

Planning Policy Advice Note V5

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1. National Planning Policy Framework and the presumption in favour of sustainable development

The Council is required to determine planning applications in accordance with its adopted Development Plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA 2004) and Section 70(2) of the Town and Country Planning Act 1990 (TCPA1990)). The National Planning Policy Framework (NPPF) is a material consideration in planning decisions (NPPF paragraph 196).

Paragraph 197 of the NPPF states that local authorities should apply the 'presumption in favour of sustainable development' when determining development proposals. Paragraph 14 of the NPPF sets out what the 'presumption in favour of sustainable development' means both in terms of plan-making and decision-taking. For decision-taking in particular, this means:

- approving development proposals that accord with the Development Plan without delay; and
- where the Development Plan is absent, silent or relevant policies are out of date, permission should be granted unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework (such as designated heritage assets or Sites of Special Scientific Interest) indicate that development should be restricted.

2. The Maldon District Replacement Local Plan

The Maldon District Replacement Local Plan (RLP) was adopted in November 2005 and the 'saved policies' still form the statutory Development Plan for the District. However, the RLP was prepared in accordance with Part II of the Town and Country Planning Act 1990 and the Planning and Compensation Act 1991. As the RLP was produced using national planning policy prior to the 2004 Act, in accordance with the requirements of the NPPF Para 215, due weight should only be given to relevant saved policies according to their degree of consistency with the NPPF. The greater the consistency with the NPPF, the greater the weight that can be given to the existing saved policies in the RLP.

The Council has undertaken an assessment of the consistency of key RLP policies with the NPPF, which was endorsed by Planning and Licensing Committee on the 3 October 2013 (Item 9, Appendix 2). Policies BE14, T1, T2, T4, CC6 and CC7 are considered to comply with the principles and policies of the NPPF. Policies BE1, BE13, H9 and E6 have a limited degree of conflict with the NPPF.

3. The Maldon District Local Development Plan (LDP)

The LDP is the emerging Plan for the District and will constitute the new up-to-date statutory Development Plan once adopted. The Council has made a number of important modifications to the LDP following submission in April 2014. An updated version of the LDP including these changes is available on the Council's [website](#).

The LDP, together with all relevant evidence and supporting documentation, were submitted to the Secretary of State for Examination-in-Public (EIP) on 25 April 2014. Public hearing sessions for the housing and infrastructure related policies (LDP Policy S1, S2, S3, S4, S6, S7, S8, H1, H2, H3, H5, H6, I1 and I2) took place between 20th January and 4th February 2015. Interim findings on the soundness and legal compliance of the housing and infrastructure policies of the Plan were issued by the Inspector on Tuesday 12th May 2015, followed by two letters of further correspondence IED16 and IED17.

In summary, the Inspector recommended the LDP to be withdrawn because Policy H6 (Provision for Travellers) and, by implication, the LDP is unsound and that the Inspector cannot rectify this through recommending main modifications or by suspending the Examination to give time for the Council to resolve the unsoundness. The Inspector also believes that it would not be *'relevant or helpful to make any comments now on the other housing and legal compliance matters [including the Council's objectively assessed housing need and proposed strategic housing allocations] because they would soon be overtaken by events'* (paragraph 9 of the Inspector's Interim Findings). The Inspector, however, noted the Council's land supply position is rapidly improving as a result of its proactive approach to bring forward LDP allocations and other housing sites (paragraph 6 of the Inspector's Interim Findings), and stated that *'whatever I do, or do not do, new homes on the allocated market housing sites will be built and the housing land that the Council proposes as being necessary for the settled community will largely be provided'* (Para 38, IED17).

In a response to the Inspector's Interim Findings (MDC's further response to Inspector's Interim Findings, 21 May 2015) the Council requested the Inspector to provide his interim findings on all policies subject to the Examination-in-Public hearing sessions in January and February 2015. The Council also suggested that the EIP should continue following receipt of the full interim findings, the finalisation and publication of the retail and employment studies, and an update of the identified need for Traveller pitches in the District. The Council also requested to the Secretary of State for Communities and Local Government (SoS) to call-in the Plan on the grounds that the interim findings represent a disproportionate response in terms of the Inspector's interpretation of national guidance.

