

THE MAYLAND NEIGHBOURHOOD PLAN 2021-2042

SUBMISSION VERSION

REPORT OF EXAMINATION

By

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April 2025

SUMMARY

I was appointed by Maldon District Council (MDC) with the support of Mayland Parish Council in December 2024 to undertake the examination of the submission version of the Mayland Neighbourhood Plan 2021-2042 (the NP).

A neighbourhood area was designated by MDC on 30 June 2014 for the whole of the Parish area. The area is shown on Figure 1 of the NP.

A Consultation Statement January 2024 sets out the local engagement and consultation undertaken. I am satisfied that the level of consultation amply met the relevant statutory requirements.

I decided that the statutory conditions for the holding of a hearing did not exist, and the examination proceeded on the basis of the documents only, together with responses to my requests for further information, and my visit to the area.

I conclude that the NP is well-evidenced, well-researched and clearly laid out. While there are no development allocations, it presents a set of clear policies to guide future sustainable development proposals.

I found a very few instances where modifications are required to satisfy the basic conditions.

I recommend that, subject to those few modifications being made, the NP should proceed to referendum.

I see no reason why the area of the referendum should differ from the plan area.

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Introduction

1. I was appointed in December 2024 by MDC with the support of Mayland Parish Council to undertake the examination of the submission version of the Mayland Neighbourhood Plan 2021-2042 (the NP).
2. I am a King's Counsel with over 40 years' experience of planning law and practice. I am a member of the NPIERS Panel of Independent Examiners. I am independent of any local connections or interests and have no conflicts of interest.

Mayland and Maylandsea in context

3. On 30 June 2014 MDC designated, at the request of the Parish Council, a neighbourhood plan for the whole of the Parish. The neighbourhood area is shown on Figure 1 of the NP.
4. The context of the NP is admirably described in Section 3 of the NP:

The neighbourhood plan area encompasses the villages of Mayland and Maylandsea. It is located on the Dengie Peninsular, bordering Lawling Creek and Mundon Creek which are tributaries of the River Blackwater.

The Blackwater Estuary is a Site of Special Scientific Interest (SSSI). Its mudflats support internationally and nationally important numbers of water fowl.

Nearby is the Blackwater Marina. During the second World War motor torpedo boats were produced here. It is now a popular harbour sheltered by its natural habitat which allows for uninterrupted views of some of Britain's rarest wildlife.

The neighbourhood plan area is also home to the Mayland Nature Reserve.

The Parish has a population of around 3,900 people, the majority of whom live in the village which is primarily accessed via Steeple Road/Maldon Road.

The village is served by a small central area located on Imperial Avenue which includes a good range of services and facilities including a local school and large park.

The neighbourhood plan area features three listed buildings.

The Local Plan

5. Neighbourhood plans must be in general conformity with the strategic policies of the “development plan”. The development plan for Mayland/Maylandsea comprises the Maldon District Council Local Plan, approved in 2017, the Essex and Southend-on-Sea Waste Local Plan 2017 and the Essex Minerals Local Plan 2014. Paragraph 4.4 of the Basic Conditions Statement (BCS) states that all policies in Section 2 of the Local Plan are taken to be strategic policies. A table and subsequent paragraphs of Section 4 set out the respects in which the NP is contended to be in general conformity with relevant strategic policies. I have no reason to doubt this assessment.
6. Relevant policies of the Local Plan are also summarised in paragraph 1.7 of the NP.
7. The current Local Plan has a plan period to 2029. In February 2021 MDC determined that it needed to review the LP.
8. A revised Local Development Strategy (LDS) was agreed on 26 February 2025. It is intended that Regulation 18 consultation on a preferred strategy will be undertaken in the period October - December 2026. Regulation 19 publication is estimated for April - June 2027, with submission planned for August 2027.

Evolution of the NP

9. The neighbourhood Planning (General Regulations 2012) set out a legal requirement at Regulation 15 that the submission of a neighbourhood plan proposal to the local planning authority must include certain documents,

amongst which is a “consultation statement”. The Consultation Statement (CS) for this NP was published in January 2024.

10. Comprehensive details of the consultation and engagement carried out are set out in the CS. The process was unavoidably delayed by the Covid lockdown periods. Regulation 14 consultation took place between 1 October – 1 December 2023. Volume 4 reports on the views expressed at this stage, and the responses made by the NP Steering Group.
11. Regulation 16 consultation took place between 4 October – 22 November 2024.
12. I am satisfied that the consultation process amply met the statutory requirements.

