



**REPORT of
HEAD OF PLANNING SERVICES**

to
PLANNING AND LICENSING COMMITTEE
13 NOVEMBER 2008

**MALDON DISTRICT LOCAL DEVELOPMENT FRAMEWORK (LDF) –
PROPOSED REVISION TO PROCESS**

1. PURPOSE OF REPORT

- 1.1 To update Members on the position of the Local Development Framework, the implications of the Government's revision to the Town and Country Planning (Local Development) (England) Regulations (2004) and Planning Policy Statement 12 and to make recommendations accordingly. The content of this report was considered and agreed by the Planning Policy Panel at its meeting 30 October 2008.

2. AREAS FOR DECISION/ACTION

2.1 These involve:

- Implications of revision to the Town and Country Planning (Local Development) (England) Regulations (2004) and Planning Policy Statement (PPS) 12: *Local Spatial Planning*.
- Progress on the Local Development Framework (LDF) up to November 2008;
- Core Strategy Progress, outstanding issues and proposed future work programme;
- Revision to the Local Development Scheme.

2.2 Procedural changes to the LDF process

2.2.1 The Government has recently revised the Town and Country Planning (Local Development) (England) Regulations (2004), and Planning Policy Statement (PPS) 12 (replacing the 2004 Guidance). The changes in the LDF process are intended to address a number of procedural flaws and inconsistencies that have become apparent since the 2004 Act was implemented.

2.2.2 The Amendment Regulations (2004) and PPS12 necessitates a revision to the process and timetable for Maldon's LDF. This provides an opportunity for the Authority to reconsider the approach undertaken in order to address the shortcomings in work to date and ensure there is a robust evidence base, programme of engagement and clarity on how the LDF can be progressed in a timely way.

2.2.3 The Spatial Planning and Implementation Manager has had initial discussions with the Government Office (GO East) which has stated that it would support a revision to Maldon's Local Development Scheme in accordance with the approach set out in this report.

2.3 LDF process to date and outstanding issues

- 2.3.1 There have been two stages of Issues and Options consultation on the Core Strategy. In November 2007, the Planning Officers Society (POS) ‘critical friend’ service undertook an appraisal of Maldon’s LDF process, focussing on the Issues and Options 2 Core Strategy document (taken with the Issues and Options 1) and advised on:
- The soundness of the LDF work undertaken to date;
 - The soundness of the intended approach;
 - The appropriate way forward.
- 2.3.2 The findings from the POS assessment remain relevant and need to be fully addressed in progressing with the LDF to ensure it is considered ‘sound’ at the examination. Through the assessment process a number of key areas of concern were identified. These concerns related in particular to:
- articulation of the sub-area dimension (i.e. consideration of the areas and settlements which make up Maldon – below the District-wide level);
 - service delivery and access to services;
 - roles and potential of each settlement (and its commercial centre);
 - broad strategic issues – such as the sub-regional role, the overall approach to the local economy, and the response to the issue of substantial daily out-commuting;
 - establishing relations and engagement of partners;
 - developing real rather than theoretical choices for action;
 - ensuring that the LDF discharges its own responsibilities (e.g. in relation to the Sustainable Communities Strategy);
 - adding value rather than duplicating national and regional guidance;
 - ensuring that a clear and concise strategy is developed (not obscured by detailed issues);
 - establishing the overall strategic spatial principles of this strategy, expressed conceptually by development of the Key Diagram.
- 2.3.3 Whilst POS considered that the second consultation Issues and Options document recognised the main points, it was noted that it remained ‘...*a fundamental concern...that the treatment of these matters is often superficial and lacks sufficient depth. This is evident in the lack of detailed discussion of many issues, and failure to articulate a realistic range of choices and actions*’. Unfortunately this issue has not yet been fully addressed and unless remedial measures are taken, the LDF would be unlikely to be considered ‘sound’ at examination.
- 2.3.4 Since the POS assessment, there is an increasing emphasis on the need for evidence on infrastructure. PPS 12 states that: ‘*the Core Strategy should be supported by evidence of what physical, social and green infrastructure is needed to enable the amount of development proposed for an area, taking account of its type and distribution. This evidence should cover who will provide the infrastructure and when it will be provided*’ (paragraph 4.8). The requirement for rigorous infrastructure planning is made yet more significant in light of the proposed Community Infrastructure Levy (CIL). There is a current gap in information on the infrastructure requirement in Maldon, particularly for the water service infrastructure, transport and community service requirements.

