVIEW POLICY

6.36 **Policy H3 - Housing for Specialist Needs** - This policy supports housing for those with needs such as older persons and those with disabilities.

6.37 This type of housing is very much market-led with Registered Providers and other providers providing niche housing for this type of market. The policy has an accompanying SPD. There is no evidence that the policy has assisted the delivery of housing for specialist needs. Given the low numbers of this type of housing that has been supported by the Council since the approval of the LDP and the high level of housing need for this type of development it could be said that the policy has failed in its objective.

6.38 The policy still conforms with national policy in that the Council references it in the LDP as set out in paragraph 62 of the NPPF. But it is out of conformity with paragraph 16 of the NPPF because it is not clearly written and is ambiguous in terms of how the decision-maker should react to development.

6.39 There are matters set out in the policy which are not required and place unnecessary burdens on those trying to bring this type of development forward; for instance, schemes must be supported by statutory agencies and there must be an identified need for specialist housing. Neither of these matters are relevant to the policy, as consultation takes place during the determination of an application which gives statutory agencies their opportunity for comment. Also, if there was no identified need for specialist housing then the LDP would not require a policy on it.

6.40 The evidence supporting the policy and the amount of need for the type of housing it's trying to deliver was contained in the SHMA Update 2012 which has now been overtaken by the LHNA 2020. This need should have been translated into the policy, but it is absent. The policy does not clarify which tier of the settlement hierarchy this type of development will be supported in. It just states that there should be a clearly identified need that cannot be addressed elsewhere in the District. This is confusing and places an unnecessary onerous burden on the developer in that they have to evidence that the development cannot be located elsewhere. Given that there is a need on a District wide level as specified in the LDP, theoretically this means this type of development can go anywhere. This is out of conformity with paragraph 20 of the NPPF in that the policy should have clearly set out the scale of pattern and scale of need.

6.41 The wording of the policy is restrictive and negative and requires altering to be positive. The last sentence of the policy needs removing, as does clause 7, which are negative. In accordance with the NPPF, viability is only tested in the plan-making process and therefore does not require further mention in policies. The policy does not set out what developers should do to show a site is no longer required. It also does not reference accessible standards in terms of wheelchair users for this type of property. The clarification section of the policy does not relate to the clauses in the main policy, which it should do, and this adds to the lack of direction and ambiguity in the policy. The text in the policy refers to an Older Persons' Housing Strategy, which is not on the Council's website so this reference will need to be removed if it does not exist anymore.

6.42 The policy does not clearly set out its evidence, nor does it set a target for delivery, which it should do to be effectively monitored. Given the high evidenced need for older persons' housing, consideration could be given to allocating land for this type of housing in any reviewed LDP and reflecting it in this policy. It is advised to review the policy in order to clarify a target and make the policy clear, unambiguous and release some of the unnecessary and out of conformity burdens it places on developers that could otherwise bring forward this much needed type of housing.

CONCLUSION - REVIEW POLICY

6.43 **Policy H4 - Effective Use of Land** - This policy covers density, alterations and extensions, backland/infill, replacement dwellings and residential curtilage into the countryside.

6.44 The policy however is not an effective use of land policy but seems to make references to matters which actually relate to design, heritage and landscape and these provisions would sit more appropriately in those policies. It is difficult to tell whether this policy has positively delivered development because most of the criteria are design related in terms of determining planning applications.

6.45 The policy is negatively worded and does not state it will support development, it just lists criteria that development must comply with, much of which relates to design, heritage and landscape matters. This makes it difficult for both the decision maker and those submitting applications, because they must look at other policies in the plan which broadly say the same thing. The development of garden land is a matter set out in national policy and does not need repeating in a local plan. The explanatory text is lacking in clarity and adds little to the policy.

6.46 Overall, this policy is out of conformity with paragraph 16 of the NPPF in that it is not clear and unambiguous for both decision-makers and those submitting planning applications. It is advised that the policy be deleted as it is not necessary. Density could be picked up instead in the main housing policy to ensure effective use of land, or in the design policy; where it could then also apply to other types of development that should be using land resources wisely. Regarding replacement dwellings, the definition of abandonment is set out in case law and does not need to appear in a policy and the design policy should address any other issues or concerns with any kind of development such as extensions and replacement dwellings.

CONCLUSION - DELETE POLICY

6.47 **Policy H5 - Rural Exception Sites** - This policy covers affordable rural exception housing.

6.48 The policy should lie with the affordable housing policy for clarity because the two policies are interlinked. The policy does not link to the Settlement Hierarchy, so it is not clear which level of settlement it relates to. The policy does not conform to national planning policy guidance in that it says.

"Small numbers of market housing may be allowed at the Council's discretion where this would facilitate the provision of significant additional affordable housing to meet local needs."

6.49 The NPPF Guidance states

"A proportion of market homes may be allowed on the site at the local planning authority's discretion, for example where essential to enable the delivery of affordable units without grant funding."

6.50 By inserting the last part of the sentence in the policy, the policy could be putting developers off from the delivery of exception sites because there is no definition of what 'significant' means in the explanatory text and exceptions sites are by their very nature meant to be quite small sites.

6.51 Clause 1 is overly restrictive, there is nothing in either national policy or guidance that stipulates that local communities have to support rural exception affordable housing. Community engagement is part of the planning application process and therefore it does not need repeating in local planning policy.

6.52 Clause 2 of the policy is unnecessary in that affordable housing already requires a S106 legal agreement which sets out the requirements for a registered provider to take on any dwellings.

6.53 Clause 3 of the policy is not clear and there is no explanation as to why developers should set out site availability, or why there should be an "open book" viability assessment. If a site meets an identified need in terms of a housing needs assessment, then viability is not a matter that should be considered further.

6.54 Clause 4 of the policy is unreasonable in its terms in that it asks for a developer to identify a number of sites and then choose the most appropriate. This is not the recommended approach in national planning policy or guidance and there is no explanation in the explanatory text as to why developers should carry out this exercise. The clarification section of the policy does not tie in with the main wording of the policy.

6.55 Overall, the policy lacks clarity, and is out of conformity with paragraph 16 of the NPPF and national planning policy guidance. This could be part of the reason that delivery of rural exception sites has not come forward. It would be advisable to review this policy and work with developers/consultees to ensure that the policy is clear and unambiguous in its wording and it does assist developers in bringing forward rural exception sites given the needs present in rural communities.

CONCLUSION - REVIEW POLICY

6.56 **Policy H6 - Provision for Travellers** - This policy sets out the evidenced need and the criteria for sites coming forward and/or extensions to sites for Gypsies, Travellers and Travelling Showpeople.

6.57 This policy is out of date in terms of its evidence base. The Council has commissioned an update to the previous Gypsy, Traveller and Travelling Showpeople Accommodation Needs Assessment, which is likely to show a higher level of need than set out in the existing policy.

6.58 National planning policy regarding this type of development states that local plans should set pitch and plot targets and a reviewed policy will need to do this, in the same way as it will have to do for housing and employment. The Council will also need to consider allocating sites for a 5-year supply, 6-10 and

15 year consideration of supply of sites. The requirement for development will need to be set out in a Strategic Policy.

6.59 The policy does not link to the settlement hierarchy and therefore it is not clear where this type of development will be supported. The Traveller Site Allocations Development Plan Document Draft Background Paper: Methodology and Site Selection August 2016 document which is referenced in the policy was never brought forward and is not an adopted document and any relevant detail concerning suitable site locations should have been set out clearly in the policy. It is therefore irrelevant to the determination of any application for this type of use in terms of policy consideration.

6.60 The policy does not address mixed-use and storage on sites. Clause 3 of the policy is unnecessary in that it is a given fact for any development proposal that they should be considered against the LDP as a whole. The explanatory text does not directly relate to the main policy and refers back to the criteria in the 'Traveller Site Allocations Development Plan Document Draft Background Paper: Methodology and Site Selection' August 2016, which makes the assessment process complex and refers to an unadopted document whose critical details should be set out in the policy, but never were. The name of the policy needs changing to Gypsies, Travellers and Showpeople to encapsulate all types of residents with a nomadic recognised lifestyle and a clear link made to the definition in national policy.