The Secretary of State formally decided to call-in the Maldon District LDP under Section 21 of the Planning and Compulsory Purchase Act 2004 *'to test whether the planning inspector has taken a proportionate and balanced view on the local plan as a whole in the light of national planning policy.'* On the 6th March 2016, the Council received a letter confirming that Policy H6 is unsound but *'it was not proportionate for the inspector to find the whole plan unsound because he had not examined the whole plan'* and *"Having carefully considered the inspector's reasoning I disagree with his conclusion that Maldon District Council should not be given the opportunity to try to remedy the problems identified with Policy H6"* by continuing the examination of the Local Plan.

The SoS stated that the latest full assessment of housing need should be considered and given weight in accordance to the NPPF. He recognises that the Council has carried out a comprehensive assessment of housing need and that there is nothing before him to lead him to contrary view at this stage.

“The inspector raised nothing in his interim findings to suggest that the Council has not undertaken a comprehensive and objective assessment of the need for housing for the settled community in Maldon; there is nothing before me at this stage in the process to lead me to take a contrary view. I note that the Council’s intention is that the plan as submitted should be modified (Supplementary Statement [EB098c]) and has put forward revisions.”

This clarification supports the Council in providing significant weight to policies within the LDP, and supports the housing target used within the identification of the Council’s five year housing land supply.

The Secretary of State has therefore determined that the examination of the LDP should now resume. As the previous Inspector has retired, Simon Berkeley has now been appointed to examine the Plan. In his letter dated 7 April 2016, the new Inspector has identified a number of issues where further information or clarification is required before examination hearings can continue. The issues are related to provision for Travellers, the housing market area, highways and schools capacity, reserve sites, affordable housing provision, details on allocations, employment and retail. The Planning Policy Team has programmed a structure response to the Inspector on all these topics by July 2016.

4. Status of the relevant LDP policies

The NPPF (paragraph 216) states that decision makers should give weight to relevant policies in emerging plans (such as the submitted Maldon District LDP), according to the stage of preparation, the extent of unresolved objections to relevant policies, and the degree of consistency with the NPPF. The more advanced the stage of preparation, the greater the weight that can be given; the less significant the unresolved objections, the greater the weight that may be given; and the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given.

In terms of the progress of the LDP, the Plan has been published and submitted for Examination-in-Public. It has been the subject of extensive consultation at each stage of the Plan’s preparation. Public hearing sessions for the housing and infrastructure related policies (LDP Policy S1, S2, S3, S4, S6, S7, S8, H1, H2, H3, H5, H6, I1 and I2) took place between 20th January and 4th February 2015. These policies have been prepared in line with the NPPF requirements and are supported by a comprehensive and up-to-date evidence base, Sustainability Appraisal and extensive public consultation. The Secretary of State has resumed the examination of the LDP and therefore the policies which have been subject to public hearings are at a very advanced stage in their preparation.

The Inspector’s Interim Findings made no comments in relation to the soundness or legal compliance of any aspects of the LDP other than the Gypsy and Travellers’ provision. Therefore it is reasonable for the Council to conclude that the examined LDP policies (as amended) with the exception of Policy H6 can be attributed weight in decision making, as the Secretary of State confirms in his letter.

A number of concerns were raised by the Inspector during the examination on a

variety of issues surrounding the soundness and legal compliance of the LDP policies, and there are other objections made to the LDP. Additional information has been produced during and after the hearing sessions by the Council and other participants to address these concerns and objections. This includes further clarification on the extent of the Maldon Housing Market Area and additional viability information in relation to the Garden Suburbs and Strategic Allocations. A number of these objections have also been resolved through recent progress on strategic allocations including the granting of permission on a number of strategic sites. Where modifications have been proposed to the LDP to address concerns and objections, this is presented within the modified LDP (December 2015) available on the Council's [website](#).

