Consultation responses received

Essex County Council (ECC) Response:

Planning Policy
Maldon District Council
Princes Road
Maldon
CM9 5DL
policy@maldon.gov.uk

By email

Dear Sir/Madam,

RE: HEYBRIDGE NEIGHBOURHOOD PLAN AREA CONSULTATION

Thank you for consulting Essex County Council (ECC) on the proposed boundary of the Heybridge Neighbourhood Plan Area as put forward by Heybridge Parish Council. This letter represents ECC’s technical officer comments to the consultation.

ECC notes the proposed boundary straddles a strategic allocation in the submitted Maldon Local Development Plan, and provides some comment. In addition, other advice is provided to inform any forthcoming preparation of a neighbourhood plan, and in particular the key strategic infrastructure identified in the submitted Maldon Local Development Plan.

General

ECC delivers a wide range of public services upon which it can provide guidance and advice for those carrying out neighbourhood planning projects. A reference guide (currently being updated) setting out the main ECC services that may need to be considered when carrying out neighbourhood planning can be accessed below.


The Parish Council should contact ECC as plan preparation progresses to ensure the most up to date information is provided.

Relationship to the Maldon District Pre Submission Local Plan (2014 – 2029)

Maldon District Council submitted its Local Development Plan (LDP) to the Secretary of State for Examination-in-Public (EiP) on 25 April 2014. The LDP seeks to set out how growth requirements will be accommodated in the District over the next 15 years to 2029. It will be used to guide the delivery of homes, employment, retail, community facilities and infrastructure provision and provide details of strategic allocations for housing and employment development and how this will be phased over the plan period.
Essex County Council (ECC) Response (continued):

The Planning Inspector’s ‘initial findings’ report following examination in January 2015, was published 8 May 2015, and recommended the plan to be unsound based on a lack of provision for gypsies and travellers. Following a request from Maldon District Council, the Secretary of State issued a direction, and has called in the plan “to test whether the Planning Inspector has taken a proportionate and balanced view on the local plan as a whole in the light of national planning policy.” A decision is still awaited from DCLG.

However, the Submitted Plan has progressed through the planning process and therefore MDC attaches some material weight in relation to LDP Policies S1, S2, S3, S4, S6, S7, S8, H1, H2, H3, H5, I1 and I2 in decision making. Policy S4 – Maldon and Heybridge Strategic Growth, outlines the proposed infrastructure to be provided at North Heybridge Garden Suburb, and is supplemented by the ‘Updated Infrastructure Phasing Plan, Jan 2015’. The Garden Suburb amounts to some 1,235 dwellings to be provided by sites S2d – North of Heybridge (1,035 dwgs), S2e – North of Holloway Road (100 dwgs) and S2f – West of Broad Street Green (100 dwgs).

For North Heybridge, Policy S4 identifies the following:

- 1,235 dwellings (including affordable housing and dwellings which meet the housing needs for an older population).
- A new primary school, two early year childcare facilities and contributions towards the expansion of the Plume School.
- Provision for youth and children’s facilities.
- A new outer relief road to the north of Heybridge between Broad Street Green Road and Langford Road.
- A country park focused to the west of Maypole Road.
- A strategic flood alleviation scheme as well as appropriate drainage and sewerage infrastructure including sustainable urban drainage systems (SUDS) within the development.

In addition, the proposed neighbourhood plan area also includes a strategic allocation at Heybridge Swifts (S2(h) for 100 dwgs (Policy S2 – Strategic Growth).

North Heybridge Garden Suburb Masterplan

Maldon DC has also adopted the Strategic Masterplan Framework (SMF) for the North Heybridge Garden Suburb (NHGS), which provides supplementary guidance to the LDP. It has been developed in partnership between Maldon District Council and the developers / landowners and has taken into account consultation with relevant stakeholders and the local community. Relevant partner organisations including Essex County Council, the Environment Agency and the NHS have also been closely engaged in the process.

Planning consent for the development of sites within the NHGS Suburb areas will only be granted by MDC if the proposals are in accordance with the respective adopted masterplan.
Essex County Council (ECC) Response (continued):

Planning applications have been submitted for all 3 sites within the NHGS, and are presently being considered through the development management process. ECC has been seeking to ensure that the infrastructure requirements identified above are satisfactorily considered within these applications, and their funding appropriately identified in any s10s heads of terms.

Consequently, ECC recommends that the neighbourhood plan fully reflects the strategic vision and strategy of the emerging Local Plan, as required in the National Planning Policy Framework (NPPF), paragraph 184, which states:

‘The ambitions of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area.’