6.61 Overall, the policy is out of conformity with paragraph 16 of the NPPF in that it is not clearly written and unambiguous. It also does not conform to paragraph 20 of the NPPF in that the Council has not set out in a separate Strategic policy the identified need for this type of development and made the pattern of that need clear.

CONCLUSION - REVIEW POLICY

6.62 Policy H7 - Agricultural and Essential Workers Accommodation – This policy covers permanent or temporary accommodation in the countryside related to and located in the immediate vicinity of a rural enterprise.

6.63 Overall, the concept of this policy conforms with national policy, but it does not now need to list the type of work associated with those occupying this type of development, as the term "rural worker" covers the matter. It also has an omission in that it does not protect housing already in situ covered by the policy. It does not set out what a proposer should do in order to have a "rural worker" planning condition lifted. Clause 5 of the policy is unnecessary in that it covers design and impact on the countryside which are covered in other policies in the Plan.

6.64 The policy is also ambiguous in its wording in that the explanatory text does not set out clearly what a developer should do in order to conform to the policy. This could cause issues for interpretation in decision making and for

those submitting applications. This makes the policy out of conformity with paragraph 16 of the NPPF. The policy therefore requires reviewing.

CONCLUSION - REVIEW POLICY

6.65 **Policy H8 - Provision of Houseboats** - There is no national guidance or policy covering houseboats; however, there is a legal requirement to consider the needs of houseboat dwellers.

6.66 The policy does not set out clearly how it relates to houseboat living conditions or relates to on-quay activities and it could be greatly improved. Also, there is no evidence lying behind the policy in that there is no record of what is in the district already, where it is and what condition it is in. This makes it difficult to relate the policy to existing sites and, in this regard, may be impossible for applicants to comply with the requirement in the policy; that development of this type is only supported within or adjacent to settlement boundaries. This would make the policy out of conformity with paragraph 16 of national planning policy in that it is not clearly written and unambiguous for decision-makers.

CONCLUSION - REVIEW POLICY

6.67 CONCLUSION ON THE HOUSING POLICIES

6.68 Overall, all the housing policies in the LDP require reviewing with the exception of S3. As set out above the housing policies are out of conformity with both national planning policy and guidance and much of their evidence-base is out of date.

6.69 It would be advisable to group the housing policies together in the plan and start off with a Strategic Policy which sets out the Settlement Hierarchy/Pattern as this is the golden thread that should wind its way through the plan and link the other policies. The housing policies should be clearly written and unambiguous in order to conform to paragraph 16 of the NPPF and they should clearly set out the pattern and scale of evidenced housing requirements for the future plan period. Each policy should serve a clear purpose and avoid duplication with national policies or other policies within the LDP.

6.70 Set out below is a table showing the work and resource needed to review the housing policies in the LDP.

Local Housing Needs Assessment 2020	This piece of work updated the Strategic Housing Needs Assessment and will assist with the housing targets for general market, affordable and specialist housing and the future mix of housing needed in the District to 2040. It will require updating prior to submission for examination.
Strategic Housing Land Availability Assessment/Call for Sites	This piece of work requires updating, as it had not been assessed since

	2014. This work is being done in house and will be reviewed annually until examination.
Consideration of Alternative Growth Scenarios	The Issues and Options Consultation was the start of this piece of work, with 7 high-level growth options. These options need to be reduced in number to a maximum of three so that further evidence and modelling work can be carried out by consultants and in-house by officers.
Rural Facilities Study/Updating the Settlement Hierarchy	This piece of work requires updating. This work is being done in-house and the results from the Issues and Options Consultation will feed into it and help with its evidence base.
Gypsy, Traveller and Travelling Showpeople Accommodation Needs Assessment	This piece of work has been commissioned from consultants and the resulting study is being sense checked before a paper is presented to Members.
Specialist Housing SPD	It is likely that this will be recommended for deletion – the important points from it should be in the main specialist housing policy where they will have greater weight in decision-making.
Affordable Homes SPD	This document may be recommended for deletion, the main important points should be in the affordable housing policy where they will have greater weight in decision-making.
Sustainability Appraisal (SA), Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA)	These three pieces of work are a statutory requirement of the LDP process. Both pieces of work have now been commissioned and consultants appointed.
Rewrite of the policies	This work can be done in-house, informed by national policy and evidence.

7.0 EMPLOYMENT

7.1 **E1 – EMPLOYMENT** – This policy sets out the allocations for employment and how the Council will support employment development.

7.2 Overall, the policy is out of conformity with national planning policy in terms of paragraph 16 in that it is not clearly written and unambiguous and paragraphs 81 and 82 which state.

"Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development"

Paragraph 82 which states.

"Planning policies should:

a) set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth, having regard to Local Industrial Strategies and other local policies for economic development and regeneration;

b) set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period;

c) seek to address potential barriers to investment, such as inadequate infrastructure, services or housing, or a poor environment; and

d) be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances."

7.3 The policy lacks a robust evidence base behind it. The Essex Economic Assessment was completed in 2010 and the Mid Essex Futures Study was done in 2006. The last major piece of work on employment in the District appears to be the 2015 Employment Evidence and Policy Update carried out by Hardistry Jones Associates and prior to that the Employment Land Review carried out in 2009 by Roger Tym and Partners. A Maldon District Economy Study was undertaken in respect of work to inform the Council's considerations of the Bradwell B development; however, this is not an economic needs assessment in terms of floor or land space requirements. Policy E1 is an allocation policy yet some of the existing employment sites in the District have been missed out of the list in the policy. These are not then being afforded the protection they should have as employment site allocations.

7.4 The policy does not reference the SELEP Industrial Strategy and makes very little reference to wider SELEP and Essex-wide strategic economic priorities and it does not set out the District's functional economic area, which it should do.

7.5 The policy only "encourages" employment generating developments and investments when it should be actively supporting them.

7.6 The policy is a strategic allocation policy and as the plan period will move forward in time, so the assessment for employment land requirements will need to move forward in time as well. This may include de-allocating sites if the evidenced need for them cannot be shown. The Council has commissioned an

Employment Land and Premises Study, following the process which is set out in National Planning Guidance. Broadly it involves:

- Liaison with business, SELEP, Housing Market Area LPAs and other relevant parties to assess the best fit economic market for the District.
- An analysis of existing stock of employment uses within the area, recent pattern of employment land supply and loss on extant planning permissions or losses to permitted development.
- Evidence of market demand, including locational and premises requirements of particular business types, sourced from local data and market intelligence, such as recent business surveys of business needs.
- Wider market signals relating to economic growth diversification and innovations.
- Evidence of market failure.

7.7 There will be the need to consider future economic scenarios which could make any review of the Plan more flexible than it presently is. The policy will need to be split into two – with a Strategic component and if necessary, a Non-Strategic policy component. The use classes in the policy will need to be reviewed as these have changed significantly since the approval of the LDP in 2017.

7.8 There is a lack of support in the policy for smaller employment generating uses and a lack of criteria / guidance in respect of new employment space. There is a lack of explanation and clarity around any loss of existing employment uses and it is not clear to those submitting applications what they have to do in order for the Council to support their proposals. Because the evidence connected to the plan is so out of date, it is already difficult for the Council to evidence and argue that there is a lack of need when applications come forward for loss of employment space.

7.9 Parts of the policy are negatively written, and this will require altering to ensure compliance with national policy.

CONCLUSION - REVIEW POLICY

7.10 **E2 – RETAIL** - This policy sets out the capacity for convenience and comparison goods in the District taken from the 2017 update to the 2015 Retail Study by White Young Green. The policy also states that retail needs to be closely monitored for 2 years after the Blackwater Retail Park development has opened (excluding the hotel) and if there is evidence of a need to allocate more retail space then this will trigger a partial review of the LDP.

