



**REPORT of
INTERIM HEAD OF PLANNING SERVICES**

**to
COUNCIL
16 FEBRUARY 2017**

**LOCAL DEVELOPMENT PLAN SITE ALLOCATIONS DEVELOPMENT PLAN
DOCUMENTS**

1. PURPOSE OF THE REPORT

- 1.1 This report sets out the key recommendation from the Planning and Licensing Committee on the preparation of a Site Allocations Development plan document.
- 1.2 For reasons set out in this report, the Planning and Licensing Committee on 19 January 2017, resolved:
- (i) that the recommendation of the Gypsy and Travellers, and Rural Housing and Employment Allocations Task and Finish Group to not proceed with the preparation of the Site Allocations Development Plan Document is endorsed;
 - (ii) that a report is made to the Council.

2. RECOMMENDATION

That the Council does not proceed with the preparation of a Site Allocations Development Plan Document.

3. SUMMARY OF KEY ISSUES

3.1 Local Development Plan

- 3.1.1 The Maldon Local Development Plan (the Plan) sets out the planning strategy for the future growth over the next 15 years. The Plan includes the policy and spatial strategy which will guide new development whilst conserving and enhancing the distinctive characteristics of the District. The Plan allocates the garden suburbs and strategic housing sites, together with major employment sites.
- 3.1.2 The Plan also establishes a framework for the preparation and adoption of other documents, including a Site Allocations Development Plan Document (DPD). The Site Allocations DPD will identify sites which are required to deliver the remaining objectively assessed needs for housing and employment in rural areas, and for the District's Gypsy and Traveller community.

- 3.1.3 Development Plan Documents have the same status as the Local Development Plan (LDP). They are subject to public consultations at options and pre-submission stage and subject to Examination. The production of a DPD can take up to two years, thus delaying the identification and confirmation of sites.
- 3.1.4 The LDP was subject to Examination between 10 and 19 January 2017. Hearing Statements were submitted to the Inspector on 20 December 2016. These were in response to his in response to his Matters, Issues and Questions which he issued on 16 November 2016. In the case of the DPD, the statements did not change the Council's position, as any change in position was subject to a Task and Finish Group meeting on 5 January 2017 and a report to Planning and Licensing Committee on 19 January 2017.
- 3.1.5 It is worth noting that in his Matters, Issues and Questions, the Inspector has questioned the approach being taken by the Council towards its rural allocations, employment allocations and any gypsy and traveller allocations requirements and the deferral of such decisions to the DPD.
- 3.1.6 At the Planning and Licensing Committee on 19 January 2017, Members endorsed recommendations that the need for the DPD had now passed due to the passage of time (three years) since the DPD was first suggested in the Pre-Submission LDP and the change in circumstances that has resulted.

3.2 **Planning Policy Framework**

- 3.2.1 Policy S2 of the Local Development Plan (LDP) sets out how strategic growth in the District will be accommodated. In addition to the Garden Suburbs and Strategic Sites, 420 new dwellings are to be constructed during the Plan period through Rural Allocations. At the time of the draft Plan, some 75 of these were at North Fambridge and 345 in 'Other Villages' as identified in Policy S8 (excluding Maldon, Heybridge, Burnham-on-Crouch and Fambridge).
- 3.2.2 Paragraph 2.28 of the LDP which provides Policy Clarification for S2 states that *'Policy S7 sets the parameters for growth in the villages and the Council is committed to producing a Rural Allocations Development Plan Document (DPD) which will provide further detail'*.
- 3.2.3 Policy S7 relating to Prosperous Rural Communities restates the intention to produce the DPD: *'A Rural Allocations DPD will be produced to allocate land for a minimum of 420 dwellings in and around the District's villages, comprising 75 dwellings in North Fambridge and 345 dwellings in other rural villages.'* *The Rural Allocations will also include provision for village-scale employment, retail and community uses to serve the identified settlement and its rural catchment area where necessary and appropriate'*.
- 3.2.4 Policy S8 of the LDP establishes the settlement boundaries of the rural settlements and establishes a hierarchy designed to *'help inform the Council's future development strategies including the production of a Rural Allocations DPD'* (Paragraph 2.98).
- 3.2.5 In the Main Modifications to the LDP published in September 2016, the Fambridge allocation in the Rural Allocations was excluded due to concerns over viability and

deliverability. Accordingly, all 420 dwellings would need to be found in rural settlements.