In addition, paragraph 16 also states that neighbourhoods should:

‘develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development;’

Highways

ECC in its role as Highways Authority was commissioned to undertake a considerable amount of highway modelling to support the submitted LDP. The Infrastructure Delivery Plan (IDP) and Phasing Schedule identifies the following highway infrastructure to be provided by the planned development in the submitted LDP, and to be funded by SELEP/ECC funding and ‘pooled’ developer contributions. The junctions within the proposed neighbourhood plan area are underlined below:

- delivery of the North Heybridge Relief Road
- off-site Highways Improvements
  - B1018 Langford Approach/Heybridge Approach
  - B1018/Heybridge Approach/A414 Roundabout
  - A414/Spital Road Roundabout (now SELEP Local Growth Fund)
  - A414/B1018 Limebrook Way (now SELEP Local Growth Fund)
  - A414 Oak Corner Junction

The highway modelling also identified two junctions in Heybridge which would experience significant congestion issues in 2026 with no additional growth, and where mitigation measures were not feasible due to spatial constraints. However, the introduction of the North Heybridge Link Road would allow a ‘nil detriment’ situation to be achieved at these junctions:

- B1018 The Causeway / The Square / B1022 The Street Roundabout
- B1022 Colchester Road / B1026 Goldhanger Road Roundabout

An outline planning application has been submitted for part of the Garden Suburb by Countryside Properties, with detailed planning permission sought for:
Essex County Council (ECC) Response (continued):

- the new relief road between Broad Street Green Road and Langford Road

**Minerals**

ECC is the Minerals Planning Authority (MPA), and adopted the Essex Minerals Local Plan in July 2014. The proposed neighbourhood plan area, including Osea Island, is largely covered by Policy S8 - Minerals Safeguarding Area for sand and gravel, which seeks to prevent the sterilisation of mineral resources.

Policy S8 states “… Proposals which would unnecessarily sterilise mineral resources or conflict with the effective workings of permitted minerals development or Preferred Mineral site allocation shall be opposed.”

Policy S8 requires that a non-mineral proposal located within a MSA which exceeds defined thresholds shall be supported by a minerals resource assessment to establish the existence, or otherwise, of a mineral resource capable of having economic importance. This will ascertain whether there is an opportunity for the prior extraction of that mineral to avoid the sterilisation of the resource as required by the National Planning Policy Framework (paragraphs 143 and 144).

The proposed neighbourhood plan area is part covered by strategic development sites identified in the submitted Local Development Plan, and are currently subject to submitted planning applications. These allocations are North of Heybridge (S2(d)); Land North of Holloway Road (S2(e)); and West of Broad Street Green Road (S2(f)).

The proposal lies within the MSA for sand and gravel and exceeds the 5ha threshold as defined in Policy S8 for this mineral and is unaccompanied by a minerals resource assessment. Policy S8 would therefore ordinarily require the Minerals Planning Authority to place a holding objection on the proposal until such a time as a minerals resource assessment can be submitted.

In requesting a Mineral Resource Assessment the MPA advises that mineral extraction is discouraged close to existing residential properties, a 100m buffer zone between the extraction face to the facade of a residential property would normally be required (see paragraph 5.20 of the RMLP) and this should be factored into the assessment of the potential for prior extraction when undertaking the mineral resource assessment.

It is noted that in this instance the proposed strategic allocations in part, both adjoins the defined settlement of Heybridge comprising residential properties, and adjoins a number of residential properties on the eastern boundary, which would need to be protected by the 100m buffer zone referred to above. In addition the site adjoins Heybridge Wood, a designated Ancient Woodland and Local Wildlife Site which would also be afforded some protection / standoff margin. Therefore, by virtue of the location of the proposal and proximity to adjoining sensitive properties and ancient woodland, it is considered that the area of any deposit would be very constrained and thus, in this instance the MPA does not propose to request a Mineral Resource Assessment in relation to the Strategic Allocations.
Essex County Council (ECC) Response (continued):

The above approach reflects the MPA’s consultation response to planning application FUL/MAL/15/00885 concerning West of Broad Street Green Road (S2(f)), and concluded that in this instance the MPA does not propose to request a Mineral Resource Assessment and has no objections to the proposal.

There are no site allocations for mineral extraction in the adopted Minerals Plan.


Waste

ECC as Waste Planning Authority raises no issues.

Sustainable Drainage Systems

It is recommended that neighbourhood plan policies require new development of all scales to incorporate sustainable drainage systems.

