
Report to the Secretary of State for Communities and Local Government

by Simon Berkeley BA MA MRTPI

a person appointed by the Secretary of State for Communities and Local Government

29 June 2017

Planning and Compulsory Purchase Act 2004

(as amended)

Section 21(5) and Section 20(5)

Report on the Examination of the Maldon District Local Development Plan 2014 - 2029

The Plan was submitted for examination on 25 April 2014. On 8 June 2015 the Secretary of State directed that it be submitted to him for approval under Section 21(4).

The examination hearings were held between 20 January and 4 February 2015, and between 10 and 19 January 2017.

Abbreviations used in this report

BCIS	Building Costs Information Service
DtC	Duty to Co-operate
Dpa	Dwellings per annum
EEFM	East of England Forecasting Model
ELR	Employment Land Review
HMA	Housing Market Area
HRA	Habitats Regulations Assessment
IDP	Infrastructure Delivery Plan
IPP	Infrastructure Phasing Plan
LHA	Local Housing Allowance
MM	Main Modification
MYEs	Mid Year Population Estimates
OAN	Objectively Assessed Need
PPG	Planning Practice Guidance
PPTS	Planning Policy for Traveller Sites
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SNPP	Sub-National Population Projections
UPC	Un-attributable Population Change
VOA	Valuation Office Agency

Non-technical summary

This report concludes that the Maldon District Local Development Plan 2014 - 2029 ('the Plan') provides an appropriate basis for the planning of the district provided that a number of main modifications are made to it. Maldon District Council ('the Council') has specifically requested that I recommend any main modifications necessary to enable the Plan to be adopted.

All the main modifications were proposed by the Council, and were subject to public consultation over a six-week period. In some cases I have amended their detailed wording. I have recommended their inclusion in the Plan after considering all the representations made in response to consultation on them.

The main modifications can be summarised as follows.

- a) Amending the assessment of housing need figure and Plan's housing requirement
- b) Deleting the allocation of 75 homes to North Fambridge, and deleting the reserve sites
- c) Updating the Plan in relation to the sources of housing land supply, including the trajectory
- d) Amending the threshold at which housing developments are required to provide affordable housing, and in some cases the level of affordable housing required
- e) Adding a 'viability clause' to policies to ensure that developments are viable
- f) Committing to a review of Policy H6 if future reviews of the evidence reveal a need for sites to accommodate gypsies and travellers
- g) Re-writing Policy H6 and the section of the Plan relating to provision for gypsies and travellers
- h) Deleting the requirement for the North Heybridge Garden Suburb to provide a strategic flood alleviation scheme and a country park
- i) Committing to a partial review of the Plan in the event that an under-delivery of housing occurs
- j) Monitoring the impacts of retail development at the Causeway and reviewing Policy E2 if this reveals a need to allocate land for retail development
- k) Restricting major new retail development to town and district centres, and the Garden Suburb local centres, and introducing local impact thresholds
- l) Introducing into the Plan the sequential test for main town centre uses set out in national policy
- m) Allocating two additional sites for employment purposes
- n) Removing from the Plan additional technical local standards relating to housing
- o) Amending the policies concerning heritage assets and wind energy to properly reflect national policy
- p) Aligning the policy concerning advertisements with the statutory provisions and national policy and guidance
- q) Ensuring that all green infrastructure is covered by the Plan's policy provisions
- r) Re-drafting the policy on open space, sport and leisure to ensure its effectiveness

- s) Deleting the allocation for development of land at Primrose Meadow
- t) Removing support for a new community hospital and instead committing to working with the NHS and other delivery bodies to ensure the healthcare needs of the district are met
- u) Committing to a partial review of the Plan if NHS strategy development renders it necessary to do so
- v) Ensuring that other documents are not effectively given development plan status
- w) Ensuring that policies properly reflect the statutory limitations on the use of planning obligations
- x) Adding to the Plan a list of development plan policies it supersedes

Background to the examination

1. The Plan was submitted on 25 April 2014 and an Inspector, Mr David Vickery DipT&CP MRTPI, was appointed that day. There was correspondence between the Inspector and the Council between then and early July 2014. The Inspector raised a number of queries and then concerns. Concerns on which the Inspector remained fundamentally unsatisfied were discussed at an Exploratory Meeting on 3 July. The issues explored can be summarised as follows.
 - a) The objective assessment of housing need
 - b) The amount and rate of housing delivery
 - c) Infrastructure delivery and viability
 - d) Site allocation details and development management policies
 - e) Accommodation for gypsies and travellers
 - f) Employment
 - g) Retail
2. Through the Exploratory Meeting process, the Council committed to undertaking further work, including in relation to the objective assessment of housing need, employment and retail. Partly because of the associated timescales, the Inspector decided, in consultation with the Council, to hold hearing sessions limited to matters of housing, infrastructure and legal compliance. The hearings were held in January and February 2015.
3. In May 2015 the Inspector wrote a letter to the Council with Interim Findings [IED16]. He found that Policy H6, which concerns provision for gypsies and travellers, was not sound. He also found that Policy H6 could not be considered separately from the rest of the Plan, such that the whole Plan should be regarded unsound. The Interim Findings did not consider the other matters that had been the subject of discussion at the hearing sessions in January and February 2015.
4. The Council wrote to the Secretary of State requesting that he intervene in the examination. On 8 June 2015, the Secretary of State wrote to the Council acceding to the request, directing that the Plan be submitted to him for approval under Section 21 (4) of the Planning and Compulsory Purchase Act 2004 (as amended). The given reason for the intervention is that the Secretary of State wished *“to test whether the Inspector has reached an appropriate, proportionate and balanced view on the local plan as a whole in the light of national planning policy”*.
5. On 6 March 2016 the Secretary of State wrote to the Council. Perhaps the most pertinent points in this letter are that the Secretary of State:
 - a) considers that Policy H6 as submitted is not consistent with national policy;
 - b) disagrees with the Inspector’s letter and Interim Findings that the Plan is therefore unsound;
 - c) considers that it was not proportionate for the Inspector to find the whole Plan unsound because he had not examined the whole Plan;
 - d) disagrees with the Inspector that the Council should not be given the opportunity to try to remedy the problems identified with Policy H6, particularly in light of the Council’s actions since May 2015; and

- e) decided to arrange for the examination to move forward and to appoint a new person to examine the Plan, and that that person should consider all of the currently available written and audio evidence from the initial hearings.
- 6. A letter dated 29 March 2016 was sent from the Department for Communities and Local Government confirming that I had been appointed to conduct the examination of the Plan.
- 7. I wrote to the Council on 7 April 2016 seeking updates and clarifications on a number of matters. This ultimately led to the Council undertaking additional work. Further hearings were finally held in January 2017.

Introduction

- 8. This report contains my assessment of the Maldon District Local Development Plan 2014-2029 in terms of Section 21(5) and Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is sound and whether it is compliant with the legal requirements. Paragraph 182 of the National Planning Policy Framework ('the Framework') makes it clear that in order to be sound, a local plan should be positively prepared, justified, effective and consistent with national policy.
- 9. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The Maldon District Local Development Plan 2014-2029, submitted in April 2014, is the basis for my examination. It is the same document as was published for consultation in January 2014.

Main modifications

- 10. In accordance with section 20(7C) of the 2004 Act the Council requested that I should recommend any main modifications necessary to rectify matters that make the Plan unsound and/or not legally compliant and thus incapable of being adopted. My report explains why the recommended main modifications are necessary. The main modifications are referenced in bold in the report in the form **MM1, MM2, MM3** etc. For consistency, I have given the main modifications the same reference numbers as those used by the Council. The numbering system does not start at **MM1**, and it is not a complete or sequential set of numbers. The main modifications are set out in full in the Appendix to this report.
- 11. Prior to the examination hearings in January 2017, the Council produced a schedule of main modifications and carried out sustainability appraisal of them. The schedule was subject to public consultation for six weeks. Following the examination hearings, a further schedule of main modifications was produced by the Council, along with sustainability appraisal of them. These modifications were also consulted upon for a six-week period. I have taken account of all the consultation responses in coming to my conclusions in this report.
- 12. A significant number of other changes have also been put forward by the Council. These generally comprise minor or consequential revisions and factual updates – such as that concerning the Secretary of State's intervention – which are not necessary. Whilst largely helpful and to be welcomed, their inclusion in the Plan is not essential for soundness. I have generally therefore not referred to them in this report or the Appendix, although for reasons of clarity I have made some exceptions to this approach.

Policies map

13. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as the Local Development Plan Consultation (2014) Pre-submission Proposals Map [SD02].
14. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, a number of the published main modifications to the Plan's policies require further corresponding changes to be made to the policies map. In addition, there are some instances where the geographic illustration of policies on the submission policies map is not justified and changes to the policies map are needed to ensure that the relevant policies are effective. These further changes to the policies map were published for consultation alongside the main modifications, as part of the schedule.
15. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the adopted policies map will need to be updated to include all the changes proposed in the Local Development Plan Consultation (2014) Pre-submission Proposals Map and the further changes published alongside the main modifications.

Assessment of the duty to co-operate

16. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation.
17. Maldon is a predominantly rural district and forms part of the eastern Essex coastline. Its largest urban area comprises the two settlements of Maldon town and Heybridge, separated by the Blackwater estuary. Its next largest settlement, Burnham-on-Crouch (Burnham), is in the southern part of the district, next to the River Crouch and on the Dengie peninsula. Because of its geographic location and rural characteristics, it is quite distinct from the generally more urban neighbouring areas.
18. The level of infrastructure emphasises this divergence, especially that of highways. While the A12 brushes along its northern limits, access to and from it here involves more minor roads and the junction at Hatfield Peverel. The A414 is the only direct primary route into the district, and this passes through Danbury and the known 'pinch points' there. It is apparent from the Council's hearing statement (January 2015) and its *Duty to Co-operate Update Statement* (April 2014) [SD06] ('the Update Statement') that highways infrastructure has been the most prominent controversial issue arising from engagement under the duty to co-operate ('the DtC').
19. The Update Statement sets out the Council's approach and actions taken. A programme of meetings and workshops has been held before the Plan's submission, including the use of questionnaires.
20. Through these engagement methods, strategic highway concerns relating to the A414 in Danbury and the B1019/B1137 junction in Hatfield Peverel were identified as the key strategic cross-boundary issue requiring further consideration. From the Update Statement, it appears that the first DtC meeting, to discuss the preferred options for the Plan, took place in July 2012, following the insertion of the DtC into the 2002 Act. As the highways concerned are in Chelmsford City and Braintree District Councils' areas, they have been closely involved, along with Essex County Council as the highway authority. Meetings were held with these authorities in March and April

2013, and a highway modelling workshop was held in May. Further meetings were held focussing on highways issues in October and December 2013, following the completion of highways modelling work and the *Technical Note – Impact of Proposed Development Sites in Heybridge and South Maldon on Wider Highway Network* (December 2013) [EB004b] by the highway authority.

21. Notes of the meetings, including discussion points, key conclusions, actions and the Council's position in relation to each are provided in the Update Statement. One can readily discern from this detail the outcomes of the engagement and the Council's stance.
22. Moreover, while the co-operation has undoubtedly been focussed on highways matters, which is reasonable in the circumstances, it is apparent that that has not been to the exclusion of other issues. Housing, accommodation for gypsies and travellers, economic development and retail have been among the other issues considered, to one degree or another. It is perhaps notable that there is no dispute between the authorities in relation to the question of housing market areas. I consider this further below.
23. I recognise that ultimately a Statement of Common Ground was not produced before the Council submitted the Plan. Chelmsford City Council wished for further work to be undertaken first, including highways modelling in relation to Eves Corner and Well Lane in Danbury, and analysis of 'rat running'. Indeed, I note that Chelmsford City Council raised objections to the Plan on highways grounds. It was not until the hearings in February 2015 that Chelmsford's position shifted.
24. But the DtC under S33A does not demand agreement. Consequently, and considering the evidence of constructive engagement and co-operation between the two Councils, I do not regard the differences between them as any failure in relation to the DtC.
25. Taking account of the above and the evidence produced on this point, I am satisfied that where necessary the Council has engaged constructively, actively and on an adequately on-going basis in the preparation of the Plan, particularly with the bodies most relevant to the key issue of highway infrastructure. I therefore consider that the DtC has been met.

Assessment of soundness

Main issues

26. Taking account of all the representations, the written and audio evidence and the discussions that took place at the examination hearings, I have identified ten main issues upon which the soundness of the Plan depends. This report deals with these main issues. It does not respond to every point or issue raised by those objecting to the Plan, nor does it refer to every policy, policy criterion or allocation in it.

Issue 1: Whether the policies for strategic housing growth are justified, effective, consistent with national policy and positively prepared

27. Policy S1 says that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development set out in the Framework. It also lists a number of key principles to be applied in policy making and decision taking. As the Council's hearing statement points out, the *Sustainability Appraisal Report* (July 2013)[EB092b] says that the policy contributes positively to each of the 17 sustainability appraisal objectives. I regard Policy S1 to be both adequately justified and consistent with national policy.

28. In planning for housing, the starting point in national policy is that local plans should meet the objectively assessed need for housing in the housing market area (HMA). The Council considers Maldon district to be the HMA. As submitted, Policy S2 commits to meeting the objectively assessed housing need for the district by planning for a minimum of 4,410 dwellings between 2014 and 2029, equating to an annual average of 294 homes. It also lists the sites intended to contribute to the land supply. Whether the identified need for housing and the level of housing planned for are justified and consistent with national policy lies at the heart of this issue.

The housing market area

29. Guidance in the national Planning Practice Guidance ('the PPG') says that HMAs can be broadly defined using information about house prices and their rates of change, household migration and search patterns, and contextual data such as travel to work areas and school and retail catchment areas. I now turn to consider relevant factors in this regard.
30. The Council's *Strategic Housing Market Assessment* (2013) [EB010f] ('the SHMA') examines Land Registry average house price data. Although from 2013, this is reasonably recent. The purpose of this exercise is to establish similarities in house prices in Maldon and other neighbouring local authority areas. The SHMA concludes that only Chelmsford has a similar average house price profile.
31. Updating the SHMA, the Council's hearing statement [DOC125] considers household migration and the degree to which households are 'contained' within the district. It draws on information about house moves from the 2011 census. Although not especially fresh data, I have no particular reason to suppose it is not representative, or that there have been any significant changes. From Table 1.1, excluding long distance moves as the PPG suggests, around 60% of people who moved to a home in Maldon already lived in the district. Slightly less than 61% of people who moved from a home in Maldon moved to another property in the district.
32. The PPG indicates that, typically, a level of 70% represents a high degree of containment. But that is not a policy demand or a threshold to be rigidly applied. Moreover, the Council's evidence relates to numbers of people rather than households. It is therefore not possible to compare directly the Council's figures with the PPG's guidance. While that is unfortunate, I consider that the Council's evidence nonetheless provides an adequate indicator of migration trends. Indeed, to my mind, it suggests that the district has a reasonably good level of containment.
33. Travel-to-work areas are considered in the Council's hearing statement. Again drawing on 2011 census data, Table 1.3 illustrates that 55% of economically active people living in Maldon work in the district. Maldon residents make up roughly 72% of the district's work-force. On this basis, I agree with the Council's view that Maldon appears to be part of a wider functional economic area. However, it seems to me that the district nonetheless remains an important work destination for local residents. Although the degree of 'self-containment' may be less than the percentages applied by the ONS, there is little here to suggest that Maldon is an undeniably integral ingredient of a wider HMA.
34. In addition, it is quite clear that neighbouring authorities consider Maldon to be a distinguishably separate HMA. The *Objectively Assessed Housing Need Study* (July 2015, updated in January 2016) produced for Braintree, Chelmsford, Colchester and Tendring Councils concludes that an HMA comprising those four authority areas represents a sound basis for assessing housing need. This stance is supported in and taken forward by the joint *Strategic Housing Market Assessment Update* (December 2015) produced for those four authorities. Indeed, those Councils have produced evidence to this examination [EWT-M02-01 and EWT-M02-02] refuting the suggestion that Maldon should be regarded as forming part of the same 'mid-Essex' HMA.

35. Rochford District Council regards its authority area to be among those comprising a 'south Essex' HMA. Although I am not aware that it has been tested through examination, the *Strategic Housing Market Assessment: South Essex* (May 2016) concludes that it is appropriate to consider Basildon, Castle Point, Rochford, Southend-on-Sea and Thurrock as a single HMA.
36. Taking account of all this, I consider that it is reasonable to regard Maldon district as one HMA, for the purposes of this Plan at least. It is the nature of HMAs that they do not have clear-cut boundaries and establishing their extent for the practical purposes of plan-making requires a degree of judgement. Taken as a whole, the evidence concerning house prices, migration and travel to work areas points to treating Maldon as a single HMA with adequate conviction. The paths pursued by neighbouring authorities lend further support to this approach. In relation to the four 'mid-Essex' authorities, it is a position reached through co-operation. I note that co-operation has involved local politicians, and in that sense has had a political dimension. But that should not be regarded as an undermining factor. Meeting the DtC inevitably involves authorities engaging at the political level.

The objective assessment of housing need

37. Paragraph 2.24 of the submitted Plan says that the objectively assessed need for housing ('the OAN') in the district between 2014 and 2029 is 4,410 dwellings, which equates to 294 dwellings per annum (dpa). However, the evidence concerning housing need has evolved during the examination.
38. The Council's *Technical Paper* of April 2013 [EB078] explains how the 294 dpa figure was arrived at. In short, of various scenarios considered, the one judged by the Council to best represent the OAN was that based on the 2010-based ONS update to the SNPP. This indicates a need for 294 dpa. The Council adopted this as the district's OAN and planned on that basis.
39. The previous Inspector raised concerns at his Exploratory Meeting about basing the need for housing on the 2010-based SNPP update rather than the SHMA. By that time the 2014 SHMA [EB010e] had been produced for the Council. That SHMA indicated, after 'stock flow analysis', a need for 381 dpa applied over a 15 year period. Clearly, this is rather more than the 294 planned for by the Council.
40. *Assessing Maldon's Housing Requirements* (August 2014) [EB098a], explains the reasons for the differences between the two estimates and updates the demographically derived figure using the 2012-based SNPP. These figures are adjusted to take account of weaknesses in the national statistics related to flow rates and household formation rates which resulted in an underestimation of population and household increase. The report considers four scenarios.
 - a) *Updated official projections*. This scenario applies the 2011-based household formation rates to the 2012-based population projections. It is recognised, though, that these projections are affected by low internal migration rates between 2007 and 2012 and is based on household formation rates which appear to have been depressed by the impact of poor housing affordability and the economic downturn. This scenario leads to an annual average household growth of 210.
 - b) *2012 population projections with a partial return to the previous headship rate trend*. This provides an adjustment for the economic downturn and the impact of a prolonged period of deteriorating house price affordability on household formation rates. This scenario leads to an annual average household growth of 260.