7.11 The policy is out of conformity with national planning policy. Paragraph 86 of the NPPF states.

"Planning policies should:

a) define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters.

b) define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre;”

7.12 The policy does not clearly define a network and hierarchy of town centres. The policy also does not set out clearly the town centre boundaries; they do not directly relate to the town centres of each town and seem to stretch into the residential areas in the town centres’ hinterland, going as far as the river in Maldon. This makes it very confusing for developers because residential areas are clearly not town centres. These will need reviewing along with the primary and secondary shopping frontages which may have altered since 2014; they should reflect the health of the High Streets.

7.13 There was still the same capacity within the retail sector up to 2029 for convenience and comparison goods as set out in the 2017 update to the 2015 District Retail Study, however, the overall impact on the High Street in Maldon of out-of-town retail developments has not been monitored since the LDP’s approval and this needs to be done prior to deciding about any allocations in the policy.

7.14 Because the policy does not clearly define a network and hierarchy of town centres, it describes that the largest centre is Maldon and that retail is concentrated in Maldon, Heybridge and Burnham-on-Crouch, but in the local thresholds Burnham-on-Crouch and the rest of the District are set a retail threshold of 1,000 square metres. This in effect means that any retail development that is under the 1,000 square metres does not have to go through an impact assessment in the planning application process. There is no explanatory text to justify this part of the policy and it is unclear how this figure came about. This could have a detrimental impact on the smaller settlements within the District because theoretically an application could be submitted for a large retail unit just under 1,000 square metres in an edge of settlement position and it would not have to go through an impact assessment for the centre of the settlement. The hierarchy and network are not set out clearly enough and therefore the role and function of settlements is not clear to the either an applicant, or decision maker. There are no clearly set out protection criteria for shops and pubs in rural villages and the Use Classes mentioned in the policy will require reviewing due to national changes to the Use Class Order.

7.15 The policy will require reviewing, firstly to define a hierarchy of centres and their geographic boundaries. Secondly, if after further analysis of the retail offer in the District shows that the uptake of capacity has exceeded that set out in the Plan, or that the Blackwater Retail Park development is having a detrimental effect on the High Street of Maldon, the policy may need altering to prevent negative impacts on town centres.

CONCLUSION - REVIEW POLICY

7.16 E3 - COMMUNITY SERVICES AND FACILITIES

7.17 This policy seeks to secure and maintain community services and facilities.

7.18 It is unknown whether this policy has been successful because the assessment of services and facilities has not been a yearly process as part of the monitoring of the plan. As set out for policy S8 – Settlement Hierarchy, the previous assessment of community's services and facilities was not robust enough to make a comparison with what is present in today's settlements.

7.19 Whilst the policy is broadly in conformity with national policy in that it seeks to protect, retain and enhance services and facilities, the 'shop' element in it should be in the retail policy and should be moved.

7.20 The policy does not clearly say it will support development and in the last paragraph says "encourage" where it should say support. It does not clearly link into the Settlement Hierarchy, so it is not clear which settlements are referred to in the policy. There is a list of community services and facilities in the explanatory text, but this is not exhaustive as a list and it says in the policy that community facilities should be provided via S106 agreements, but it is not clear how the need is going to be evidenced and really this could be placed in the infrastructure policy.

7.21 The criteria for a loss of a service or facility needs to be tighter with a clear time limit on how long something could be marketed for, at the present time for those submitting applications and for the decision maker it is not clear.

7.22 The policy is therefore out of conformity with paragraph 16 of the NPPF in that the policy is not clearly written or unambiguous.

CONCLUSION - REVIEW POLICY**7.23 E4 -AGRICULTURAL AND RURAL DIVERSIFICATION**

7.24 This policy seeks to support the development of new buildings or activities associated with agriculture and other land-based rural businesses and the change of use of existing rural buildings to other employment uses.

7.25 This policy is out of conformity with national planning policy in that national policy at paragraph 85 states that

"Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport."

7.26 The policy links this type of development with existing uses. It also states that the building/activity could not reasonably locate the use in existing towns, villages or allocated employment sites. As set out above, national policy does not make these linkages. The policy in effect makes it almost impossible to

support agricultural and rural diversification development, because many of these types of uses could otherwise be located in a settlement. Linking development to existing uses means that the policy does not actually support new uses. The policy is therefore a negative policy which could be blocking entrepreneurial opportunities within the rural economy.

7.27 The clarification text only consists of one paragraph and does not explain what is meant in the policy and does not relate to each clause of the main policy wording. This makes it difficult for both the decision maker and a developer to understand what the policy means.

7.28 The policy is therefore out of conformity with paragraph 16 of the NPPF in that it is not clearly written and is ambiguous. It would be advisable given that the policy is so unsupportive of rural economic development and so out of conformity with national policy that when determining planning applications until the LDP is review, that the principle of any development relating to its content be assessed against national planning policy.

CONCLUSION - REVIEW POLICY

7.29 E5 - TOURISM

7.30 This policy supports developments which contribute positively to the growth of local tourism.

7.31 The policy is negatively worded, in that the first clause of the policy states that there should be an identified need for the provision proposed, yet the Council has not set out what evidence it would require to demonstrate need and it has no need assessments of its own. There is also no national evidence that developers could use, this effectively means that the policy is almost impossible to comply with.

7.32 Clause 2, then goes on to say that developers have to have good connections with other tourism uses. Once again, this clause would, in the majority of cases, be impossible to comply with and the Council has not set out why this would be important in terms of decision-making and the policy does not clarify this.

7.33 The policy does not set out clearly what is expected from developers in terms of the loss of tourism facilities, or how demand is going to be measured and which tourism uses will be allowed to change their use. It may be acceptable to lose a camp site but not a hotel or bed and breakfast, for example; so it does need to be made clearer. Therefore, this policy is not going to achieve the objective set out in the Plan which is to support tourism and is out of conformity with paragraph 16 of the NPPF in that it is not clearly written and is unambiguous, using phrases such as 'where possible' and 'significant loss' without explanation as to what this means. Also, the policy does not conform to paragraph 84 in the NPPF, in that it does not support a prosperous rural economy and enable sustainable rural tourism, which is evidenced by the

minimal number of permissions for tourism development which have been approved since the LDP was approved.

7.34 Furthermore, the reference to the impact of the character and appearance of the area, quality of life of local people and the impact on the natural and historic environment, is unnecessarily repetitive, as there are other policies within the LDP to deal with these considerations, therefore it is not necessary to mention these again.

7.35 In addition, the policy clarification bears little relationship to the policy text and the evidence base will also need updating.

CONCLUSION - REVIEW POLICY

7.36 E6 - SKILLS, EDUCATION AND TRAINING

7.37 This policy seeks for the Council to work with its partners to support the provision and enhancement of training and educational facilities and opportunities in the District to meet the needs of the community, local businesses and the local economy. It is not a policy however, rather it is a statement of intent.

7.38 The majority of this policy is not a land use planning policy; it is more of an objective for an economic growth strategy that might support the delivery of the LDP, or the Council's Corporate Plan. National planning policy would support development coming forward such as a school or training facility and other policies in the LDP give that support; it is not necessary to set it out in a separate policy. It is necessary however to set out if key infrastructure associated with skills, education and training is to be protected but this should be done in policy I1 – Infrastructure and Services. Given that this is not a policy, it should be deleted from the Plan.

CONCLUSION - DELETE POLICY

7.39 S7 PROSPEROUS RURAL COMMUNITIES

7.40 This policy is found in the plan amongst the "S" policies, though 50% of it is not a Strategic policy. It actively seeks to support and facilitate sustainable economic development, promote information and communication technologies. It supports live/work units within rural settlements, micro business space and the retention of key employment and retail designations. The policy supports rural diversification and supports rural affordable housing exception schemes. It supports the enhancement of rural diversification, tourism, leisure opportunities and green infrastructure in accordance with policies E4, E5, N1, N2 and N3; The policy supports Neighbourhood Plans and allocations within them.