As the Lead Local Flood Authority (LLFA) Essex County Council is responsible for overseeing flood risk from surface water, groundwater and ordinary watercourses. The LLFA is therefore expected to provide support to Local Planning Authorities and the development industry on sustainable drainage proposals. The Sustainable Drainage Systems Design Guide was adopted in December 2014, and assists in identifying the level of treatment necessary in considering new development. This document forms the local standards for Essex and, together with the National Standards, strongly promotes the use of SuDS which help to reduce surface water runoff and mitigate flood risk.

From the 15th of April 2015 Essex County Council, as the Lead Local Flood Authority, began acting as a statutory consultee to the planning application process with regard to surface water and groundwater flooding on all major planning applications. The Local Planning Authority will approve SuDS as part of the planning application process. ECC expects any new development to comply with the following guidance:

i. The minimum requirements set out in the Non-statutory Technical Standards for Sustainable Drainage Systems.


iii. The CIRIA SuDS manual which sets out best practice for SuDS design.
Essex County Council (ECC) Response (continued):


For further information and enquiries, please contact Essex County Council’s SuDS team at suds@essex.gov.uk or telephone 08457 430430.


In addition, an outline planning application has been submitted for part of the Garden Suburb by Countryside Properties, with detailed planned permission is sought for:

- the Strategic Flood Alleviation works to the north of the new relief road, including the outfall to the River Blackwater

The creation of these works is designed to capture and divert existing surface water flows away from the Application Site and Heybridge during severe weather.

Heritage

Unlocking Essex’s Past (UEP) is a website that makes it possible to search the Essex Historic Environment Record (EHER) online, making information about the heritage of the county more accessible and encouraging exploration and conservation. The Essex Historic Environment Record (over 30,000 records) includes details of all listed buildings, scheduled monuments, designated and other non-designated heritage assets. It does not provide an assessment of the significance of those heritage assets, in the form of a Historic Environment Characterisation. The latter has been prepared for Maldon District, and combined with the EHER providers a good historical environment background for the neighbourhood plan.

However, where a site on which development is proposed includes or has the potential to include heritage assets applications should describe the significance of any heritage assets affected. As a minimum the Historic Environment Record should have been consulted and an appropriate assessment produced. ECC was consulted with regards these matters in relation to the submitted planning applications at the Garden Suburb.

The link to the EHER is included below:

http://unlockingessex.essexcc.gov.uk/uep/custom_pages/home_page.asp?

ECC can provide the parish council with relevant sites in the neighbourhood plan area if necessary.
Essex County Council (ECC) Response (continued):

Strategic Environmental Assessment/Sustainability Appraisal

ECC notes, and welcomes, the District Council’s ‘Community Led Planning Protocol’ and ‘Neighbourhood planning update and briefing note to towns and parishes’. The protocol clarifies that the District Council will carry out a screening opinion exercise for any neighbourhood plan, primarily once the baseline report has been completed, in order to ascertain whether they are likely to trigger significant environmental effects.

A strategic environmental assessment may be required, for example, where:
• a neighbourhood plan allocates sites for development;
• the neighbourhood area contains sensitive natural or heritage assets that may be affected by the proposals in the plan; and
• the neighbourhood plan is likely to have significant environmental effects that have not already been considered and dealt with through a sustainability appraisal of the Maldon Local Plan.

In addition, where a neighbourhood plan could potentially affect a European protected site, it will be necessary to screen the plan in relation to the Conservation of Habitats and Species Regulations (2010), as amended (the ‘Habitats Regulations’).

The exercise is a legal requirement and involves consulting the statutory agencies and publicising its findings on whether or not further environmental assessment is required for the plan.

Conclusion

ECC looks forward to engaging constructively, actively and on an on-going basis during the preparation of the Heybridge Neighbourhood Plan. This will ensure the continuation of a robust long-term strategy for the area that provides a reliable basis on which ECC may plan future services and provide the required social and physical infrastructure for which it is responsible.

Please do not hesitate to contact me if you require further information or would like to discuss this response in more detail.

Yours sincerely,

Kevin Fraser
Principal Planner
Dear Mr Somers,

Heybridge Parish Council
Application under Part 2(5)(1) of the Neighbourhood Planning (General) Regulations 2012 for the Designation of a Neighbourhood Area

I refer to Heybridge Parish Council’s application under the above Regulations.

The Great Totham Parish Council objects to the application in respect of that part of the proposed plan boundary to the north of Heybridge which is co-terminus with the civil parish boundaries of Heybridge and Great Totham and which traverses the area proposed as the North Heybridge Garden Suburb included in the submitted Maldon District Local Development Plan.

The Great Totham Parish Council is currently examining the implications of this part of the proposal including anticipated discussions with Heybridge Parish and Maldon District Councils in December. The purpose of this formal objection is to cause the deferral of a decision on the application until such time as the plan boundary details can be fully considered and resolved.