- c) *10 year flows with a partial return to the previous headship rate trend.* This makes an adjustment for the lower internal migration rates on which the 2012-based population projections are based and corrects for what appears to be below trend household formation rates. This scenario leads to an annual average household growth of 310.
 - d) *10 year flows plus un-attributable flows with a partial return to the previous headship rate trend.* This builds on the previous scenario by additionally also correcting for the omission of a discrepancy in population data, known as Un-attributable Population Change (UPC). The ONS does not take this into account. This scenario potentially exaggerates the impact of UPC. It leads to an annual average household growth of 280.
41. This report reaches two conclusions. The first is that while the 'stock flow analysis' in the SHMA is an important part of the evidence in other respects, a number of factors affecting it are too uncertain and as such it is not an appropriate basis for setting the district's OAN. Secondly, it concludes that the objective assessment should be founded on the latest official projections for the area, adjusted to take account of factors which appear to be departures from the longer term trend. That is to say it should lie somewhere between the last two scenarios, indicating a figure in the range of 280 to 310 dpa.
42. The report considers out-migration from London. It concludes that this is likely to increase over the plan period. On this basis, it recommends that the top of the identified range should be selected for plan-making purposes. That is not to say, however, that the plan specifically provides for any of London's housing needs as such. That is a different question, and is a matter for the Mayor and the Greater London Authority, in the first instance at least.
43. In 2016 the Government and the ONS made a number of statistical releases. The Council's paper *Implications of the DCLG 2014-based Household Projections for the Objectively Assessed Housing Need of Maldon District* (August 2016) [EB106] ('the OAN Update') considers these. It is an update which takes into account the 2014-based Sub-National Population Projections (SNPP) published in May 2016, the 2014-based household projections published in July 2016 and the 2015 Mid-Year Population Estimates ('the MYEs') published in June 2016.
44. The OAN Update analyses data from these ONS and Government sources. As with the earlier work, it undertakes modelling for a range of demographically-based scenarios and then considers the need for adjustments to them. Differences between the national projections in relation to factors affecting population growth – the 'components of change' – are analysed, and household formation rates are also considered.
45. The PPG is clear that household projections published by the Department for Communities and Local Government should provide the starting point estimate of overall housing need. The OAN Update notes that the 2014-based household projections indicate an OAN of 220 dpa. It also considers seven alternative scenarios for establishing the OAN, as follows.
- a) *The 2012 SNPP.* This scenario leads to an annual average household growth of 240.
 - b) *The 2014 SNPP.* This scenario leads to an annual average household growth of 221.
 - c) *The 2012-based household projections with UK flows adjusted to reflect flows in 2002 to 2012.* This scenario leads to an annual average household growth of 283.
 - d) *The 2014-based household projections with UK flows adjusted flows in 2004 to 2014.* This scenario leads to an annual average household growth of 275.

- e) *The 2014-based household projections re-based to reflect the 2015 MYEs and with UK flows adjusted to reflect flows in 2005 to 2015.* This scenario leads to an annual average household growth of 259.
 - f) *As scenario e) above but with UK and international flows adjusted to reflect flows in 2005 to 2015.* This scenario leads to an annual average household growth of 257.
 - g) *As scenario f) above but with an adjustment for UPC.* This scenario leads to an annual average household growth of 252.
46. The OAN Update says that the OAN should be based on the latest available data, such that scenarios e) to g) above represent the most appropriate OAN figures on which to base the Plan. From the resultant range of between 252 and 259 dpa, it considers that, after rounding, 260 dpa should be taken to be the most up-to-date estimate of the OAN.
47. It is clear that the Council has considered the necessity for any adjustment to household formation rates. The scenarios considered in EB098a address this question – scenarios b) to d) are premised on a partial return to previous headship rate trends. However, to my mind, the position since that report was prepared has rather moved on. The Government’s 2014-based household projections are now the most recent indication of likely household formation over the plan period. As the PPG says, these projections are statistically robust – any local changes need to be clearly explained and justified on the basis of established sources of robust evidence.
48. Some suggest that formation rates have been suppressed, largely by the affordability of housing in the district, and that adjustments should be made to reflect both this and relevant market signals. However, I am not persuaded that they should be.
49. From the Council’s *Supplementary Statement* (September 2014) [EB098c] it appears that housing market activity and house prices in the district broadly reflect that in surrounding areas. Figure 3, based on Land Registry data and relating to the period 1996 to 2012, illustrates this. From my reading, it does not suggest any significant market imbalance between housing demand and supply.
50. Annex B of the Council’s paper *Implications of DCLG’s 2012-based Household Projections* (March 2015) [EWT-M02b-01] analyses lower quartile house price/earnings affordability ratios. I note that Maldon’s affordability ratio increased more than that of neighbouring authorities, save for Tendring, between 2002 and 2012. But it is evident from the more enlightening chart in Annex B that movement in the district’s affordability ratio has been broadly comparable to that of the other authorities considered.
51. In terms of the rental market, the analysis of Local Housing Allowance (LHA) and lower quartile private sector rents at Figure 4 of EB098c indicates that the monthly cost of private rented sector accommodation was less than the LHA in Maldon district. The same cannot be said of the private rents in the other local authority areas considered. Though a ‘snapshot’ – the figures relate solely to May 2013 – this is nonetheless a reasonable indicator that private rents in Maldon are relatively affordable.
52. In addition, I note in Annex B of EWT-M02b-01 the chart indicating that in 2010/11 Maldon had a higher rent to earnings ratio than neighbouring authorities and England as a whole. But the table showing changes in rent levels is more instructive. From this, it is apparent that rents in Maldon increased less than in the neighbouring authority areas, and England as a whole, between 2010/11 and 2012/13.

53. The rate of development is a market signal of the balance between supply and demand. Figure 6 of EB098c shows housing delivery in Maldon in comparison to the relevant development plan requirements at the time from 1996 to 2012. This is a meaningful period, and it is clear that delivery has exceeded the planned supply. Most importantly, it has not fallen short.
54. Turning to the question of overcrowding, while Table 7.4 of Annex B shows a slightly higher level of concealed households in Maldon than most other neighbouring authorities, it is only slightly so, and is less than that for England as a whole. Moreover, Figure 7.9 illustrates that over-occupation in the district is lower than in neighbouring authorities and England generally, and unlike those comparators it did not increase in the period 2001 to 2011.
55. In the light of the above, no single indicator compellingly suggests an undeniable necessity for adjusting the household formation rates on which the OAN is based, or for making any other adjustment. Indeed, it seems to me that when considering these factors in the round, the force of any argument to the contrary diminishes further.
56. Overall, much work has been done to assess objectively the need for housing in Maldon. As the PPG points out, establishing future need for housing is not an exact science – no single approach will provide a definitive answer. The Council has drawn on relevant and appropriate sources to produce an assessment which is, in my view, adequately consistent with national policy and guidance and is satisfactorily robust.
57. That said, though perhaps a largely academic point, I see no particular reason to exclude from the appropriate range the ‘starting point’ estimate of 220 dpa, or scenario d) in the OAN Update. Both are founded on the 2014-based household projections, being the Government’s most recent household figures. The publication of the 2015 MYE does not automatically render outdated assessments stemming from the 2014-based household projections. As such, I consider that the OAN for Maldon lies somewhere within the range of between 220 and 275 dpa. The Council’s estimation is some way above the mid-point of this scale.
58. In my view, it is appropriate to regard the 260 dpa figure arrived at as representing the district’s housing need. It takes no account of any constraints, and has not been influenced by any policy considerations.
59. I recognise that this figure does not reflect the level of economic growth and job creation planned for by the Council. However, it is wholly evident that the Council has taken account of the economic growth anticipated in arriving at the Plan’s housing requirement. I consider this below.
60. As a consequence, paragraph 2.24 of the Plan should be amended to reflect the OAN of 260 dpa. The Council has put forward a modification to this end (**MM163**), and I agree that this is both necessary and appropriate.

The Plan requirement

61. As previously mentioned, the housing requirement set out in Policy S2, as originally submitted, is 4,410 dwellings (294 dpa). The Council has proposed to modify this (**MM158**), such that the requirement in Policy S2 is 4,650 dwellings between 2014 and 2029 (310 dpa). There are two main reasons for this.
62. Firstly, as previously explained, *Assessing Maldon’s Housing Requirements* (August 2014) [EB098a] concludes that out-migration from London is likely to increase over the plan period and consequently recommends that it would be prudent to set the OAN at the top of the range under consideration at the time, being 310 dpa. To my mind, this amounts to adding a ‘contingency

buffer' to the figures. As such, it is logical to regard this as an increase to the requirement rather than as a component of the OAN.

63. The second and more fundamental reason relates to the Plan's aspirations for economic growth and job creation. Policy E1 aims to create a minimum of 2,000 net additional jobs in the district by 2029. The Council's position, in effect, is that a requirement of 310 dpa is necessary to support this level of growth. I consider this an adequately justified stance.
64. The *East of England Forecasting Model* (2016) by Cambridge Econometrics ('the EEFM') envisages that total employment in Maldon will increase by 2,129 jobs between 2014 and 2029. It also expects the working age population – those aged between 16 and 64 – to increase from 37,730 to 38,224 in the same period.
65. Set out in Annexes B and C of the Council's hearing statement is the output of the demographic modelling used to identify the OAN. This indicates that while 257 dpa (the 'un-rounded' OAN figure) would not give rise to a sufficient working age population, 310 dpa would lead to a working age population of 38,626. On this basis, it is apparent that the modified Plan requirement would satisfactorily cater for the level of job growth envisaged in Policy E1. Indeed, it appears from Annex D of the Council's hearing statement that based on the methodology used, 298 dpa would exactly match homes and working population.
66. I note the arguments about the suitability of the EEFM. Some suggest other forecasting methodologies should be used in preference to it. Indeed, alternative modelling has been put forward, including work based on Office for Budget Responsibility forecasting, and I have taken account of it and the conclusions reached. However, one must bear in mind that forecasting cannot be an entirely scientific endeavour. There can be no guarantees. Forecasting of this kind is highly sensitive to the inputs and underlying assumptions – modest variations can significantly impact the outcomes suggested.
67. In this context, I consider that the EEFM represents a generally robust and satisfactorily reliable source of evidence. It is produced by a leading and generally well respected forecasting organisation. Moreover, as the Council points out, it has the advantage of providing a forecast for the working age population which can be compared directly with the demographically derived household figures.
68. Overall, in my view, **MM158**, setting the Plan requirement at 4,650 dwellings (310 dpa), is both necessary and justified. With some buffer, albeit a modest one, it is the level of housing needed to support the workforce envisaged. I regard it as an 'uplift' to cater for the influence of the Plan's economic growth aspirations. Reflecting it in the requirement rather than the OAN is an appropriate approach. Although it might have been considered under the calculation of the OAN, this is somewhat academic given that in practice it has been added to the requirement.
69. **MM076** and **MM163** update paragraphs in the Plan regarding the OAN and the housing requirement. Both are necessary to ensure the Plan is justified and effective.

The spatial distribution of housing growth

70. Policy S2 includes a table setting out the sources of housing land supply. Eleven specific, 'named' sites are listed as S2(a) to S2(k) inclusive, and it is the intention that the policy allocates them. However, it does not explicitly do so. **MM159** rectifies this.
71. In effect, the allocated sites define the distribution of housing growth. The vast majority of new housing is allocated to Maldon and Heybridge. Three sites – S2(a), (b) and (c) – collectively form

the South Maldon Garden Suburb, proposed to deliver 1,375 homes in the Plan as submitted. Similarly, the proposed North Heybridge Garden Suburb also comprises three sites, being S2(d), (e) and (f), which are shown as providing 1,235 dwellings. Two other strategic sites, S2(g) and (h), are also allocated in Maldon and Heybridge. Burnham is earmarked for 450 new homes distributed between three strategic allocations, S2(i), (j) and (k). Rural allocations are shown to provide 420 houses, including 75 at North Fambridge.

72. As one would expect, consideration has been given by the Council to the spatial distribution of housing growth from the outset of the Plan's formulation. This question has been re-visited at numerous stages throughout its evolution, and numerous alternative options have been analysed. Appendix 6 of the Council's hearing statement sets these out concisely. Moreover, sustainability appraisal has been undertaken alongside this process, and has informed it.
73. Originally, the Plan was being drawn up as a Core Strategy, and a number of alternatives were considered at the early stages. These range from large scale urban extensions at Maldon, Heybridge and Burnham to 'pepper-potting' development around the district. A new settlement was also contemplated. The *Sustainability Appraisal Report* (May 2009) [EB048a] assesses these options.
74. The *Preferred Growth Strategy: Evidence Base Supporting Paper* (June 2012) [EB061] ('the Growth Paper') sets out the housing growth scenarios considered by the Council as the Plan progressed. Broadly speaking, these include alternatives based around concentrated growth in Maldon, Heybridge and Burnham with limited development at North Fambridge, dispersed growth, enhanced growth in the south west of the district through the development of a new settlement to the south east of Woodham Ferrers, and a scenario reducing growth to the north of Heybridge with enhanced growth to the south of Maldon, at Burnham and North Fambridge. In drawing up preferred options, concentrated growth at Southminster, concentrating growth around villages in the north west of the district, and growth to the north and/or east of Burnham were alternatives also analysed. The *Sustainability Appraisal Report – Preferred Options Consultation* (June 2012) [EB088b] considers these options, and the detailed assessment is set out in Appendix D [EB088d].
75. Within the general spatial strategy of 'concentrated growth' settled on by the Council, further more refined options have also been considered. Eight different scenarios have been assessed which apportion different figures to different settlements. The *Sustainability Appraisal Report* (July 2013) [EB092b] assesses these. Three further scenarios apportioning housing figures to specific sites were formulated prior to the Plan's submission. Of these, scenario 2 has been selected. Policy S2 of the submitted Plan reflects the distribution given in scenario 2 and allocates the sites accordingly. The final *Sustainability Appraisal Report* (January 2014) [SD03b] appraises these alternatives.
76. At each stage of the sustainability appraisal process the various alternatives have been considered against a number of objectives which are, in effect, indicators of sustainability. These have been wide-ranging and stem from the economic, social and environmental dimensions of sustainable development. They are sufficient in scope to ensure that the options considered have been adequately tested. Scoring systems of the sort commonly employed in sustainability appraisals have been used.
77. While other options may have also been appraised, that is inevitably always the case. One has to draw the line somewhere. Paragraph 182 of the Framework is clear that the justification for the Plan should be based on proportionate evidence. In my view, the Council has ensured that a significant range of alternatives have been considered, and to demand analysis of other spatial variations would be disproportionate. Overall, I consider that enough has been done to ensure a

satisfactorily robust evaluation of the Plan's distribution of housing growth against the reasonable alternatives.

78. Overall, it is clear that Maldon, Heybridge and Burnham are the most significant settlements with the largest populations and the greatest range of facilities and services. Simply put, they are the most sustainable places in the district. Given this, and the range of alternative options considered by the Council, their identification as the main focus for growth is justified. As a consequence, in broad terms, I regard the distribution of housing growth set out in Policy S2 as submitted to be justified. I say "*in broad terms*" because not only has the Plan's housing requirement altered in the light of fresh evidence, but other changes are also necessary to the supply sources in the housing distribution shown in Policy S2. I consider these in detail below.
79. Some suggest that the distribution of housing growth should not be focussed around Maldon, Heybridge and Burnham because of infrastructure constraints and requirements. I set out the issues concerning infrastructure in more detail later. As I see it, considering the infrastructure issues, this is an ambitious plan. But the distribution adopted seeks to deliver most of the new housing in the largest settlements with the most shops, services and other facilities. That is a wholly appropriate approach. In the light of the evidence, and considering my views about infrastructure matters, I am not persuaded that any other is more so.

The supply of land for new housing

80. Paragraph 47 of the Framework is central to this matter. Among other things, it says that to boost significantly the supply of housing, local planning authorities should:
- a) ensure that their local plan meets the full OAN in the HMA, including identifying key sites which are critical to the delivery of the housing strategy over the plan period;
 - b) identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing, when considered against requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market, although where there has been a persistent record of under delivery the buffer should be increased to 20%; and
 - c) identify a supply of specific, developable sites or broad locations for growth, for years 6 to 10 and, where possible, for years 11 to 15.

The terms 'deliverable' and 'developable' are defined in footnotes 11 and 12 respectively.

81. As I have said, Policy S2 identifies key strategic sites, including at two proposed Garden Suburbs. Not all of the housing requirement will be met through proposed allocations. The aforementioned 'rural allocations' are shown in the policy as contributing, as are 'existing commitments', and a windfall allowance is made. It is notable that the Plan does not rely on "*broad locations for growth*". In that sense it goes beyond the Framework's demand.
82. Since the Plan's submission, planning applications have been considered by the Council in relation to many of the proposed allocations. Planning permission has been granted for sites S2(a), S2(c) and S2(g), which is under construction. The Council has resolved to grant permission for sites S2(d), S2(e), S2(f), S2(i) and S2(j), subject to the completion of a planning obligation.
83. The Council suggests amending the boundary of site S2(d) to include land to the west of Springfield Cottages, and to alter site S2(i) to reflect the scheme for which it has resolved to grant permission. The former is a relatively small parcel adjacent to the North Heybridge Garden

Suburb. The Council included its allocation in an earlier draft of the Plan. From the hearings, it appears that it was only subsequently omitted because of its size and the mistaken understanding that there is no access to it. It seems to me a logical 'extension' to the Garden Suburb, and I have been given no compelling reason to resist its inclusion. With regard to site S2(i), properly reflecting through the policy the scheme for which the Council has resolved to grant permission is a sensible and satisfactory approach. I consider these to be appropriate changes to Policy S2. Given this, its geographic illustration, insofar as it relates to sites S2(d) and S2(i), will need to be updated on the policies map.