7.41 All the matters covered in this policy are broadly in themselves supported through national policy and they are covered by other policies in the plan. The

policy is however out of conformity with national planning policy, it is restrictive and could be said to not have been positively prepared in that it only refers to development within rural villages, rather than rural communities, yet the NPPF at paragraph 84 states.

"that policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements"

Therefore, the policy does not have regard to this paragraph in the NPPF.

7.42 Support for Neighbourhood Plans is set out in the NPPF and therefore would not need to be set out in such detail in a Non-Strategic policy. The policy has been used very little in appeals and this reflects the fact that much of what is in it can be found in the NPPF, or the other policies in the LDP.

7.43 The LDP does not clearly set out its Settlement Hierarchy in such a way so that it flows through the whole Plan as described for policy S8. This then raises an issue with this policy in that it is not clear what a 'rural community' is, if the whole of Maldon District is classed as a rural district. Which settlements does this policy cover?

7.44 Much of the criteria within the policy is a repeat or elaboration of national policy or is found in other parts of the Plan. Because of the policy's restrictive nature and its lack of conformity with NPPF paragraph 84 the policy cannot be deemed to be supportive of what it is trying to achieve, which is prosperous rural communities.

7.45 The policy has in its subject matter, items that belong in other policies which makes it difficult to read in conjunction with the whole plan. Affordable housing on exception sites, live/work housing, rural employment, tourism, neighbourhood plans, protection of rural community services and facilities should all be in their own separate policies or integrated into larger single-issue policies such as housing, employment, retail or tourism. The details should be carefully considered so that they conform with the NPPF and support development to ensure a prosperous rural economy with the ability for people to live and work in it. It would be advisable to delete this policy from any reviewed LDP, ensuring that key elements of it are picked up in other relevant policies in the Plan and set out in a Strategic policy exactly what the Council's priorities are in regard to the rural economy, in conformity with national policy.

CONCLUSION - DELETE POLICY

7.46 EMPLOYMENT CONCLUSION

The evidence base for the main employment policy E1 is out of date. Monitoring needs to be undertaken regarding retail in general and the impact of the Blackwater Retail Park on Maldon High Street. A review of policies E1, E2, E3, E4 and E6 would also give an opportunity to bring these policies back into conformity with the national policy and add clarification which may assist in decision making and more positive support for economic development coming

forward. Set out below is a table detailing the work necessary to review the employment policies.

Employment Land and Premises Study	This piece of work will be essential to understand the floor space and land requirements for employment in a review of the LDP. This work has been commissioned and is underway.
Monitoring and assessment of retail in the District and production of an assessment topic paper to ascertain review changes in policy E2.	This piece of work is essential in order to understand the impact The Blackwater Retail Park development on the High Street of Maldon and the impact of Covid19 and the current period of economic uncertainty on the health of retail across the District. This work can be done in-house.
Rewrite of the policies	This work can be done in-house

8.0 DESIGN AND CLIMATE CHANGE

8.1 D1 - Design and Built Environment

8.2 This is the main policy in the Plan which covers design and is linked to the adopted Maldon District Design Guide.

8.3 This policy has been successfully used numerous times to defend appeals and by its success, demonstrates its deliverability. However, it is now out of conformity with national planning policy paragraph 16 in that it is not clearly written and unambiguous. It also does not fully conform with Chapter 12 – Achieving Well Designed Places in the NPPF.

8.4 The policy is negatively worded, no-where in it does it say that development will be supported, and it should do. Basically, the policy is a list of criteria which development must conform to. The policy does not really set out the District`s vision for the development of `place`.

8.5 The policy has aspects in it that are unnecessary and can already be found elsewhere in the plan. All these repetitive clauses should be removed. The policy does not link into a Design Guide or Code as now set out in national planning policy. The policy does not take into account key climate change factors for on-site delivery. The explanatory text does not relate to the policy clauses which means that the policy is not fully explained to those wishing to develop in the area.

Though the Maldon District Design Guide is mentioned in the main policy wording it states that “in addition to the clauses in the policy development must have regard to the emerging design guide.” Development cannot conform, “in addition to the policy” because everything set out in the SPD should be in broad terms in the policy. The Maldon District Design Guide also only covers residential development; nothing else expresses how design should be dealt with in other types of development. Following recent changes to national policy, the Maldon District Design Guide does not now conform to the Government’s policy guidance on design codes so it will either have to be updated or the Council will

need to consider other reference points such as the Essex Design Guide which is online, covers various types of development and can be updated as national guidance changes.

CONCLUSION - REVIEW POLICY

8.6 D2 CLIMATE CHANGE & ENVIRONMENTAL IMPACT OF NEW DEVELOPMENT

8.7 Policy D2 relates to climate change and how development should minimise its impact on the environment.

8.8 This policy is broadly in conformity with national policy and, where used in planning applications, has been successfully used to defend appeals, demonstrating its deliverability. However, no monitoring has taken place concerning the BREEAM requirements (criterion 1 of the policy) and therefore it is not known if the policy is delivering in this regard.

8.9 Whilst this policy appears to be an effective tool regarding its requirements, it includes many different criteria, referencing the following 11 subject matters:

- BREEAM requirements;
- Sustainable building materials;
- Recycling facilities;
- Lifecycle impacts of materials;
- Green infrastructure;
- Pollution;
- Contamination;
- Land instability issues;
- Air quality;
- Sustainable transport; and
- High quality land.

8.10 Overall, the policy is out of conformity with paragraph 16 of the NPPF in that it is not clearly written and is ambiguous. This is because the policy is unclear in its aim, particularly when read by members of the public or developers; is it a climate change policy or an environmental impact policy? The policy will also need to be revised to reference the Climate Emergency declared by the Council in 2021. It is also unnecessarily repetitive of certain topics, notably green infrastructure and sustainable transport. There are other policies in the Plan which pick up the points made in this policy and these matters should be removed. It is important not to get this mixed-up with the renewable energy policy. In addition, wording such as 'should', 'where appropriate' and 'where possible' should be avoided when writing a policy, as this adds to its ambiguity, contrary to paragraph 16 of the NPPF.

8.11 Criterion 11 states that poor quality land should be prioritised over higher quality land, however, does not clarify whether this is referring to grades of agricultural land, or brownfield sites. The policy also considers air quality; the Council approved an Air Quality Action Plan on 2 July 2020, which needs to be referenced in the policy.

8.12 Paragraphs 3.12 and 3.13 of the policy clarification text discusses renewable energy, but this is not mentioned in, nor is relevant to policy D2. This should be in policy D4 which relates to renewable energy. All other policy clarification text needs to be updated, notably paragraph 3.17 which states there are no Air Quality Management Areas in the District, which is now factually incorrect.

8.13 It is also noted that much of the evidence base is out of date and requires updating, in particular the Water Cycle Study.

8.14 The policy also needs to be checked against any national changes to ensure it does deliver on climate change issues, particularly with regard to Government updates on this matter.

8.15 As the Council has altered its priority with regard to climate change since the LDP was approved, it is more appropriate to delete this policy, or reduce it down to just the environmental impact factors and ensure that we are incorporating climate change mitigation factors throughout the LDP as a golden thread into each individual policy and raising climate change to a more prominent position in the spatial vision and objectives of the Plan.

CONCLUSION - DELETE POLICY

8.16 D3 - Conservation and Heritage Assets

8.17 This policy covers the historic environment.

8.18 This policy is out of conformity with paragraphs 17, 20 and 21 of national planning policy in that the Council's strategic direction should be set out in a separate Strategic policy.

8.19 The policy states that development that affects a heritage asset needs to preserve and enhance it, but national policy states that development should sustain and enhance it, this requires altering in order for it to be in conformity with paragraph 190 of the NPPF.

