

## Housing White Paper

## Response from Maldon District Council (MDC)

Q No.	Question	Maldon District Council (MDC) Response
1	<b>Do you agree with the proposals to:</b>	
1a	Make clear in the National Planning Policy Framework that the key strategic policies that each local planning authority should maintain are those set out currently at paragraph 156 of the Framework, with an additional requirement to plan for the allocations needed to deliver the area's housing requirement?	<p>The strategic policies that local plans should include are (summarised):</p> <ul style="list-style-type: none"> <li>• The homes and jobs needed in the area;</li> <li>• Retail, leisure and commercial development;</li> <li>• Provision of infrastructure – everything transport to energy, including digital;</li> <li>• Health, security, community and cultural facilities; and</li> <li>• Climate change, conservation and enhancement of historic environment and landscape.</li> </ul> <p>These broadly cover the core policies of a local plan.</p> <p>With regard to the proposed additional requirement '<i>to plan for the allocations needed to deliver the area's housing requirements</i>,' this is something that Local Plans already do and implicit in para. 156 of the National Planning Policy Framework (NPPF). It is not clear what benefit the change will bring, but conversely there would be no harm restating the fact.</p>
1b	Use regulations to allow Spatial Development Strategies to allocate strategic sites, where these strategies require unanimous agreement of the members of the combined authority?	<p>As proposed this would not affect Maldon District Council as the Council is not a Combined Authority. However, Spatial Development Strategies may have a role to play where there is a sub-regional issue shared between authorities which require a level of strategic planning that is beyond that achievable through duty to cooperate. The Government's move away from just a single plan system could create circumstances where single issues can only be properly addressed or would be better addressed at a multi-Local Planning Authority (LPA) level. Therefore, Spatial Development Strategies should not be restricted to just Combined Authorities.</p>
1c	Revise the National Planning Policy Framework to tighten the definition of what evidence is required to support a 'sound' plan?	<p>The Council would welcome a revision of what constitutes evidence and the relationship between evidence and soundness. Evidence should be used to identify issues; act as a baseline for consideration of options; and support positive planning policies.</p>

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		<p>The emphasis on the soundness of the evidence base has led to intense scrutiny, with the result of disagreement at Examination on the inputs or source, rather than the issues that the evidence has raised and whether the Council's policy solution is robust. As a consequence LPAs can overstate the evidence requirement, which in turn leads to further scrutiny.</p> <p>Evidence should be provided for specific spatial policies – i.e. those that lead to allocations. In addition the Government needs to offer greater reassurance that some evidence which changes slower over time, does not need comprehensively reviewing, but rather a transparent and independent 'sanity' check at an appropriate to time to ensure that it remains fit for purpose.</p>
2	<p><b>What changes do you think would support more proportionate consultation and examination procedures for different types of plan and to ensure that different levels of plans work together?</b></p>	<p>Maldon has had the experience of a poor Local Development Plan (LDP) examination in 2015, which led the Council to request that the Secretary of State to call-in the Plan. The second examination in January 2017 was a radically different experience with a very proactive Inspector who made it clear that his role was to ensure the Plan is sound and worked with the Council and attendees to do just that. We are now at Post-Examination modifications stage as a result.</p> <p>The Government needs to consider a structured tiered approach to consultation for the various levels of plan making. Understandably the overarching local plan should be subject to considerable engagement and consultation. However, if the Government is going to introduce 5-yearly reviews, it should consider whether the Issues and Options stage for the complete plan is required at each review stage. If a plan is up to date, still within its initial 15 year period, the issues and options identified in the first round of the plan making process should generally be the same. Therefore, consultation at that stage should be focussed on new issues only. Otherwise the examination process could be drawn into considering issues that are well established in the existing plan – i.e. objectors seeking to de-allocate sites.</p> <p>With regards to neighbourhood plans, the process needs to be fully understood and simplified for all involved. The status the Government is giving to Neighbourhood Plans justifies the level of scrutiny, but the two stage consultation could be looked at. The first stage is undertaken by the Neighbourhood Planning body and the second stage by the LPA. This can be in quick succession, and causes confusion, consultation overload and suggests that the Plan is the LPAs</p>

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		plan rather than the local communities plan. It is suggested that Neighbourhood Plan consultation is undertaken by the plan makers, but submitted to examination after consultation with the Council when the responses to the consultation have been properly assessed and taken into account in proposed modifications to the draft plan.
<b>3</b>	<b>Do you agree with the proposals to:</b>	
3a	amend national policy so that local planning authorities are expected to have clear policies for addressing the housing requirements of groups with particular needs, such as older and disabled people?	<p>Local Plans, such as Maldon's, do already contain policies that address the housing requirements of groups with particular needs. This is also set out in local Housing Strategies, and Strategic Housing Market Assessments. The government needs to be explicit that Plans should be careful not to compartmentalise particular groups and plan for integration across the wider community.</p> <p>We would welcome an approach that ensures the needs of these groups are met and to achieve this proposals for reviewing the assessment of housing need should take into account aspects that can provide information not just on the number of homes but type and tenure.</p>
3b	from early 2018, use a standardised approach to assessing housing requirements as the baseline for five year housing supply calculations and monitoring housing delivery, in the absence of an up-to-date plan?	<p>The Local Plans Expert Group (LPEG) proposed changes to Housing and economic Development Needs Assessments National Planning Policy Guidance (NPPG) that:</p> <p>‘Many local planning authorities have now agreed defined HMAs with their neighbouring authorities, and have prepared SHMA evidence base work. In many cases the definition of these HMAs draws upon longstanding assumptions about the functional and planning relationships between local areas. Unless there is a compelling evidence why these HMAs no longer represent functional market areas, and are thus not fit for planning purposes, these HMAs should continue to be used, although it is open for local authorities to define potential HMA evidence base.’</p> <p>This is a sensible approach and allows local flexibility. Whilst Strategic Housing Market Assessments (SHMAs) boundaries may not always follow district boundaries, it must be acknowledged that they may be sub-areas within the wider SHMA in all local authority areas not just the larger authorities, as LPEG had suggested.</p>