Based on the above considerations the Council is satisfied that material weight should be given to LDP Policies S1, S2, S3, S4, S6, S7, S8, H1, H2, H3, H5, I1 and I2 in decision making.

5. Update to the Five Year Supply of Deliverable Housing Land

The Council has undertaken a full assessment of the Five Year Housing Land Supply (FYHLS) in the District and has concluded that the Council is able to demonstrate a supply of specific deliverable sites sufficient to provide for more than five years' worth of housing against the Council's identified housing requirements. The latest FYHLS statement was published in July 2015 and supersedes the previous version dated May 2014, and the interim update in January 2015. The FYHLS has now been updated in this Advice Note to include the most up-to-date assessment of housing delivery rates for the LDP Strategic Allocations and to concur with recent appeal decisions at the Former Timber Yard, Heybridge Basin (14/00742) and Land to the east of Pippins Road, Burnham-on-Crouch (14/00108).

In accordance with the Inspector's decisions as summarised in Table 2 below, 2,013 dwellings are deemed to be deliverable over the next five years (including allowance for a 5% local slippage rate which has been applied to the total amount of housing deemed deliverable in the next five years). This represents a total of 5.35 years' worth of housing land supply against an identified housing target of 1,881 dwellings over the next five years (including allowance for a 5% buffer applied to the sub-total in accordance with NPPF paragraph 47).

There are two main factors behind the rapid improvement of the Council's housing supply. Firstly, in July 2014 the Council resolved to invite and proactively encourage planning applications which are in accordance with Policy S2 of the LDP. The Council also resolved to proactively encourage planning applications which are considered to be sustainable, will contribute positively to the five year supply of deliverable housing land and will assist in demonstrating the deliverability of the LDP (Council minute 245 refers). As a result of the Council's proactive approach, by the end of March 2015 there were a total of 944 dwellings with extant planning permission compared to the figure of 497 dwellings at the end of March 2014. A similarly substantial improvement to the committed supply is also expected at the end of March 2016, the majority of which would be windfall.

Secondly, the Council has made significant progress in bringing forward strategic allocations identified in the LDP which will deliver significant amounts of housing in the next five years (See Table 1 and 2 below for further details of progress and phasing of delivery for the five year period). There are in total 11 strategic housing allocations in the LDP and planning permission has already been granted on four of these sites providing a total of 1,348 dwellings. Planning applications have also been

submitted on nine other allocated sites and the Council expects a planning application on the one site remaining in the near future (90 dwellings).

Table 1: Phasing of LDP Strategic Allocations (Based on latest September 2015 estimates)

Ref.	Site	Capacity	Planning progress	Estimated annual delivery **					Net 5-Year Land Supply
				2015/16	2016/17	2017/18	2018/19	2019/20	
S2(a)	South of Maldon (South of Limebrook Way)	1000	Outline Permission granted subject to S106.	0	0	25	40	85	150
S2(b)	South of Maldon (Wycke Hill North)	350*	Application received and pending consideration.	0	0	50	50	50	150
S2(c)	South of Maldon (Wycke Hill South)	117*	Outline Permission granted, reserved matters application refused.	0	0	39	39	39	117
S2(d)	North of Heybridge	1035	Application received and pending consideration.	0	0	62	88	88	238
S2(e)	Land to the North of Holloway Road	100	Outline Permission granted subject to S106.	0	0	34	33	33	100
S2(f)	West of Broad Street Green Road	100	Application received and pending consideration.	0	0	34	33	33	100
S2(g)	South of Maldon (Park Drive)	131*	Full Permission granted. Site work started, Phase 1 part complete.	0	43	44	44	0	131
S2(h)	Heybridge Swifts	100	Full planning application received. Site currently occupied.	0	0	0	0	0	0
S2(i)	West of Burnham-on-Crouch	180	Application received and pending consideration.	0	0	50	50	50	150
S2(j)	North of Burnham-on-Crouch (West)	180	Application received and pending consideration.	0	0	50	50	50	150
S2(k)	North of Burnham-on-Crouch (East)	90	No application received.	0	0	0	30	30	60
Total		3,383		0	43	388	457	458	1,346

* Figures and/or phasing have been updated to reflect the application's latest position

** Annual delivery rate based on an assumed maximum of 50 dwellings per annum per access point

There are further details on committed supply, discounted sites and the methodology used in the Council's latest Five Year Land Supply Statement (July 2015). Based on the updated delivery rates set out in the table above, the current five year supply situation is summarised in the following table (note that this updates Table 8, page 10, in the July 2015 Five Year Housing Land Supply Statement).