- 3.2.6 Policy E1 identifies the locations within the District where (B1, B2 and B8) employment will be focussed. This is through a combination of protecting existing Employment sites and new sites. In the Pre-submission LDP, some 8 hectares of new employment land were identified on sites at Wycke Hill (x 2) and an extension to the Burnham Business Park.
- 3.2.7 In the Main Modifications to the LDP Policy E1 was updated to take into account an updated Employment Land Review contained within the Employment Evidence and Policy Update 2015 (Hardisty Jones and Fenn Wright). The update increased the new employment site allocations from 8 hectares to 11 hectares, and proposed in modified paragraph 4.8 that *'over eight hectares of new employment land has been identified in Policy E1: the remaining requirement will be delivered through the Site Allocations DPD'*.
- 3.2.8 Policy H6 of the LDP sets out the Gypsy and Traveller Policy. At the time of the Pre-submission the policy did not identify any sites. Following objections from the Inspector, David Vickery, which led to the suspension of the LDP Examination, the Council opted to prepare a Gypsy and Traveller DPD, subsequently to be incorporated into the Site Allocations DPD.
- 3.2.9 Progress on the Gypsy and Traveller DPD was advanced with potential sites identified following a Call for Sites. A draft Gypsy and Traveller DPD was considered by the Planning and Licensing Committee on 4 August 2016 (Minute No. 355 refers). However, each of the sites identified were withdrawn by their respective landowners just before the Committee and the decision was taken to defer the production of the DPD.
- 3.2.10 Following the receipt of a new Gypsy and Traveller Accommodation Assessment (2016 GTAA), a report was made to the Council on 15 December 2016. The 2016 GTAA took into account the revised definition for planning purposes of Gypsy and Travellers, and provides the foundation for future policy. The Council resolved:
- (i) *that the Council endorses the 2016 Maldon District Gypsy and Traveller Accommodation Assessment as part of the Local Development Plan evidence base;*
 - (ii) *that the Chief Executive be authorised, in consultation with the Chairman of the Planning and Licensing Committee and the Leader of the Council, to revise the Local Development Plan (LDP) policy H6 Provision for Travellers and to present it to the Inspector for consideration for inclusion as a modification to the LDP at the Examination in Public.*
- 3.2.11 The draft revised policy was incorporated into the Council's Hearing Statement issued on 20 December 2016. The 2016 GTAA concluded that as far as future demand for pitches is concerned, for those travellers who comply with the new definition, only one pitch is required, and a further ten pitches for those who may fall under the new definition, although those falling with the latter category could be as low as one. Taking into account the recent decision at Rose Stables, where two new pitches were

granted planning permission on appeal, the Council is not required to allocate any sites for new pitches for gypsy and travellers who fall under the new definition, and the number who may fall under the new definition is reduced to nine. The revised policy H6 will be incorporated into the post examination modifications to the LDP.

- 3.2.12 The implications for the DPD is that there is no longer a need to allocate sites. There is an objectively assessed need of nil pitches for those who meet demand and a variable need for those who may meet the new definition of between one and nine. Local plans should be positively prepared to meet clearly defined needs. A variation of between one and nine is considered too great to positively plan for a definitive level of need. The Council runs the risk of over or underproviding. Instead, the draft revised policy sets out the criteria against which new sites will be considered, whilst offering protection to existing sites, so that supply of sites is not diminished.
- 3.2.13 Therefore, the draft revised policy is silent on the need for a Gypsy and Traveller DPD as, subject to the LDP Examination, a DPD to allocate sites for new pitches is no longer required.