84. On the latest evidence, planning applications are currently being considered by the Council in respect of sites S2(b) and S2(h). Site S2(k) is the only proposed allocation for which an application has not yet been submitted. In many cases, the planning applications determined have been for more homes than the number shown in Policy S2's table.
85. All bar one of the proposed allocations forms part of the five year land supply. As such, the question is whether they are deliverable rather than developable. I consider that in greater detail below. Given my conclusions in respect of that more stringent test, I consider them developable.
86. Site S2(h) is a different matter. The Council's post-hearing statement, labelled on the examination webpage as the *Housing Trajectory and Infrastructure Delivery Plan Update* (February 2017) ('the Housing Update') indicates that there are issues in relation to site S2(h) and no solution has presently been agreed with the developer involved. This relates to the relocation of Heybridge Swifts Football Club from the site. That said, I have no reason to suppose that the problems are insurmountable. Indeed, it appears from the Housing Update that the developer anticipates the first houses being completed in 2022/23. There is at least a reasonable prospect that the site could be viably developed in the plan period and, in my view, site S2(h) should be regarded as developable.
87. As submitted, the 'existing commitments' includes "*suitable sites identified in the SHLAA*". However, the Council now intends that this element should relate to just completions since 1 April 2014 and other houses with an extant planning permission. It no longer relies on Strategic Land Availability Assessment (SHLAA) sites. As with the majority of the proposed allocations, this source is included in the five year land supply, which I consider below.
88. There are two strands to the 'rural allocations' element of the supply. The first relates to 75 homes earmarked for North Fambridge. However, works to the sewer network are necessary to facilitate this. Because of the likely costs relative to the size of the scheme, the Council now considers these homes to be neither deliverable nor developable in the plan period. I share these doubts, to the extent that I consider it necessary to delete this allocation to North Fambridge, as the Council suggests (**MM160** and **MM094**). Considering my conclusions about the adequacy of both the overall and five year supply of land, the inclusion of this element is not necessary to meet requirements.
89. The second strand relates to 'other villages'. When the Plan was submitted, the Council had intended to produce a separate local plan to allocate smaller housing sites across the district's villages to provide 420 houses in total. However, the Council says that since then, planning permission has been granted for 320 new homes in rural areas. Consequently, it no longer intends to produce a Rural Allocations Development Plan Document. **MM118, MM139, MM151, MM164, MM165, MM182, MM183, MM184, MM186** and **MM188**, which delete reference to it, are therefore necessary. Instead, the Council proposes that the 'shortfall' of 100 houses should be delivered through Neighbourhood Plans. In my view, that is a reasonable and appropriate path. I have been given no compelling reason to suppose that Neighbourhood Plans could not provide for 100 houses. **MM165**, suggested by the Council, explains the position and says that

the Council will work proactively with Neighbourhood Planning groups in this regard. That is encouraging and the modification is necessary. In this context, and given the modest number involved, I consider there to be some prospect that Neighbourhood Plans could deliver the 100 homes expected. However, there can be no certainty at this stage. In any event, this modest source of delivery is not one on which meeting requirements depends.

90. Policy S2, as submitted, includes a windfall allowance of 330 houses over the plan period. The Council suggests that this should be reduced to 300. Because of infrastructure constraints, which I consider later, it is unlikely that windfall delivery in Maldon, Heybridge and Burnham will contribute significantly. Reflecting this position, the Council's hearing statement sets out the historic windfall delivery outside of these areas between 2011 and 2016. During that period, 323 dwellings were delivered on windfall sites, which equates to around 64 per annum. While these figures include private residential gardens, they relate to the parts of the district outside its built-up areas. As such, in line with the judgment in *Dartford Borough Council v Secretary of State for Communities and Local Government* (March 2017) [EWCA Civ 141], they are not excluded from the definition of previously developed land. They consequently fall comfortably within the Framework's definition of 'windfall sites'.
91. All of the changes in the housing land supply position discussed above, along with fully up-to-date figures, are set out in the Housing Update. Table 1 of the Housing Update shows that the number of homes anticipated from the various sources of supply is 5,108 in total. This exceeds the plan requirement. It surpasses the OAN by a greater margin. That is positive and consistent with national policy.

The five year housing land supply

92. The relevant part of paragraph 47 of the Framework – shown as point b) above – gives rise to two broad questions. The first is what the five year requirement is. The second is whether the supply is at least equal to it. I consider each in turn shortly. However, it is first perhaps worth noting that this is a 'rolling' five year requirement. It applies at any given point in time, rather than during the first five years of the Plan.
93. The Council's position concerning the five year housing supply requirement is set out in its *Five Year Housing Land Supply Statement 2015/16* (August 2016) [EB096d] ('the Five Year Supply Statement'). From Table 1, it is evident that there is no backlog from earlier plan periods to be accounted for. Completions between 2001 and 2014 exceed the previous development plan target, set in the East of England Plan. Although the East of England Plan was revoked in January 2013, in the absence of any other, it is reasonable to apply its annual requirement for the years 2013/14 and 2014/15.
94. When considered against the annualised Plan target of 310 dpa, Table 3 of the Five Year Supply Statement shows a shortfall of 303 dwellings since 2014/15, the beginning of this plan period. The Council takes the 'Sedgefield approach' to dealing with this. That is to say, in line with the preference in the PPG, it is to be addressed in the first five years from the present, rather than being spread across the whole plan period. A 5% buffer is applied, and the shortfall is included within this percentage calculation. I consider this an appropriate approach. Notwithstanding the more recent shortfall, the performance against the East of England Plan could not be described as a record of persistent under delivery warranting a 20% buffer. In my opinion, it is more appropriate to consider the longer term picture, which better reflects the cycles in the market. Taking account of all this, the five year requirement is calculated to be 1,946 dwellings.
95. The sources on which the Council relies for its five year supply are set out in the Housing Update. The inclusion of sites with planning permission is consistent with footnote 11 of the Framework. I

also regard it appropriate to include sites for which the Council has resolved to grant planning permission subject to the completion of a planning obligation, and strategic sites – S2(b) and S2(k) – which presently do not have planning permission or a resolution of the Council to grant one. Notwithstanding infrastructure constraints, which I consider in greater detail below, and the complications or delays that can arise in relation to completing legal obligations, I have been given no compelling, clear evidence that these schemes will not be implemented within five years, or that they will not contribute to the supply to some extent at least. The Council says that much work has already been done in relation to progressing matters such as the planning obligations and addressing the planning conditions imposed by the permissions.

96. Moreover, Table 2 of the Housing Update sets out projected delivery for all of the strategic allocations on a year-by-year basis. The chart labelled ‘dashboard’ in the Housing Update gives greater detail for some years, showing the timeline for various steps leading to a start on site through to the delivery of the first homes and beyond. As I understand it, much of this evidence has been produced with the involvement of the land owners and/or developers involved. All of this bolsters confidence in the Council’s projected delivery estimations.
97. The vast majority of the five year land supply is founded on sites with planning permission or where schemes are actively being pursued. Consequently, there is a good degree of certainty about the number of homes likely to be provided. Moreover, the land owner and/or developer involvement improves the reliance one may place on the expected rates of delivery and the annual yield.
98. I note that the five year supply includes, on an annualised basis, the windfall allowance previously discussed. Paragraph 48 of the Framework says that such an allowance may be made if there is compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. For reasons already given regarding the overall windfall allowance, I consider the annual allowance made in the five year supply to be justified and consistent with national policy. That said, I concur with the point that it should not be applied for the first two years of the five year period, at least not in full. Given the time it can sometimes take to secure planning permission and discharge planning conditions and other requirements, and as sites with planning permission have already been included in the supply, it would not be appropriate to assume the full annualised windfall delivery rate in these early years. Notwithstanding this, it is in any event plain from the figures in Table 4 of the Housing Update that the five year supply is not reliant on this element.
99. The Housing Update’s Table 4 includes a 5% ‘discount’ – it reduces the estimated supply by 5% to take account of possible slippage in sites coming forward and for non-implementation. This is a prudent precaution.
100. Viability is an important component of deliverability. I consider this in greater detail later. For present purposes it is sufficient to note that, in my view, there is no irrefutable and clear evidence that the sites included in the five year supply will not be viable. Rather, the Council’s evidence on this point amounts to a reasonably reliable demonstration that the plan’s policies need not render unviable schemes that would otherwise be a viable prospect.
101. Although with the inclusion of the full windfall allowance, the Housing Update estimates that the supply of deliverable sites will yield 2,412 new homes in the five year period between 2016/17 and 2020/21. When considered against the five year requirement, that amounts to around 6.2 years’ worth of housing land. Along with the 5% discount used, the degree to which the five year requirement is exceeded represents a buffer in the event that delivery does not proceed entirely as anticipated. This is reassuring, and bolsters the confidence one can have about the existence of a five year supply.

102. I recognise that the Council's figures do not relate to the current 'rolling' five year period of 2017/18 to 2021/22. I make no criticism of the Council for this – it is simply because the latest figures were formulated for publication and comment alongside the consultation on main modifications in March 2017. At that point, comprehensive monitoring data for 2017/18 could not have been produced. In my view, while the situation may not be ideal, it would be disproportionate to demand further updated figures from the Council. This could lead to yet further delay to the Plan's progress. In all probability, given the expected level of delivery in 2021/22 shown in the Housing Update, such figures are unlikely to reveal a significantly different picture, and I consider there to be a reasonable prospect of a five year supply existing for 2017 and for some years to come.
103. As I have discussed, much of the evidence concerning the sources of supply and the level of supply from each source has evolved during the examination. Policy S2, as originally submitted, is consequently rendered unjustified. To address this, the Council has put forward a number of main modifications. **MM160** updates the table in Policy S2 to reflect the up-to-date evidence about sources and supply in the Housing Update. **MM116** and **MM166** clarify the sources in the 'committed' supply and the windfall allowance made. The former also removes references to SHLAA sites within the supply. Drawing on the dashboard chart and other illustrations in the Housing Update, **MM168** replaces Figure 4 of the Plan, which is the housing trajectory bar chart, with a trajectory table. The latter properly reflects the land supply sources on which the Plan's policies for strategic housing growth rely. All of these changes are necessary for the policy's justification and effectiveness.

Reserve sites

104. Policy S2 identifies three 'reserve sites' for housing. The idea is that one or more of these sites could be released for development if necessary, for example if there were a shortfall in expected housing delivery from other sources. On the face of it, this is in principle a laudable attempt at embedding flexibility and caution into the Plan.
105. However, the reserve sites proposed are in or on the edge of Maldon, Heybridge and Burnham. They would rely on the infrastructure serving these settlements. As I consider in detail later, the highways and/or school capacity at each of these three settlements is constrained to the point where the Council agrees main modifications are needed to ensure the Plan will "*strictly limit the capacity for growth*". There is no evidence to demonstrate that local highways and schools could satisfactorily accommodate the level of housing envisaged on the reserve sites in addition to that from the proposed allocations. Neither the County Council's highways department nor the local education authority is able to support the proposition that they could. The problem here is that once one or more of the reserve sites are released, it is highly likely that the Council would be unable to prevent housing delivery on an allocated site. It is difficult to see how the Council could hold back allocated sites where development had commenced but subsequently stalled – so prompting the release of the reserve sites – or allocated sites where planning permission had been granted. There would be no clear means available to stem or relieve the pressure on the infrastructure affected.
106. Given my conclusions above, it is wholly apparent that the supply of land for housing is more than adequate to meet the requirements. While I recognise the challenges relating to the Garden Suburbs and other strategic allocations, and taking account of my views concerning infrastructure delivery set out below, there is no overwhelming indication that the reserve sites mechanism will be needed. Indeed, it seems to me that in the event of any significant delivery failure, the partial review of the Plan committed to by the Council, which I discuss below, will provide satisfactory remedy. In this context, to avoid the risk of over-burdening infrastructure and thus to ensure that this Plan is sound, I agree that the main modifications put forward by the Council (**MM078(a)** and

MM078(b) deleting the reserve sites from Policy S2 and its supporting paragraphs represent the most appropriate course, and are necessary.

The level of detail given in the Plan about the strategic housing allocations

107. The issue here is whether the draft Garden Suburb masterplans prepared by the Council include content that should be in the Plan. Regulations 5 and 6 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) ('the Local Planning Regulations') prescribe what should be in a local plan rather than any form of supplementary planning document. Much of the two draft masterplans do appear to comprise one or more of the elements specified as local plan content. For example, they include statements about land uses within the draft masterplan areas, and land use plans illustrating a spatial distribution of uses within sites. While some of this content is also in the Plan, or can be discerned from it, much of it cannot.
108. This first question is whether, if the present content of the draft masterplans is to exist, it must be in the Plan or whether it can be in the masterplans when they are adopted. However, the examination is not directly concerned with the draft masterplans. With regard to those documents, ensuring compliance with the Local Planning Regulations is a legal matter, and is one for the Council alone.
109. The second question is whether, regardless of the content of the masterplans, this content should be in the Plan. It would, perhaps, improve the Plan to include much, or at least some, of the detail from the draft masterplans. But Policy S4 sets out the infrastructure elements which must be incorporated into the two Garden Suburbs. It also indicates some of the requirements of the other Maldon and Heybridge strategic allocations. Policy S6 does a similar thing in relation to the strategic allocations in Burnham. The paragraphs supporting both policies add further detail and elaboration. Overall, in my opinion, though not perhaps as detailed as it might be, the Plan provides sufficient specification in relation to the strategic allocations and is adequately clear about the essential requirements. The absence of substantial site-specific detail adds flexibility. Considering the infrastructure delivery challenges involved, which I consider below, that is an appropriate approach to take.
110. That said, modifications put forward by the Council concerning the detailed requirements in Policy S4 are necessary. **MM059** and **MM060** requiring that proposals include an Appropriate Assessment screening report are needed, to ensure that Natura 2000 sites are not unacceptably affected. **MM071(a)** and **MM174** are also necessary to ensure that neither development nor sewage infrastructure adversely affect any internationally protected sites. It is appropriate that flood risk management and surface water mitigation measures are planned in conjunction with the Environment Agency, the County Council and other relevant stakeholders. **MM172** is necessary to ensure this.
111. **MM010** explains that the Garden Suburbs and strategic allocations could potentially contain nationally important heritage assets and provides some detail. In this regard, **MM005** clarifies the requirement concerning archaeological assessments. Both modifications are needed for effectiveness.
112. In addition, the North Heybridge Garden Suburb should maintain a clear 'defensible' northern and western boundary to Heybridge. Agriculture should be allowed on the area between the new relief road and Maypole Road and Langford Road – there is no justification for preventing it – and it is appropriate that the Council should work with landowners to create suitable access routes into the public footpath network and areas of open space. **MM109** and **MM112** are needed to ensure all of this. Furthermore, for effectiveness, the maps comprising Figures 5A and 5B of the Plan should be swapped around so that the South Maldon and North Heybridge Garden Suburbs

are correctly identified (**MM007**).

113. Notwithstanding the Council's suggestion earlier in the examination, I concur with its most recent position that safe pedestrian, cycling and bridleway links should be provided from the strategic allocations in Burnham to the town centre and, where applicable, to other facilities and the urban area. **MM085**, put forward by the Council, clarifies both this and that community facilities rather than community hubs and local centres, are expected on these sites. **MM085** is therefore necessary in these respects. There is no substantiated justification for requiring that the strategic allocations in Burnham incorporate enhanced public transport provision, as Policy S6 demands. Consequently, it is necessary to delete this criterion from the policy, as the Council has suggested (**MM085**). In addition, for effectiveness, it is necessary to clarify that criteria 13 of Policy S6, which requires B use employment land in the form of an extension to Burnham business park, applies only to site S2(i) (**MM013**).

Conclusion on Issue 1

114. Considering the above, with the main modifications put forward by the Council and as discussed above, I conclude that the policies for strategic housing growth are justified, effective, consistent with national policy and positively prepared.

Issue 2: Whether the settlement hierarchy and the Plan's approach to settlement boundaries and the countryside are justified, effective, consistent with national policy and positively prepared

115. Policy S8 introduces a settlement hierarchy. Maldon, Heybridge and Burnham are the Main Settlements. Other settlements are categorised as Larger Villages, Smaller Villages and Other Villages. The Main Settlements, and the Larger and Smaller Villages, are defined by boundaries on the policies map. Outside of those boundaries, Policy S8 restricts development to certain specified types and only permits those when the intrinsic character and beauty of the countryside is not adversely affected.
116. The settlements in each tier have been grouped on the basis of a range of factors, including their size, population, the range of shops and other services present, the local character and identified opportunities and constraints. Information has been drawn from sources such as the Annual Monitoring Reports, the *Part 1: Baseline* (June 2012) [EB059a] and the *Rural Facilities Survey* (February 2011) [EB038], updated in January 2016 [EB038b].
117. The Replacement Local Plan (2005) has been the starting point for identifying the settlement boundaries. These were reviewed in 2012, and the Council's paper *Review of Settlement Boundaries* (April 2012) [CED10 – Appendix 6a] sets out the details.
118. Overall, Policy S8 clearly sets out a coherent hierarchy of settlements. However, for effectiveness, the Plan should explain the hierarchy's role in guiding the preparation of Neighbourhood Plans and the consideration of planning applications. **MM188** is therefore necessary.
119. Some representations seek to move the placing of settlements within the hierarchy, one way or the other. Others seek alterations to the settlement boundaries, in some cases to allow greater scope for development. I note all the points made in these respects. But neither the hierarchy nor the settlement boundaries have been drawn up on the basis of wholly scientific methodologies. Nor could they be. Like many aspects within the sphere of town and country planning, both are inevitably influenced by professional judgments, taking account of relevant factors, some of which I have mentioned above and others which are detailed in the evidence relied on. To my mind, this is a legitimate approach to take and, from the evidence, the

conclusions arrived at are reasonable and justified. I have neither read nor heard any arguments of such force that I am compelled to recommend alterations to the hierarchy.

120. During the examination, errors concerning the mapping on the policies map of the Heybridge Basin settlement boundary and the boundary of employment site E1(l) came to light. In addition, the Council suggests altering the settlement boundary of North Fambridge to include within it land for which planning permission has been given for development. While the associated policies in the Plan are sound, these matters represent shortcomings with their geographic illustration on the policies map. This will need to be rectified as the Council has indicated on the plans consulted on alongside the main modifications.
121. This is not, as some appear to suggest, a blanket ban on rural development. New windfall market housing is permitted within the settlement boundaries. The list of development types allowed outside the boundaries is not overly stringent – it permits employment uses, community facilities, rural diversification schemes, tourism development and affordable housing development to name a few. All of the uses supported outside the settlement boundaries are, in my view, appropriate and consistent with paragraph 28 of the Framework. Indeed, I consider the approach taken by Policy S8 to be consistent with the Framework’s core planning principles. It strikes a suitable balance between recognising the intrinsic character and beauty of the countryside and supporting the thriving rural communities within it.
122. Policy H5 reflects the approach of Policy S8 in relation to rural exception schemes and sets out further detail. It identifies the process to be undertaken – engagement with the local community, the appointment of a suitable provider, agreeing with the Council the amount and composition of the housing, and the consideration of appropriate site options. To my mind, all of these measures are reasonable and I regard this to be an appropriate process.
123. I note that while rural exception schemes are expected to provide wholly affordable housing, market housing is permitted where it is demonstrated that it is essential to ensure the viability of the scheme. Considering the need for and supply of affordable housing, which I consider below, that is satisfactory and consistent with paragraph 54 of the Framework.