SEA and HRA

13. A Screening Opinion for the purposes of Strategic Environmental Assessment (SEA) and the Habitats Regulations Assessment (HRA) was carried out in April 2023.
14. Following appropriate consultations, MDC concluded that no likely significant effects on the environment would arise (largely by virtue of the fact that no development allocations are proposed) and that accordingly SEA was not required.
15. The NP boundary lies within the zones of influence for five Natura 2000 sites. MDC determined that there are likely to be no significant negative effects on the European Designated Sites resulting from the NP policies.
16. I have no reason to doubt the validity of either of the above assessments.

The Examination Process

17. I refer to my appointment above. The examination commenced on 3 March 2025.
18. Having read all the papers, I notified MDC that the statutory conditions for the holding of a hearing did not exist, and that the examination would therefore proceed on the basis of the documents only together with my visit to the area.
19. I was supplied with the latest (February 2025) LDS (see paragraph 7 above).
20. I visited the area on 19 March 2025. I gained a good picture of the area from that visit.

Basic Conditions - General

21. Schedule 4B paragraph 8 to the Town and Country Planning Act 1990 provides that a Neighbourhood Plan meets the Basic Conditions if it meets those specified in paragraphs (a), (d), (e), and (f). In summary, these require the NP to be appropriate having regard to national policies and guidance, to contribute to the achievement of sustainable development, to be in general conformity with the strategic policies in the development plan and to be compatible with those EU obligations now assimilated into UK law. One further basic condition has been prescribed under paragraph 8(2)(g) which relates to European conservation sites.
22. As the courts have frequently emphasised, as I do now, the role of a Neighbourhood Plan Examiner is tightly constrained. It is essentially confined to considering compliance with the basic conditions. The Examiner cannot consider anything else: paragraph 8(6) of Schedule 4B of the Town and Country Planning Act 1990. Therefore the Examiner is not able to consider whether – as would be the case for a local plan – the NP is “sound” (in accordance with paragraph 36 of the NPPF). Accordingly, the Examiner can only consider the content of the NP (the planning judgments made, the choices made, the physical

aspects regarded as important etc.) insofar as those matters impact on the basic conditions. This inevitably limits, significantly, the extent to which it is proper to respond to what I might call wider “planning merits” points made by some representors.

23. The above reference is important in relation to a number of the representations made at the Regulation 16 stage. This is particularly the case in relation to the representations of Essex County Council across a number of its functions. A proportion of their suggested changes, if made, might or might not have made a “better” NP, but very few related to the basic conditions. Indeed, this is shown by the fact that there was no mention of the basic conditions in their representations.
24. National planning guidance advises in relation to the preparation of neighbourhood Plans (41-040-20160211) that:

Proportionate robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan...

25. Parallel advice is given (41-041-20140306) as to the drafting of policies:

A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and context of the specific neighbourhood area for which it has been prepared.

This has guided me in a number of my comments on the policies and text in the NP.

26. I address the criteria in the Basic Conditions where relevant as I assess, below, the contents of the NP.

Other Statutory Requirements

27. These are set out in the Town and Country Planning Act 1990 (as amended) and sections 38A-38C of the Planning and Compulsory Purchase Act 2004.
28. The NP was prepared and submitted for examination by a qualifying body: section 38A.
29. It has been prepared for an area designated under section 61G of the 1990 Act.
30. The NP meets section 38A(2) in that it sets out policies in relation to the development and use of land in the neighbourhood area.
31. Section 38B requires the NP to specify a period for which it is to have effect. This is complied with (2021-2042).
32. As indicated above, the remit of this examination is significantly more limited than is the case for a local plan examination, but is confined to compliance with the above statutory requirements. Where a particular policy and/or supporting text does not raise any such compliance issues I shall make limited comment accordingly. My main comments and consequent recommendations therefore relate to passages where modifications are required.

Assessment of NP

33. I congratulate the authors of the NP for producing a clearly written and well presented NP. I mention in particular the clear differentiation between policies (in green) and projects (in pink). The figures are clear and greatly aid the understanding of the NP. The written justification for the policies (the supporting text) is, unlike many NPs, clear and of appropriate length to explain the subsequent policy. This unusually high quality results in an unusually low incidence of criticisms and necessary recommended modifications, as seen below. For these reasons, I have not found it necessary or appropriate to comment separately on each section of the NP, or each policy.