8.20 The policy is not sub-divided into conservation areas, listed buildings, scheduled monuments, non-designated heritage assets and enabling development – at the moment it is not clear which parts of the policy relate to which parts of the historic environment and this means that the policy is not clearly written and is ambiguous for the decision maker, out of conformity with paragraph 16 of the NPPF. The paragraph concerning enabling development is weak and in the clarification text it is not explained clearly how a developer or applicant should pursue this option.

8.21 Since the LDP was approved in 2017, national planning policy has become very detailed concerning the historic environment and it may not be necessary to have any other detail in the policy other than how the Council will deal with enabling development.

CONCLUSION - REVIEW POLICY

8.22 D4 – RENEWABLE AND LOW CARBON ENERGY GENERATION

8.23 Policy D4 relates to renewable and low carbon energy developments. The Council has had very few applications for large-scale renewable energy developments submitted since the LDP was approved and therefore this policy is rarely used. However, it is noted that this policy is now out of conformity with national policy.

8.24 The policy mentions large-scale developments, although does not clarify what falls under 'large-scale'. There is no mention of small-scale renewable developments in the main policy, even though it refers to them in paragraph 3.36 of the policy clarification text. It is important, for clarity and completeness, that the policy fully relates to the clarification text. The policy needs to be reworded so that it is clear what its aim is and which developments it relates to, for the benefit of all users of the LDP.

8.25 The policy includes 7 criteria that development proposals should follow, however it is not clear whether these criteria refer to wind or other types of renewable energy development, particularly as one of the criteria mentions 'flicker'. In addition, the criteria include considerations such as the impact on biodiversity, heritage assets, character of the area and neighbouring amenity, which is unnecessarily repetitive of other policies already contained within the local plan.

8.26 It is now a national requirement for local plans to produce a map showing areas that are suitable for wind energy development, as per footnote 54 of the NPPF. This was not a requirement when the LDP was approved and therefore the current LDP does not include a map so this would have to be created. The policy will need to be positively worded to support this type of development in the appropriate areas set out on the map.

8.27 With regard to the statement in the policy about Bradwell B new nuclear power station, it is not necessary for this to be in the policy. New nuclear development is any case outside the remit of the LDP, as it is a National Strategic Infrastructure Project, however there is a need to have greater articulation as to what the District would be seeking as benefit. Any text regarding such projects should be placed in a new Major Infrastructure policy rather than the renewable energy policy. The reviewed plan will require a strategic policy around renewable energy/climate change which clearly sets out the Council's position and direction, this is lacking from the Plan at present and would be out of conformity with paragraphs 17, 20 and 21 of the NPPF in that the plan is not set out how it should be.

CONCLUSION - REVIEW POLICY

8.28 D5 - FLOOD RISK AND COASTAL MANAGEMENT

8.29 Policy D5 relates to the mitigation of flood risk and the management of the impacts of coastal erosion. It aims to direct strategic growth towards lower flood risk areas.

8.30 This policy has been used successfully at appeals to ensure development is not located in areas of high flood risk, and it should be noted that there have been no Environment Agency call-ins for on this matter for any planning applications in the District. This proves the policy is working well in this regard.

8.31 Whilst the principle of the policy generally conforms with national policy, it is unnecessarily repetitive of national guidance set out at the time relating to the Sequential and Exception Test for flood risk, and developments having to be located in areas compatible with their uses. National guidance was also updated in 2022 and now requires local plans to account for more types of flood risk.

8.32 Additionally, it incorporates both flood risk and coastal management subjects together in one policy. It would be clearer to have separate policies for each topic area.

8.33 The policy is not worded as clearly as it could be, in that the first paragraph aims to direct strategic growth towards lower flood risk areas. Strategic growth in terms of the LDP is the strategic allocations and garden suburbs. This means that all other development which is mentioned in the sentence underneath does not have to do this, rather it only has to conform to the 4 numbered clauses in the policy. There are strategic elements in this policy which should be in a separate Strategic policy, therefore how it is set out is out of conformity with paragraphs 17, 20 and 21 of the NPPF.

8.33 The majority of the evidence base for this policy is out of date. In particular, the Strategic Flood Risk Assessment (SFRA), which refers to PPS25 which is no longer applicable, and includes out of date climate change modelling was last prepared in 2007. The Essex County Council Local Flood Risk Strategy was updated in 2018 and the Water Cycle Study is in the process of being updated. Any updated policy should also have regard to the Environment Agency's Shoreline Management Plan, or any emerging update, which includes coastal management recommendations.

8.34 Overall, this policy whilst working strongly in some areas, is out of conformity with paragraph 16 of the NPPF in that it is not clearly written and is ambiguous. It is a mixture of strategic and non-strategic development management policy and therefore out of conformity with paragraphs 17,20 and 21 of the NPPF. It also repeats national policy and guidance unnecessarily. Once the SFRA is completed it will be able to be used immediately for decision-making and emergency planning purposes. Given the amount of clarification and policy there is around flood risk in national planning policy and guidance, in the interim period whilst the evidence base for the policy is being updated and until a reviewed policy is written, it will not cause any detrimental harm to decision making to determine planning applications based solely on the NPPF and national guidance.

CONCLUSION - REVIEW POLICY

8.35 ADVERTISEMENTS

8.36 This policy is an effective tool regarding the control of advertisements, though it could be moved to sit under the design policy D1 in the flow of the plan and rewritten to have a more positive approach. Reference to listed buildings needs to be removed as this element would sit within the heritage policy.

CONCLUSION - REVIEW POLICY

8.37 DESIGN AND CLIMATE CHANGE CONCLUSION

The design, heritage and flood risk policies within this section of the plan all require reviewing. They require updating of their evidence base, and clarity in terms of what the Council is trying to achieve and how the policies are written so that both the decision maker and those submitting applications know what is expected of them. The repetition in the policies needs to be removed. Set out below is a table highlighting the work involved to review the policies.

Strategic Flood Risk Assessment (SFRA)	This is a specialist technical piece of work for which the specialism does not exist in-house. Consultants have been procured and are working on updating the document and relevant technical modelling work to evidence an updated Flood Risk Policy and for immediate application in determining planning applications and supporting emergency planning.
Mapping of areas suitable for wind energy to ensure the renewable energy policy is in conformity with national policy.	This work can be done in-house
Maldon District Design Guide SPD will require either a rewrite as a broader design code or deletion to be replaced with the Essex Design Guide	This work may have to be contracted out if it requires a re-write. This will be looked at once the plan is in examination.
Rewrite of the policies	This work can be done in-house

9.0 NATURAL ENVIRONMENT AND GREEN INFRASTRUCTURE

9.1 N1 - Green Infrastructure Network

9.2 This policy supports a multi-functional network of green spaces including open spaces and areas of significant biodiversity or historic interest. The policy provides support and encouragement for development that results in the creation, restoration, enhancement, expansion and interconnection of these types of sites.

9.3 The policy starts by stating that a strategic multi-functional network of green infrastructure will be identified, managed and where possible enhanced. However, it does not explain in the clarification text how this is going to happen, who is going to manage the green infrastructure or how it is going to be enhanced. The policy states that there will be a presumption against the loss of, degradation and fragmentation of green infrastructure but does not set out why or how a developer is supposed to demonstrate that they are not impacting on the environment in this way or how they can mitigate against the loss. Development is encouraged in the policy when it should be actively supported. The clarification text of the policy does not relate very well however to the policy details.

9.4 The wording of policy N1 needs to be updated to reflect the terminology used within the NPPF 2021. It is noted there is no mention of the term 'ecological networks' within the policy which is a recent addition to updated national legislation terminology, however, it is recognised this term was not part of legislation when the 2017 LDP was approved.