Conclusion on Issue 2

124. Considering the above, with the main modification put forward by the Council and as discussed above, I conclude that the settlement hierarchy and the Plan’s approach to settlement boundaries and the countryside are justified, effective, consistent with national policy and positively prepared.

Issue 3: Whether the policies for affordable housing, housing mix and accommodation for specialist needs are justified, effective, consistent with national policy and positively prepared

Affordable housing

125. The Council relies on the SHMA to provide the objective assessment of need for affordable housing. It considers the range of affordable housing needs, including that arising from existing households, homeless households, and over-crowded and concealed households. It takes into account numerous related factors such as under-occupation, and demand for supported accommodation such as extra care and sheltered housing. Future needs are estimated based on newly forming households and calculated on a gross per year basis.
126. The methodology used in the SHMA follows the model in the SHMA Practice Guidance (August

2007) which, although now withdrawn, was current at the time the SHMA was drawn up. However, paragraph 1.2.4 of the SHMA confirms that it complies with the PPG. Broadly speaking, at least, that appears to be the case and in my view it is sufficiently consistent with the guidance in the PPG. In any event, in the context of the guidance available during its formulation, I consider that the assessment method used should be regarded as adequately robust.

127. A net need for affordable housing of 130 dwellings a year is identified in the SHMA. The Housing Update lists the sources of supply in Table 1. From this, it is apparent that the strategic allocations are expected to deliver around half of the affordable units needed in the plan period. As with the housing numbers generally, one can have a reasonable degree of confidence about these figures. They are in large part based on actual schemes, in many cases either with planning permission or with a resolution of the Council to grant one.
128. Additional 'pipeline' supply is also identified in Table 1. Many are again sites with planning permission. Others are development proposals currently under the Council's consideration. All in all, according to the Housing Update, the total supply of affordable units presently in the pipeline amounts to 1,235, leaving a shortfall of 715 dwellings when considered against the SHMA annual need figure.
129. Further sources of potential supply are also set out in the Housing Update's Table 2. The Council anticipates 715 dwellings from them. The contribution attributed to rural exceptions schemes is not large and I see no particular reason why it should not be achievable. As I have previously mentioned, Policy H5 allows for such schemes, and demands that they provide wholly affordable housing unless a viability assessment shows an element of market housing to be essential, in effect as a 'cross-subsidy'. The schedule says that the 60 units to be provided through releasing existing stock have been agreed through a planning obligation for site S2(a). In addition, the letter from Essex County Council dated 16 January 2017 confirms its unequivocal commitment to delivering the affordable independent living units needed. Moreover, the Council considers that the figures attributed to the 'strategic development' element may be somewhat conservative. They are based on past performance, but work is being undertaken to improve the capacity of local housing providers such as alms house associations and others using the Government's Community Housing Fund.
130. Overall, while there must be some doubt that the figures will turn out quite as neatly as the Council suggests, there nonetheless seems to me a reasonable prospect that the need for affordable housing could be met. The Council's figures are limited to the present 'pipeline' of sites. It includes no contribution from windfall sites. Policy H1 demands a percentage from all schemes over the site size threshold, on a geographically variable basis. Even with the necessary modification to the threshold, which I turn to shortly, it is consequently likely that this source will yield at least some additional affordable units. In this context, and taking account of the review committed to by the Council if the proposed allocations do not deliver, discussed below, I regard further measures to increase affordable housing delivery to be unnecessary for the Plan's soundness.
131. As submitted, the site size threshold in Policy H1 is five or more homes, or where sites comprise an area of 0.5 hectares or larger. However, the Secretary of State, through a Written Ministerial Statement of 28 November 2014 and alterations to the PPG, revised national policy and guidance relating to affordable housing. Under these changes, for sites of 10 houses or less, and with a maximum floorspace of 1,000 square metres (sqm), affordable housing should not be sought. In the light of this, the Council has put forward modifications altering the threshold to housing developments of more than ten units or 1,000 sqm (**MM123** and **MM124**). They are necessary to ensure consistency with the Ministerial Statement.

132. Policy H1 demands that the affordable housing contribution from developers should comprise of free serviced land. However, I see no reason why constructed affordable dwellings to be sold to a registered provider on completion could not be provided. **MM236** and **MM049**, suggested by the Council, are necessary to allow this.

Housing mix and accommodation for specialist needs

133. Policy H2 requires all developments to provide a suitable mix and range of housing in terms of size, type and tenure to reflect local housing need and demand in both the market and affordable sectors, particularly the need for the ageing population. Subject to certain criteria, Policy H3 supports proposals for specialist needs housing, such as homes for older people, people with disabilities or homes for other groups who may require properties of a specific design.
134. Both policies, in my view, provide an appropriate steer for new developments in terms of addressing the needs of specific household groups. They will in practice rely on information in the SHMA and from specialist housing providers for their successful implementation. I regard that to be a satisfactory approach – it allows the policies to remain current, so long as the SHMA and other information sources are kept up-to-date. I note that paragraph 17.7.2 of the SHMA indicates that it should be updated in 2018/19. I have no particular reason to doubt that the Council, as a responsible public authority, will not ensure that it is reviewed in a timely manner. It should, and the Council is statutorily required to keep under review the matters which may be expected to affect the development of its area or the planning of its development. I note that the Council's Older Persons Housing Strategy will provide more information about the type and design of specialist housing, and including reference to this as the Council suggests (**MM070**) will assist the effectiveness of Policy H3.
135. I recognise that meeting the requirements of Policies H2 and H3 could have an effect on viability. To ensure that it does not render otherwise viable schemes unviable, the 'viability clauses' proposed by the Council (**MM086** and **MM087**) are needed.
136. I note that Policy H2 seeks to ensure that affordable housing is, in most cases, provided in clusters of no more than 15 to 25 homes in any one part of a development. In my view, this is a justifiable approach. It will help to ensure the integration of affordable homes with market dwellings, and to promote mixed communities. I also consider this element of the policy to be not overly prescriptive. It strikes a balance between flexibility and the need for policies to 'have teeth' and to be effective.
137. The Plan does not seek to specify the amount or location of specialist needs housing. But Policies S3, S4 and S6 all require that a significant proportion of the new homes on the strategic housing allocations in Maldon, Heybridge and Burnham, including the Garden Suburb sites, are one form or another of accommodation for older people. That is appropriate, given the challenges faced in terms of meeting the needs of the ageing population, outlined in the SHMA.
138. The Plan's policies are less assertive about other specific kinds of specialist housing. However, as I have said, Policy H3 is supportive. I see nothing in the Plan to stand in the way of schemes incorporating specialist homes being brought forward. Indeed, where there is a local need for forms of specialist homes other than or in addition to older persons' housing, this could be required by the Council through Policy H2. Given the present evidential basis, it seems to me that the Plan does all one could reasonably expect. While greater prescription might be ideal, the absence of it should not be regarded as a factor which undermines the soundness of Policy H3 or the Plan as a whole.

Conclusion on Issue 3

139. Considering the above, with the main modifications put forward by the Council and as discussed above, I conclude that the policies for affordable housing, housing mix and accommodation for specialist needs are justified, effective, consistent with national policy and positively prepared.

Issue 4: Whether the policies relating to provision for gypsies and travellers are justified, effective, consistent with national policy and positively prepared

140. As discussed earlier, the previous Inspector's Interim Findings found Policy H6, which concerns provision for gypsies and travellers, to be not sound. The Secretary of State's letter to the Council dated 6 March 2016 makes it clear that Policy H6 as submitted is not consistent with national policy.

141. As with general housing, the evidence regarding the need for pitches to accommodate gypsies and travellers has evolved significantly since the Plan's submission. Subsequent to the Secretary of State's letter, the Council accepted the evidence in the *Essex Gypsy and Traveller and Travelling Showpeople Accommodation Assessment* (July 2014) [EB007b], undertaken by Opinion Research Services (ORS) on behalf of Essex Planning Officers Association (EPOA). This concludes that there is a need for 17 new pitches between 2013 and 2018, and for 32 between 2013 and 2028.

142. In August 2015 the Planning Policy for Traveller Sites (the PPTS) was published, replacing the previous national policy. The Council has put forward a change to reflect this (**MM152**), and that is appropriate. The PPTS is based on a different definition of 'traveller' than the preceding document. Previously included within the definition were those who had ceased to travel temporarily or permanently for reasons of health or education. The term 'permanently' does not appear in the revised definition, such that anyone who has ceased to travel permanently now falls outside it. Unlike EB007b, the *Maldon District Gypsy and Traveller Accommodation Assessment: Need Summary Report* [EB007c] ('the new GTAA'), also by ORS, assesses the need for traveller accommodation between 2016 and 2033 on the basis of the 2015 PPTS.

143. The methodology of the new GTAA incorporates both a desk-based review and a survey of travelling communities. The former has drawn on a range of data including from the census, site records and caravan counts. The survey has been undertaken through face-to-face interviews with travellers. Rather than sample interviews, the general approach has been to attempt to interview all travellers in the district – those occupying pitches and those living in bricks-and-mortar accommodation. To that end, visits were made between January and September 2016, during the 'non-travelling season', avoiding July and August and days of known national or local events. Those undertaking the fieldwork have re-visited households multiple times when householders were either not present or not available to be interviewed at the time of calling. All of this is appropriate and, on the face of it, it appears that all reasonable endeavours have been undertaken to capture fully the views of the travelling community in the district.

144. From this process, three households were identified that meet the PPTS definition. One of these is seeking bricks-and-mortar accommodation. One household was found to reside on an unauthorised site. Aside from the need for one pitch arising from the latter household, the surveys reveal no additional current or future needs.

145. Since the GTAA was produced, planning permission has been granted for a site comprising of two pitches. This meets the need identified in the GTAA, and provides one additional pitch. Consequently, no pitches are now proposed to be allocated through the Plan. That is a justified policy response – the identified need has now been catered for.

146. Thirty seven households were identified who either were not present during the fieldwork period or who declined to engage in the interview process. The GTAA refers to these households as ‘unknowns’ – one cannot tell whether all or any of these households meet the PPTS definition.
147. The GTAA says that ORS has undertaken over 1,500 traveller household interviews since the introduction of the 2015 PPTS definition. This work suggests that nationally approximately 10% of households interviewed meet that definition. If this were reflected in Maldon, ‘unknown’ households could give rise to only one further pitch.
148. However, rather than assessing the need for ‘unknowns’ on that footing, the GTAA applies a 1.5% household formation rate. The basis for this is set out in detail in a Technical Note, which forms Appendix B of the GTAA. In summary, the methodology considers migration, population data and takes into account birth, fertility and death rates. Household dissolution rates are also analysed. It notes that the growth of the national gypsy and traveller population may be as low as 1.25% per annum. It concludes, however, that the best available evidence suggests this figure to be 1.5%, but that some local authorities might allow for a growth rate of up to 2.5% to provide a margin if the local traveller population is relatively youthful. In my view, the methodology used in the Technical Note is suitably robust. It draws on appropriate sources of information, such as the 2011 census and DCLG’s caravan count figures. This adds to the degree of confidence one may place in its conclusions.
149. Using the 1.5% household formation rate and taking account of pitches known to be coming vacant, the GTAA indicates that the overall level of need could rise by up to 10 pitches. But that is only if all 37 ‘unknown’ households do meet the PPTS definition.
150. The Council’s stance is that any need arising from ‘unknowns’ should be a matter left to the planning application process. Modifications to Policy H6 have been put forward by the Council setting out criteria for such a purpose, which I consider further below. To my mind, that is an appropriate approach. While there remains a possibility that up to 10 further pitches may be needed, that cannot be said to represent identified need. It would be unreasonable to demand that the Plan provide for needs that have not been established to exist. That being said, **MM242h** is nonetheless necessary in this regard. It commits the Council to a review of the Plan if future reviews of the GTAA reveal the necessity for land allocations to provide for presently ‘unknown’ needs. For effectiveness, I have altered this modification from the version put forward by the Council by replacing the word “may” with “will” in relation to undertaking the review committed to. I have also replaced “the Plan” with “Policy H6” – the whole Plan need not be reviewed.
151. **MM242t**, also put forward by the Council, sets out the ‘triggers’ for a review of the GTAA. These are all relevant factors and I agree that **MM242t** is needed. I note that ORS recommend that the GTAA be updated in three years. This timeframe is not set as an explicit ‘trigger’. However, as I have mentioned before, local planning authorities are statutorily required to keep under review the matters which may be expected to affect the development of their area or the planning of its development. Providing for travellers is one such matter. In meeting this legal duty, it will be for the Council as a responsible public authority to consider the recommendations of all its expert advisors, including in relation to the need or otherwise to review the evidence concerning travellers.
152. The Council has put forward numerous main modifications to Policy H6 and its supporting paragraphs to reflect the conclusions of the GTAA. In short, a comprehensive re-write of this section of the Plan is proposed. A number of the modifications introduce explanation of the GTAA and other information concerning the position in relation to provision for gypsies and travellers (**MM242b**, **MM242c**, **MM242e**, **MM242f**, **MM242m**, **MM242n**, **MM242o**, **MM242r**, **MM242s** and **MM242u**). **MM242a** clarifies that the term ‘travellers’ is used in the Plan to mean ‘gypsies and

travellers'. **MM242d** and **MM242g** explain the assessment of need and how it has been quantified. These changes are all necessary for effectiveness. For the same reason, and for consistency with the GTAA, I agree that the Plan should make clear that there is no identified need for provision for travelling showpeople or for transit sites. **MM242i** and **MM242j** are therefore needed.

153. A re-draft of Policy H6 has been put forward by the Council (**MM242i**). This protects existing lawful traveller sites and only permits their redevelopment where replacement provision is proposed or if it is demonstrated that there is no longer an identified need for the site. I consider this a suitable and necessary measure. **MM242k** introduces a paragraph explaining that if a site with a personal planning permission is vacated permanently by the person to whom it relates, and no subsequent permission has been given for the site's continued use, it will not be regarded as a lawful traveller site for the purpose of Policy H6. That is a reasonable position to take, and **MM242k** is necessary for the policy's effectiveness.
154. **MM242l** also sets out the criteria to be applied in the determination of planning applications for new traveller sites. The criteria are in two parts. The first section relates to the broad location of traveller sites. It requires that at least one of the criteria within it is met. Notwithstanding the concerns of some, it does not apply any sequential preference and in my view is an appropriate approach. The 'bottom line' here is that if not on an existing traveller site or within existing development boundaries or an area of strategic growth, then the scheme must form sustainable development. In assessing this, the policy says that the Council will have regard to the criteria used to assess sites put forward for the previously planned Gypsy and Traveller Local Development Plan. I consider that to be an appropriate approach.
155. The second set of criteria requires sites to be outside areas at risk of flooding, appropriate in scale to the nearest settlement or dwellings, accessed safely by vehicles, large enough to provide the amenities and space necessary. It also requires that sites are located and designed to avoid harm to the character of the area and the living conditions of local residents. In my view, all of this is appropriate and reasonable. However, criterion 3b) says that sites must be well related to the built up area, among other things. But criterion 2d) allows sites 'elsewhere in the District' – it does not require them to be near to built-up areas. The PPTS does not rule out traveller sites distant from settlements. For consistency both within the policy and with national policy, and for effectiveness, I have altered criterion 3b) to require that traveller sites be near to the existing built up area "*where relevant*". For effectiveness reasons, to amplify the purpose of criterion 3a), I have added to it that traveller sites should not dominate the nearest settlement or dwellings. With these revisions, I regard **MM242l** and the new Policy H6 introduced by it to be both necessary and adequate.
156. **MM242p** explains that the Council aims to promote peaceful and integrated co-existence between travellers and the local settled community – although I have adjusted the wording slightly in this regard, for accuracy. Along with **MM242q** it also adds further explanation about the environmental and other effects that the Council will consider when determining proposals for travellers sites. All of this is consistent with the revised Policy H6 and is a suitable and necessary clarification of that policy.

Conclusion on Issue 4

157. Considering the above, with the main modifications put forward by the Council and as discussed above, I conclude that the policies relating to provision for gypsies and travellers are justified, effective, consistent with national policy and positively prepared.

Issue 5: Whether the Plan is based on a sound assessment of infrastructure capacity and requirements, and the implications for the deliverability of strategic housing growth

158. The timely delivery of necessary infrastructure is an important matter for any local plan. In the case of this Plan, it is an exceptionally critical issue. As I have previously explained, the Plan focusses housing growth in Maldon, Heybridge and Burnham. All three have significant infrastructure constraints.

The assessment of infrastructure requirements

159. Various iterations and updates of the Council's Infrastructure Delivery Plan ('the IDP') have been produced in evidence [EB059a to EB059d]. The *IDP Part 1: Baseline* (June 2012) [EB059a] is the first assessment of the infrastructure capacity and needs in the district that informed the Plan's initial formulation. The final revision is the *IDP Update* (May 2014) [EB059d], published shortly after the Plan was submitted. It is clear from these documents that consultation and dialogue has been ongoing between the Council and key infrastructure providers, notably Essex County Council.

160. Within the IDP is the Infrastructure Phasing Plan ('the IPP'). This has also been revised on a number of occasions throughout the examination. The most up-to-date version is in the Housing Update. This is a chart that sets out the proposed strategic allocations and the housing delivery for each on a year-by-year basis. It also lists the infrastructure requirements, indicates the site or sites reliant on its delivery and illustrates, again on a year-by-year basis, the timing of the infrastructure delivery relative to the associated housing delivery. Infrastructure costs and funding sources are also shown, including the sites from which contributions are expected. In short, it sets out what infrastructure is needed, where and when it is needed, how it will be delivered and who is expected to pay for it. This is reflected in Policies S4 and S6. 'Signposting' the IDP in Policy S4, as the Council suggests (**MM006**), will assist its effectiveness.

161. In my view, stemming from the IDP and the evidence informing it, the IPP is a detailed piece of work. I understand from the hearings that it has been drawn up in close consultation with the site promoters and infrastructure providers involved. This is a laudable approach. It lends confidence that the necessary delivery of infrastructure has been properly thought through. In my view, it represents a satisfactorily robust assessment.