Table 2: Total deliverable housing land supply 2013/14 - 2017/18

Source of Supply	Units
Sites with extant planning permission (including permission granted on LDP strategic sites S2(c), S2(e) and S2(g); sites that are deemed potentially undeliverable are discounted)*	1021
Other strategic allocations identified in the LDP (see Appendix G)	998
Windfall Allowance	100
minus 5% slippage and non-implementation rate (* 95%)	-106
Total supply	2,013

*944 reduced by 23 because of slippage at Sadds Wharf.

The above calculation demonstrates that the Council has sufficient housing

supply to deliver 2013 dwellings over the next 5 years. Set against a requirement for 1881 dwellings, the Council can sufficiently demonstrate a five-year housing land supply of at least 5.35 years.

Given the progress made on strategic allocations, and the Council's resolution to proactively encourage planning applications in accordance with Policy S2 and the adopted Garden Suburb Masterplan SPDs, the Council has decided to attribute weight to relevant housing policies in the LDP (see section 4 above). Therefore the Council considers that it is appropriate to include the LDP strategic allocations of 998 and modest windfall allowance of 100 into the Council's five year housing land supply calculation.

As such, the Council is satisfied that the current Five-Year Housing Land position means that Paragraph 49 on the NPPF is not engaged and planning applications should now be considered on this basis. With a demonstrable housing land supply, the Council is in a stronger position to refuse development proposals which do not accord with the LDP, and importantly a stronger position to refuse applications which could threaten the delivery of sites allocated in the LDP and associated infrastructure. This position however does not automatically prohibit all development outside of settlement boundaries. Planning applications should be assessed on their own merits, taking into account relevant planning policies in the RLP, LDP, NPPF and other material considerations.

6. Recent appeal decisions on the Five Year Supply

Since the decision at Heybridge Basin Timber Yard which established the supply position of 5.35 years, the issue has been considered at 12 other appeals. 5 of the appeals determined that the Council could demonstrate a five-year housing land supply, and 7 did not make a judgement on the housing land supply as it was not relevant to the determination of the appeal. The relevant sections of these Inspectors reports are summarised in the table below:

Table 3: Recent Appeals Decisions

No.	Appeal Decision	5YHLS comments in the Inspectors report
1	14/00881 Burnt House, Lodge Lane, Purleigh - dismissed	Para 14: The Inspector concluded that the Council is able to demonstrate a five year housing land supply. <i>'I accord this decision considerable weight'</i> .
2	15/00136 Land fronting Normandy Avenue and to the rear of 5 Mildmay Road, Burnham-on-Crouch	Para 11: <i>'The appellant disputes that this is the case, but no detailed analysis of the Council's recent housing data has been undertaken to rebut the Council's position. Either way, I accept this development would assist in the supply of housing, but its contribution of two units would not outweigh the harm I have identified'</i> .
3	15/00070 Land adjacent Meadow Nursery, Park Lane, Tolleshunt Knights	Para 9: The Inspector concluded that the Council is able to demonstrate a five year housing land supply. <i>'I accord this decision considerable weight'</i> .
4	14/00108 Land to the east of Pippins Road, Burnham on Crouch - Allowed	Para 21: <i>'The parties accepted that there was no evidence before me that differed from the considerations before my colleague Inspector. I adopt her findings on all these matters...I find that the Council has demonstrated a 5 year supply of housing land'</i> .
5	14/01257 Land adjacent Shamrock Cottage, Tiptree Road, Wickham	Para 11: <i>'Since that time a 5 year supply has now been</i>

