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Our ref: 96256
Your ref:



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Natural England
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BY E-MAIL ONLY

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Dear Mr Coleman

Maldon District Council Draft Local Development Plan Consultation

Thank you for your letter dated 27th August 2013, consulting Natural England on the Maldon District Council Draft Local Development Plan.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

You will be aware that Natural England provided detailed comments on the Maldon Local Plan Preferred Options, in our letter dated 28th August 2012. We are pleased to note that many of these comments have been addressed through this further iteration of the draft Local Plan; our comments below therefore focus on outstanding concerns or additional issues that we feel need to be addressed to ensure compliance with legal and policy requirements.

Spatial Vision and Development Strategy

Policy S2 Strategic Growth

We note that strategic growth will be focused at the District's main settlements as they constitute the most suitable and accessible locations. We are pleased that the Council will promote sustainable development to deliver economic and residential growth whilst contributing to protecting and enhancing the natural environment.

The majority of the 4,410 dwellings between 2014 and 2029 will be delivered through sustainable extensions to Maldon, Heybridge and Burnham-on-Crouch in the form of Garden Suburbs and Strategic Allocations. The scale, type, uses and form of development will reflect their role as employment, retail and service centres, their level of accessibility, and environmental and infrastructure constraints.

Policy S3 Place Shaping

We support the development principles required to be incorporated in the proposals for the Garden Suburbs and Strategic Allocations.

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Policy S4 Maldon and Heybridge Strategic Growth

This policy seeks to enhance walking and cycling provision within the Garden Suburbs and beyond and also seeks increased and enhanced green infrastructure provision, which we welcome.

We are pleased that consideration will be given to the Maldon District Green Infrastructure Study (or subsequent document), in the provision of GI and that these areas will include provision that enhances and creates green corridors and spaces that link with the existing urban area, the Maldon and Heybridge Central Area including Maldon Town Centre, and the wider countryside. Strategic growth at Heybridge will also present an opportunity to provide a new Country Park for the District, and link to nearby existing open spaces and assets.

We also note and welcome that land between Langford Road and Broad Street Green Road in Heybridge will be developed as public open space, used for flood alleviation and for landscaping measures. To retain these areas as green open space will provide sufficient landscape buffering and prevent future coalescence between Heybridge and Langford. By locating a new country park in this area, it will also provide opportunities for better linkages with the existing green infrastructure network, for example the Elms Farm Park and the Blackwater Rail Trail. The area is also required to support surface water flood mitigation measures, in accordance with the Maldon and Heybridge Surface Water Management Plan. It is recognised that a significant amount of landscape buffering will be required on the entire length of both sides of the proposed relief road to provide a clear, defensible boundary which will help to shape the extent of the Heybridge garden suburb.

We welcome that key partners are expected to work with the Council to produce comprehensive masterplans for the Garden Suburbs at Maldon and Heybridge prior to any development taking place within these areas. Outside of the Garden Suburbs, development proposals in the Strategic Allocations will still be expected to be in compliance with the principles and overall requirements set out in Policy S4. Natural England would welcome engagement in the masterplanning process, particularly with regards to biodiversity and green infrastructure protection and enhancement.

We note that prior to development a detailed archaeological assessment will be required; we believe that prior to development all proposals should also be subject to detailed ecological assessment. We recommend that relevant policies are amended to include reference to this requirement.

The Plan identifies that there are capacity constraints associated with the sewerage network in the Maldon and Heybridge area. Strategic growth in the south of Maldon will require a sewerage strategy to identify the appropriate mitigation and infrastructure measures that will be necessary to support new development. Anglian Water has indicated that there are a variety of possible solutions that will need to be explored to establish the most cost-effective and appropriate measures for addressing sewerage constraints on land to the south of Maldon. As we have advised previously, the Plan needs to include confirmation that a deliverable solution is available which will enable growth south of Maldon to be delivered without having an adverse effect on the environment, including European sites; this is required to enable the HRA to conclude that Policy S2 is unlikely to have a significant effect on European sites. Reference should be made to the conclusions of the Water Cycle Study or other relevant study. Currently the HRA simply defers the potential for significant effect associated with additional sewage discharge to the EA consents stage; this is not acceptable and does not provide the level of certainty required to demonstrate no likely significant effect on European sites.

Policy S6 Burnham-on-Crouch Strategic Growth

We welcome the requirement for provision of increased and enhanced GI and other necessary infrastructure.

We note that prior to development a detailed archaeological assessment will be required; we believe that prior to development all proposals should also be subject to detailed ecological assessment.