34. All policy and data references should be updated to the latest available reference. So all references to the (superseded) NPPF should be amended to accord with the latest (2024) version. All references to guidance/reference documents published by MDC and Essex County Council should be checked and updated as necessary.
35. Policy MAY G6: Home Working is poorly drafted. In the interests of clarity, the policy should provide as follows:

Insofar as planning permission is required proposals which will assist home working within the Neighbourhood Plan area will be supported where the use of the home for employment purposes is ancillary to the main residential use of the building. Applications for the construction of garden studios to facilitate home working will be required to consider the impact on the amenity of neighbouring properties, including overlooking and potential acoustic disturbances.

I so **Recommend**.

36. Policy MAY D2 refers to sustainable and energy efficient buildings. As MDC point out, paragraph 2 of the policy makes reference to the Greater Essex Planning Policy Position for Net Zero Carbon Development. MDC make the points that this is a very technical policy which exceeds the NPPF and government guidance and goes beyond building regulations. MDC have made no decisions on whether they will be taking this policy forward as part of the Local Plan review. I accordingly **Recommend** that the reference to this document be deleted.
37. Policy MAY E1 relates to recreational disturbance, avoidance and mitigation. Essex County Council contend, rightly in my view, that paragraph 1 of this policy should be strengthened. Paragraph 1 should be deleted and replaced with the following:
1. *All qualifying new development within the zones of influence of European Sites should be required to make an appropriate financial contribution towards mitigation measures, in accordance with the Essex Coast Recreational Disturbance Avoidance and Mitigation*

Strategy (RAMS) Supplemental Planning document, to avoid adverse in-combination recreational disturbance effects on European Sites.

I so **Recommend**.

38. Policy MAY E2 addresses Biodiversity. The last sentence of paragraph 1 refers to managing biodiversity net gains “in perpetuity”. MDC rightly make the point that biodiversity net gain lasts for 30 years. This last sentence should be deleted.

I so **Recommend**.

39. Policy MAY A2, public transport, requires, by paragraph 1, contributions to the enhancement of public transport irrespective of the need arising from the development in question. Paragraph 1 should be amended so that its requirements are triggered only in circumstances where the requirements are necessary as a result of the impact of the development. Accordingly, at the end of the first sentence in paragraph 1 there should be added “*where the tests in paragraph 58 of the NPPF are met*”. I so **Recommend**.

40. Policy MAY A4, Parking standards and design, refers to the Maldon District Council Vehicle Parking Standards SPD, or any successor document. Paragraph SP 03 of the Mayland Design Guidance and Codes Report, however, incorporates the EPOA (Essex Planning Officers Association) Parking Guidance. MDC make the point that these standards have not been adopted by the Council. I agree that, to ensure consistency, reference should be made to the Maldon Parking Standards in this section of the Design Guidance. I so **Recommend**.

41. Policy MAY A5 refers to electric vehicle charging points. Paragraph 1, EV infrastructure is to be triggered “Where electric vehicle (EV) charging is proposed”. This does not conform with the more rigorous requirement of paragraph 112 of the NPPF. The phrase quoted should be deleted and replaced by:

National policy requires that an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles is to be

ensured. To that end [the phrasing of the existing policy to be continued].

I so **Recommend**.

42. There are a considerable number of instances where the grammar of the text or policy needs correcting, together with spelling etc.

Design Guidance and Codes Report

43. This forms Appendix 2 to the NP.
44. I note the comments of MDC. These include (page 36/37) reference to the guidance that streets should be designed for cyclists to mix with motor vehicles, apparently in conflict with advice from Active Travel England. However, having toured the area, I do not think that such advice is appropriate for the local circumstances in Mayland. I see no material conflict with the advice, and no conflict with national policy or guidance in this respect.

Conclusions and Recommendations

45. As noted above, I regard the quality of the NP, its policies and text, as unusually high. This has resulted in the very limited number of criticisms and recommendations in this report.
46. There are minor respects in which the NP does not comply with national policy and guidance. It would so comply if my recommended modifications were made, and thus comply with the Basic Conditions.
47. I therefore **Recommend** that, subject to the above modifications, the NP should proceed to referendum.
48. I see no reason why the area of the referendum should differ from the plan area.

49. I regard it as within the powers of MDC not only to correct any minor errors in the NP not identified in this report, but also to make truly minor amendments which do not affect the substance of the NP or this report.

Christopher Lockhart-Mummery KC

Examiner

April 2025