	Bishops - Allowed	<i>demonstrated, although it is disputed by the appellant, and I note the recent appeal decision in which the Inspector agreed that the Council does have a 5 year supply. However I do not consider it fundamental to my conclusion on this appeal to reach a conclusion on the validity of the Council's 5 year housing supply as, even if the supply is currently in excess of 5 years, the provision of one additional dwelling would not have a significant effect on this'.</i>
6	15/00020 Oaklands Park, Park Lane, Tolleshunt Knights - Dismissed	Para 9: <i>'The Council, in contrast to its earlier stance when it determined the planning application, has now appended evidence to show it has a five year supply of housing'.</i>
7	14/01165 Land at Bencott, Newport Avenue, Cold Norton - Dismissed	Para 15: <i>'I have noted the arguments put to me from both appellant and the Council. I appreciate that the proposed dwelling would contribute to housing supply and if it were a two bedroom dwelling it would meet an identified need for that size of property'.</i>
8	14/00496 Stow Bullocks, Stow Road, Purleigh	Para 18: <i>'In the absence of substantive evidence to the contrary and mindful of my Colleague's recent findings, the weight of evidence before me indicates that the Council can now demonstrate a five year supply of deliverable housing sites'.</i>
9	15/00270 Oakfields House, Hackmans Lane	Para 10: <i>'A recent appeal decision has also been submitted which appears to confirm this to be the case'.</i>
10	14/01227 Burnham Road Latchingdon (21 dwellings)	Para 14: Make no judgement either way.
11	14/00929 Oaktrees, The Street, Little Totham	Para 16: <i>'Whatever the position, the dwelling would make a small contribution to the supply of housing'.</i>
12	15/00166 Land off Creeksea Lane, Burnham-on-Crouch	<i>'The issue of housing land supply was considered in detail in appeal reference APP/X1545/W/15/3003795 and the Inspector found that the Council could show a five year supply. In the absence of more detailed or more recent evidence, I am inclined that accept that conclusion.'</i>

In an exception to the judgement above, two appeals in January 2016 stated that the Council did not have a five-year housing land supply. One appeal was for 115 houses at The Bull, Maldon Road, Great Totham (14/00936) which was conducted through a one-day Hearing on 18 August 2015, the other was for 90 dwellings at Land east of South Street, Tillingham. The Hearings for Great Totham and Tillingham took place prior to the Public Inquiry at Heybridge Basin Timber Yard appeal but the decision was not released until 25 January 2016. The Council does not agree with the conclusions of either of the two appeals as these decisions were made on the basis of an out-of-date Strategic Housing Market Assessment (SHMA).

The difference between these appeals is the establishment of a different housing requirement. Where both Public Inquiries established that a Full Objectively Assessed Need (FOAN) of 310 per annum is sufficient to give the Council a five-year housing land supply, the Hearing Inspectors had decided that the target should be 381 per annum. This decision is therefore dependent on the acceptance of the draft final June 2014 SHMA (EB010e) which is directly contrary to the Council's submitted FOAN evidence demonstrating that the draft final June 2014 SHMA is out-of-date and is an inappropriate basis for the calculation of FOAN.

The table below details a timescale depicting key documents and events leading to the Council establishing the FOAN as 310. It reveals that the Council has undertaken substantial additional work towards the FOAN since the Inspector's Key Concerns since the draft final SHMA was released in June. In particular, a demographically led projection was produced in September, followed by market signals testing (EB098d and EWT-M02b-01), consideration of employment signals (EWT-M02b-01) and a paper giving further evidence on the Housing Market Area (EWT-M02-02). The final SHMA was published in September using the latest demographic evidence and following scrutiny by the Council's demographic expert. Following the release of DCLG-2012 in February 2015, additional analysis demonstrating the difference between the Council's model and DCLG's was produced for the examination (EWT-M02b-01) and can be regarded as a sensitivity test for recessionary trends.