3.3 Task and Finish Groups Background

- 3.3.1 At the meeting of the Planning and Licensing Committee on 4 August 2016 (Minute No. 355 refers), it was decided to disband the Planning Policy Panel, which had provided a steer for the preparation of the LDP and planning policy in general, including the preparation of the DPDs.
- 3.3.2 The Committee approved the Terms of Reference of the new Task and Finish Groups at its meeting on 1 September 2016 (Minute No. 453 refers), which were ratified by Council on 8 September 2016 (Minute No. 486 refers).
- 3.3.3 Task and Finish Groups were established for Rural Housing Allocations, Rural employment Allocations and Gypsy and Travellers DPD. A further Task and Finish Group was established for the Central Area Master Plan, which is not subject to this report.
- 3.3.4 The Rural Housing Allocations Task and Finish Group subsequently met on 3 November 2016, 21 November 2016 and as part of a joint meeting on 5 January 2017. The Employment and Gypsy and Traveller Task and Finish Groups did not meet until 5 January 2017 as part of a joint meeting. The timing of meetings was affected by the receipt of the Inspector's Matters in mid-November 2016 ahead of the resumption of the Examination into the LDP.
- 3.3.5 Minutes of the meetings have been circulated to the Task and Finish Group membership.

3.4 The Site Allocations Development Plan Document

- 3.4.1 The foundation for the DPD was the Pre-submission LDP. That document was published in January 2014 and the preparation of the DPD's, subject to the approach being tested through examination, was valid at that time.

- 3.4.2 However, that document is now three years old and much has progressed since its publication, as set out below:
- 3.4.3 **Gypsy and Traveller DPD:** as set out in paragraphs 3.2.6 to 3.2.12 of this Report, there is no longer a need for the Council to prepare a Gypsy and Traveller DPD. The Draft revised policy which has been recommended to the Inspector at the LDP Examination is silent on the need for a DPD. There is no requirement to produce a Gypsy and Travellers site Allocations DPD if no sites are required. The draft revised policy sets out the criteria against which planning applications for new sites will be assessed.
- 3.4.4 **Rural Housing Allocations:** As set out in paragraphs 3.2 to 3.2.4 in this Report the Rural Housing Allocations were to identify sites for 420 dwellings in rural settlements. A five stage methodology was established for the identification of sites for consideration as rural allocations. This included the application the settlement hierarchy established in Policy S8 of the LDP and that sites with a capacity of ten or more units would be identified. All sites identified in the Strategic Housing Land Availability Assessment, irrespective of their suitability, were initially considered and through assessment against the impact on the rural settlements and a sustainability appraisal, a list of
- 3.4.5 However, since the publication of the LDP, planning permission has been granted for 320 dwellings on sites of ten or more in rural areas (i.e. outside of Maldon, Heybridge and Burnham-on-Crouch). This leaves a requirement of at least 100 dwellings to be found on other sites. As report to the Task and Finish Group meeting on 5 January 2017, four further sites, which have been assessed through the five stage methodology, could accommodate 189 new dwellings, although one site may no longer be available.
- 3.4.6 If one of the four sites is no longer available, that would leave a DPD allocating only three sites. Officers advised the Task and Finish Group that the production of a DPD for such a small allocation is excessive and would not in the short term provide any greater certainty. This is against the background of the current position with regards to housing land supply in the District.
- 3.4.7 As part of the LDP Examination Hearing Statements submitted to the Inspector on 20 December 2016, Officers have updated Policy S2 to take account of dwellings completions and planning consents (including those subject to Section 106 Agreements) since April 2014 and to the end of November 2016. The current supply is 5,102 which includes the aforementioned 320 in sites of ten or more units in rural locations, and a further 480 units consented or completed within the rural areas on smaller sites. Together these exceed the proposed 420 in the Rural Allocations.
- 3.4.8 The Task and Finish Group considered three options at its meeting on 5 January 2017 for the DPD:
- 1) Continue with the DPD
 - 2) Create headroom for the preparation of Neighbourhood Plans
 - 3) Do not allocate any further sites

The advantages and disadvantages of each were considered:

Option	Advantages	Disadvantages
1. DPD to make up shortfall	<ul style="list-style-type: none"> • Certainty • Council control • Set timescale • Consultation • Examination • Policy compliant (2.98 of draft SPD) 	<ul style="list-style-type: none"> • Timescale • Resources • Soundness • Excludes Neighbourhood Plan allocations
2. Create headroom for Neighbourhood Plans	<ul style="list-style-type: none"> • Local input • Accountability • Planning policy compliance • Sets a target for Neighbourhood Plans 	<ul style="list-style-type: none"> • Timescales uncertain • Option is not at present policy compliant • Change in approach and policy to be tested at the LDP Examination
3. Do not allocate any further sites	<ul style="list-style-type: none"> • Timescale • Resources 	<ul style="list-style-type: none"> • Uncertainty • Planning by appeal • Soundness • Excludes Neighbourhood Plan allocations

3.4.9 The recommendation of the Task and Finish Group is Option 2 – Create headroom for Neighbourhood Plans.

3.4.10 Neighbourhood Plans are promoted within the District and a number of Plans are at various stages of preparation. Neighbourhood Plans provide a local planning framework and can identify sites for development which meet locally assessed need. Their preparation is subject to consultation and testing by a Neighbourhood Plan Examiner ahead of a local referendum and approval by the Council.

3.4.11 Crucially Neighbourhood Plans should comply with the Local Plan. Accordingly, the Local Plan (or LDP) creates the policy framework within which Neighbourhood Plans are prepared. It is not unusual for local planning authorities to set aside some of its land allocations to Neighbourhood Plans. This gives local people a chance to influence development in their immediate area and engage positively in the planning process.

3.4.12 In this instance, as the Council has already exceeded its housing target (of 4,650) in the Pre-submission LDP, and the rural target of 420, it could decide to not allocate further. However, those are minimum targets, and not providing any further allocations either through a DPD or neighbourhood plans, could restrict local communities who through their Neighbourhood Plans acknowledge the positive contribution that new small scale development can make to their local communities. The delegation of the allocation of 100 dwellings to rural areas, accounts for only 2% of the total current supply in the District (5,102 units, end of November 2016).

- 3.4.13 It is recommended therefore, that there is no necessity for a Rural Housing Allocations DPD and that the shortfall of 100 units as required in Policy S2 be delegated to the Neighbourhood Plans.
- 3.4.14 **Employment Allocations:** As set out in paragraphs 3.2.2 and 3.2.3 above, the Site Allocations DPD was also going to include the allocation of sites for employment purposes. Policy E1 as modified identifies 8 of 11 hectares of employment land, with the final 3 hectares to be allocated within rural areas and in the DPD.
- 3.4.15 A similar approach was applied to the employment site allocations as the Housing. Through a staged assessment of sites, 30 sites identified in the Strategic Housing Land Availability Assessment (SHLAA) were assessed and these were reduced to eight sites. After further assessment, six sites were reviewed by the Planning Policy Panel on 1 July 2016, and two sites, which met the criteria and the land requirements, were identified for inclusion in the draft DPD.
- 3.4.16 However, since then one site has planning permission for employment uses. The site of 1.2 hectares means that just 1.8 hectares of land is required and the second site is suitable and should be considered. Officers are in the process of contacting the Parish Council, Ward Councillors and the landowners in respect of this site, and a verbal update on the position will be reported to Committee.
- 3.4.17 Given that there is only one Employment site that requires allocation, it is the intention to not produce a DPD to allocate that site, but incorporate the allocation within the post examination Modifications to the LDP.

3.5 **Implications for the LDP**

- 3.5.1 As stated in this Report the Examination Hearings into the Maldon LDP took place between 10 and 19 January 2017. In the hearing Statements submitted to the Inspector on 20 December 2016, the future status of the DPDs was not changed from the previous position.
- 3.5.2 However, following the recommendation from the Task and Finish Group on 5 January 2017, the Council will through this report be informing the Inspector of its intention not to produce a Site Allocations DPD. The Inspector already has a copy of the Council report on the 2016 GTAA and the draft revised Policy H6 is set out in the Council's Hearing statement.
- 3.5.3 At the Examination the Inspector will be advised by the Council of the Council's revised approach and the case will be made that this approach is sound and offers the same degree of certainty as the preparation of a DPD.
- 3.5.4 As set out in paragraph 3.1.5 of this Report, his Matters, Issues and Questions, the Inspector has questioned the approach being taken by the Council towards its rural allocations, employment allocations and any gypsy and traveller allocations requirements and the deferral of such decisions to the DPD.
- 3.5.5 This is not to say that the approach was not sound, or that the Council should modify policy because the Inspector has raised concerns or queries. The basis for future planning policy must be based on sound planning and with reasoned justification.