Policy S7 Prosperous Rural Communities

We note that a Rural Allocations DPD will be produced to allocate land for a minimum of 420 dwellings in and around the District's villages, comprising 75 dwellings at North Fambridge and 345 dwellings in other rural villages. The Rural Allocations DPD will also include provision for village-scale employment, retail, and community uses to serve an identified settlement and its rural catchment area where necessary and appropriate.

We would advise that proposals should be required to protect and enhance the natural environment including biodiversity and GI.

Policy S8: Settlement boundaries and the Countryside

It is disappointing that reference to the protection of the countryside for its landscape, natural resources and ecological value has been removed and replaced with wording which only makes reference to the protection of the intrinsic character and beauty of the countryside. We would have preferred wording to protect natural resources and ecology to be retained; however, we acknowledge reference to this within other Plan policies.

Design and Climate Change

Policy D1 Design Quality and Built Environment

We support this policy and its requirement for development to protect and enhance the natural environment, including designated and non-designated areas of biodiversity and geodiversity, landscape and green infrastructure. Requirements to minimise the effects of noise and light pollution are also welcomed.

Policy D2 Climate Change and Environmental Impact of New Development

This is an important policy which Natural England strongly supports. However, we would wish to see reference to minimising impacts on ecology, landscape and GI. In our previous response we also recommended reference to the requirement for protection and enhancement of soils and agriculture, particularly BMV land in accordance with NPPF paragraph 112. We note reference to this within Policy D4 which relates specifically to development of renewable and low carbon energy generation; however, to ensure compliance with NPPF requirements this should apply to all development.

Policy D5 Flood Risk

We welcome that development must be compliant with, and contribute positively towards delivering the aims and objectives of other relevant strategies including the Maldon and Heybridge Surface Water Management Plan, the Shoreline Management Plan, the Catchment Flood Management Plans and any strategies adopted by the Marine Management Organisation.

Economic Prosperity

We would recommend that policies identify the need for development to protect and enhance the natural environment, including biodiversity, where possible.

Policy E5 Tourism

We assume that this policy would apply to the development of new and/or extensions (temporally and/or spatially) to static caravan parks as this does not seem to be mentioned elsewhere in the Plan. Given the propensity for such development to be located along the coast Natural England has concerns regarding the potential for proposals to have an adverse effect on sensitive wildlife sites through increased recreational disturbance; this issue does not seem to be specifically assessed through the Sustainability Appraisal / Habitats Regulations Assessment (SA/HRA). We are aware of a number of recent planning applications for caravan park development, where the applicant has had difficulty in demonstrating that the proposal, through increased recreational disturbance of the wintering bird qualifying features, would not have an adverse effect on the integrity of a European site. We therefore believe the issue of caravan park development and potential increased recreational disturbance needs to be fully addressed through the Maldon Local Plan HRA; where uncertainties remain the HRA should, as a minimum, identify the requirement for proposals to be subject to project level HRA, to ensure no significant effect on European sites are likely.

Whilst we support the current policy requirement under point 4) for development to demonstrate that adverse impacts on the natural environment will be mitigated, further to our comments above we would like to suggest the following alternative wording:

'4) development will not have a significant adverse effect on the natural environment, demonstrated through a project level HRA where relevant to European sites'

Housing

Policy H4 Effective Use of Land

We note that the requirement to prevent the loss of ecological interest only applies to proposals for extensions to the existing curtilage into the countryside; we would advise that the need to protect and enhance ecological interest and provide net biodiversity gain should apply to all residential development, in line with NPPF requirements and to reflect the SA finding that the policy will provide minor positive impacts for environmental objectives including biodiversity.

Natural Environment and Green Infrastructure

Policy N1 Green Infrastructure Network

We fully support this policy to identify, enhance and manage a strategic multi-functional network of green infrastructure. Development which results in the creation, restoration, enhancement, expansion and interconnection of these sites will be encouraged whilst there will be a presumption against any development which may lead to the loss, degradation, fragmentation and/or isolation of existing or proposed green infrastructure.

Policy N2 Natural Environment and Biodiversity

We welcome in section 6.14 that to protect the District's natural environment and biodiversity, developments should not have a detrimental impact on sites of local ecological significance both in

terms of quantity, quality and connectivity. The Council may require the developer to submit an ecological survey where there is a reason to suspect the presence of important wildlife or habitats.

Natural England fully supports this policy which requires protection and enhancement of biodiversity, including designated sites, through development. We would recommend geodiversity is also referenced here, together with a requirement for developers to seek to deliver net biodiversity and geodiversity gain where possible, in line with NPPF requirements.

We also welcome reference to the mitigation hierarchy to ensure developers first seek to avoid adverse effects, providing mitigation only where avoidance is not possible and considering compensation as a last resort.