162. Looking at the IPP and Policies S4 and S6 which reflect it, it is wholly evident that the proposed Garden Suburb sites and other strategic allocations require a substantial level of infrastructure to support their development. To put it simply, the list is long and costly. In my view, this is a significant issue for the soundness of the Plan. I consider this further below.

Infrastructure constraints in Maldon and Heybridge

163. I consider Maldon and Heybridge together because of their geographic proximity. This relationship means that some infrastructure serves and affects them both. Highway and school infrastructure provision is the most vital issue for housing growth in Maldon and Heybridge. I consider each in turn.

164. Both of the Garden Suburbs require a relief road. Other road improvements are also necessary. It is intended that these will be funded by pooled contributions. The sites earmarked for each pool are shown in the IPP. To my mind, the evidence on this is all quite straightforward. While I note the points raised about the new road alignment in relation to the South Maldon Garden

Suburb, those are detailed matters for the Council's consideration. Indeed, it has already considered them through the planning application process.

165. Issues relating to wider highway capacity are far less clear cut. It is evident that the housing growth planned in Maldon and Heybridge will add to pressure on the wider road network. The A414 is the only A road linking Maldon and Heybridge with the A12 and the strategic highway network. The A414 passes through Danbury, which is within the Chelmsford City Council administrative area, where Eves Corner and the A414/Well Lane mini-roundabout are known pinch-points. Road access to the A12 to the north of the district is via B roads. Here, a junction at Hatfield Peverel is also an issue. To properly reflect that infrastructure constraints relate not only to infrastructure within the district but the wider area, **MM092** and **MM093** are necessary.
166. The highway authority has undertaken traffic modelling in relation to Eves Corner. However, it seems that the double mini-roundabout layout involved is already operating at or above full capacity. Present peak period queue lengths and waiting times have been recorded, and modelling has been undertaken to show the situation in 2029 both with and without the housing growth planned in Maldon and Heybridge. However, at the hearings in 2015, the highway authority said that the outputs cannot be relied on, because the modelling software does not give reliable results where at or above capacity situations are concerned. There appeared to be a consensus on this point amongst the transport professionals attending those hearings. Nonetheless, largely on the basis of professional expertise and experience, the highway authority reached the view that the impacts of the planned housing growth on the highway in Danbury will be acceptable. This conclusion was predicated on the implementation of mitigation measures along the relevant stretch of the A414, and taking account of passenger transport improvements required as part of the two Garden Suburbs.
167. The position is similar in relation the Hatfield Peverel junction. For the same reason, the highway authority indicated at the hearings in 2015 that it does not rely on the modelling. Instead, it points to queue length surveys and video analysis of the queues. Both the highway authority and the Council consider a new junction connecting the B1019 to the A12 to be the most effective solution. That is not provided for in the Plan. **MM012** clarifies that this would be a project of considerable cost, and says that the Council will work with relevant stakeholders, including the County Council and Highways England, to identifying funding opportunities. This modification will assist the Plan's effectiveness and is therefore necessary. Notwithstanding this longer term approach, the highway authority is satisfied that the passenger transport improvements required will provide appropriate mitigation, and considers that any minor physical improvements would be helpful. Again, it essentially boils down to a matter of judgment, albeit here with some instructive evidence.
168. Since then, the A414 works, comprising the installation of 'pre-signals', have now been completed. Confirming this in the Plan will help effectiveness, and **MM117** is therefore necessary. Perhaps more importantly, the Council has considered planning applications on all of the proposed allocations in Maldon and Heybridge. Detailed Transport Assessments have been produced as part of this process. I have been told that these consider not only the scheme in question in each case, but also the cumulative impacts arising from the proposed allocations, and that growth in background traffic levels is taken into account. In at least one instance the scheme modelled has been for a larger number of homes than that actually proposed.
169. Paragraph 32 of the Framework says that "*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*". There is no compelling evidence to demonstrate that the delivery of the proposed housing sites in Maldon

and Heybridge would lead to such impacts. Consequently, this is not a matter that should stand in the way of their allocation. Even if the transport impacts would be severe, given the decisions already made by the Council through the planning application process, rejecting the allocations now could not prevent those effects from occurring.

170. I turn to the question of planning for school places. The Plume School is the only secondary school serving Maldon and Heybridge. It does not have sufficient capacity to accommodate the increase in pupils likely to result from the new housing developments planned. Therefore, it is earmarked for expansion. The Plume is an academy school, and as such the decision about this is a matter for it to decide. The local education authority confirms that it has agreed to expand by two forms of entry over the two existing school campuses. It is also verified by the local education authority that the funds earmarked in the IPP are sufficient to facilitate this, and that the expansion envisaged will adequately cater for the places necessary.
171. At the hearing, some of the evidence given about this struck a less certain chord. I note that the Plume wishes to improve facilities as part of the expansion works, which it seems relies on additional funding from development on the Primrose Meadow site. I discuss that further below. But the local education authority unequivocally said it has no concerns about the plans for the Plume. On the evidence, I am satisfied that the Plume can provide, and is committed to providing, the places needed to support the level of housing growth set out in Policy S2. The question of improving school facilities is a different matter, and is not critical to the soundness of the Plan.
172. Similarly, existing primary schools have insufficient places to accommodate the predicted increase in pupils. Moreover, their ability to expand is constrained. A two-pronged approach is taken here. A one class base expansion will be provided at Maldon Primary School by replacing an existing temporary classroom with a permanent one of greater capacity. A new 1.5 form entry primary school will be built in Maldon as part of the South Maldon Garden Suburb. The North Heybridge Garden Suburb will deliver a new one form entry primary school in Heybridge. These facilities are requirements of Policy S4 and the IPP details the anticipated timing and funding arrangements. As the two schools may not each need precisely 2.1 hectares of land, **MM008**, deleting this reference, is necessary.
173. An increase in provision of early years facilities is also necessary in both Maldon and Heybridge. Both of the new primary schools are expected to incorporate early years provision. In addition, both settlements will require an additional, stand-alone facility. Again, Policy S4 sets the provision of the necessary facilities as requirements of the Garden Suburb developments, and the IPP gives further details about timescales and funding.
174. I note the points raised about the timing of new education provision and housing. But if housing delivery were to slip, so too would the need for the school and early years provision. Setting the delivery of one relative to the other is a matter for the Council to ensure through planning obligations or possibly through planning conditions imposed on permissions. I see no reason why one or the other of these mechanisms could not provide adequate controls.

Infrastructure constraints in Burnham

175. The principal infrastructure constraint in Burnham relates to primary school capacity. Policy S2 identifies a total of 450 new homes for Burnham. The Council's position on this is that an increase beyond 450 would require additional school places that cannot be accommodated at existing primary schools, and that an additional 700 houses would be needed to sustain a new school. The

Council's view is that 1,150 new homes would lead to disproportionate growth in Burnham, and would be inappropriate for the level and range of services and facilities there.

176. There are two primary schools in Burnham – Burnham-on-Crouch Primary School and St Mary's Church of England Primary School. At present, both have some capacity but not sufficient to accommodate 450 new houses. However, the Southminster Church of England Primary School in nearby Southminster has greater capacity. Indeed, some primary pupils who live in Southminster presently attend school in Burnham as a result of parental choice.
177. The local education authority views the three schools as one group – I am told this is how the Department for Education treats them. Consequently, it is reasonable to consider the capacity of the group overall. On this basis, taking account of the recent re-commissioning of a classroom at Burnham-on-Crouch Primary School, and in the knowledge of the number of dwellings with an extant planning permission, the local education authority confirms that the group of local schools have sufficient capacity to cater for the new pupils likely to arise from the 450 new homes proposed through Policy S2. While I note that St Mary's is a faith school, on the evidence produced, this seems to me a reasonable conclusion.
178. Paragraph 2.85 explains that there is presently a deficiency in early years and childcare facilities in Burnham. It says that the planned development will generate an additional demand for such facilities, and **MM014** clarifies that the requirement is for a new 56 place early years and childcare facility. I concur that this addition is necessary for effectiveness.
179. I note the references to 'pinch points' along roads serving Burnham. However, there is no substantive evidence to suggest that these should cause significant highway capacity problems.

Infrastructure constraints – overall

180. It is clear to me that highways and schools capacity in Maldon and Heybridge, and the capacity of schools in the Burnham and Southminster grouping, is a significant constraint to new residential development above that proposed through the allocations in Policy S2. There is no evidence that a greater level of housing could be satisfactorily accommodated. I have considered the necessity for unequivocal 'caps' to explicitly prevent any further housing. However, in the absence of any clear evidential basis, that course would not be adequately justified. Rather, it is more appropriate in my view to ensure that any additional residential development is strictly limited.
181. To this end, the Council has put forward main modifications (**MM088**, **MM089**, **MM090** and **MM091**). Relating to Policies S2, S4 and S6 respectively, these all make it clear significant infrastructure constraints exist which will strictly limit the capacity for development. **MM088**, **MM089** and **MM091** explicitly state that the Council will resist proposals unless they can be accommodated without prejudicing or delaying the proposed allocations or planned infrastructure improvements. In principle, this is all appropriate.
182. However, the term "*capacity for development in excess of that planned through the LDP*" is less clear than it might be. In its hearing statement, the Council confirmed that this is a reference to the allocations set out in Policy S2, and confirmed its intention that the main modifications should reflect this. For effectiveness, I concur that the wording should be altered as the Council's hearing statement suggests, and have amended the modifications accordingly.
183. It is clear from paragraph 2.56 of the Plan that there are capacity constraints associated with the sewer network in the Maldon and Heybridge area. Concerns have been raised that the Plan does not set out the most appropriate solutions to this problem. However, from my reading, the Plan takes a flexible stance on this. Paragraphs 2.56 and 2.58, as amended through **MM174** to more

accurately reflect the advice given to the Council, points to the need for upgrades to the existing foul main. But Policy S4 requires that “adequate provision is made for enhanced and comprehensive sewerage infrastructure”. Policy S6 takes the same line in relation to Burnham. These are not prescriptive policies and allow for flexibility. In effect they leave the detailed matter of the precise solution to be decided at the relevant planning application stage. I regard that to be an appropriate and effective approach.

Other infrastructure issues

184. Much has been made in representations about the need for a flood alleviation scheme for the northern part of Heybridge. The Council and relevant developers agree that it is needed. As submitted, Policy S4 requires the provision of this as part of the North Heybridge Garden Suburb. But it is clear from the evidence and the hearings that the flooding problem already exists. It is not one that would be caused by the new development, or made worse by it. Consequently, this requirement is not justified. The Council has proposed a modification removing it from Policy S4 (**MM100**). I agree that this is necessary.
185. I note that it is the site promoter’s full intention to provide the flood alleviation scheme. Indeed, I understand that it formed part of the planning application which the Council has resolved to grant. The Council has proposed further modifications as a consequence. **MM107** explains that the North Heybridge Garden Suburb development brings the opportunity to deliver a strategic flood alleviation scheme. Considering the underlying intentions, that amounts to a factual update that is necessary for clarity. **MM109** introduces changes to Policy S4 to guide the location of any new flood alleviation scheme in the Garden Suburb, and **MM176** aims to ensure that developments in the area do not prejudice the delivery of a flood alleviation scheme. Given the likelihood that such a scheme may be forthcoming, these are appropriate and effective measures.
186. A similar situation is presented by a requirement in Policy S4 for the North Heybridge Garden Suburb to provide a country park. It cannot be demonstrated that a country park is necessary to render the development acceptable. The Council has again put forward modifications to remedy matters. **MM108** deletes the demand from Policy S4. **MM110** and **MM111** remove reference to it from supporting paragraphs, the latter adding that the Garden Suburb development will provide opportunities for enhanced access to the countryside and a well-connected network of green spaces. This is a suitable approach, and is consistent with Policy N3 in relation to the provision of open space through new development.

Viability

187. The strategic allocations, particularly those forming the Maldon and Heybridge Garden Suburbs, are required to deliver quite significant infrastructure. This comes at a cost, and that affects viability.
188. From paragraph 173 of the Framework, the judgements to be made about viability are whether:
- a) the normal development costs, and the costs arising from policy and other requirements have been accounted for;
 - b) there will be a competitive return for a willing landowner and willing developer; and, taking account of all this
 - c) the viability of the development is threatened.
189. A series of Viability Studies have been produced for the Council for a dual purpose – to support

the Plan and to inform the setting of a Community Infrastructure Levy (CIL). The August 2013 study [EB040a] reviews the Plan's Preferred Options Consultation draft (2012) and an early, working draft of its next iteration. The *Viability Study: Post Consultation Update Study* (November 2013) [EB040c] reviews the Consultation Draft (August 2013) version of the Plan. The *Viability Study – May 2014 Update* [EB040d] was produced to address points raised by consultees or the Council in the period running up to the submission of the Plan for examination.

190. Finally, an *Additional Viability Note* (February 2015)[EWT-M03-01] ('the Additional Viability Note') has been prepared following the hearings in 2015. This extra work was necessary to ensure that the site boundaries appraised match fully those of the allocations, to ensure that the Plan's policies, as submitted, are fully reflected and to provide a recommendation for the affordable housing target at the Heybridge Garden Suburb given the suggested removal of the requirement for a flood alleviation scheme.
191. The studies are all based on the residual valuation method. That is to say they compare the residual value for sites generated by the viability appraisals for modelled sites with the existing use value or an alternative use value, plus an uplift to incentivise a landowner to sell the land. The uplift must be set at a level to provide a competitive return to the landowner. It is a methodology commonly used to support local plans and CIL rates.
192. Like all 'high level' studies of this sort, a number of assumptions are made in relation to key factors influencing the residual value, including development values and costs, land values and acceptable levels of return. Baseline development cost assumptions have been based on Building Cost Information Service (BCIS) data, using figures specifically re-based for Maldon. The costs used are specific to different built forms (flats, houses etc). Over and above the BCIS baseline cost, the cost associated with building to Level 4 of the (now withdrawn) Code for Sustainable Homes has been added. Adjustments have been made where considered appropriate to reflect site size, using the BCIS small site costs figures. An allowance is made for other costs above the BCIS baseline, to take into account normal infrastructure costs, such as off-site drainage and so on. A scale of allowances is used from 10% for the smallest sites to 20% for larger greenfield schemes.
193. The costs associated with the policies in the Plan have also been considered. Notably, the cost of providing affordable housing in line with Policy H1 has been taken into account. Indeed, the requirements of Policy H1 have been slightly altered through the Plan's formulation, at least partly as a result of the viability work.
194. Policy H1 is not the only policy to have been modified as the Plan has evolved. Other policies, and consequently the financial burdens on development, have also altered. Taking account of the Additional Viability Note, it appears that the appraisals have kept abreast of policy and other changes.
195. Residential values have been arrived at for both market and affordable housing. In relation to the former, the appraisals draw on information from the Land Registry which identifies a variation in average sales prices across the district. A market survey of new homes for sale was conducted in May 2013, although only a small number of such properties were offered on the market at that time. Sales prices in neighbouring areas have also been used to allow comparison. In relation to affordable housing, the appraisals consider both the social rent and affordable rent sectors. A survey of market rents has been undertaken to inform the latter. In addition, information from the Valuation Office Agency (VOA) in relation to the Local Housing Allowance – the amount received by households to assist with rental payments – has been considered.

196. To inform the studies in relation to land value, VOA data has again been drawn on. However, the VOA's Property Market Report does not include Maldon. Norwich and Cambridge are the most local settlements reported on, and so these have been considered. Local agents operating in the area have also been consulted – a workshop was held to discuss land values and the most appropriate level of uplift or other adjustment.
197. A range of financial assumptions have also been made. Included here is an assumption that schemes will be wholly debt financed at a rate of 7% interest. To put it another way, no allowance is made for equity. This is an appropriately cautious approach. Allowances have also been made for fees and contingencies, planning obligations and a variety of other factors. All are relevant and there are no obvious omissions.
198. Four different approaches have been considered in relation to developers' profit: setting a different rate for each site to reflect the risk associated with it; setting a rate for different types of units (for example, market and affordable); setting a rate relative to costs; and setting a rate relative to gross development value. Because of the 'high level' nature of the study, it was considered necessary and proportionate to take a relatively simplistic approach. Developers' profit is set at 20% of gross development value.
199. Having analysed the various sources of evidence and made assumptions on that basis, the appraisals then, in effect, apply those assumptions to various development scenarios. The approach here has been to model 14 sites considered to be broadly representative of the type of development that is likely to come forward in the district in the plan period. These are not actual, real sites, but are generic, representative models. The Garden Suburb and other strategic allocations proposed through the Plan were also appraised separately.
200. The general, generic sites are modelled to take account of different site sizes, type (greenfield or brownfield) and location within the district. The point here is to ensure that a decent range of potential development scenarios is considered.
201. I should emphasise that for the strategic allocations, the specific requirements of each site have been taken into account. This is done through the consideration of the Plan's policies, particularly Policies S4 and S6 which impose site-specific obligations.
202. The outputs of the appraisals are presented as tables which compare the residual value to the viability threshold. The viability threshold is the amount that the residual value must exceed for a site to be regarded as viable. Numerous such tables are produced to show the effect of certain factors which may be variable or subject to negotiation, such as the level of planning contributions and affordable housing provision.
203. Table 10.9 of the original study illustrates the viability of the standard modelled sites with all of the Plan's policies applied. Of the 14 sites, two are shown to be not viable and two are considered to be at the margins of viability. In relation to the latter category, the report says that the sites should not be considered as viable as it is unlikely that the land would be made available to a developer at this level. The study concludes that the cumulative impact of the Plan's policies on viability is detrimental, but not to the extent of threatening delivery of the Plan as a whole, or to put it at serious risk.
204. Results for the strategic sites are presented at Table 10.10 of the original appraisal [EB040a]. As the report says, it is clear that several of the sites cannot bear the full policy requirements. However, it is apparent that the strategic sites being considered at that time are not wholly the same as those now proposed.