Yours sincerely

Clerk to the Council
Response by Gladman Developments

Re: Heybridge Neighbourhood Development Plan – Application for Neighbourhood Area Designation

Dear Sirs,

Gladman Developments Ltd (Gladman) specialise in the promotion of strategic land for residential development with associated community infrastructure. This letter provides Gladman’s representations on the application made by Heybridge Parish Council for the designation of a Neighbourhood Area, for the purposes of preparing a Neighbourhood Development Plan.

At this stage Gladman have no specific comments to make on the application for the Neighbourhood Area designation. However, as the first formal stage of preparing a Neighbourhood Plan, Gladman would like to take the opportunity to comment on the Heybridge Neighbourhood Area application to highlight a number of key requirements to which the development of the emerging Neighbourhood Plan should have regard. Gladman wish to participate in the Neighbourhood Plan’s preparation and to be notified of further developments and consultations in this regard.

Neighbourhood Plans - Guidance and Legislation

The National Planning Policy Framework (The Framework) sets out the Government’s planning policies for England and how these are expected to be applied. In doing so it sets out requirements for the preparation of neighbourhood plans and the role these should take in setting out policies for the local area. The requirements set out in the Framework have now been supplemented by the guidance contained in the Neighbourhood Planning chapter of the PPG.

Paragraph 16 of the Framework sets out the positive role that Neighbourhood Plans should play in meeting the development needs of the local area. Its states that:

“The application of the Presumption (In Favour of Sustainable Development, set out in paragraph 14 of Framework) will have implications for how communities engage in neighbourhood planning. Critically it will mean that neighbourhoods should: Develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development;

Plan positively to support local development, shaping and directing development in their area that is outside of the strategic elements of the Local Plan”

Further guidance on the relationship between Neighbourhood Plans and strategic policies for the wider area set out in a Council’s Local Plan is included in paragraph 184 of the Framework:

“The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood Plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date plan is in place as quickly as possible. Neighbourhood Plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood Plans...should not promote less development than set out in the Local Plan or undermine its strategic policies”.

Before a Neighbourhood Plan can proceed to referendum it must be tested against the Neighbourhood Plan Basic Conditions, set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 and further detailed in paragraph 065 of the Neighbourhood Plan PPG. These Basic Conditions are:

a) Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan
b) Having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order
c) Having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order
d) The making of the neighbourhood plan contributes to the achievement of sustainable development
e) The making of the neighbourhood plan is in general conformity with the strategic policies contained within the development plan for the area of the authority
f) The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations
Response by Gladman Developments (continued)

g) Prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

If a Neighbourhood Plan is not developed in accordance with the Neighbourhood Plan Basic Conditions there is a real risk that it will fail when it reaches Independent Examination.

Relationship with Local Plans

To meet the requirements of the Framework and the Neighbourhood Plan Basic Conditions, Neighbourhood Plans should be prepared to conform to up-to-date strategic policy requirements set out in Local Plans. Where an up-to-date Local Plan has been adopted and is in place for the wider authority area, it is the strategic policy requirements set out in this document that a Neighbourhood Plan should seek to support and meet. When a Local Plan is emerging or is yet to be found sound at Examination, there will be lack of certainty over what scale of development a community must accommodate or the direction the policies in the Neighbourhood Plan should take.

The Development Plan for Maldon consists of the Maldon District Council Replacement Local Plan which covered the period to 2011. The Replacement Local Plan is considered to be both out-of-date and time expired against the requirements of the Framework. Therefore, there is no up-to-date Development Plan in place consistent with the requirements of the Framework to which the neighbourhood plan can be based or tested against.

The emerging Maldon District Council Local Development Plan is expected to cover the period to 2029 and was submitted to the Secretary of State in April 2014. The Inspector published his interim findings and found the plan unsound recommending its withdrawal. The Inspector’s letter dated 3rd June 2015 states: “My Interim Findings are that all the Plan’s housing policies, taken together, are fundamentally unsound because the Plan does not identify and meet objectively assessed housing needs and it is not based on adequate, up-to-date and relevant evidence as required in national policy”.

At the Council’s request, the Local Plan has since been called in by the SoS for determination. Given the current uncertainty over the status of the emerging Local Plan, Gladman question the Parish Councils ability to progress the Neighbourhood Plan at this time and recommend that the progression of the Plan is delayed until the strategic requirements are confirmed in an up-to-date adopted Local Plan.