Table 4: Timeline of FOAN evidence

Date	Key Document/Event
April 2014	EB043d EPOA Edge Analytics Demographics Forecasts Phase 4
June 2014	EB010e DRAFT FINAL SHMA
June 2014	Inspector's key concerns
September 2014	EB098a/b Council's Additional Housing Evidence (NMSS)
September 2014	EB098c Supplementary statement of Housing Evidence
September 2014	EB010f FINAL SHMA published (following scrutiny by demographic expert)
September 2014	EB010g SHMA explanatory note
January 2015	Barton Wilmore alternative SHMA
January 2015	Council's Hearing Statements for EiP
January 2015	Examination in Public (EiP) – Audio recording available
February 2015	EB098d Council's comments on Chelmsford City Council's response to the Barton Wilmore SHMA
February 2015	EWT-M03b-01 Implications of DCLG 2012 projections
February 2015	EWT-M02-04 Barton Willmore Response to PBA comments on OAN
May 2015	Interim Findings
July 2015	(Braintree, Chelmsford, Colchester and Tendring) Objectively Assessed Housing Needs Study

7. Prematurity

The National Planning Policy Guidance (NPPG) states that the weight to be attributed to emerging plans increases during the plan-making process. The NPPF argues that an application that is premature is unlikely to justify a refusal of planning permission in the context of the presumption in favour of sustainable development other than in exceptional circumstances where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. In accordance with the PPG (Reference ID: 21b-014-20140306) such circumstances are likely to be limited to situations within the Maldon District where:

- I. The development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or

neighbourhood plan; and

- II. The development would prejudice the delivery of the emerging allocations (Policy S2) by utilising limited infrastructure capacity. This includes secondary school capacity in the Maldon and Heybridge area, as well as primary school capacity in the Burnham-on-Crouch area.

Where planning permission is refused on grounds of prematurity, the Council will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.

8. Infrastructure Capacity

As part of the LDP the Council has consulted all the relevant infrastructure providers to identify local infrastructure requirements taking into account strategic growth proposed. While the Council enjoys good working relationships with local infrastructure providers (e.g. Highways, Education, Health, Waste Water), sometimes these organisations may not be able to take a strategic view when assessing individual development proposals. In particular they may not be able to assess the cumulative impact of development proposals; they may not be able to take into account planned growth set out in the Council's Local Development Plan when advising on individual planning applications. As a local planning authority, the Council is ultimately responsible for ensuring that there will be sufficient infrastructure capacity to support the delivery of its future growth strategies. That is to say, where infrastructure providers may not be able to object to a particular development proposal, the Council could adopt a different view if this is supported by robust local evidence.

Significant infrastructure constraints have been identified in the Maldon and Heybridge area. In particular, development potential is limited by the ability of the Plume Academy to accommodate additional pupils. There are also constraints in the wider highway network (e.g. Wood Corner, Eve's Corner/Well Lane and Hatfield Peverel). Similarly, at Burnham-on-Crouch development potential is restricted by the limited capacity of local primary schools.

The LDP and the IDP have set out in detail how new infrastructure provision will be delivered to support planned growth in the District. Policy S2 (as amended following examination hearings) states very clearly that:

'Significant infrastructure constraints exist which will strictly limit the capacity for growth in Maldon, Heybridge and Burnham-on-Crouch in excess of that planned through the LDP. Any proposal for development in excess of the LDP requirements will need to demonstrate to the Council's satisfaction that:

- *It will not prejudice or delay the delivery of the Garden Suburbs, Strategic Allocations, or planned infrastructure improvements; and*
- *There will be sufficient infrastructure capacity to support the development.*

Proposals which may prejudice the delivery of the LDP, either individually or cumulatively, will be resisted by the Council.'

It is essential when determining planning applications to consider available infrastructure capacity in accordance with amended Policy S2.

Capacity of the Plume Academy

The Council, ECC and the Plume School are working together to maintain a 'live' table which provides up-to-date estimates of pupil numbers from both strategic allocations and other major housing developments / applications which may affect the future capacity of the Plume Academy.