9.5 Whilst the policy appears to have been used successfully to defend appeals, it is not clearly written for an applicant or decision-maker and has a lack of clarification. There are aspects of the policy which are unexplained and given that one of them mentions the management of green infrastructure which the Council may or may not have control over, these are matters which may not be deliverable any longer. This is out of conformity with paragraph 16 of the NPPF. When reviewing the policy, it would be appropriate to include as far as possible the evidence from the adopted Green Infrastructure Strategy SPD 2019. Some of the projects detailed within the *Green Infrastructure Strategy* could form the basis for future monitoring of the policy.

CONCLUSION - REVIEW POLICY

9.6 N2 NATURAL ENVIRONMENT, GEODIVERSITY AND BIODIVERSITY

9.7 Policy N2 seeks to protect international and national designations in accordance with the European Habitats Directive (92/43/EEC) and the Conservation of Species and Habitats Regulation (2010). It also seeks to protect locally designated sites such as Local Wildlife Sites (LoWS).

9.8 The policy only encourages, and it should support development and their natural environment gains. N2 is delivered on major sites and is successfully

protecting international, national and local designated sites. There should be a strategic element to this policy set out in a separate Strategic policy, this will have to be looked at in any review of the LDP as set out in paragraphs 17, 20 and 21 of the NPPF.

9.9 There is no mention of biodiversity net gain in the policy, which is an Environment Act 2021 requirement, though this is not in national planning policy yet, but it is due to be inserted in the near future and the Council should start to consider how this can be translated into policy. Failure to do this could mean that any reviewed policy will become out of date very quickly.

9.10 The assessment of LoWS is very out of date (2007). This could therefore result in a long-term impact on the ability of this policy to protect local habitats and it is considered whilst the policy itself is not out of date, the evidence base in connection with it is and should be reviewed. A new Nature Conservation Study is already underway, and the policy should be reviewed in line with the outcome of that study with a strategic element being put into a separate Strategic policy.

CONCLUSION - REVIEW POLICY

9.10 N3 OPEN SPACE, SPORT AND LEISURE

9.11 This policy concerns development on open space, sports and recreational buildings and land.

9.12 This policy is written in a negative style and states that development will not be allowed. This needs to be altered to development will be supported and how to conform with national policy.

9.13 The paragraph which sits under the 3rd clause is confusing because it says that all open spaces on the Policies Map need to comply with the preceding three clauses, which is in itself satisfactory; but then it goes on to say that any other open spaces which exist or are newly created need to also comply. In effect that means all open space. However, in terms of planning policy it is necessary to map the land designation policies and anything outside of the Policies Map unless specifically stated in terms of what it is and what it means would not be covered by policy. This reason alone is a reason to review the policy so that new open space created since the last mapping exercise of the LDP can be added onto the Policies Map.

9.14 The paragraph concerning CIL and viability is not necessary as it is a repeat of planning legislation and should be removed. The last paragraph of the policy appears to relate to public rights of way which are covered by Highway legislation and are managed by the Highway Authority, Essex County Council. This is not required in the Plan.

9.15 There is a significant issue with this policy in that there is no up to date evidence to support the policy. The Council's *Play Strategy* expired in 2012 and the *Sports and Physical Activity Strategy* which dates from 2014-2017 is in draft

form only and was never adopted. Additionally, any reference to the *Green Infrastructure Study* needs to be updated to reflect the *Green Infrastructure Strategy SPD* that was adopted in 2019. This in effect means that the Council do not know what the need is when it comes to the topics covered by the policy. Technically, this means that it will be difficult to justify asking and evidencing any additional provision on sites outside of the strategic allocations. This matter is being remedied in the evidence base update that is happening for the review of the LDP.

9.16 Since the policy was adopted updates have been made to the guidance provided by Sport England with the release of two documents - *Planning for Sport Guidance* released in 2019 and *Playing Fields Policy and Guidance 2018* as well as updates to Government guidance in the document *Improving Access to Greenspace – A new review for 2020*, this will need to be incorporated where necessary into the policy.

9.17 Overall, whilst this policy appears to be delivering, it is difficult to determine whether it is fulfilling any evidence-based expectations as there is a lack of evidence base behind it. Additionally, because expectations are not set out within the policy, the policy cannot be monitored effectively.

9.18 Based on the above, the evidence base for this policy requires reviewing or, where there is no data to support the policy, the evidence base will require work to set it up and map. This means that the policy is out of conformity with paragraph 31 which sets out that planning policies need to be under pinned by relevant and up to date evidence. The policy requires rewriting so that it is clear and unambiguous in conformity with paragraph 16 of the NPPF.

CONCLUSION - REVIEW POLICY

9.19 CONCLUSION - NATURAL ENVIRONMENT AND GREEN INFRASTRUCTURE

9.20 All three policies in the natural environment and green infrastructure section of the LDP require some form of work to them, either to update the evidence base, form an evidence base or incorporate updated legislation and recommendations from the revised *Green Infrastructure Strategy 2019*. They all need to be rewritten so that they are clear and unambiguous in line with paragraph 16 of the NPPF. Set out below is a table showing the work involved to review these policies.

Update the review of the Wildlife sites	This is a large specialist piece of work. Consultant ecologists have been appointed for a Nature Conservation Study and have been working for 12 months they are due to report back in the fourth quarter of 2022/2023.
Set up and map the evidence base for the quantitative and qualitative data	Part of this work can be done in house, but a Playing Pitch Strategy

on sports, recreation and play space facilities. This can be used to either assist in updating policy N3 or sit behind the policy as an up-to-date evidence base.	needs to be commissioned, alongside the engagement of other supporting departments in MDC and ECC.
Rewrite of policies	This work can be done in house

10.0 TRANSPORT AND ACCESSIBILITY

10.1 T1 Sustainable Transport

10.2 This policy sets out the Council's requirements for a sustainable transport network for the District.

10.3 The opening paragraph of the policy and its 8 subsequent clauses are confusing. It states that "the Council will work with a range of partners to deliver a more sustainable transport network for the District. This will be achieved through the delivery of sustainable transport infrastructure set out in other Policies in the Plan, including policies S3, S4, S5, S6 and I1." The only sustainable transport infrastructure set out in the Plan is in the strategic allocations and Garden Suburbs; there is no indication in the Plan what happens elsewhere. The infrastructure table in policy I1 which does set out transport infrastructure also only relates to the strategic allocations. This table should be in the main policy text of I1. It is therefore not clear how this policy should be used in relation to any other developments that come forward. The policy is a mixture of Strategic policy and Non-Strategic development management policy, but how new development is supposed to react to it is not clear.

10.4 Neither the policy, nor the clarification text sets out clearly what the Council means by "sustainable transport"; which is an important paragraph missing from the policy. Access for horse riders is missing from the policy and should be considered given the rural nature of the District and given it is an active travel mode. The policy states that it would support "measures" when it should say "support development" because it is development that funds the majority of transport initiatives and the LDP is used to determine development decisions. There should be a separate clause for supporting new physical infrastructure such as upgrades to railway stations which may require planning permission if they are outside the Network Rail permitted development area.

10.5 The policy does not really know what it is, it picks up some accessibility issues which are then repeated in policy T2. It needs to be updated to refer to charging facilities for plug-in electric vehicles/ ultra-low emission vehicles. The policy fails to set out what the criteria is for the submission of a Travel Plan or Transport Assessment. Though this is in another document, it should be set out in the policy if it is going to be a key criterion for the determination of applications. The policy also fails to identify what a "hot spot" is in clause 8 or where they relate to. It fails to explain why there is congestion in the historic core of Maldon and Heybridge or why these places have been named in the policy and not other places in the District.