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		<p>With regard to the methodology for assessing need, the LPEG recommended in their report significant changes to the NPPG, which provide greater clarity on the content of full objectively assessed housing needs assessments. Whilst greater consistency is welcomed, a too prescriptive approach and prescription on the data sources to be used, could lead to government imposed Objectively Assessed Needs (OANs), which may lack detail and relevance to local areas, undermining the aim of providing 'the right homes in the right places.'</p> <p>The lack of a standardised method is the basis of confusions and arguments at examinations.</p>
<b>4</b>	<b>Do you agree with the proposals to amend the presumption in favour of sustainable development so that:</b>	
4a	authorities are expected to have a clear strategy for maximising the use of suitable land in their areas?	Yes, this is at the heart of the Plan making process, and provides very clear guidance to developers, residents and decision makers on where development can or cannot take place. Suitable land should be defined in this context as suitable land for development, specific preservation or enhancement or alternative uses.
4b	it makes clear that identified development needs should be accommodated unless there are strong reasons for not doing so set out in the NPPF?	<p>Paragraph 14 of the NPPF sets out the presumption in favour of sustainable development. It applies to both the planning making and application decision making process.</p> <p>The changes proposed clarify the position with regards to plan making that plans should plan for sustainable development and meet need unless there are justified reasons for not doing so through policies in the NPPF.</p> <p>The proposed changes to Para. 14 are implied in the existing NPPF and offer clarification.</p>
4c	the list of policies which the Government regards as providing reasons to restrict development is limited to those set out currently in footnote 9 of the National Planning Policy Framework (so these are no longer presented as examples), with the addition of Ancient Woodland and aged or veteran trees?	The inclusion of ancient woodlands is supported, although reference should be made to 'including an appropriate buffer or protection zone'. The list should include 'preserved aged or veteran trees or groups of trees (including orchards).'

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4d	its considerations are re-ordered and numbered, the opening text is simplified and specific references to local plans are removed?	This is supported.
5	<b>Do you agree that regulations should be amended so that all local planning authorities are able to dispose of land with the benefit of planning consent which they have granted to themselves?</b>	This is welcomed and will provide greater certainty to Councils and developers. It would also provide greater opportunity to meet local housing requirements.
6	<b>How could land pooling make a more effective contribution to assembling land, and what additional powers or capacity would allow local authorities to play a more active role in land assembly (such as where ‘ransom strips’ delay or prevent development)?</b>	Land pooling already takes place, albeit through local development companies. Where a development can be enabled through the use of surplus public sector land, irrespective of the public sector body, the LPAs should be able to require that body to enter into a land pooling arrangement and share the land value upside. In principal this is to be welcomed, if it provides LPAs with greater intervention powers to drive development. The detail on this needs to be carefully considered to ensure that the tax burden and value sharing arrangements do not unduly erode into the uplift so as to act as a disincentive for land pooling and collaborative public/private development partnerships.
7	<b>Do you agree that national policy should be amended to encourage local planning authorities to consider the social and economic benefits of estate regeneration when preparing their plans and in decisions on applications, and use their planning powers to help deliver estate regeneration to a high standard?</b>	Yes. Estate regeneration is not merely the renewal of physical environment. Such single facet regeneration has proven to be unsuccessful and the inherent problems in estates that lead to the need for regeneration are more often social and economic. Therefore, regeneration plans should be holistic and multi-faceted. Rather than amending national policy to encourage the consideration of social and economic benefits the national policy should compel consideration. This should also be supported by increased funding opportunities for economic and social regeneration.
8	<b>Do you agree with the proposals to amend the National Planning Policy Framework to:</b>	
8a	highlight the opportunities that neighbourhood plans present for identifying and allocating small sites that are suitable for housing?	Yes. In the Post Examination Modifications to the Maldon District Local Plan, the Council has ‘delegated’ the identification and allocation of 100 units to Neighbourhood Plans. This creates a positive framework for Neighbourhood Plans to work within, without imposing specific requirements on specific locations. The response from Neighbourhood Planning groups has been encouraging and positive.

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8b	encourage local planning authorities to identify opportunities for villages to thrive, especially where this would support services and help meet the authority's housing needs?	<p>Yes. This is incorporated into the Maldon District Local Development Framework. However, this the NPPF amendments should to encourage LPAs to create a framework for Neighbourhood Plans rather than just specific prescriptive proposals. The exception to this would be where a strategic project promoted in the Local Plan will affect individual or groups of villages. In such cases the impact and opportunities on and for those areas should be fully taken into account in local plans rather than left for neighbourhood plans.</p>
8c	give stronger support for 'rural exception' sites – to make clear that these should be considered positively where they can contribute to meeting identified local housing needs, even if this relies on an element of general market housing to ensure that homes are genuinely affordable for local people?	<p>Rural exception sites allow small sites to be used for affordable housing in perpetuity where sites would not normally be designated for housing. They seek to address the needs of local communities and brought forward through collaboration with the local community. Whilst, as is the case of the Maldon LDP, policies may allow some market housing where there is a demonstrable need to ensure viability, the default position should remain that such sites are 100% affordable.</p> <p>To amend national policy which promotes market housing as a default, renders the concept redundant and could lead to more planning by appeal speculative schemes. Although we understand the need for open market sales to cross subsidise the development of affordable homes without reliance on any other subsidy, there is a risk that assumptions are made that this is always acceptable and inevitable, schemes in the future reflect existing policy and delivery is through s106 and planning gain rather than through reduced land values..</p> <p>The Government should reinforce the important role that Rural exception sites play, that the default position remains that they are exceptions because they can provide a very high percentage of affordable housing. If a developer needs market housing to achieve a very high level of affordable housing, considerably above local policy levels, the onus should be on the developer to justify doing so through a viability assessment and that the market housing is essential to meet locally identified need.</p>
87d	make clear that on top of the allowance made for windfall sites, at least 10% of sites allocated for residential development in local plans should be sites of half a hectare or less?	<p>Local plans cover large geographic areas and tend to allocate large sites for development. Windfall normally includes smaller sites, and an allowance is made for this in plans.</p>