With a capacity of 1,875 school places, the Plume Academy has indicated that whilst the pupil figure is subject to small annual fluctuation, overall the school is running at capacity. An additional 2-form entry expansion has been planned as part of the LDP growth strategy (after which it is highly unlikely that there will be physical capacity for further school expansion in the future). This expansion will in theory create an additional 501 school places; these additional school places will be used to accommodate pupils generated from the new LDP allocations in the Maldon and Heybridge area. It is estimated that new strategic housing allocations will generate a minimum of 504 new pupils, with no allowance having been made for windfall or rural allocations.

While estimated pupil numbers can be affected by other factors such as housing mix and future policies adopted by the individual schools, according to the latest monitoring data, pupil numbers expected from the relevant LDP allocations is likely to be higher than originally planned due to higher housing numbers and fewer 1 or 2 bedroom dwellings in the housing mix being proposed by developers through planning applications on strategic allocations.

Primary schools capacity in the Burnham-on-Crouch and Southminster area

Sites at Burnham-on-Crouch and Southminster are within the same primary school pupil forecast planning group of "Maldon Group 3 (Burnham/ Southminster)". (The Maldon Group 3 pupil forecast planning group comprises Burnham-on-Crouch Primary School, St Mary's Church of England Voluntary Aided Primary School and Southminster Church of England Primary School.)

ECC states, in the Joint Primary Education Capacity Statement submitted after the examination calculating that, operating at 100% capacity, there is primary school capacity to accommodate approximately 67 additional family dwellings beyond the 450 dwellings that is being allocated in the LDP for Burnham-on-Crouch. In addition, it was estimated that there is capacity for approximately 267 additional dwellings at Southminster. While the three primary schools in Burnham and Southminster (Burnham-on-Crouch Primary School, St Mary's Church of England Voluntary Aided Primary School and Southminster Church of England Primary School) belong to the same 'pupil forecast planning group', nevertheless, the two settlements are not within walking distance from each other and pupil capacities between schools are not easily transferable. Following the grant of outline planning permission for up to 75 dwellings at Land East of Pippins Road, Burnham-on-Crouch (14/00108), primary school capacity to accommodate growth in addition to the LDP Strategic Allocations is extremely limited.

While there may be some flexibility in calculating maximum school capacity and future pupil numbers, nevertheless, local evidence indicates that school capacities are stretched with planned LDP growth. This is particularly relevant in the Maldon and Heybridge area given that LDP housing allocations is likely to take-up all additional capacity of the Plume Academy even after the planned expansion and in view of the large amount of non-LDP housing schemes being proposed in the area.

The Council, together with ECC and local schools, must assess proposals on a site-by-site basis to decide whether a proposal will have significant detrimental impact, individually and cumulatively, on future school capacity which could undermine the LDP growth strategies.

9. Garden Suburb Masterplans, Strategic Allocations and future infrastructure pooling

Policy S2 of the LDP relates to Strategic Growth in the District and sets out details of the residential supply to meet minimum requirements between 2014 and 2029. Policies S3, S4 and S6 set out important development principles and requirements for the development of the Garden Suburbs and Strategic Allocations, including key infrastructure requirements.

The South Maldon Garden Suburb Strategic Masterplan Framework was endorsed by the Council as a material consideration for the determination of relevant planning applications on 11 September 2014. The North Heybridge Strategic Masterplan Framework was endorsed by the Council as a material consideration for the determination of relevant planning applications on 30 October 2014. Planning applications have subsequently been submitted for development of the Garden Suburbs and two sites have since been granted permission.

Policy I1 of the LDP sets out how the Council will seek to ensure the provision of required infrastructure, services and community facilities alongside new development. The Infrastructure Delivery Plan and the Infrastructure Phasing Plan identify strategic infrastructure projects which are directly related to individual sites and which are essential to make the development sites acceptable in planning terms and to deliver the proposals in the Plan. Key infrastructure requirements will be funded through pooled planning obligations and the pooling arrangements are set out in Policy I1. These documents are therefore material considerations in the determination of planning applications and must be closely adhered to.