205. The November 2013 *Post Consultation Update* [EB040c] does appear to introduce at least roughly the same strategic sites. It confirms that site names have changed through the plan-making process. In this study, the (now recognisable) strategic sites are modelled against two scenarios which differ in the distribution of houses between the sites in Maldon and Heybridge. With just a few minor differences, the distribution in Scenario 2 is the same as the figures allocated to each site in Policy S2 for Maldon, Heybridge and Burnham.
206. Under Scenario 1, two strategic sites in the Heybridge Garden Suburb are of marginal viability and the remainder are all viable. Under scenario 2, the viability of some sites has reduced but they remain viable, and only site S2(d) is marginal.
207. The report goes on to consider the effect of differing levels of affordable housing on the viability of the strategic sites. With two exceptions, all remain viable up to 40% affordable housing. Site S2(d) is shown in Table 10.7 to be viable up to 15%, and site S2(e) remains viable with up to 30% affordable housing.
208. The *Viability Study – May 2014 Update* [EB040d] updates the consideration of affordable housing levels. Table 10.6 shows Site S2(d), with an affordable housing contribution of 25%, to be at the margin of viability. Although site S2(e) is shown as viable, I note that the residual value is not considerably more above the viability threshold than in the case of site S2(d).
209. As I have indicated, the Additional Viability Note makes corrections in relation to the site areas used, so that the appraisals properly reflect the proposed allocations. They also fully reflect the Plan’s policies. In relation to Sites S2(d) and (e), the note provides new appraisals on the basis of the schemes with, and alternatively without, the flood alleviation scheme I have considered above.
210. The outputs are shown in Table 10 of the Additional Viability Note. It is apparent that the corrections to the site area have adversely affected the viability of site S2(a), being the main Maldon Garden Suburb site. It is now not shown to be viable at 40% affordable housing. Site S2(d) is indicated to be viable at 30% affordable housing without the flood alleviation scheme, but with the flood alleviation scheme it is viable to only 20% affordable housing. All of the other strategic sites remain viable with 40% affordable housing, as required by Policy H1.
211. Overall, it is clear that substantial evidence concerning viability has been produced to support the Plan. Taking the latest note into account, there are no evidential omissions, so far as I can see, and it appears that any errors or inconsistencies between the Plan and the evidence have been addressed. In short, I regard the viability evidence to be adequately robust.
212. In response to the Additional Viability Note, the Council suggests alterations to Policy H1 (**MM099**) setting the affordable housing requirements for the South Maldon Garden Suburb sites and Site S2(d) at 30%. This reflects the most up-to-date evidence. Given my view set out above that Site S2(d) should not be required by policy to deliver the strategic flood alleviation scheme, **MM099** is both necessary and justified. With this change, on the evidence, most sites will be viable and the Plan’s policies need not lead them to become unviable.
213. However, it is important to bear in mind that residual value method appraisals of this kind are very ‘high level’. They are based on a wide range of assumptions. They do not purport to reflect properly the full realities of developing sites. While the work undertaken here is perfectly adequate, in my view, for the purpose of plan-making – the purpose it is intended for – one ought not rely on the outputs of the appraisals without question, or consider them absolute proof of viability. Circumspection is wise.

214. Consequently, while **MM099** is needed to ensure that Policy H1 reflects the evidence, it is important that the policy demands are seen in the context of the 'viability clause' in the policy. It allows for a relaxation in the affordable housing requirements if development proposals would be rendered unviable. That is a suitable and necessary approach, especially as the viability appraisals show the residual value of some sites to be only a little over the viability threshold used. Indeed, considering the level of affordable housing achieved on the strategic sites through the planning application process, shown in the Housing Update, it appears that the Council has already taken a flexible approach.

Infrastructure requirements and viability – overall considerations

215. As I have already indicated, the level of infrastructure necessary to deliver the Plan's strategic housing allocations is considerable, particularly when considered in the context of this smaller, rural district. It is perhaps illustrative to note that the expansion agreed by the Plume School would apparently lead it to be the second largest secondary school in Essex – and by any measure it would be of significant size. The question, in essence, is whether or not one is convinced that the highways infrastructure, and possibly even more importantly the school places, can and will be delivered at the point needed.
216. On the one hand, the Council believes it can be, as do the infrastructure providers and site promoters concerned. The progress made in relation to the strategic sites coming forward to the point of receiving planning permission or a resolution to grant one is a very positive signal. While I note from the Housing Update that a number of them have not achieved the level of affordable housing set out in Policy H1, this does not undermine its soundness. While it sets affordable housing requirements, as I have already said it also includes a clear 'viability clause' to be applied on a site-by-site basis.
217. On the other hand, though, considering the challenges of the infrastructure constraints and requirements, one must have some measure of uncertainty about the Plan's deliverability. Indeed, it appears that the Council does. The reserve sites included in Policy S2 were intended as a contingency in the event of housing under-delivery. While I consider the sites concerned to be deliverable and/or developable in the terms of footnotes 11 and 12 of the Framework, and thus sound, that is not a cast-iron guarantee that they can or will be developed at the point envisaged. In the context of the scale of the infrastructure requirements, prudence should be exercised.
218. Consequently, I agree that the modification put forward by the Council (**MM162**) is needed. This commits the Council to monitoring housing delivery against the trajectory chart added to the Plan through **MM168**, which I have considered above. If the Garden Suburbs and strategic allocations deliver less than 75% of their projected completions in three consecutive years, it commits the Council to a partial review of the Plan. Such a review will allocate additional housing sites if necessary and will ensure sufficient infrastructure capacity is available. This is a necessary and suitable measure. Although the specific 75% 'threshold' may not have been scientifically arrived at, it provides a clear, unambiguous 'trigger' mechanism for the review and is both appropriate and effective. As a matter of planning judgement, I consider the 75% threshold applied over three years to be reasonable.
219. Some suggest that the 'trigger' mechanism should be more explicit and/or stringent. I disagree. Once a review is triggered, undertaking it in a timely manner is a matter for the Council. It is not necessary to embed greater direction within this Plan to render it sound. Nor is it necessary to specify in the Plan a point at which its policies for the supply of housing will carry reduced weight in the decision making process. Paragraph 49 of the Framework already addresses this issue, and

I see no particular reason why any variation on the text of that paragraph should be set out as a matter of policy in this development plan.

220. **MM083** and **MM084** update the monitoring framework in the Plan in the light of the revised housing figures and the infrastructure delivery needed. This is necessary for effectiveness.
221. Some suggest that one or more of the proposed allocations should be deleted either because it is not viable or will not deliver the affordable housing needed. The 'viability clause' in Policy H1 addresses the former point. I have set out my views about affordable housing delivery above, based on the levels of affordable housing included in planning permissions and Council resolutions to grant permission. I am consequently not persuaded that any of the proposed allocations should be removed from the Plan, or that any should be replaced with an alternative.

Conclusion on Issue 5

222. Considering the above, with the main modifications put forward by the Council and as discussed above, I conclude that the Plan is based on a sound assessment of infrastructure capacity and requirements, and the implications for the deliverability of strategic housing growth. In this respect I regard it to be adequately justified and effective.

Issue 6: Whether the policies for economic prosperity are justified, effective, consistent with national policy and positively prepared

Employment

223. Policy E1 says that:

"A minimum of 2,000 net additional jobs will be created in the district by 2029 through the regeneration, modernisation and expansion of existing employment sites, and through the provision for new employment sites at the strategic allocations and South Maldon Garden Suburbs and other high quality and sustainable locations."

To this end, it identifies a number of specific existing employment sites and reserves them for employment development. This amounts to 94.21 hectares of land. It also allocates three sites for employment use. An extension to Burnham Business Park of 3.4 hectares (Site E1(q)) is allocated. Site E1(p) is 0.5 hectares and forms part of the South Maldon Garden Suburb. Further land of 4.5 hectares, also within the South Maldon Garden Suburb, is proposed to be allocated. In relation to the latter, from my reading, the policy says that the detailed allocation – that is, the precise site location and boundaries – are to be determined as part of the masterplan. That is not in line with the Local Planning Regulations. Land allocations can only be made in local plans.

224. More importantly, in my view, when the Plan was submitted there was a fundamental evidential shortcoming in relation to employment land. The *Employment Land Review* [EB035] is dated 2009 and uses out-dated statistical assumptions. The *Heart of Essex Economic Future* document (June 2012) [EB060] is partially based on a 'dwelling constrained' scenario well below the level of homes proposed in the Plan. In short, when the Plan was originally submitted, there was no adequately up-to-date evidence to support Policy E1.
225. During the examination, the *Employment Evidence and Policy Update* (July 2015) [EB102a] ('the Employment Update') and the *Employment Land Review* (May 2015) [EB102b] ('the ELR') have been produced for the Council. The Employment Update says that Maldon's economy is not entirely self-contained, and the district is part of a wider functional economic market area including Chelmsford, with which there is the strongest commuting relationship. The

Employment Update reviews the district's economic and employment growth prospects using up-to-date evidence. It analyses the strengths and weaknesses in the local economy, and the opportunities for and threats to it.

226. Potential growth is assessed in the absence of any constraints, such as housing numbers. In considering growth, as I have mentioned previously, the EEFM is considered. This gives a baseline 'business as usual' forecast of 2,200 jobs over the period 2014 to 2029. The Employment Update also takes account of other factors, notably including the plan for future housing development, and models a number of different scenarios. These are then assessed alongside the Plan's revised housing target and the 'fit' between the two is considered.
227. In terms of alternative scenarios, it is notable that labour market capacity is considered. That is to say, the study provides an analysis of the potential workforce available to meet growing employment in the district. Three scenarios have been modelled by applying the resident employment rates by age from the EEFM to the three population based scenarios considered as part of the housing and demographic evidence base – these are three of the scenarios set out in *Assessing Maldon's Housing Requirements* (August 2014) [EB098a] that I have previously discussed. From EB098a the scenario leading to an annual average household growth of 310 – the Plan requirement – is referred to in the Employment Update as the '10 year internal migration' scenario. This indicates a growth in employed residents of just under 2,900 over the plan period. Although higher than the Plan's aspiration for jobs, I concur with the Employment Update that there is broad alignment. Most pertinently, it is clear that both the level of housing and the resultant workforce will be sufficient to meet the Plan's employment ambition.
228. The Employment Update also includes job growth analysis by sector – manufacturing, construction, professional services, business services, education, health and care – illustrated in Figure 5.3 and, shown in Figure 6.2, by land use class. Around 25% of employment growth is expected in the B Use Classes, 30% within A Use Class, and 25% of future employment growth is anticipated to require no new sites and premises.
229. Forecast figures are given for B Use Class employment, separated into B1a (office), B1b/c (research, development and light industry), B2 (industry) and B8 (storage and distribution). It also considers C Use Classes (hotels, care homes etc), D Use Classes (non-residential institutions) and Sui Generis uses, and provides floorspace forecasts where possible. Requirements for churn and replacement in B Use Classes are considered, and an uplift is applied to allow for choice and flexibility in the market. Figure 4.1 gives a clear breakdown of the outputs for all Use Classes.
230. The Homes and Communities Agency's Employment Density Guide is used to 'convert' job numbers into floorspace requirements. A 'site coverage' assumption of 40% has been applied to all B Class Uses. I have been told that this is widely used in the industry, and I have been given no particularly compelling reason to suppose that this is not an appropriate assumption.
231. Finally, the Employment Update concludes that the EEFM figure of 2,200 jobs is a reasonable target, given the local drivers of and constraints to growth. As I have said, the EEFM considers this a 'business as usual' forecast, and as such it seems to me that it reflects Objective 3 of the Plan, being to "*maintain a diverse, vibrant, viable economy, encouraging diversification and enhancement of skills and employment opportunities*".
232. In terms of the demand for sites and premises, it concludes that approximately 11 hectares of land for B1, B2 and B8 Class Uses will be needed in the plan period. On the supply side, the Update advises that no existing employment sites should be de-allocated. Of 22 sites considered, it also identifies the best potential sites for new employment land to meet the demand.

233. Overall, the Employment Update represents a detailed analysis of the business needs within the economic markets operating in and across the district. It draws on relevant sources of evidence, such as the EEFM and ONS data, and the assumptions made, including those about site coverage, churn and choice all appear reasonable. Shortly put, I regard it to be an adequately robust assessment of the needs for and supply of land for economic development.
234. Although the origin of the 2,000 job growth figure in Policy E1 is not wholly apparent to me, the recent Employment Update evidence justifies it and I consequently consider it appropriate. However, it is clear from the Employment Update that this relates to job growth across all sectors, not just the B1, B2 and B8 Class Uses for which land allocations are proposed. The modification to the policy suggested by the Council (**MM219**) clarifies this, and is necessary.
235. Alongside the Employment Update, the ELR assesses both existing employment sites and sites put forward for new employment allocations from a 'call for sites'. Scoring systems are used which judge each site against a range of criteria, all of which I consider reasonable and relevant. Individual score sheets are provided, and Appendix VIII sets out a summary overview of the scores. I recognise that this methodology involves professional judgements being made in relation to numerous factors. However, that is inevitable. In the context of the application of suitable criteria within a consistently applied framework, this is an appropriate approach.
236. In the light of the fresh evidence, the approach in Policy E1 of reserving existing employment sites for business uses is justified. There is little in the ELR to indicate otherwise. Indeed, drawing explicitly on the ELR, the Employment Update says that they should not be de-allocated because of the generally low level of available supply in the district. I note that it refers to scope for some employment-led mixed use development on some currently poor quality sites, and some have suggested that a more accommodating approach should be taken. But Policy E1 does allow the loss of employment uses in certain circumstances, including where the site or buildings have been unsuccessfully marketed and the continued use is no longer viable. It also permits mixed use schemes where a substantive B Class element is included. The term 'substantive' leaves some room for judgement. This is an approach commonly taken in local plan policies and, considering the evidence in the Employment Update, a more flexible attitude could lead to the loss of much needed, decent and viable business uses.
237. From Appendix VIII of the ELR, I note that of the 22 sites considered, the area of land which includes the 4.5 hectares within the South Maldon Garden Suburb fares the best by some margin. In addition, the South Maldon Garden Suburb has planning permission for both the residential and employment elements. Site E1(p) also received one of the highest scores. I note that it was assessed against the criteria used in relation to existing employment sites. As I understand it, that is because construction work has started on site E1(p).
238. In the ELR assessment, site E1(q) performs a little less well. Nonetheless, the overall score is respectable compared to many others. Moreover, the Council's approach here has been to ensure that some new employment land is released in Burnham. I agree that this is an appropriate stance. Burnham serves a different geographical area to Maldon and Heybridge, and seeking some distribution of employment growth is a reasonable approach. Furthermore, site E1(q) forms an extension to the existing business park here and the Council has resolved to grant planning permission for employment uses on it. The Council suggests that the policies map should be amended so that site E1(q) reflects the area for which it has resolved to grant planning permission. Consequently, the geographic illustration of Policy E1, insofar as it relates to site E1(q), will need to be revised as the Council indicates.

239. These three proposed allocations provide 8.4 hectares of employment land. This falls a little short of the 11 hectares the Employment Update concludes is needed over the plan period.
240. I have mentioned previously that the Council had planned to produce a Rural Allocations Development Plan Document, but that this is no longer its intention. 'Village-scale' employment sites were to have been included in that local plan to address the shortfall. To rectify matters, the Council has put forward main modifications to this Plan to allocate two additional employment sites. Both were considered as part of the formulation of the Rural Allocations Development Plan Document.
241. The Council's paper *Rural Employment Evidence* (February 2017) explains the methodology used to assess the sites put forward for consideration. All sites were initially considered, then a staged approach of 'sieving' undertaken. Sites which would not lead to a net gain in full time equivalent employment or which were not suggested through a 'call for sites' have been discounted. The remaining 19 sites were appraised using a scoring system rating each site against a set of criteria. These are set out in Appendix 5 of the paper. The Council says these are similar to the criteria used in the ELR. In many ways they are, and they also broadly reflect many of the Sustainability Appraisal Framework objectives and indicators used in the Sustainability Appraisals throughout the Plan's formulation. I consider them entirely appropriate.
242. Following the scoring process, sites were then considered by various expert advisors within the Council and the views of statutory bodies were sought. A final list of eight sites was consequently identified. One of the two sites proposed for allocation – the extension of the Commodity Centre at Great Braxted – has since been granted planning permission. I note that the other site proposed, being that at Stow Maries, fairs less well in the scoring method than most of the other eight in the short list. However, the difference is small – most other sites scored one point more – and this site represents an expansion of the Great Hayes Business Centre. Clustering can have distinct advantages, and in my opinion, given the slender margin in terms of the scoring, I consider that this factor should 'tip the balance' in favour of the proposed site.
243. Considering the above, I agree that the main modifications suggested by the Council (**MM220**, **MM222** and **MM223**), adding the Great Braxted and Stow Maries sites to the allocations in Policy E1 and referencing them in supporting paragraphs, are both necessary and justified. The geographic illustration of these modifications to Policy E1 will need to be added to the policies map as a consequence.
244. **MM220** also removes from Policy E1 the reference to the precise location of the employment site in the South Maldon Garden Suburb being determined as part of the masterplan. This is necessary for compliance with the Local Planning Regulations. Moreover, the Council has suggested adding to the policies map boundaries that reflect the planning permission given for this employment site. For the soundness of Policy E1, the intended allocation must be illustrated geographically on the policies map, and I regard the Council's approach to be appropriate.
245. With the two additional sites, the amount of new land provided for employment uses through Policy E1 is 11.4 hectares, which the Council's suggested modification (**MM161**) appropriately reflects. This meets and slightly exceeds the level identified as being necessary in the Employment Update. In this regard Policy E1 is consistent with the evidence on which it rests and with the aims of the Framework.
246. Policy E1 supports and encourages better quality and flexible local employment space. **MM120** is needed, though, to provide clearer explanation in the policy's supporting text. As I understand it, this is a reference to 'live-work' units. However, the wording is a little ambiguous. While Policy

S7 lends explicit support to live-work units, this is confined to development within villages. To address this effectiveness issue, the Council has suggested a modification to Policy E1, stating plainly its encouragement of live-work units in both urban and rural areas (**MM221**). This change is appropriate and necessary.