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		<p>The reality is that smaller sites do already play a crucial role in meeting housing need. Planning permission can be obtained where they meet a range of criteria based policies and as set out in Para 14 of the NPPF, planning permission should be granted where they comply with the development plan.</p> <p>To identify 10% of total housing allocation on smaller sites would place an undue burden on local planning authorities. They would have to identify the sites – whether this is through a call for sites or Strategic Housing Land Availability Assessment (SHLAA) – and undertake a full sustainability appraisal on them. It will leave examinations open to discussion on the suitability of a larger number of sites or the non-suitability of other sites. The LPA will have greater accountability over the deliverability of sites, dealing with a far larger number of developers in setting housing trajectories and monitoring including justification for delays.</p>
8e	expect local planning authorities to work with developers to encourage the sub-division of large sites?	This is supported. The sub-division of larger sites into either multiple outlets or disposal to different house builders is common and the explicit support to this in the NPPF would be welcomed.
8f	encourage greater use of Local Development Orders and area-wide design codes so that small sites may be brought forward for development more quickly?	<p>Local Development Orders are not suitable for every locality and the Government should only go as far as encouraging their use rather than enforcing their use.</p> <p>Area wide design codes are difficult to draft in locations that have a diverse built form – such as mixed use estates - and they are difficult to enforce by LPAs. District wide design guidance plays a similar role.</p>
9	<b>How could streamlined planning procedures support innovation and high-quality development in new garden towns and villages?</b>	<p>There are no new garden towns or villages in Maldon.</p> <p>In Maldon, two garden suburbs have recently secured planning permission having both been promoted through the emerging local plan, subject to collaborative master planning and the delivery of which controlled through design guides prepared with the developer. This has been achieved in little over two years.</p> <p>Strategic developments require a realistic lead in time which reflects their importance and complexity. Time spent on sound policy, master planning and pre-application, will help speed up the process once a planning application has</p>

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		<p>been submitted and provide a framework for Section 106 (S106) agreements.</p> <p>As strategic developments it is also important that the development takes place in accordance with the local plan and original consent. The scale of development is such that too much flexibility can undermine the LPAs ability to deliver the right housing mix as outlined in the SHMA.</p>
10	<b>Do you agree with the proposals to amend the National Planning Policy Framework to make clear that:</b>	
10a	authorities should amend Green Belt boundaries only when they can demonstrate that they have examined fully all other reasonable options for meeting their identified development requirements?	<p>Maldon is not a Green Belt district.</p> <p>Reasonable options should be defined in this instance. It would not be reasonable, for example, for a LPA to consider an option to force further development on non-Green Belt areas in their own or adjoining districts, simply because they do not wish to amend the green Belt.</p>
10b	where land is removed from the Green Belt, local policies should require compensatory improvements to the environmental quality or accessibility of remaining Green Belt land?	<p>Maldon is not a Green Belt district.</p> <p>The compensatory improvements may involve third party land and developers of sites should be expected to enter into agreements with land owners and the improvements should be considered as a development cost including long term management strategies.</p>
10c	appropriate facilities for existing cemeteries should not to be regarded as 'inappropriate development' in the Green Belt?	Maldon is not a Green Belt district. No comment.
10d	development brought forward under a Neighbourhood Development Order should not be regarded as inappropriate in the Green Belt, provided it preserves openness and does not conflict with the purposes of the Green Belt?	<p>Maldon is not a Green Belt district. Neighbourhood Development Orders (NDOs) should be in general conformity with the Local Plan and a national planning policy. If the development is inappropriate development within the Green Belt, then an NDO should not be used as it will undermine the principles of the Green Belt. If however, a development in the Green Belt is promoted through a neighbourhood plan and complies with local and national policy, or has sufficient justification, then an NDO could be used within undermining the principles of Green Belt.</p>