Since 6 April 2015, the requirements of Regulation 123(3) of the Community Infrastructure Levy Regulations 2010 came into effect. This limits the funding or provision for any one specific infrastructure project or type of infrastructure to a maximum of five separate planning obligations.

In relation to the limits of Regulation 123, the Council can confirm that it has no concerns regarding the numerical limits of generic contributions and it has not received more than 5 generic contributions for any type of infrastructure in the District. Of the six sites identified where planning permission has been granted and contributions are due, work has commenced in respect of three sites and contributions have been received in respect of two of these to date. None of the income received for healthcare, highways works and pedestrian linkages has been spent, nor are there any implications in respect of pooling restrictions when contributions are received for education and open space purposes.

A model Section 106 agreement is now in use to ensure that the Council's requirements can be captured. The model S.106 agreement will be available on the Council's website and is being presented to applicants where S.106 agreements are required.

10. Reserve Sites

LDP Policy S2 identified three reserve sites as a contingency measure in case the housing allocations fail to deliver. During the LDP examination hearings the Inspector stated that inclusion of these reserve sites was 'misleading, unclear, not justified and not sound' and that the Council should not list specific reserve sites in the policy. In the light of the Inspector's concerns, the Council has proposed modifications to the LDP to remove all references to reserve sites. The proposed modifications to the LDP are set out within the modified LDP (December 2015) available on the Council's [website](#).

11. Retail Development

Studies for retail and employment have recently been published by the Council and now form part of the LDP evidence base.

The retail study projects requirements up to 2029, split into comparison and convenience floorspace. There is currently 5,842sqm of committed convenience and comparison retail floorspace outstanding in Maldon, including 2 foodstores in edge-of-centre locations. The study concludes that any further retail floorspace in the Maldon and Heybridge area should come forward towards the middle to end of the Local Development Plan period once the Aquila proposals in Fullbridge have been built out and have been open for trade for a reasonable period of time. In the longer term, the report suggests that any residual convenience retail capacity available by 2029 should be directed towards Burnham-on-Crouch. It should be noted that the report also recommends that the retail impact threshold should be lowered to 1,500 sqm in Maldon and 1,000 sqm in Burnham.

The report identifies capacity for an additional 3,400 sqm to 4,800 sqm net of convenience floorspace to meet the expenditure growth of the District by 2029 and it estimates that there will be 1,900 to 2,700 sqm capacity at 2019. It should, however, be noted that this capacity does not make allowance for planned retail space at the local centres in the proposed Garden Suburbs or the recently approved Lidl supermarket in the Causeway. For guidance, a 'local' format of a supermarket is typically in the region of 150sqm net. The study concludes there is no existing requirement for additional comparison floorspace at present and only marginal potential capacity of 2,800 to 5,000 sqm net by 2029.

With the approval of Lidl in the Causeway which comprises 1,391 sqm of net additional sales area, there is a residual capacity of between 509 and 1,309 sqm convenience floorspace in the period up to 2019, and capacity of comparison floorspace remains at zero. Proposed retail developments in excess of 509 sqm could therefore undermine the vitality and viability of Maldon town centre.

12. Rural Housing, Employment Allocations, and District-wide Travellers provision Development Plan Documents

The Development Plan Documents (DPD) will identify the rural housing and employment sites and gypsy and traveller pitches which are required to deliver the objectively assessed need identified in the LDP and supporting evidence base. The Council also commissioned an independent review on the latest Gypsy and Traveller Accommodation Assessment (ORS 2014) with regards to the District's future need for Gypsy and Travellers provision. Following this review, the Council has agreed to progress with a need for additional Travellers pitches of 32 pitches for 2014-2029.

The Council is currently progressing with a sites assessment exercise in order to identify sites for rural housing, employment and traveller pitches. The Council will publish a background paper and methodology for site allocations in the DPD alongside its Preferred Options consultation in late summer 2016.

13. Contact

If you have any queries, please contact Planning Policy Team.

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