Retail

247. As submitted, the Plan is silent about the level of retail capacity in the district and is not based on an up-to-date assessment in that regard. In short, it is unsound.
248. However, during the examination, the *Maldon Retail Study* (July 2015) [EB103] ('the Retail Study') has been produced for the Council. Using five survey zones based on postcodes, a telephone survey of 1,000 households underpins the study. Experian data is also drawn on to provide convenience and comparison retail expenditure per capita for each of the five zones. These figures are then, in effect, multiplied by the projected population to establish per capita expenditure over the plan period. Importantly, the methodology used in relation to population growth is consistent with that used to formulate the OAN and Plan requirement figures. While I note that a slightly different baseline population is used – reflecting the postcode zones which include some areas outside the district – this is a marginal discrepancy. It is not a significant factor and does not undermine the robustness of the approach taken.
249. Market shares are considered in order to identify the turnover for each shopping destination and the total turnover for the study area. This is then compared with the theoretical benchmark turnover – established using sales densities from Verdict, a retail data provider – to analyse whether or not 'over-trading' is taking place. From Table 6a, it is apparent that stores in Maldon are over-trading. I note that these figures assume an increase in expenditure and a constant market share. The former is based on data from Experian. The latter reflects the expectation that the attractiveness and proximity of shopping destinations outside the district is likely to continue throughout the plan period. That strikes me as a reasonable assumption, and there is nothing to suggest otherwise.
250. Finally, the Retail Study takes into account 'commitments' – retail developments for which planning permission has been granted. Turnover from commitments is subtracted from the over-trading expenditure surplus to arrive at a residual turnover figure. Floorspace requirements are then calculated by applying sales densities to the residual turnover. The Verdict sales densities relating to the actual retailer associated with each commitment have been used. Following an update in January 2017 to reflect a change in anticipated retailers, the Retail Study leads to a convenience capacity of 3,700 to 5,200 sqm and a comparison capacity of between 2,800 and 5,000 sqm to 2029. **MM121** explains all of this and will assist the Plan's effectiveness.
251. Like many aspects of plan-making, establishing retail capacity is not an exact science. Appropriate data sources have been used and the assumptions made appear reasonable. Overall, I regard the retail evidence to be suitably robust. It is therefore both necessary and justified to introduce a new paragraph into the Plan setting out the convenience and comparison retail capacities identified in the Study, as modified by the update, as the Council has suggested (**MM121**).
252. Notwithstanding the identified capacity, the Council's stance is that no land allocations should be made for retail development at this time. This is because of a retail scheme on which development has commenced at the Causeway in Maldon. The Council considers this to be a significant step-change in the district's retail provision. Given the large scale of the project, which as **MM225** clarifies is a new shopping complex including a new food store, comparison shopping in large format units and a new hotel, I concur. Indeed, on this basis I agree that the impacts of the Causeway scheme should be established through monitoring before any decision about

providing further land is taken. This approach reflects the advice of the Retail Study. **MM121** introduces text explaining this position and commits the Council to a two year period of monitoring once the Causeway scheme commences retail trading. It also includes a commitment to review the evidence after that two year period and to undertake a partial review of the Plan if that evidence suggests a need to allocate land for new retail floorspace. These are necessary, justified and effective measures.

253. I note the point that the ‘trigger’ for the two year monitoring period should be the first day of trading of the last store. But it is possible that that could be some considerable time away. While I recognise the imperfection of the Council’s policy approach, it will at least ensure that monitoring does actually take place. There is nothing to prevent further monitoring after the two year period if it proves to be necessary.
254. **MM121** also says that during the two year monitoring period, the Council will only allow major new retail development in the town and district centres, and in the two new Garden Suburb local centres. The general locations of the latter are now established through outline planning permissions. In my view, this approach is both appropriate and consistent with national policy. Through **MM227**, proposals for town centre uses in the Garden Suburb local centres will be exempted from the Framework’s sequential test requirement. As sequential testing has already been undertaken for each through the planning application processes, this is satisfactory and adequately consistent with the Framework. In addition, the Council has proposed to indicate the general location of the proposed Garden Suburb local centres on the policies map. This represents a geographic illustration of Policy S4 – it is this policy that requires the centres to be provided – and will need to be added to broadly reflect the outline planning permissions given.
255. The Retail Study considers the question of ‘Local Impact Thresholds’, which paragraph 26 of the Framework suggests should be set locally. It recommends two thresholds – 1,500 sqm in Maldon and Heybridge and 1,000 sqm in Burnham and the rest of the district. The Council has put forward a main modification to Policy E2 introducing these (**MM122**). Given their relative size and roles, I concur that Maldon and Heybridge should have a higher threshold than Burnham and the wider district. I note that the Retail Study does not arrive at the precise threshold levels through any especially systematic analysis, and others have suggested different thresholds. This is a matter of judgement. No alternatives of more methodical origin have been put to me, and I have been given no compelling reason to diverge from the Retail Study.
256. Policy E2 relies in part on Town Centre Areas and Primary and Secondary Retail Frontages. These are shown on the policies map. Their precise demarcation has been derived, partly at least, by the Replacement Local Plan (2005). However, it is apparent that, to one degree or another, they have been analysed through various studies since then, including the *Maldon District Retail Monitoring Survey* (December 2012) [EB049], the *Maldon District Retail Monitoring Report* (November 2014) [EB049b] and by the Retail Study. On the evidence, I am satisfied that their delineation is adequately justified.
257. In Primary Retail Frontages, Policy E2 resists non-A1 uses unless the development would not lead to a new continuous frontage of three or more non-A1 uses. Consistent with the Framework, the aim here is to avoid harm to the vitality and viability of the Primary Retail Frontages. The Council says that the threshold involved will in effect maintain the present position – that is to say that it would ensure that no greater gaps between A1 uses would be created. In this context, I regard the threshold to be reasonable.
258. A modification has been put forward by the Council to only permit non-retail uses in Town Centre Areas where there would be no significantly adverse impacts on the vitality and viability of the centre or other centres (**MM025**). As submitted, the word ‘significantly’ was not included. It

seems to me that any adverse impacts must be significant to warrant rejecting a scheme. Proposals should not be resisted on the basis of insignificant impacts. Consequently, **MM025** is reasonable and justified.

259. **MM122** introduces into Policy E2 the sequential test in paragraph 24 of the Framework. In my view, that is an appropriate approach.

Community services and facilities

260. New development proposals are required by Policy E3 to contribute towards the provision of community facilities where the development will lead to an increase in need for such facilities as a result. That is appropriate, in principle. In practice, in all likelihood, planning obligations would be used to secure such contributions. The Community Infrastructure Levy Regulations 2010 (as amended) ('the CIL Regulations') prescribe limitations on the use of obligations, and these are repeated in paragraph 204 of the Framework. Planning obligations must be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. The Council has suggested adding to the policy that its demand is subject to these legal tests (**MM229**). That is necessary for consistency with the CIL Regulations and the Framework, and for effectiveness. The Council has also suggested the inclusion of a 'viability clause' (**MM229**). This is also needed for effectiveness, and also to ensure that the policy is both adequately consistent with national policy and justified.
261. Paragraph 4.28 provides a non-exhaustive list of community services and facilities. Adding cultural facilities to it, as the Council suggests is appropriate (**MM027**).

Agricultural and rural diversification, and tourism

262. Both the rural economy and tourism feature in the Plan's objectives. Objective 4 aims to facilitate appropriate rural enterprises, while Objective 5 seeks to develop and support sustainable tourism.
263. These broad aspirations are carried through into Policies E4 and E5. The former supports new buildings or activities associated with agriculture and other land based rural business, and allows such developments in the countryside, in certain circumstances. The latter both protects existing tourism uses and supports developments which contribute to the growth of tourism in a sustainable manner.
264. Overall, I consider that the Plan takes a positive approach to rural businesses and tourism. On the whole, it does all one could reasonably expect to support rural economic growth.
265. That said, the impact of tourism developments can have negative effects on the quality of life of those living nearby. Unacceptable impacts should not be allowed, and I agree that **MM232** is necessary for effectiveness in this regard.
266. In addition, as submitted, Policy E5 refers to the need for a project level Habitats Regulations Assessment where internationally and nationally designated sites may be affected. Such assessments only apply to international sites. It is therefore necessary to delete the reference to nationally designated sites, as the Council proposes (**MM233**). **MM067**, also put forward by the Council, introduces greater explanation and will help the policy's effectiveness.

Skills, training and education

267. As submitted, Policy E6 requires all strategic and other developments to contribute towards the delivery of additional local employment and vocational training initiatives. There is no evidence to indicate that this, as a matter of policy, meets the limitations on the use of planning

obligations. The Council has suggested altering the wording to include a 'viability clause' and to encourage contributions rather than demand them (**MM046** and **MM047**). I agree that that is as far as the Plan can reasonably go in this regard, and the modifications are necessary.

Conclusion on Issue 6

268. Considering the above, with the main modifications put forward by the Council and as discussed above, I conclude that the policies for economic prosperity are justified, effective, consistent with national policy and positively prepared.

Issue 7: Whether the policies relating to design and climate change are justified, effective, consistent with national policy and positively prepared

Design quality and the built environment

269. Policy D1 relates to design quality and the built environment. It sets out a list of criteria concerning aspects of design that developments must meet. I particularly note that criterion 10) encourages inclusive design and the effective use of internal and external space. Overall, this policy avoids over-prescription and I consider the criteria to be appropriate. Taken together, and in combination with Policy T2, which I consider below, they are generally consistent with the Framework's paragraphs concerning good design and promoting healthy communities.

Climate change and environmental impact of new development

270. Policy D2 seeks to ensure that developments minimise their impact on the environment. To that end, criterion 1) requires that they minimise energy demands and greenhouse emissions and maximise the use of energy from decentralised and renewable or low-carbon sources. Criterion 2) insists that residential schemes achieve a minimum of Level 4 of the Code for Sustainable Homes, and criterion 4) expects all development to implement zero carbon build standards in accordance with national planning policy and guidance. Criteria 5) and 6) require developments to maximise the use of building materials from sustainable sources, to apply sustainable construction methods and to reduce water consumption.

271. The Written Ministerial Statement of 25 March 2015 is clear that local plans should not set any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings. The streamlined system introduced through the Ministerial Statement instead rests on the mandatory Building Regulations. Optional, nationally set Building Regulations can be applied where there is a local plan policy giving effect to them. Any such policy must address a clearly evidenced need and have considered the impact on viability. The Council has made no case for the application of the optional Building Regulations standards.

272. Consequently, in my view, the criteria set out in Policy D2 are not consistent with the new national policy. They seek to introduce into the local plan technical standards of the kind the Ministerial Statement aims to prevent. As such, modifications are necessary to remove these local technical housing standards from the Plan. Put forward by the Council, main modifications **MM195**, **MM197** and **MM199** do just that.

273. Although the Council has suggested altering criterion 5) it would still demand that, where appropriate, building materials from sustainable sources should be maximised, and that sustainable construction methods should be used. But in my view this is not sufficiently effective. It leaves open entirely the questions of what a 'sustainable source' of building materials might be, and what kinds of construction methods are 'sustainable'. It would not provide a decision maker with a clear indication of how they should react to a development proposal. To be effective, it is

likely that more specific standards would be needed, but that would be inconsistent with the Ministerial Statement and none have been suggested. For effectiveness and consistency with the Framework, it is necessary to delete criterion 5), and I have added this to **MM195** accordingly.

274. While I note that the Council also suggested deleting criterion 3) of Policy D2, this relates to non-residential developments and as such is not affected by the Ministerial Statement. This change is therefore not necessary for soundness and I have consequently not included it.
275. I recognise the point made by the Environment Agency that Maldon lies within a 'serious water stress' area, such that the optional Building Regulations standards should be applied in relation to water. As the Environment Agency indicates, there is some evidence to support this argument. However, while the viability appraisals include testing against Level 4 of the Code for Sustainable Homes, the Council has not made out a case for the higher water efficiency standards. In the context of the evidence put forward in this examination, I am not sufficiently persuaded that there is a clearly evidenced need for them. As a consequence, a policy giving effect to the optional water efficiency standards is not necessary for soundness. However, as I have indicated previously, local authorities are statutorily required to keep under review matters which may be expected to affect the development of their area or the planning of its development. Although a matter for the Council, in my view this is one issue for which the evidence base should be expediently reviewed and, in that light, the effectiveness of the policy position considered.
276. I note the Council's intention to incorporate national standards into supplementary planning documents. However, that is a matter for the Council. Adding reference to this intention is not necessary for the effectiveness of this Plan. I have therefore not included the modification suggested by the Council on this point.
277. The Council has proposed to add to Policy D2 the requirement that developments must take account of the economic and other benefits of preserving the best and most versatile land, and seeks to prioritise the use of poorer quality land (**MM066**). It also suggests a requirement that negative impacts on ecology, landscape and green infrastructure should be minimised (**MM065**). Both of these changes are consistent with the Framework and are necessary.

Conservation and heritage assets

278. Policy D3 seeks to control developments that affect a heritage asset. However, as submitted, it is not adequately consistent with the Framework. While it requires that developments preserve or enhance the special character of heritage assets, it does not include the same requirement in relation to their appearance. This falls short of the statutory provisions. It demands that the change of use, extension, addition, alteration and demolition of any heritage asset or any building within a conservation area is clearly and convincingly justified. That is inconsistent with the Framework – paragraph 132 requires a clear and convincing justification for any harm to or loss of a heritage asset – and is unjustifiably onerous. Perhaps more fundamentally, the submitted policy does not properly reflect the two-tier approach set out in the Framework (paragraphs 132, 133 and 134) relating to 'substantial harm' and 'less than substantial harm'. Moreover, it only allows 'enabling development' where the public benefits clearly outweigh the harm it would cause. That is a more onerous approach than that set out in paragraph 140 of the Framework, and the Council offers no particular justification for it.
279. In the light of these shortcomings, the Council has undertaken a quite comprehensive re-write of Policy D2, and put forward its proposed revisions through **MM203** and **MM204**. Changes to the paragraphs supporting it are also proposed (**MM206**). The modified wording addresses all of the deficiencies. However, having regard to the comments from Historic England, I have altered the detailed wording of both **MM203** and **MM204** to ensure that the policy is satisfactorily consistent

with the Framework. This will ensure the policy's effectiveness.

280. Policy S3 says that the historic and built environment is instrumental in establishing landscape character. However, I agree that it also establishes built character. The change suggested by the Council to reflect this (**MM003**) is therefore appropriate and necessary.
281. I understand that the Council no longer benefits from numerous grant schemes to fund historic environment related projects or activities. Consequently, for effectiveness reasons, these should not be referred to in the Plan (**MM202**). However, it is appropriate to set out the Council's commitments regarding heritage assets, including in respect of monitoring, maintaining an up-to-date risk register, and working proactively to help protect and preserve such assets. **MM205** is therefore also needed.

Renewable and low carbon energy generation

282. Policy D4 offers support, in principle, for large-scale renewable and low carbon energy projects and says that the Council will approve such schemes provided that certain adverse impacts are avoided. It is, in short, an appropriately positive and supportive policy that is consistent with the Framework's core planning principle of encouraging the use of renewable resources.
283. However, a Written Ministerial Statement was published on 18 June 2015, after the submission of the Plan. This makes it clear that planning permission should only be granted for wind energy developments if:
- a) the site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan; and
 - b) following consultation, it can be demonstrated that the planning impacts identified by affected communities have been fully addressed and therefore the proposal has their backing.

The PPG has been updated to reflect this Ministerial Statement.

284. The Plan does not seek to identify areas suitable for wind energy development, and the Council does not intend that it should. Consequently, the Plan as originally submitted is not consistent with the most recent expression of Government planning policy for onshore wind development. To rectify matters, the Council has put forward main modifications to Policy D4 (**MM208** and **MM209**) and to its supporting text (**MM210**, **MM211** and **MM212**). These changes exclude wind energy developments from the policy's supportive stance and provide for the identification of suitable areas for such schemes through Neighbourhood Plans. They also ensure that proposals will be determined in accordance with national planning policy and guidance. In the circumstances, I agree that making these changes is the most appropriate path.

Flood risk and coastal management

285. Policy D5 aims to minimise flood risk and, among other things, introduces into the Plan the sequential and exception tests set out in national policy. That is appropriate. It is, though, necessary to add to its supporting paragraphs the clarification that proposals must demonstrate that they will be safe for their future users (**MM022**) and that site-specific flood risk assessments will be required where appropriate and consistent with national policy (**MM023**).

Advertisements

286. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) ('the Advertisement Regulations') state that "A local planning authority shall exercise

its powers under these Regulations in the interests of amenity and public safety". Paragraph 67 of the Framework says that advertisements should be subject to control only in those respects. Criterion 3) of Policy D6, though, says that consent for signs to be illuminated will be considered in relation to functional need, among other things. It applies a blanket restriction on internally illuminated signs in residential areas and where a listed building or a conservation area is affected. In addition, criterion 4) of the policy also includes the consideration of the need for an advertisement. These measures go beyond the statutory powers and are unduly onerous or restrictive, having regard to the Framework and the PPG. There is no justification for this.

287. Main modifications (**MM216** and **MM217**) proposed by the Council are necessary. The new wording suggested by the Council is appropriate and consistent with the Advertisement Regulations, and national policy and guidance.
288. However, as drafted by the Council, **MM216** does not permit illuminated signage where it would harm conservation areas and listed buildings. But such signage can affect other types of heritage assets. For effectiveness, I have, therefore, altered **MM216** accordingly.

Conclusion on Issue 7

289. Considering the above, with the main modifications put forward by the Council and as discussed above, I conclude that the policies relating to design and climate change are justified, effective, consistent with national policy and positively prepared.

Issue 8: Whether the policies relating to green infrastructure are justified, effective, consistent with national policy and positively prepared

Green infrastructure network

290. Policy N1 seeks to ensure that green infrastructure is protected from development and enhanced. That is a laudable and appropriate aim. However, as submitted it has some effectiveness shortcomings. To rectify matters, the Council has put forward main modifications. **MM245** is necessary to ensure that the policy provisions relate not only to green infrastructure identified in the Plan, but also any other green infrastructure that either presently exists or that is provided during the plan period. **MM246** introduces a reference to the tests regarding the limitations on the use of planning obligations set out in the CIL Regulations and the Framework, and a 'viability clause'. These changes are needed for effectiveness, and also to ensure that the policy is both adequately consistent with the CIL Regulations and national policy, and is justified.
291. Paragraph 6.7 of the Plan explains that the term 'green infrastructure' covers a wide range of assets and lists numerous examples. Existing green infrastructure 'sites' are listed in Appendix 5 of the Plan and are shown on the policies map. Local wildlife sites and natural and semi-natural greenspaces are among the numerous categories of green infrastructure. However, it is clear from the letter produced in evidence from the Essex Wildlife Trust that part of the Maldon Wick site, given the reference Ma35 in Appendix 5, is not a local wildlife site. It is therefore necessary to alter the entry in Appendix 5 to clarify that the land in question is that south of Limebrook Way, as the Council has suggested (**MM277**). As a consequence, the geographic illustration of Policy N1 and Appendix 5 of the Plan, as shown on the policies map, will need to be altered accordingly.
292. I note the suggestion that the settlement boundary should also be amended to include the part of this site to the north of Limebrook Way. However, the exclusion of this land from the local wildlife site does not mean it should become part of the settlement. I appreciate that it is surrounded by existing and proposed development, and is not part of the countryside. It is something of an anomaly in this respect, and the situation is perhaps not ideal. But including the

land within the settlement boundary would alter the policy stance applying to it. In short, it would benefit from greater policy support for development. However, no specific use has been promoted. The identified needs for new land for housing and employment uses are already met through the Plan. As I have explained, there is good reason for not presently bringing land forward for retail development. In the context of all this, and my concerns about infrastructure capacity, I see no particular reason why it is necessary for soundness to include this land within the settlement at the present time. In my view, it is not.