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10e	where a local or strategic plan has demonstrated the need for Green Belt boundaries to be amended, the detailed boundary may be determined through a neighbourhood plan (or plans) for the area in question?	Maldon is not a Green Belt district. Determination of Green Belt boundaries in neighbourhood plans should only take place if the Local Plan has provided for a neighbourhood plan to make such amendments and the parameters for amendments (i.e. the number of units).
10f	when carrying out a Green Belt review, local planning authorities should look first at using any Green Belt land which has been previously developed and/or which surrounds transport hubs?	Maldon is not a Green Belt district. Consideration of previously used land or sites close to transport hubs should form part of any Green Belt boundary review. In the instance of previously developed sites, the consideration for the LPA is whether the site continues to fulfil one of the purposes of the Green Belt. The proximity to transport hubs should not be an overriding factor in assessing a sites suitability to remain in the Green Belt or not, but a factor which will determining its suitability possibly as one of many different options.
11	<b>Are there particular options for accommodating development that national policy should expect authorities to have explored fully before Green Belt boundaries are amended, in addition to the ones set out above?</b>	Whilst LPAs should be expected to have entered into thorough dialogue through the duty to cooperate seeking to accommodate objectively assessed need in an adjoining Green Belt district should not be an option to have explored before Green Belt boundaries are amended.
12	<b>Do you agree with the proposals to amend the National Planning Policy Framework to:</b>	
12a	indicate that local planning authorities should provide neighbourhood planning groups with a housing requirement figure, where this is sought?	<p>Yes. In the Post Examination Modifications to the Maldon District Local Plan, the Council has 'delegated' the identification and allocation of 100 units to Neighbourhood Plans. This creates a positive framework for Neighbourhood Plans to work within, without imposing specific requirements on specific locations. The response from Neighbourhood Planning groups has been encouraging and positive.</p> <p>However, LPAs should not seek to impose specific requirements on neighbourhood planning areas, unless these are agreed in advanced and set out in the development plan.</p>
12b	make clear that local and neighbourhood plans (at the most appropriate level) and more detailed development plan documents (such as action area plans) are expected to set out clear design	This is to be supported, but the guidelines should be a material consideration in determining planning applications and given appropriate weight by Inspectors at appeal and not to be restrictive.

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	expectations; and that visual tools such as design codes can help provide a clear basis for making decisions on development proposals?	
12c	emphasise the importance of early pre-application ( <i>sic</i> ) discussions between applicants, authorities and the local community about design and the types of homes to be provided?	<p>Pre-application discussions should take place on larger schemes and are critical to the success of a scheme. For larger schemes they should be compulsory, but the Government should encourage the use of planning performance agreements to assist in providing standards of service to the developer and essential funding for LPAs for the increase in work required. The Government should consider best practice guidance on pre-application setting minimum standards.</p> <p>Local community involvement should be encouraged, but there needs to be realism on what is expected to avoid engagement overload.</p>
12d	makes clear that design should not be used as a valid reason to object to development where it accords with clear design expectations set out in statutory plans?	<p>The 'design expectations' are too vague and apply across a wide and diverse area. What may adequately apply in one location, may not apply elsewhere and therefore they cannot be relied on. The use of more detailed design guidelines which establish a baseline of design principles should be encouraged, as is the case with the Maldon District Design Guide.</p> <p>On strategic sites, design codes can supplement master plans and outline planning consents to control development, but they will need to secure the support of development partners.</p>
12e	recognise the value of using a widely accepted design standard, such as Building for Life, in shaping and assessing basic design principles – and make clear that this should be reflected in plans and given weight in the planning process?	Building for Life or sub-regional space standards should be used as a benchmark where they are not adopted as policy, but also take into account the extent to which this is needed in all development.
<b>13</b>	<b>Do you agree with the proposals to amend national policy to make clear that plans and individual development proposals should:</b>	
13a	make efficient use of land and avoid building homes at low densities where there is a shortage of land for meeting identified housing needs?	It is agreed that proposals should make the best use of land. However, the best use of land can also be achieved through balancing the need for development in absolute numbers terms, and the integration of new development into the wider

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		<p>character of an area.</p> <p>The Government needs to be careful not to force local planning authorities and local communities to accept high density development out of keeping with the surrounding area, simply to make the 'best use' of development land. Any guidance/policy approach should not be at the expense of sustainable development.</p>
13b	address the particular scope for higher density housing in urban locations that are well served by public transport, that provide opportunities to replace low-density uses in areas of high housing demand, or which offer scope to extend buildings upwards in urban areas?	As set out above the character of an area should be the main determining factor in establishing densities.
13c	ensure that in doing so the density and form of development reflect the character, accessibility and infrastructure capacity of an area, and the nature of local housing needs?	This is critical and should act as a check to a desire for higher density development. The NPPF should be explicit on this.
13d	take a flexible approach in adopting and applying policy and guidance that could inhibit these objectives in particular circumstances, such as open space provision in areas with good access to facilities nearby?	There are safeguards in place in the Maldon Local Development Plan to protect open space but also to consider the proximity, accessibility, quality and type of alternative open space. It should be for the LPA to apply how open space is protected. Encouragement in the NPPF to apply open space protections in a flexible manner, could lead to a proliferation of development on open space, the cumulative impact of which would be significant.
14	<b>In what types of location would indicative minimum density standards be helpful, and what should those standards be?</b>	It should be for local planning authorities to determine appropriate density standards dependent on the character and capacity of their area.
15	<b>What are your views on the potential for delivering additional homes through more intensive use of existing public sector sites, or in urban locations more generally, and how this can best be supported through planning (using tools such as policy, local development orders, and permitted development rights)?</b>	<p>The use of public sector owned sites for housing development is now established. Council's should be given more powers to acquire other public sector land for planning purposes, where this will facilitate housing development.</p> <p>With regards to the intensive use of land in public ownership, the same planning policies should apply as non-public land and it should remain for the LPA to determine the range of densities that apply to areas within their boundaries.</p>