10.6 Overall, the policy misses a key opportunity to clarify what the Council means by the term sustainable transport, and it does not effectively link in with Climate Actions. It does not stipulate clearly that it will support development. The level of ambiguity in the policy means that it is out of conformity with paragraph 16 of the NPPF. It is also out of conformity with paragraphs 17, 20 and 21 of the NPPF in that it seems to set out a strategic approach, but it is not clear what is strategy or local policy. It would be advisable to review this policy and merge it with Policy T2

CONCLUSION - REVIEW POLICY

10.6 T2 ACCESSIBILITY

10.7 This policy concerns accessibility of development proposals.

10.8 The first sentence of the policy does not make sense and has a word missing. Clause 1 says that "development should be located where there is physical and environmental capacity to accommodate the type and amount of traffic generated". It is not clear what this means in policy terms because the clarification text does not explain what the LDP means by physical and environmental capacity. The clarification text also does not explain what 'safe and direct walking' means in clause 2. The policy does not state that it will support development and it should do.

10.9 The clarification text of the policy does not clarify the policy at all and seems to set out at paragraph 7.12 the strategic approach the Council has to improve infrastructure. If this is Strategic policy, then it should not be in the clarification text, but in a separate, clear Strategic policy.

10.10 Paragraph 7.13 states that parking standards will need to have regard to the Council's Adopted Vehicle Parking Standards SPD or successor documents. However, as an SPD, the key policy requirements in it should be set out in the main policy text and they are not. In Planning Policy Guidance, it states that "Supplementary planning documents (SPDs) should build upon and provide more detailed advice or guidance on policies in an adopted local plan. As they do not form part of the development plan, they cannot introduce new planning policies into the development plan. The key parking standards set out in tables 10 and 13 of the Adopted SPD should therefore be set out in policy, but they are missing from the policy. There is therefore a question mark over the validity of these in terms of policy usage and conformity.

10.11 The policy is out of conformity with paragraph 16 of the NPPF in that it is not clearly written and is ambiguous. It is also out of conformity with paragraphs 17, 20 and 21 of the NPPF in that it sets out a strategic approach outside of a Strategic policy. As set out in the details above of policy T1, this policy should be merged with that policy. The policies should also include accessibility for parent/carers with buggies, wheelchair users, young children and horse riding, which are presently missing, as well as incorporating the parking standards which are presently in the SPD.

CONCLUSION - REVIEW POLICY

10.12 CONCLUSION ON THE TRANSPORT POLICIES

10.13 It would be advisable to review both T1 and T2 and merge them into one sustainable transport and accessibility policy. The key strategic direction needs to be in a separate Strategic policy. The parking standards currently in the Adopted Vehicle Parking SPD should be set out in the policy. It is also an opportunity to provide clarity and linkage to the settlement hierarchy with regard to these two policies. Set out below is a table outlining the work involved in reviewing the transport policies.

Review parking standards	An Essex wide project is already underway to review parking standards, including how EV charging will be accommodated consistently across Essex.
Rewrite of policies	This work can be done in house

11.0 IMPLEMENTATION AND MONITORING

11.1 I1 INFRASTRUCTURE AND SERVICES

11.2 This policy sets out the infrastructure requirements for the District.

11.3 The context section of the policy does not say why the Council needs this policy and reads more like a policy, this will require altering.

11.4 The opening paragraph of the policy is confusing. It states that the Council will work with relevant partners and infrastructure providers to maintain and improve infrastructure provision in the District through delivering infrastructure associated with development proposals in policies in this Plan. The only development proposals set out in the Plan are the strategic allocations and Garden Suburbs which the paragraph then goes onto to mention. It is not clear what this paragraph is or the following 5 clauses, is it a statement of intent? Is it more like a Strategic policy or is it what the Council wants development to strive to achieve? It is not clear whether it relates to all development, or just the strategic allocations and Garden Suburbs?

11.5 The Strategic Allocations and Garden Suburb sites will become existing commitments in the reviewed LDP and will not need any reference in a reviewed plan, they will need to be removed from this policy. They would however be replaced by any new allocations that are seeking specific infrastructure provision.

11.6 The policy has clarified what infrastructure is, but it does not define what it means by "services" are and it would be advisable to either remove the word "services" or explain what it means so that it is clearer; "Services" could also be confused with activities that are paid from revenue funding, which is not something which the planning system can fund. The policy is currently limiting in its action. It only seeks for infrastructure to be maintained or improved; it

appears not to clearly support new infrastructure, which cannot be the case and requires rectifying in the review. There is no reference to the Maldon District Infrastructure Delivery Plan (IDP) in the policy which there should be to strengthen its weight. The table in the clarification section of the policy should be in the main policy box so that it can be treated as part of the policy.

11.7 Clause 4 in the policy which states, “provide information on known infrastructure requirements in the District and the most appropriate methods of delivery” is not policy and should be removed.

11.8 The policy is now moving out of date with regard to its evidence base. It is not totally out of date, because the development on the strategic sites and allocations is still being delivered. However, with the need for new site allocations in a review, there will be a need to update the IDP and therefore this policy.

11.9 The policy is out of conformity with paragraph 16 of the NPPF in that it is not clearly written and unambiguous. The policy may contain a strategic element to it, though this is not clear, there will be a need to set out in a strategic policy the Councils direction with regard to infrastructure, so in effect the way the policy is written is out of conformity with paragraphs 17, 20 and 21 of the NPPF. The policy may also need to consider how it should relate to Planning Obligations, S106, CIL or the new Infrastructure Levy going forward.

CONCLUSION - REVIEW POLICY

11.10 12 HEALTH AND WELL-BEING

11.11 This policy seeks to address health issues, maximise accessibility and requests a Health Impact Assessment on sites of over 50 dwellings and class C developments.

11.12 The context text of the policy is not joined up and does not set out clearly why the policy would be needed. It appears to miss out key health information that is relevant to help understand why the Plan wanted to take this particular policy approach, such as what percentage of the population is over 65, dementia figures or other health information on the population. The Maldon Health Needs Assessment 2013 which formed part of the evidence base for this policy has now been overtaken by the Essex Joint Strategic Needs Assessment District Profile Report 2019 and therefore there will be a need to review to determine if its direction is aligned to the updated evidence.

11.13 With regard to the policy, it is not clear if the Council is supporting development because it does not say it is in the first paragraph. Clause 1 in the policy is a statement and not a land use policy and therefore should be removed. Clause 2 covers accessibility of services and should be in policy T2 – Accessibility.

11.14 Clause 3 covers developments for an ageing population and states that they will be promoted. It is not clear however how the Council would do this in

terms of planning policy; it should say that it will generally support this type of development if this is the position. The clause however belongs in policy H3 – Specialist Housing.

11.15 Clause 4 covers green spaces and physical activities. The green space statement should be in policy N1 – Green Infrastructure. It is not clear how the Council is going to create higher levels of physical activity in the population; this is not a matter that planning policy has any control over as not all physical activity is linked to green spaces and therefore this should be removed from the policy.

11.16 The need for a Health Impact Assessment (HIA) on sites of over 50 dwellings is a positive move however, it appears not to be evidenced or articulated how it should be carried out and it is not set out in the clarification text why it would be required. The review of the LDP has commissioned a whole plan HIA. The evidence for individual development health impact assessments may emerge from that which can then be used in policy making and decision-making. This can then be set out in the appropriate policy in the reviewed LDP. The paragraph about St Peter’s Hospital belongs in the infrastructure policy.

11.17 Much of the content of this policy can be more effectively placed in other policies where it will relate better to supporting policy activities. The core evidence base is out of date. Parts of the policy are not policy at all and not matters which land use policy has any control over so should not be in a planning policy; but could be moved to other supporting policies or strategies of the Council or its partners. It would therefore be appropriate to delete this policy.

CONCLUSION - DELETE POLICY

11.18 CONCLUSION FOR IMPLEMENTATION AND MONITORING

11.19 It would be advisable to review Policy I1 and delete policy I2. New site allocations will require further consideration around infrastructure requirements and an update to the IDP will need to be incorporated into any policy. Set out below is the work involved.