2.3.5 With regard to the comments on the content of Issues and Options consultation documents, the broad strategic issues that the LDF Core Strategy will need to address have not been clearly identified. Whilst a number of topic papers have been prepared on the Core Strategy, the policy issues have not been considered comprehensively, e.g. by establishing the policy drivers, their inter-relationships and alternative options. The Strategy should articulate Maldon's vision and establish a policy framework to manage change, provide services, deliver infrastructure, protect the environment and ultimately deliver the District's vision. The Core Strategy therefore must evidence where we are as a District, where we want to get to and what needs to happen through policy to drive changes and/ or maintain status quo, questioning 'what if?' as a contingency for each of the policy options.

2.4 Future work programme

2.4.1 It is fundamental that all of the outstanding issues are addressed before going out to further consultation. The following actions are recommended to be taken in progressing with the LDF:

- The previous agreement by the Planning and Licensing Committee on 12 June 2008 to go out to a third round of Issues and Options consultation is not compliant with the revised amendment regulations and therefore cannot be progressed.
- Under the revised guidance there is no longer a requirement for Local Planning Authorities to follow the statutory two stage process of consulting firstly on 'issues and options' and then on 'preferred options'. Maldon Council should progress to 'Regulation 25' (see **Annex 1**) consultation, replacing the previously agreed Issues and Options 3 and subsequent preferred options consultations.
- It is proposed that the Council, through the required revision to the LDS, seek to ensure that all the necessary information is available to inform discussion and that the consultation is of a comprehensive policy document, with an assessment of options backed up by the accompanying sustainability appraisal and complete evidence base.
- Through this approach there will be an opportunity to reconsider the format and content of the LDF documentation. The format could be reviewed taking account of priorities and policy themes and we would also be able to include strategic site allocations, as permitted under the revised PPS 12. This would help with the identification and refinement of options.

2.4.2 The proposed timetable to progress with the Maldon District LDF Core Strategy is:

Now – March, 2009	Continue to complete evidence base and develop comprehensive Core Strategy.
April, 2009	'Regulation 25' (see Annex 1) Consultation.
September, 2009	Pre Examination ('Regulation 28' [see Annex 1]) Consultation
Feb, 2010	Pre Examination ('Regulation 30' [see Annex 1]) Submission.
May, 2010	Pre Hearing Meeting
June, 2010	Examination
September, 2010	Adoption of Maldon District's Core Strategy.

- 2.4.3 It is proposed that work on other Development Plan Documents is progressed in parallel with the Core strategy as appropriate, including the potential development of an Area Action Plan for Maldon central area, replacing the previous proposal for a Causeway Area Action Plan.
- 2.4.4 The preparation of Site Allocations Development Plan Document will be progressed in parallel with the later stages of the Core Strategy process and public consultation will commence once the Core Strategy is identified as being ‘sound’ in accordance with Government advice.
- 2.4.5 The Government is currently reconsidering the status of Supplementary Planning Documents (SPDs) in the context of whether they need to be published in an authority’s Local Development Scheme. Once there is clarity on SPDs, the need for their inclusion in the LDS will be determined.

3. LINKS WITH CORPORATE OBJECTIVES

- 3.1 The Local Development Framework embraces the entirety of the Council’s Corporate Objectives and the links with corporate risk, sustainability and resources are explained below.

4. IMPLICATIONS

- (i) Corporate risk – Progressing the LDF is a corporate project and part of the basis for the assessment of Housing and Planning Delivery Grant. Amending the timetable for the progression of the LDF minimises the risk of grant reduction. Continuing on the basis of the existing timetable is not compliant with the Town and Country Planning (Local Development) (England) Regulations, 2004, and PPS 12.
- (ii) Sustainability – The LDF is a key part of delivering sustainability in the approach to the spatial development of the District.
- (iii) Resource – The recommended proposals are subject to achieving and maintaining a full staff complement and necessary working and growth budgets for 2009/2010.

5. CONCLUSION

- 5.1 Significant progress has been made on the LDF however there are still shortcomings in the work undertaken to date which, if not addressed, could result in the LDF being considered ‘unsound’ at examination. The Amendment Regulations (2004) and PPS12 necessitates a revision to the process and timetable for Maldon’s LDF. This provides an opportunity for the Authority to reconsider the approach undertaken in order to address the shortcomings in work to date and ensure there is a robust evidence base, programme of engagement and clarity on how the LDF can be progressed in a timely way in accordance with legal tests of ‘soundness’.
- 5.2 Revising the timetable for the production of the Core Strategy will have a knock on affect on other Development Plan Documents in the Local Development Scheme.
- 5.3 A revision to the LDS is required accordingly.

6. RECOMMENDATION

That the Committee authorises the Head of Planning Services in consultation with the Chairman of the Committee to approve the submission of the revised Local Development Scheme in accordance with the timetable and format set out in this report, and to undertake any minor changes to the programme if recommended by Go East to ensure timely approval of the Local Development Scheme.