Although the Neighbourhood Plan PPG indicates that Neighbourhood Plans can be advanced before an up-to-date Local Plan is in place, Gladman would strongly question the ability to progress a Neighbourhood Plan on this basis. If a Neighbourhood Plan is progressed prior to an up-to-date Local Plan being prepared, or the strategic policies and development requirements set out in an emerging Local Plan change, then the work on the Neighbourhood Plan is likely to be abortive. A Neighbourhood Plan cannot be consistent with the requirements of the Framework or the meet the Neighbourhood Plan Basic Conditions if it is progressed on a development plan that is out-of-date.

Woodcock judgment The recent Woodcock High Court judgment demonstrates the implications for progressing a neighbourhood plan where there is no local plan in place nor a five year housing land supply. In summary, this High Court judgment demonstrates the following key points:
- That §14 and §49 of the Framework in regard to five year housing land supply and the weight to be given to extant housing land supply policies applies equally to both emerging and ‘made’ neighbourhood plans as other development plan documents otherwise adopted and/or emerging by the local planning authority.
- There is nothing in policy or statute that elevates neighbourhood planning to a level above the wider development plan that enables special consideration.
- Neighbourhood plans must respect national policy and the core planning principles outlined within the Framework.
- Prematurity must be assessed against the whole of the requirements of the PPG. In neighbourhood planning, there is no requirement for planning bodies to produce an objective assessment of housing needs, as there is no requirement to consider the effectiveness or justification of a plan.
Response by Gladman Developments (continued)

Given the recent Woodcock Judgment, in the event the Council are unable to identify a 5 year housing land supply, the housing policies contained in the Neighbourhood Plan will be found out-of-date before they are even adopted. Gladman recommend that it would be appropriate to delay the progression of the Neighbourhood Plan until the strategic priorities for the wider area are more certain.

Neighbourhood Plan Policies and Proposals
In accordance with the Neighbourhood Plan Basic Conditions, Neighbourhood Plan policies should align with the requirements of the Framework and the wider strategic policies for the area set out in the Council’s Local Plan. Neighbourhood Plans should provide a policy framework that complements and supports the requirements set out in these higher-order documents, setting out further, locally-specific requirements that will be applied to development proposals coming forward.

The Framework is clear that Neighbourhood Plans cannot introduce policies and proposals that would prevent development from going ahead. They are required to plan positively for new development, enabling sufficient growth to take place to meet the strategic development needs for the area. Policies that are clearly worded or intended to place an unjustified constraint on further sustainable development taking place would not be consistent with the requirements of the Framework or meet the Neighbourhood Plan Basic Conditions.

Communities should not seek to include policies in Neighbourhood Plans that have no planning basis or are inconsistent with national and local policy obligations. Proposals should be appropriately justified by the findings of a supporting evidence base and must be sufficiently clear to be capable of being interpreted by applicants and decision makers. Policies and proposals should be designed to add value to policies set out in Local Plan and national guidance, as opposed to replicating their requirements.

The community should liaise with the Council’s planning team to seek advice on the appropriateness of the Neighbourhood Plan’s proposals.

Sustainability Appraisal/Strategic Environmental Assessment
The preparation of a Neighbourhood Plan may fall under the scope of the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations) that require a Strategic Environmental Assessment (SEA) to be undertaken where a Plan’s proposals would be likely to have significant environmental effects. The requirement to undertake an SEA will be dependent on a Neighbourhood Plan’s proposals, but is likely to be necessary where a Plan is proposing specific allocations or site designations. In accordance with Schedule 1 of the SEA Regulations, a Screening Assessment of a Neighbourhood Plan’s proposals should be completed to assess whether an SEA must be prepared. Where an SEA is required this should be commenced at the earliest opportunity, alongside the preparation of the emerging Neighbourhood Plan, to ensure the Neighbourhood Plan’s proposals have been properly considered through the SEA process, and appropriately justified against other reasonable alternatives.

Where an adequate SEA has not been undertaken a Neighbourhood Plan is unlikely to meet the Neighbourhood Plan Basic Conditions.

Although Neighbourhood Plans do not require a Sustainability Appraisal (SA) of their proposals, preparing an SA can help to show how a Neighbourhood Plan will contribute to the achievement of sustainable development, a Neighbourhood Plan Basic Condition. Where an SEA is required, extending this assessment to the preparation of an SA in unlikely to require significant additional input.

The Council’s planning team will be able to advise on the likely need for an SEA of the Neighbourhood Plan’s proposals. To be compatible with EU obligations, further appraisals, such as a Habitats Regulations Assessment, may also be required depending on local circumstances. I hope you have found this letter to be constructive. Should you have any queries in relation to our response please do not hesitate to contact us.

Yours faithfully

John Fleming
Gladman Developments Ltd