- 3.5.6 The Inspector will need to consider the revised approach and test its soundness. If the approach is considered sound, he will need to recommend that the Council modifies the plan and incorporates those changes into post-examination Modifications to the Plan. These will need to be subject to public consultation, and depending on the response, further examination.

4. CONCLUSIONS

- 4.1 The intention to produce Development Plan Documents to allocate sites for Gypsy and Travellers and rural housing and employment, had considerable merit at the time of the Pre-submission Local Development Plan. At that stage, the Council had not identified sites, nor were planning consents in place on sites which could contribute towards the overall targets.
- 4.2 In the subsequent three years, planning permission has been granted for the significant proportion of the requirements in policy S2 and E1. Consequently, a very small number of sites are required that do not justify the preparation of a Development Plan Document.
- 4.3 The intention to delegate further allocations for housing to Neighbourhood Plans will assist neighbourhood planning forums to positively plan for their areas, with the knowledge that there is headroom for the identification of sites. The Council will work with the Neighbourhood Planning teams in this regard.

5. IMPACT ON CORPORATE GOALS

- 5.1 The Local Development Plan is the key planning policy document and spatial framework for the District. It will provide greater certainty in decision making, defending appeals and in guiding new development to the most appropriate locations. The LDP will support the following corporate goals which underpin the Council's vision for the District:

- Strengthening communities to be safe, active and healthy;
- Protecting and shaping the District;
- Creating opportunities for economic growth and prosperity;
- Delivering good quality, cost effective and valued services; and
- Focusing on key projects

6. IMPLICATIONS

- (i) **Impact on Customers** – The delegation of the allocation of housing sites to neighbourhood plans gives communities the opportunity to directly plan the future of their area. Neighbourhood Plans need to be prepared with consideration to the Maldon Local Development Plan and, prior to the LDP's adoption, the Maldon Replacement Local Plan Saved Policies.

- (ii) **Impact on Equalities** – Planning policy documents, at District and local area level, have the potential to identify and manage local equalities issues and must be prepared taking into account relevant equalities legislation. They should also be subject to an Equalities Impact Assessment. The impact of the revised approach to the Gypsy and Travellers policy was set out in the Council report on 15 December 2016 and the draft revised policy identifies the need for the Council to consider equalities legislation in determining planning applications.
- (iii) **Impact on Risk** – The Council must positively plan to meet its objectively assessed need. Both the preparation of a DPD and the proposed approach set out in this report carry the risk of delaying decisions on a small proportion of the targets in policies S2 and E1 to a later date. The Council will work with the neighbourhood planning forums to identify suitable sites, and support the plan preparation process in a timely manner
- (iv) **Impact on Resources (financial)** – The preparation of Development Plan documents is resource intensive. Plans must go through periods of District wide public consultation and examination. The resources include not only Council staff, but where appropriate the use of consultants and legal advisors. Actions required to ensure that the Neighbourhood Plan timescales prescribed by Regulation are met could impact on existing Council resources, and could potentially divert resources away from other tasks and responsibilities. Grant funding is available to assist resourcing neighbourhood plans including for the local referendum to determine whether to adopt the Plan.
- (v) **Impact on Resources (human)** – Not continuing with the DPD will enable staff resources to be directed towards the post-examination process for the LDP, which will include further consultation, and the preparation for the Community Infrastructure Levy Charging Schedule Examination. Neighbourhood plans provide opportunities for greater local involvement of residents in the planning of their area. They provide development opportunities for staff to foster partnerships between the Council and those local communities and mentor neighbourhood planning forums.
- (vi) **Impact on the Environment** – It is important that the Council adopts its Local Development Framework to add greater certainty to planning decisions and provide a framework for neighbourhood plans that enables such plans to be prepared positively and with local community involvement.

Background Papers: Report to the Planning and Licensing Committee 19 January 2017.

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