Background Papers

DCLG, 2008. *Planning Policy Statement 12: Local Spatial Planning*.

Maldon District Council Core Strategy: progressing from Issues & Options to Preferred Options. Assessment of Soundness: main conclusions, November 2007

Enquiries to: Officer: Jennifer Burns, Spatial Planning and Implementation Manager
Email: Jennifer.burns@maldon.gov.uk

Annex 1: The New PPS12: Local Spatial Planning

The new PPS12 was published in June 2008 together with new regulations that aim to streamline the delivery of Local Development Frameworks. Key changes in the revised Regulations and accompanying Guidance (PPS 12) are:

- Single requirement to consult public and stakeholders i.e. before submission - moving away from formal Issues & Options, Preferred Options stages to a continuous process of engagement.
- New emphasis on primacy of Core Strategy - to be more specific, detailed, spatial and focused but may include strategic site allocations.
- Local authorities given more flexibility to produce only those other plans that are really needed.
- Repackaged the tests of soundness.
- SPDs can supplement not only DPDs but also RSS policy (This change is yet to be implemented through primary legislation which will also remove the requirement for supplementary planning documents to be subject to sustainability appraisal and to be listed in the local development scheme.
- Scope for non-statutory supplementary guidance by public sector agencies

The Government no longer regulates the precise detail of how a council should prepare a plan. Local Planning Authorities therefore have the opportunity to tailor the process of plan preparation. However, it is important to note that whilst there is increased flexibility the regulatory stages must be adhered to. These are summarised below.

- **New Regulation 25 (Public Participation)**

When preparing a development plan document a council must notify each of the specific bodies as to the subject of the proposed development plan document.

They, along with the general consultation bodies the council thinks may have an interest in the subject of the document, should be invited to make representations on what it should contain.

The council should consider whether it is appropriate to invite representations from residents and businesses in the area to inform them of the preparation of the development plan document. If the council decides it is appropriate to invite representations on the content of the plan then it must make the appropriate arrangements.

- **New Regulation 26 (Statement of Community Involvement)**

Details the procedure for preparing an SCI.

Government does not wish councils to revise Statements of Community Involvement simply because new regulations have been issued. The current planning bill includes proposals to end the requirement for independent examination of statements of community involvement. However, this measure is unlikely to come into force before 2009. It would be preferable for any revisions to statements of community involvement to take place after this measure is enacted.

- **New Regulation 27 (Publication of a development plan document)**

What to Publish?

The Council is required to publish its proposed submission documents. These documents are defined in new **Regulation 24** as:

The Core Strategy or development plan document (as proposed to be submitted).
The changes to the proposals map (if the adoption of the development plan document would result in changes to the map). The sustainability appraisal report

And, a statement setting out:

- who was invited to be involved in the plan preparation;
- how they were invited to be involved in the plan preparation;
- a summary of the main issues raised and how they have been addressed.

How to Publish?

Copies of document: Council Offices, Libraries, Website, Specific Consultees

Access to documents: To other informing them by letter or through the media.

- **New Regulation 28 (Representation)**

Regulation 28 requires the council to allow a minimum of six weeks in which to receive representations on the development plan document. The purpose of the regulation is to gather representations on the soundness of the development plan document that is to be submitted to the Secretary of State to examine as part of the submission material.

- **New Regulation 29 (Conformity with the Regional Spatial Strategy)**

New Regulation 29 requires general conformity with the Regional Spatial Strategy. The same day the district publishes the core strategy under new Regulation 27, the Regulation requires that the Local planning authority make a request to the regional planning body (the East of England Regional Assembly [EERA]) for an opinion on general conformity of the development plan document to the East of England Plan.

- **New Regulations 30 (Submission of a development plan document)**

What to submit?

Once the representations have been summarised, all specific documentation and information should be submitted to the Secretary of State with the representations that have been received in addition to the development plan document. The specified documents include:

- The development plan document.
- The sustainability appraisal report.
- The submission proposals map if the adoption of the development plan document would result in changes to the proposals map.
- The statement of community involvement.
- A statement (relating to new Regulations 25 or 26) setting out:
 - who was invited to make representations;
 - how they were invited;
 - a summary of the main issues raised by any representations received;
 - how many representations have been taken into account
- A statement (relating to new Regulation 28) setting out:
 - A summary of the number of representations received;
 - A summary of the main issues raised by any representations received
 - All supporting documents the authority considered relevant to the production of the development plan document.

It is important to stress that beyond this stage major changes cannot be made.

- **new Regulation 31 (Considering representations)**

The inspector must consider the representations received on the development plan document before complying with Section 20(7) of The Planning and Compulsory Purchase Act 2004 (PCPA 2004). Section 20(7) relates to the duty of the inspector to make, and give reasons for, their recommendations.