Policy N3 Open Space, Sport and Leisure

We generally support this policy which stipulates that, in principle, all development must contribute towards improving the provision of local and strategic open space, sports, community and leisure facilities. The policy also requires that appropriate contribution or direct provision should be provided at the most accessible location, taking into account the Council's Green Infrastructure Study or other relevant strategies adopted by the Council.

Natural England welcomes that development that would result in the loss of, or negatively impact upon, any public rights of way or any space/facility contributing towards the integrity of the green infrastructure network, will not normally be supported.

Transport

Policy T2: Accessibility

We welcome requirements for the protection and enhancement of Public Rights of Way.

We would recommend that the policy should identify that only schemes which can demonstrate no adverse impacts on the natural environment will be taken forward. The policy should also specifically encourage access to the natural environment.

Policy I1 Infrastructure and Services

Natural England is pleased to note that where appropriate, necessary infrastructure will be required to be delivered in advance of development taking place to ensure that community and environmental benefits are realised from the start of development. Developers will be required to contribute towards local and strategic infrastructure, including GI, through Section 106 contribution or CIL.

Policy I3 Primrose Meadow Planning Brief

We understand that this site is well used by local residents as a local amenity greenspace hence we welcome that a minimum of 1.3 hectares of the site will have to be retained as amenity greenspace.

Sustainability Appraisal Report

We believe the methodology, assessment and recommendations in the report generally meet the requirements of the SEA Regulations in assessing the effects of the Plan on environmental, social and economic objectives. The Sustainability Appraisal identifies appropriate mitigation to offset adverse effects and this appears to have been implemented through the relevant Plan policies;

however, please see our comments on Policy E5 and the HRA regarding the potential effects of caravan park development, through increased disturbance, on designated wildlife sites.

Habitats Regulations Assessment

Recreational disturbance

We are generally satisfied with the detail of the assessment and its conclusion that policies within the Local Plan are unlikely to have a significant effect on European sites. However, we believe that the potential effects of increased disturbance through Policy E5 Tourism, and in particular the development relating to holiday caravan parks along the coast, has been overlooked. As mentioned above, we are aware of a number of recent planning applications for caravan park development where the applicant has had difficulty in demonstrating that the proposal, through increased recreational disturbance of the wintering bird qualifying features, would not have an adverse effect on the integrity of a European site. We therefore believe the issue of caravan park development and potential increased recreational disturbance needs to be fully addressed through the Maldon Local Plan HRA; where uncertainties remain the HRA should, as a minimum, identify the requirement for proposals to be subject to project level HRA screening assessment, to ensure no significant effect on European sites. This will require an amendment to Policy E5 in accordance with our comments above.

We raised the above issue in our response to the Council's Local Plan Preferred Options, including the HRA (dated 28th August 2012). We are not aware of any additional HRA work on this issue in the interim, hence it appears our previous comments on this matter have not been taken into consideration.

The promotion of caravan parks is not explicitly mentioned by policy E5, and the policy is not spatially defined. Coastal tourism is however clearly a major theme for the district, and therefore some spatial application towards the coast could reasonably be made against this policy. In our view therefore, the policy should identify possible effects (even broadly) to European sites, and identify that project level HRAs may be required to demonstrate that significant effects to these sites are unlikely, or else proceed through the Habitats Regulations as may be required. Further advice can be sought from Natural England on a case-by-case basis.

We therefore believe the issue of caravan park development and potential increased recreational disturbance needs to be considered through the Maldon Local Plan HRA; where uncertainties remain the HRA should, as a minimum, identify the requirement for proposals to be subject to project level HRA, to ensure no significant effect on European sites are likely. This will require an amendment to Policy E5 in accordance with our comments above.

Your authority may find it helpful to refer to HRAs undertaken by neighbouring authorities of their local plans, including Colchester, Braintree and Tendring, as these have used detailed studies to address similar recreational disturbance issues.

Water quality

In our previous response we advised that the potential effects of additional effluent discharge associated with Policy S2 require more detailed consideration. Again, this point does not seem to have been addressed either in the HRA or through Policy S2 (see comments above regarding Policy S2). As previously advised, it is not acceptable to defer the assessment of the effects of increased sewage discharge to the EA (or the Water Framework Directive) for consideration at the consenting stage. It is a requirement of the Conservation Regulations that a plan/policy must be subject to as

rigorous an assessment as can be reasonably undertaken, with the precautionary approach being adopted where uncertainty is encountered. In line with our previous comment we therefore advise that further consideration of this issue is required, taking into account any relevant findings and recommendations from the Water Cycle Study or similar assessment.

I hope these comments are helpful. For clarification of any points in this letter, please contact me on 0300 060 1239. For any new consultations or issues, please contact consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely

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