293. The *Maldon Green Infrastructure Study* (September 2011) [EB041a] considers natural and semi-natural greenspaces. However, it is clear that this study does not undertake any site-by-site analysis of such spaces, and no qualitative assessment has been attempted. In the light of this, at the hearing, the Council said that whilst this study provides useful information for the Council, it does not provide the sort of evidence necessary to justify specific protection in the Plan. I agree. I therefore concur with the Council that the section in Appendix 5 relating to natural and semi-natural greenspaces should be deleted (**MM278**). Again, a consequential change to the policies map will be necessary to ensure that Policy N1 and Appendix 5 of the Plan are sound.
294. It is the Council's intention that routes for horse riding should be regarded as green infrastructure. I agree that this is appropriate. However, the Plan is not clear on this point. It is therefore necessary for effectiveness to add to it references to horse riding routes as the Council has suggested in **MM030**, **MM034**, **MM169**, **MM171**, **MM191**, **MM244** and **MM256**.
295. Parks are listed as green infrastructure in Appendix 5 of the Plan. However, the entry says that they are owned by either the Council or the Town or Parish Council. Some are not. For clarity, this should be rectified as the Council suggests (**MM040**).
296. Ancient Woodland is patently 'green infrastructure' in the terms of the Plan. For effectiveness, ancient woodlands should be listed in an entry in Appendix 5. **MM279**, proposed by the Council, does this and is necessary.
297. Concerns have been raised about the effect of the North Heybridge Garden Suburb on Heybridge Wood. The Council's hearing statement clarifies that it is 'Ancient Replanted Woodland' on the Register of Ancient Woodland (England). In short, it is green infrastructure in the terms of Policy N1, and is covered by the presumption against any development which may lead to its loss, degradation, fragmentation and/or isolation. I see no reason why the new housing development need result in any of these effects. Indeed, in my view they can be avoided, and should be. Ensuring this is a detailed matter for the Council to resolve through the planning application process.

Natural environment, geodiversity and biodiversity

298. Policy N2 requires developments to seek to deliver a net biodiversity and geodiversity gain where possible. That is reasonable and generally consistent with national policy. However, it should be properly reflected in the supporting paragraphs. To ensure this **MM068** is necessary. It requires an assessment for developments which could have an adverse effect on sites with designated features and or/protected species, in line with the statutory framework. However, it omits specific reference to priority habitats and priority species. Put forward by the Council, **MM031** and **MM032** add references accordingly, and are necessary for effectiveness. **MM033** is needed to clarify that where the creation or relocation of habitat is required, there should be no net loss of connectivity to the local ecological network.
299. The Council intends that Local Geological Sites should be among the locally important sites listed in the policy clarification. That is appropriate, and to this end **MM069** is necessary for

effectiveness.

Open space, sport and leisure

300. As submitted, Policy N3 requires that all developments contribute towards improving the provision, quality and/or accessibility of open spaces, sports, and community and leisure facilities. As with Policy N1, the Council has suggested a modification (**MM249**) introducing a reference to the tests regarding the limitations on the use of planning obligations and a 'viability clause'. For the reasons given in relation to Policy N1, these changes are necessary.
301. Policy N3 also aims to ensure that the provision of open spaces, sports, and community and leisure facilities is not unacceptably eroded and enhanced. However, because of its drafting, the policy is not entirely clear or explicit. To ensure its effectiveness, the Council has put forward a main modification setting out a re-draft of the policy (**MM249**). This unambiguously does not allow developments on open spaces and other such facilities unless it is surplus to requirements, would be replaced, or unless the development is for alternative sports or recreation provision, the need for which clearly outweighs the loss involved. I consider **MM249** to be effective and necessary. The wording used closely follows that of paragraph 74 of the Framework, and is consistent with it.
302. Supporting Policy N1, paragraph 6.25 of the Plan says that "*all open spaces are designated in the Proposals Map*". Even if that is so, it is likely that new spaces will be created during the plan period. In my view, all open spaces, whether shown on the policies map or not, should be subject to the provisions set out in Policy N3. To this end, the Council has proposed deleting this sentence from paragraph 6.25 (**MM250**), and **MM249** clarifies that Policy N3 applies to both the open spaces shown on the policies map, and any others which exist or are newly created. These changes are needed to ensure that the Plan effectively protects open spaces from development.

Conclusion on Issue 8

303. Considering the above, with the main modifications put forward by the Council and as discussed above, I conclude that the policies relating to green infrastructure are justified, effective, consistent with national policy and positively prepared.

Issue 9: Whether the policies relating to sustainable transport and accessibility are justified, effective, consistent with national policy and positively prepared

Sustainable transport

304. Support is given through Policy T1 to the delivery of a more sustainable transport network for the district. The policy sets out a number of specific measures in this regard, including the provision of sustainable transport in new developments, giving priority to other modes of transport over the use of the private car, improving access to railway services and developing a high quality, safe and more comprehensive cycle and footpath network. The broad thrust of the policy is consistent with the Framework and is appropriate.
305. I recognise that Policy T1 does not set out specific measures to be incorporated into new developments. However, in relation to the strategic allocations, other policies in the Plan do. It is necessary for effectiveness to refer to those in Policy T1, as the Council has suggested (**MM252**).
306. It is apparent from the hearings and other evidence that there is a gap between local residents' aspirations for more and better sustainable transport and the content of Policy T1 and the Plan more generally. I have no particular reason to doubt that the district would benefit considerably

from improved bus and rail services, and other sustainable transport networks. But one must be realistic. The delivery of sustainable transport solutions relies heavily on factors outside the Council's direct control. In this context, the role of the local plan is to create a positive and supportive policy environment. It is difficult to see what more Policy T1 could do in this respect. Including additional specific commitments as some suggest – for example to providing Park and Ride facilities and improvements to the Crouch Valley railway – would not be justified by the present evidence. I have been given no compelling reason to suppose that such measures are likely to be deliverable in the plan period. Overall, in my view, Policy T1 does all one could realistically expect.

307. A modification (**MM253**) has been suggested by the Council in relation to criterion 8) of Policy T1. As this will ensure that support is given to measures to ease traffic congestion, rather than just exploring the potential for such measures, I concur that it is necessary for effectiveness.

Accessibility

308. Policy T2 relates to accessibility. It aims to ensure that developments are located where there is physical and environmental capacity to accommodate the traffic likely to be generated. Among other things, it also requires developments to provide safe and direct routes for pedestrians and cyclists to nearby services and facilities, and to improve accessibility to buildings, streets and public spaces, particularly for those with mobility impairments. It is, in short, an attempt to create an accessible environment for everyone. This is complimented in many respects by the requirements concerning design, particularly inclusive design, set out in Policy D1. I have discussed these above. I consider this to be a commendable and appropriate policy approach. Indeed, my view, particularly through Policies T2 and D1, the Plan positively addresses matters of inclusive design and accessible environments and is adequately consistent with the Framework in this regard. The alteration put forward by the Council (**MM258**) clarifying that the requirements of Policy T2 only apply where relevant to the development involved will assist its effectiveness.
309. I note the point that that Policy T2 does not address matters relating to infrastructure and accessibility. But that is not its intention. Infrastructure requirements are set out in other policies. Ensuring that the delivery of new development and the infrastructure necessary – such as the South Maldon Garden Suburb and the associated relief road – results in the accessible environment sought by Policy T2 is a matter for the Council to address through the consideration of planning applications.

Conclusion on Issue 9

310. Considering the above, with the main modifications put forward by the Council and as discussed above, I conclude that the policies relating to sustainable transport and accessibility are justified, effective, consistent with national policy and positively prepared.

Issue 10: Whether the policies relating to implementation and monitoring are justified, effective, consistent with national policy and positively prepared

311. The Council's commitment to working with relevant partners and infrastructure providers are set out in Policy I1. Some specific commitments are listed, including about protecting and improving existing infrastructure. It sets out a requirement for planning applications to take into account infrastructure providers' business plans and programmes, and seeks to ensure that developments are appropriately phased. The policy also makes it clear that contributions towards the infrastructure and services necessary to support the development will be required. Linked to the policy, Table 1 sets out the pooling arrangements in relation to contributions from the strategic allocations. All of this is appropriate.

312. Other policies in the Plan identify for particular sites the specific elements of infrastructure to be delivered. Adding to Policy I1 a cross-reference to those policies, and to those policies a cross-reference to Policy I1, as the Council has suggested (**MM096**, **MM097** and **MM262**), is necessary for effectiveness.
313. The Council has also proposed to replace Table 1 with another, more detailed table showing the funding sources for the various infrastructure elements (**MM263**). This modification also includes adding to the Plan a table from the IDP showing the number of dwellings anticipated each year on each strategic site, along with the expected infrastructure delivery and its phasing. **MM036** clarifies that the South East of England Local Enterprise Partnership is among the possible sources of funding. In my view, setting out this information within the Plan is necessary for effectiveness and the monitoring of delivery.
314. A submitted, among other things, Policy I2 supports proposals for the delivery of a new community hospital or other similar healthcare facility. The reason for this is explained in paragraph 8.27. It says that St Peter's Hospital in Maldon is no longer able to provide an adequate setting for delivering modern, flexible and accessible healthcare provision. That may be so. However, it is apparent that no replacement for St Peter's is imminent, and there are presently no firm proposals for its replacement in the plan period. As such, it seems to me that Policy I2 is rather more hopeful than it is justified.
315. **MM265**, put forward by the Council, deletes this part of Policy I2. It sets out the Council's commitment to working with the NHS and other delivery bodies to ensure that the healthcare needs of the district are fully met. It also resists the loss of existing healthcare facilities, including St Peter's, unless appropriate new provision is made, and sets out a requirement for new developments to support healthcare provision. Moreover, and in my view crucially, it commits to a review of the Plan if NHS strategy development renders it necessary to do so. **MM036** explains that the primary care strategy is currently being prepared by NHS England. These changes are necessary to ensure that Policy I2 is properly justified and effective. With them, considering the context here and the particularly unavoidable reliance on the progress of NHS England's plans, the Plan does all one can reasonably expect to ensure that the district is provided with sufficient healthcare facilities.
316. Policy I3 relates to land known as Primrose Meadow. It permits development on it subject to certain criteria. It says that proposals must comply with a site specific brief endorsed by the Council, and that evidence must be provided to show that the development is essential to enable the expansion of the Plume School to meet projected needs.
317. There are a number of problems here. Perhaps the most fundamental is that the policy does not specify what kind of development will be allowed – one is entirely left guessing. In addition, the local education authority has confirmed that developing the site is not essential to ensure that the school can meet projected needs. Its development would generate funds to improve the facilities provided as part of the expansion of the Plume School. While I have no doubt that such 'betterment' is highly desirable, it is apparent that the conditions of the policy would not be met.
318. In the light of the above, I concur with the Council that both Policy I3 and the paragraphs supporting it should be deleted, as the Council has proposed (**MM267** to **MM272** inclusive).
319. Some suggest that the site should be identified as open space. Indeed, paragraph 8.31 of the submitted Plan indicates that "*it is well used by locals as local amenity greenspace*". However, I have also heard that access to the site is only on a 'permissive' basis and as such, as I understand it, could be withdrawn such that its open space function would cease. Whatever the case may be, I am not persuaded that it is essential for soundness to identify the land as open space on the

policies map. As modified by **MM249** and **MM250**, considered above, all open spaces will be protected from development whether identified on the policies map or not, unless the provisions in the re-drafted Policy N3 are met.

Conclusion on Issue 10

320. Considering the above, with the main modifications put forward by the Council and as discussed above, I conclude that the policies relating to implementation and monitoring are justified, effective, consistent with national policy and positively prepared.

Other soundness matters

321. On a number of occasions throughout the Plan, the policies require adherence to, or say that proposals “*must seek to meet*” standards, criteria or other matters set out in other documents. This includes documents such as the SHMA, the Affordable Housing Guide, the Strategic Housing Supplementary Planning Document and the Garden Suburb masterplans, to name a few. None of the documents concerned have been drawn up as development plan documents, or undergone the scrutiny of examination. Consequently, demanding adherence to them as a matter of local plan policy, thereby effectively giving them development plan status, is not appropriate. Rather, given the statutory framework applicable here, regard should be had to these factors as other considerations in the determination of planning applications. Modifications (**MM021, MM172, MM173, MM176, MM178, MM190, MM192, MM193, MM198, MM214, MM236, MM254, MM255, MM259** and **MM260**) proposed by the Council, reflect this and are therefore necessary. Clarifying that the masterplans should be in accordance with the Plan’s policies, and that they are for illustrative purposes and as a guide for developers, as the Council suggests (**MM050**), is appropriate and necessary for effectiveness. For consistency, I have retained the wording in **MM173** which reflects this, and have not deleted it as the Council most latterly suggested.
322. A number of policies and paragraphs in the Plan refer to the ‘proposals map’. However, the Local Planning Regulations refer to the map which accompanies a local plan as the ‘policies map’. The Council has clarified that this should be rectified. To ensure this, I have modified **MM276** so that the change applies to all instances of the term ‘proposals map’ in the Plan.
323. The key evidence base document supporting each of the Plan’s policies are listed as part of the supporting text. As will be apparent from this report, much of the evidence has been superseded, updated or evolved in some way since the Plan’s submission. The Council has suggested that the lists should be updated and has proposed modifications to that effect (**MM157, MM167, MM170, MM177, MM179, MM181, MM187, MM189, MM194, MM201, MM207, MM213, MM215, MM218, MM224, MM228, MM230, MM231, MM234, MM235, MM237, MM238, MM239, MM240, MM241, MM242u, MM242v, MM247, MM248, MM251, MM257, MM261, MM264, MM266, and MM272**). I concur that these will assist with effectiveness, and are necessary.
324. As amended through **MM183**, Policy S7 sets out a number of principles to guide land allocations made through Neighbourhood Plans. I agree that aiming to protect and enhance the natural environment, biodiversity and the green infrastructure network is one such appropriate principle. It should therefore be added, as the Council suggests (**MM064**). For effectiveness, the expectation that Neighbourhood Plans are in general conformity with the strategic policies of the Plan should also be clarified (**MM015**).
325. The Council has suggested deleting the identification of public rights of way from the policies map. While one must always look to the definitive rights of way map, it can be helpful to have these routes shown on the policies map, even if it cannot be relied on entirely. I see no compelling reason why the deletion proposed is necessary for soundness.

Public Sector Equality Duty

326. In his Interim Findings, the previous Inspector said:

"I have paid due regard to the PSED under the Equality Act 2010. If the Plan's housing policies were to be adopted (with modifications) then there would be a serious adverse outcome in equality terms for the protected Romany Gypsies and Irish Travellers racial groups. That further reinforces my conclusion that Policy H6 and the Plan's housing policies are not sound."

327. In simple terms and shortly put, the basis for this is that, at the time, the Council had no adequately up-to-date evidence of the need for traveller provision, nor did it intend to deal with the matter in the Plan by allocating necessary sites. The Council was at that point intending to produce a separate Gypsy and Traveller Local Plan later. The point here is that, as the previous Inspector put it in his Interim Findings:

"By contrast, market and affordable housing for the settled community would have specifically allocated sites in the other policies in the Plan in accordance with an objective assessment of their housing needs and so these people, unlike travellers, would be able to relatively easily find the homes they need over the plan period. Thus the adoption of the Plan's housing policies would disadvantage travellers as compared to the settled community. This difference between the settled community and travellers in the provision of their homes in the District is directly contrary to Government planning policies, the overarching aim of which are to ensure fair and equal treatment for travellers in the provision of sites (PPTS paragraph 3).

The overall result of the adoption of the Plan's housing policies would not advance equality of opportunity for a home between travellers and the settled community. The Plan would not remove or minimise the disadvantages that travellers face in finding suitable sites or pitches for a home, and nor would it take the proper steps necessary to meet their housing needs. It would add to, and not eliminate, discrimination against travellers. It would not foster good relations between travellers and the settled community because of the likelihood of increased planning disputes following the submission of planning applications or enforcement against unauthorised pitches."

328. However, as previously described, the evidential situation has developed significantly since then. There is now an up-to-date and in my view adequately robust base of evidence concerning the identification of need for travellers. Given that the modest need identified in the objective assessment has since been met through the grant of planning permission, and considering the review mechanism that will be committed to through the Plan, the resultant absence of land allocations is not an indicator of inequality.

Assessment of legal compliance

329. My examination of the compliance of the Plan with the legal requirements is summarised in the paragraphs below. I conclude that the Plan meets them all.

330. At the time the Plan was submitted, the approved Local Development Scheme (LDS) was that dated January 2014 [SD08]. The Council approved a new LDS in February 2017. The Plan has been prepared in accordance with the version of the LDS in force at the time, and its content is compliant with the LDS adopted by the Council in February this year.

331. The Statement of Community Involvement was adopted in February 2007 [SD07a] and amended through an Addendum approved in June 2012. Consultation on the Plan has been compliant with the requirements therein, including the consultation exercises concerning the post-submission proposed main modification changes.

332. Sustainability Appraisal has been carried out and is adequate. The Habitats Regulations Assessment Screening Assessments conclude that there will be no likely significant adverse effects on the integrity of international sites, alone or in-combination. Consequently, Appropriate Assessment is not necessary. Natural England is satisfied with the assessment and conclusions.
333. The Plan complies with the 2004 Act. However, as submitted, it does not comply with the Local Planning Regulations. Regulation 8 requires that where a local plan contains a policy that is intended to supersede another policy in the adopted development plan, it must state that fact and identify the superseded policy. The Plan includes no such statement. To remedy matters, the Council has put forward a main modification (**MM286**). This adds to the Plan an appendix setting out a list of the policies in the Replacement Local Plan (2005), showing the Plan policies which replace them. That is adequate to meet Regulation 8. The Local Planning Regulations are met in all other respects.
334. The Plan complies with national policy except where indicated above and modifications are recommended.

Overall conclusion and recommendation

335. The Plan has a number of deficiencies in respect of soundness and legal compliance for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored above.
336. The Council has requested that I recommend main modifications to make the Plan sound and/or legally compliant and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix the Maldon District Local Development Plan 2014 - 2029 satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

Simon Berkeley

BA MA MRTPI

This report is accompanied by an Appendix containing the main modifications.