Health Impact Assessment for the Plan	This work has been commissioned as in integrated Assessment alongside the SA, SEA, HRA and Equalities Impact Assessment work.
Update of the Infrastructure Delivery Plan	This work can be done in- house in conjunction with key infrastructure commissioners and provider partners.
Rewrite of policies	This work can be done in house

12.0 MONITORING THE PLAN

12.1 Overall, the monitoring regime for the LDP is not strong enough and does not relate to measuring things which can demonstrate how effective the policies are being delivered. The monitoring regime does not take into account any

identifiable targets on the delivery of affordable housing, specialist need housing, Gypsy, Traveller and Travelling Showpeople accommodation, or provide clear economic targets to measure against.

12.2 The monitoring of the policies should be clearly set out. This is so that it can be demonstrated that the policies are delivering the objectives as set out in the Plan. For some policies, such as more subjective matters of design and landscape this is difficult and compromises must be made, but even these policies should have some consideration about how they will be monitored, even if it is not quantitatively. This regime of monitoring then feeds into the Authority Monitoring Report that the Council has a statutory duty to produce and publish. Due to the inadequacy of the monitoring framework and the lack of monitoring the Council has carried out, this policy review has taken longer to carry out and has had to rely on other indicators where there are gaps in the understanding of how effective the policies are being in practice. In the future this will help to inform subsequent reviews of the LDP and provide greater understanding of policy performance, between 5 year reviews.

APPENDIX A – TABLE OF POLICIES

Policies in the Approved LDP 2014 - 2029	Is the Policy in Conformity with the NPPF?	Does the Policy Conform with National Planning Guidance?	Is the evidence for the policy out of date?	REVIEW/DELETE/KEEP
S1 – Sustainable Development	No	No	The updated SEA/SA/HRA will inform a review of the policy.	REVIEW
S2 – Strategic Growth	No	No	Yes/No – the LHNA will require reviewing prior to submission	REVIEW
S3 – Place Shaping	Yes	Yes	No	The policy deals with site allocations which will become existing commitments.
S4 – Maldon and Heybridge Strategic Growth	Yes	Yes	No	The policy deals with site allocations which will become existing commitments.
S5 – Maldon and Heybridge Central Area	Yes	Yes	No	DOES NOT REQUIRE REVIEWING
S6 – Burnham-on-Crouch Strategic Growth	Yes	Yes	No	The policy deals with site allocations which will become existing commitments.
H1 – Affordable Housing	No	No	Yes/No – the LHNA will require reviewing prior to submission	REVIEW
H2 – Housing Mix	No	No	Yes/No – the LHNA will require reviewing prior to submission	REVIEW
H3 – Accommodation for Specialist Needs	No	No	Yes/No – the LHNA will require reviewing prior to submission	REVIEW
H4 – Effective Use of Land	No	No	N/A	DELETE
H5 – Rural Exception Schemes	No	No	N/A	REVIEW
H6 – Provision for Travellers	No	No	Yes	REVIEW
H7 – Agricultural and Essential Workers	No	No	N/A	REVIEW

Accommodation				
H8 – Provision for House Boats	There is no national policy	There is no national guidance	There is no evidence at the moment	REVIEW
S7 – Prosperous Rural Communities	No	No	Yes	DELETE
S8 – Settlement Hierarchy	No	No	Yes	REVIEW
E1 - Employment	No	No	Yes	REVIEW
E2 - Retail	No	No	Yes	REVIEW
E3 – Community services and facilities	No	No	No – it has already been updated	REVIEW
E4 – Agricultural and Rural Diversification	No	No	N/A	REVIEW
E6 – Skills, Education and Training	No	No	N/A	DELETE
D1 – Design Quality and Built Environment	No	No	Yes	REVIEW
D2 – Climate Change and Environmental Impact of New Development	No	No	Yes	REVIEW
D3 – Conservation and Heritage Assets	No	No	No	REVIEW
D4 – Renewable and Low Carbon Energy Generation	No	No	Yes	REVIEW
D5 Flood Risk and Coastal Management	No	No	Yes	REVIEW
D6 - Advertisements	Yes	Yes	Yes	REVIEW
N1 – Green Infrastructure Network	No	No	Yes	REVIEW
N2 – Natural Environment and Biodiversity	No	No	Yes	REVIEW
N3 – Open Space, Sport and Leisure	No	No	Yes	REVIEW
T1 – Transport and	No	No	Yes	REVIEW

Accessibility				
T2 - Accessibility	No	No	Yes	REVIEW
I1 – Infrastructure and Services	No	No	Yes	REVIEW
I2 – Health and Well-Being	No	No	Yes	DELETE
Monitoring the Plan	No	No	Yes	REVIEW

APPENDIX B

PREVIOUS RATIONALE FOR CARRYING OUT AN EARLY REVIEW OF THE LDP

The policies in the LDP which cover housing, including those covering the housing target are S2 and S3 and those covering the allocated strategic sites and garden suburbs S3, S4, S5, S6. The other housing policies within the plan are S7, S8, H1, H2, H3, H4, H5, H6, H7 and H8.

Policy S2 is the main housing policy in the LDP, this policy sets out what the housing target for the plan period is and the trajectory for housing in the District to 2029. In terms of delivery, it is this policy and policy S3 which dictated a trigger for an early review of the LDP, in that para 2.16 of the LDP states

“The Council will monitor housing delivery against the housing trajectory for the District using the indicators specified in the Monitoring Framework set out in the LDP. If the Authority Monitoring Report (AMR) demonstrates that the Garden Suburbs and Strategic Allocations deliver less than 75% of their projected housing completions in three consecutive years (based on the trajectories set out in Figure 4 of this Plan), the Council will undertake a partial review of this Plan. In undertaking this review, the Council will ensure that sufficient infrastructure capacity is available and that the potential allocation of additional housing sites will not prejudice delivery of the infrastructure required by the Plan.”

Monitoring for the period 2019/2020 had evidenced that the Council’s housing delivery on the Garden Suburbs and Strategic Allocations had failed to deliver 75% of their projected housing completions in three consecutive years and this therefore as set out in the LDP triggered a partial review. Set out below is a table evidencing the deliverability on the Garden Suburbs and Strategic Allocations.

LDP allocation	Capacity LDP	Planning Perm Capacity (net)	LDP 2014/5	Actual 2014/15	LDP 2015/16	Actual 2015/16	LDP 2016/17	Actual 2016/17	LDP 2017/18	Actual 2017/18	LDP 2018/19	Actual 2018/19	LDP 2019/20	Actual 2019/20
S2a	1000	1000	0	0	0	0	0	0	0	0	45	5	100	45
S2b	320	0	0	0	0	0	0	0	0	0	0	0	50	0
S2c* COMPLETE	108	105	0	0	0	0	0	0	0	1	10	56	40	45
S2d	1138	1138	0	0	0	0	0	0	0	0	62	0	88	0
s2e COMPLETE	100	84	0	0	0	0	0	0	0	0	10	20	40	64
S2f	145	145	0	0	0	0	0	49	0	0	96	51	0	62
S2g** COMPLETE	131	131	0	0	24	6	65	77	42	44	0	4	0	0
S2h	101	0	0	0	0	0	0	0	0	0	0	0	0	0
S2i	180	180	0	0	0	0	0	30	0	0	108	0	42	55
S2j	180	180	0	0	0	0	0	23	0	0	100	70	57	53
S2k	90	0	0	0	0	0	0	0	0	0	0	0	30	0
Total	3493	2963	0	0	24	6	65	77	144	45	431	206	447	324
actual/predicted %				N/A		25%		118.5%		31.25		47.80		72.48

Additionally, regarding the 5 year-supply of housing, as at December 2020 the Council could not evidence a 5-year supply, having a 4.90 years supply. This has dropped further to 3.66 years supply as of 31st March 2022. Therefore, the policies most important for determining housing applications were and still are considered to be moving out of date with national planning policy (NPPF paragraph 11d and footnote 7). This means that planning applications should be assessed against the NPPF rather than the LDP.