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		<p>The tools available to a Council to bring forward public land should be the same as any other developer.</p>
<b>16</b>	<b>Do you agree that:</b>	
16a	<p>where local planning authorities wish to agree their housing land supply for a one year period, national policy should require those authorities to maintain a 10% buffer on their 5 year housing land supply?</p>	<p>Yes. A 10% buffer is reasonable.</p> <p>Paragraph A.77 of the White Paper suggests that acting on a recommendation for the Local Plan experts Group <i>‘whether a five year housing land supply exists or not should be capable of agreement on an annual basis, through discussion between authorities and development interests in each area, and subject to consultation and examination’</i>. Para. A.78 then goes on to state the intention to give <i>‘local authorities the opportunity to have their housing land supply agreed on an annual basis, and fixed for a one year period.’</i></p> <p>The White Paper then states in Para. A.78 that <i>‘to take advantage of this, the policy will make clear that the authority’s assessment of its housing land supply should be prepared in consultation with developers as well as other interests who will have an impact on the delivery of sites (such as infrastructure providers).’</i></p> <p>Whilst certification of the five-yearly housing land supply is welcomed, providing it is upheld on appeal, the Government needs to be careful not to turn an annual process into a burdensome process on local planning authorities. A need to consult with the development interests should be clarified. Likewise, what is meant by <i>‘and subject to....examination’</i>. To arrange consultation, engagement and examination on an annual basis is likely to divert resources, open to abuse by aggrieved developers who believe they can thwart certification each year and it would delay the adoption of a robust five-year housing land supply.</p> <p>What must be avoided is delay in the decision making process so that the evidence is out of date before the five-year land supply is certified. If it is to be certified annually, the process must not place an excessive burden on the LPA.</p> <p>For greater certainty, fixing the five-year housing land supply for two years should be considered.</p>

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		In either case, once fixed, the 5-year housing land supply should be considered as not out of date and be accorded the highest level of weight by the planning Inspectorate at appeals.
16b	the Planning Inspectorate should consider and agree an authority's assessment of its housing supply for the purpose of this policy?	Yes, providing that they uphold it at appeals. Arguments on 5-year housing land supply at appeals should be dismissed by the Inspector if a valid certification is in place from the Planning Inspectorate.
16c	if so, should the Inspectorate's consideration focus on whether the approach pursued by the authority in establishing the land supply position is robust, or should the Inspectorate make an assessment of the supply figure?	<p>It would be difficult and time consuming for the Inspectorate to review the robustness of the supply figure. These are derived from a detailed assessment of all outstanding planning consents at the beginning of the fiscal year, an assessment of completions from a number of sources, including on-site, and an assessment of a trajectory for outstanding sites at the end of the fiscal year. It would place an undue burden on the Inspectorate to have to effectively double check all of that data and do so without local knowledge.</p> <p>The Inspectorate's role should therefore be restricted to assessing the methodology and identifying any inconsistencies in the data.</p>
17	<b>In taking forward the protection for neighbourhood plans as set out in the Written Ministerial Statement of 12 December 2016 into the revised NPPF, do you agree that it should include the following amendments:</b>	
17a	a requirement for the neighbourhood plan to meet its share of local housing need?	Yes, where there is an identified local need not allocated in the local plan.
17b	that it is subject to the local planning authority being able to demonstrate through the housing delivery test that, from 2020, delivery has been over 65% (25% in 2018; 45% in 2019) for the wider authority area?	For those districts, such as Maldon, which heavily rely on a small number of strategic housing development sites to meet objectively assessed need, this seems to 'punish' Neighbourhood Plans for the delivery of developments outside of their control.
17c	should it remain a requirement to have site allocations in the plan or should the protection apply as long as housing supply policies will meet	If a Neighbourhood Plan is up to date, complies with the local plan and demonstrates how local housing needs are met, it should not be deemed out of state. Demonstrating how local needs are met includes the Neighbourhood Plan acknowledging any local plan allocations, planning permissions and by allocating

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	their share of local housing need?	its own sites if the Plan identifies additional need,
<b>18</b>	<b>What are your views on the merits of introducing a fee for making a planning appeal? We would welcome views on:</b>	
18a	how the fee could be designed in such a way that it did not discourage developers, particularly smaller and medium sized firms, from bringing forward legitimate appeals;	<p>Yes Maldon District Council agrees that there should be a fee. However, this would not by itself deter appeals. Consistency in appeal decision making, and the setting and enforcing the status of a five year supply of housing land, will be more effective methods to deter appeals, particularly for larger schemes.</p> <p>Appeals should be last resort and an applicant should be encouraged to discuss how their refused scheme can be amended to overcome objection rather than to appeal.</p> <p>Care needs to be taken where an applicant's proposal is border line or at the pre-application stage no major concerns were raised.</p>
18b	the level of the fee and whether it could be refunded in certain circumstances, such as when an appeal is successful; and	<p>The fee should be set in such a way so to discourage planning by appeal. This should particularly be the case where an appellant is contesting an appeal on 5-year Housing land Supply that is up to date and valid or there is an up to date local plan in place.</p> <p>Therefore, it is suggested that where at the Pre-application stage an prospective applicant is advised that the development proposals are contrary to policy, and there is little or no justification to depart from the local plan, but nonetheless submits with the tacit intention of appealing, a fee should apply, together with the prospect of the award of costs.</p> <p>In such instances the fee should be high enough to cover the Council's full costs or match the application fee. This will require research by the Government to set such fee.</p> <p>For domestic appeals the appeal fee should be the same as the application fee.</p>
18c	whether there could be lower fees for less complex cases.	

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19	<b>Do you agree with the proposal to amend national policy so that local planning authorities are expected to have planning policies setting out how high quality digital infrastructure will be delivered in their area, and accessible from a range of providers?</b>	<p>As stated in the White Paper, the Building Regulations have been amended to include for infrastructure in buildings for superfast broadband.</p> <p>Maldon is an area with inconsistent coverage in both rural and urban settlements. Policies in Local Plans will need to cover ensuring developers include external infrastructure within new developments that ensure the in-building infrastructure is functional. This should include fibre optic cabling.</p>
20	<b>Do you agree with the proposals to amend national policy so that:</b>	
20a	the status of endorsed recommendations of the National Infrastructure Commission is made clear?	Maldon includes the location of the proposed Bradwell B nuclear power station. The Council would welcome clarification in the NPPF of the role of the National Infrastructure Commission (NIC).
20b	authorities are expected to identify the additional development opportunities which strategic infrastructure improvements offer for making additional land available for housing?	<p>The way this is written suggests that all major infrastructure investment leads to more housing. This is not necessarily the case and housing should always be based on objectively assessed need.</p> <p>What the Government should seek local authorities to do is to objectively assess the impact of the infrastructure on need for housing bearing in mind local job creation and maintaining the economic benefits locally.</p>
21	<b>Do you agree that:</b>	
21a	the planning application form should be amended to include a request for the estimated start date and build out rate for proposals for housing?	Yes, but it should be a requirement for developers to complete on the application form, not a request. This would help in establishing a housing trajectory and monitoring the development against the data supplied. A request suggests that offering the information is voluntary.
21b	that developers should be required to provide local authorities with basic information (in terms of actual and projected build out) on progress in delivering the permitted number of homes, after planning permission has been granted?	Yes. Developers on major sites should provide the LPA with an annual statement setting out completions within the previous year and an update on their trajectory. This will help with the compilation of Authority Monitoring Reports (AMR's) and the robustness of 5-Year Housing Land Statements.

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21c	the basic information (above) should be published as part of Authority Monitoring Reports?	Yes, and used in the preparation of 5-year housing land supply assessments.
21d	that large housebuilders should be required to provide aggregate information on build out rates?	Yes. This should be a requirement of all major developments. In the case of multi-phase or multiple outlet developments, developers should provide the overall delivery and trajectory and the same details per phase. Providing aggregate information would help highlight those that may have underperformed but higher levels of delivery have to be considered alongside capacity to invest and other more detailed information that may affect developers' ability and capacity to build in the future.
22	<b>Do you agree that the realistic prospect that housing will be built on a site should be taken into account in the determination of planning applications for housing on sites where there is evidence of non-implementation of earlier permissions for housing development?</b>	Yes, but the Governments needs to consider whether a LPA can refuse planning permission on the grounds on non-delivery. Stalled sites are a major source of housing land, whether stalled for reasons of viability, environmental issues, land ownership of land banking. In any subsequent planning application, the applicant should set out the reason why a site has not been developed under a previous consent, and what measures they have taken to overcome the reasons. If the LPA is not satisfied that a new proposal will be built within the time limit of the consent, or that there are no conditions or S106 measures which could ensure delivery, the LPA will need to be able to refuse planning permission for this sanction to work, otherwise taking into account whether a site will realistically be developed has no or little weight.
23	<b>We would welcome views on whether an applicant's track record of delivering previous, similar housing schemes should be taken into account by local authorities when determining planning applications for housing development.</b>	<p>Developers should provide trajectory details to the LPA with their planning application and monitored against those trajectories. If development does not start within the time limit, the right to 'automatic' renewal would be subject to scrutiny through a subsequent planning application – see response to question 22 above. If the site has been land banked, the Council should take this into account as a material consideration.</p> <p>Some applicants are land and site promoters, who seek to secure planning permission and dispose of the sites on behalf of the owner to housebuilders. They tend not to develop the sites themselves. The sites they identify are often contrary to development plans, and they apply with the intention of an appeal. They should be included in any assessments of track record to dispose of land to a housebuilder for development.</p>



Q No.	Question	Maldon District Council (MDC) Response
24	<b>If this proposal were taken forward, do you agree that the track record of an applicant should only be taken into account when considering proposals for large scale sites, so as not to deter new entrants to the market?</b>	Yes. The process must allow for new entrants into the housing market. Allowing new entrants to submit details of development where they have been sub-contracted would also be helpful.
25	<b>What are your views on whether local authorities should be encouraged to shorten the timescales for developers to implement a permission for housing development from three years to two years, except where a shorter timescale could hinder the viability or deliverability of a scheme? We would particularly welcome views on what such a change would mean for SME developers.</b>	A shorter timescale should only be part of a wider package of measures outlined in the White Paper. However, the caveat suggested in Question 25 would provide a strong case for developers to argue for an extended time period. Three years is adequate at present, takes into account any short term fluctuations in the market and with the appropriate monitoring measures, the Council can identify any possible delays and work with the developer to see they can speed up delivery and meet the time limit. Just as importantly, once a scheme has started as defined under planning law, the developer should be held to account for the delivery in accordance with their trajectory.
26	<b>Do you agree with the proposals to amend legislation to simplify and speed up the process of serving a completion notice by removing the requirement for the Secretary of State to confirm a completion notice before it can take effect?</b>	Yes. Although rarely used, completion notices do enable an LPA to seek the Secretary of States approval to nullify a planning permission where insufficient progress has been made on site. Empowering this process to enable LPAs to approve and issue a completion notice is supported. The process would be better controlled by the LPA who have direct discussions with the developer, used as a last report and to act as a deterrent to land banking. The Government should issue guidelines on its use, however. As the notice effectively revokes an existing consent, the decision should be referred back to Committee.
27	<b>What are your views on whether we should allow local authorities to serve a completion notice on a site before the commencement deadline has elapsed, but only where works have begun? What impact do you think this will have on lenders' willingness to lend to developers?</b>	<p>Local planning authorities should be able to serve completion notices at any time when it is established that the development is not going to proceed. However, if the commencement period is reduced to two years, there may not be sufficient time to establish a position whether the developer is likely to proceed or not, even if the works have begun.</p> <p>With regards to the impact on the willingness to lend, this could work both ways. Lenders of higher risk schemes may be reluctant to lend or would lend at rates that render a scheme unviable, whilst those who do lend, would be more incentivised to pressure the developer to complete the scheme.</p>

Q No.	Question	Maldon District Council (MDC) Response
28	<b>Do you agree that for the purposes of introducing a housing delivery test, national guidance should make clear that:</b>	
28a	The baseline for assessing housing delivery should be a local planning authority's annual housing requirement where this is set out in an up-to-date plan?	Yes. This will incentivise LPAs to maintain an up to date Local Plan and realistic annual housing targets and a realistic housing trajectory, against which they can close monitor and work with developers to achieve.
28b	The baseline where no local plan is in place should be the published household projections until 2018/19, with the new standard methodology for assessing housing requirements providing the baseline thereafter?	Yes, but Council's should be consulted on these figures and provided an opportunity to respond on whether they are at all realistic, so that a moderation can be put in place (and published). Household projections do not take into account local circumstances or the performance of developers that impact on delivery of new homes. In that regard the projections are arbitrary.
28c	Net annual housing additions should be used to measure housing delivery?	Yes.
28d	Delivery will be assessed over a rolling three year period, starting with 2014/15 – 2016/17?	The Council agrees that a rolling three year period is sensible. Care should be taken to apply it retrospectively however. The 2014 to 2017 period has been one of intense activity of LPAs in putting Local Plans in place. Particularly where an LPA is accommodated an increase in growth – such as Maldon (120 dppa to 335 dppa) – there is a time lag between the plan start period and the achievement of the any target. Whilst every effort has been made to deliver the LDP (despite the first Inspectors report and now called in by the Secretary of State) and to approve most of the strategic sites, the lead in times for developments is such that MDC could be 'punished' if the housing delivery rate over the last three years is measured against unmoderated household projections.
29	<b>Do you agree that the consequences for under delivery should be:</b>	
29a	From November 2017, an expectation that local planning authorities prepare an action plan where delivery falls below 95% of the authority's annual housing requirement?	MDC does not object to monitoring, subject to the caveats above. However, the government should not be relying on sanctions after the event to require actions from LPAs. Two reasons: firstly developers themselves need to honour their commitments. Housing trajectories, on which five-year supply of housing targets and annual targets are based, are developed in conjunction with local

Q No.	Question	Maldon District Council (MDC) Response
29b	From November 2017, a 20% buffer on top of the requirement to maintain a five year housing land supply where delivery falls below 85%?	developers. Unless there are mitigating factors which delay delivery – i.e. macro-economic impacts – housebuilders should be obligated to deliver in accordance with their trajectory once planning permission has been granted.
29c	From November 2018, application of the presumption in favour of sustainable development where delivery falls below 25%?	Secondly, the local planning authority through their local plan should already have in place an action plan to support the delivery of homes. This should include the timescales, resources and agreements with developers through, for example, planning performance agreements post permission, to ensure, as far as the LPA can, delivery.
29d	From November 2019, application of the presumption in favour of sustainable development where delivery falls below 45%?	
29e	From November 2020, application of the presumption in favour of sustainable development where delivery falls below 65%?	
30	<b>What support would be most helpful to local planning authorities in increasing housing delivery in their areas?</b>	<p>Clear guidance from the Government into the obligations on the development industry to deliver consented scheme.</p> <p>Full backing by the Planning Inspectorate (PINS) to Council's who have an up to date plan and a five-year supply of housing on speculative appeals to act as a deterrent to unreasonable speculators, with rejection of calls for Inquiries to deal with such matters, so that Council resources can be better spent on support schemes the Council has granted planning permission for.</p> <p>The implementation of sanctions outlined in the white Paper to revoke planning consents for schemes that are not delivered to avoid land banking.</p> <p>Support for the use of planning performance agreements throughout all stages of the development planning process, including the discharge of conditions on major schemes, S73 or S69 applications, and drop-in applications to previously consented schemes, which take as much LPA resources as the original planning application.</p> <p>Greater resources for LPAs to accommodate the additional burdens placed on them as a result of the White Paper.</p>

Q No.	Question	Maldon District Council (MDC) Response
		Consistency and pro-development review of how financial viability is to be assessed when in dispute; the concept of benchmark land values can undermine policy and thereby delay agreement, or place pressure on local authorities to agree.
<b>31</b>	<b>Do you agree with our proposals to:</b>	
31a	amend national policy to revise the definition of affordable housing as set out in Box 4?	<p>The definition of affordable housing needs to retain a clear link with local wage levels, with the ability of local housing authorities to exercise control or at least give preference to local households in need if it is to be strategically relevant and justified in terms of securing sites based upon locally assessed need / OAN. Without these basic elements, affordable housing can too easily become less expensive housing option to those already able to meet their housing need through the open market</p> <p>Market Sales and Affordable Private Rent Housing should be defined by the price or rental value per sqm rather than the overall price or rental value. This is to avoid developers reducing the size of units by 20% or more to meet the 80% of market value test.</p>
31b	introduce an income cap for starter homes?	It would make more sense if a cap for starter homes was to be based upon local income or wage levels rather than just a discount on open market values for reasons explained above.
31c	incorporate a definition of affordable private rent housing?	Yes, ideally this should be consistent with the definition of Affordable Rent used by Registered Providers.
31d	allow for a transitional period that aligns with other proposals in the White Paper (April 2018)?	Yes.
<b>32</b>	<b>Do you agree that:</b>	
32a	national planning policy should expect local planning authorities to seek a minimum of 10% of all homes on individual sites for affordable home ownership products?	It should be for the LPA to set targets for tenure and housing type mix based on their Housing Strategy and SHMA rather than the Government. For this to be relevant to local need, there should be some flexibility as to how local authorities chose to promote home-ownership through new development, for example shared-ownership or some rent to buy options may be more affordable and suitable to local need than Starter Homes.
32b	that this policy should only apply to developments of over 10 units or 0.5ha?	

Q No.	Question	Maldon District Council (MDC) Response
33	Should any particular types of residential development be excluded from this policy?	It should be for the LPA to set targets for tenure and housing type mix based on their Housing Strategy and SHMA rather than the Government.
34	Do you agree with the proposals to amend national policy to make clear that the reference to the three dimensions of sustainable development, together with the core planning principles and policies at paragraphs 18-219 of the National Planning Policy Framework, together constitute the Government's view of what sustainable development means for the planning system in England?	Yes, but the same considerations than an LPA is expected to apply, whether through Local Plan policy or through the implementation of the NPPF, MUST also be applied by the Planning Inspectorate. The default position must be that the decision maker must always demonstrate that development meets the tests in the NPPF. Therefore, the developer will also have to demonstrate that the proposal meets the tests of sustainable development. Failure to do so should lead to the position of an application being refused, and dismissed on appeal.
35	Do you agree with the proposals to amend national policy to:	
35a	Amend the list of climate change factors to be considered during plan-making, to include reference to rising temperatures?	Yes, with caution. Global temperature rise is a product of the causes of global climate change. Policies should be sound and justifiable, even when they are promoted in the NPPF. Consideration needs to be given to how sustainable development directly contributes to rising temperatures.
35b	Make clear that local planning policies should support measures for the future resilience of communities and infrastructure to climate change?	Yes. Local Plan policies should require the implementation of measures that are long term and in perpetuity where possible. If this leads to greater powers to monitor and enforce conditions post implementation, then MDC would consider this to be an additional burden and seek additional resources.
36	Do you agree with these proposals to clarify flood risk policy in the National Planning Policy Framework?	<p>Yes.</p> <p>The Housing White Paper refers to three changes to the NPPF relating to flooding:</p> <p>Amendments to the application of the Exception Test in Para. 102 of the NPPF, so when preparing local plans the LPA should not allocate land for development if it is clear that the Exception Test is not capable of being met; an where applicable the test still applies to other development, except minor development, changes f use and sites allocated that have been subject to the sequential test.</p>

Q No.	Question	Maldon District Council (MDC) Response
		<p>To clarify that para 103 of the NPPF applies to all development – relating to the location of development and resilience of mitigation measures to flooding.</p> <p>That planning policies also address the cumulative flood risks which could result from the combined flooding impacts of new and separate developments.</p> <p>The risk of flooding is high in parts of Maldon, both tidal and fluvial. Measures are in place to mitigate that risk, but all developments should recognise the contribution they can make to increased risk of flooding and reducing that risk to their own developments and adjoining properties.</p> <p>The Council will support measures which increase its ability to secure and enforce flood mitigation and attenuation measures.</p> <p>The Council also supports measures that mean that the cumulative impacts of new development are taken into consideration in assessing the risk of flooding and mitigation measures.</p>
37	<p><b>Do you agree with the proposal to amend national policy to emphasise that planning policies and decisions should take account of existing businesses when locating new development nearby and, where necessary, to mitigate the impact of noise and other potential nuisances arising from existing development?</b></p>	<p>The proposal to take into consideration existing businesses and causes of noise and the impact they could have on new developments nearby is a positive step. New development can lead to complaints of noise where there were none previously, and undermine, in particular, business activity. Business retention and fostering local business growth is a key priority for Maldon Council.</p>
38	<p><b>Do you agree that in incorporating the Written Ministerial Statement on wind energy development into paragraph 98 of the National Planning Policy Framework, no transition period should be included?</b></p>	<p>Yes, but with clarification on what constitutes wind energy. It is wholly unreasonable for a LPA to identify parts of a district suitable or not for all types of wind energy ranging from commercial wind farms to small wind turbines for domestic, farm or business renewable wind generation. The latter should be subject to normal planning considerations.</p>

## Annex

## BOX 4 referred to in Question 31a

## Box 4: Proposed definition of affordable housing

**Affordable housing:** housing that is provided for sale or rent to those whose needs are not met by the market (this can include housing that provides a subsidised route to home ownership), and which meets the criteria for one of the models set out below.

**Social rented and affordable rented housing:** eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

**Social rented housing** is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the Government's rent policy. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

**Affordable rented housing** is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).

**Starter homes** is housing as defined in Sections 2 and 3 of the Housing and Planning Act 2016 and any subsequent secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute at the time of plan-preparation or decision-taking. Local planning authorities should also include income restrictions which limit a person's eligibility to purchase a starter home to those who have maximum household incomes of £80,000 a year or less (or £90,000 a year or less in Greater London).

**Discounted market sales housing** is housing that is sold at a discount of at least 20 per cent below local market value. Eligibility is determined with regard to local incomes and local house prices. It should include provisions to remain at a discount for future eligible households.

**Affordable private rent housing** is housing that is made available for rent at a level which is at least 20 per cent below local market rent. Eligibility is determined with regard to local incomes and local house prices. Provision should be made to ensure that affordable private rent housing remains available for rent at a discount for future eligible households or for alternative affordable housing provision to be made if the discount is withdrawn. Affordable private rented housing is particularly suited to the provision of affordable housing as part of Build to Rent Schemes.

**Intermediate housing** is discount market sales and affordable private rent housing and other housing that meets the following criteria: housing that is provided for sale and rent at a cost above social rent, but below market levels. Eligibility is determined with regard to local incomes and local house prices. It should also include provisions to remain at an affordable price for future eligible households or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement. These can include Shared Ownership, equity loans, other low cost homes for sale and intermediate rent (including Rent to Buy housing).