

# **Burnham-on-Crouch Neighbourhood Plan 2014-2029**

**A report to Maldon District Council on the Burnham-  
on-Crouch Neighbourhood Development Plan**

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## **Executive Summary**

- 1 I was appointed by Maldon District Council in February 2017 to carry out the independent examination of the Burnham-on-Crouch Neighbourhood Plan.
- 2 The examination was undertaken by written representations. I visited the neighbourhood plan area on 7 March 2017.
- 3 The Plan proposes a series of policies and seeks to bring forward positive and sustainable development in the plan area. There is a very clear focus on safeguarding local character and promoting new residential and employment development. It also sets out to extend the promotion of the town as a tourist and visitor centre based on its position on the River Crouch.
- 4 The Plan has been significantly underpinned by community support and engagement. It is clear that all sections of the community have been actively engaged in its preparation.
- 5 Subject to a series of recommended modifications set out in this report I have concluded that the Burnham-on-Crouch Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum.
- 6 I recommend that the referendum should be held within the neighbourhood plan area.

**Andrew Ashcroft**  
**Independent Examiner**  
**22 March 2017**

## **1 Introduction**

- 1.1 This report sets out the findings of the independent examination of the Burnham-on-Crouch Neighbourhood Plan 2014-2029 ('the Plan').
- 1.2 The Plan has been submitted to Maldon District Council (MDC) by Burnham-on-Crouch Town Council in its capacity as the qualifying body responsible for preparing the neighbourhood plan.
- 1.3 Neighbourhood plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently embedded in the National Planning Policy Framework in 2012 and which continues to be the principal element of national planning policy.
- 1.4 This report assesses whether the Plan is legally compliant and meets the Basic Conditions that apply to neighbourhood plans. It also considers the content of the Plan and, where necessary, recommends changes to its policies and supporting text.
- 1.5 This report also provides a recommendation as to whether the Plan should proceed to referendum. If this is the case and that referendum results in a positive outcome the Plan would then be used to determine planning applications within the plan area and will sit as part of the wider development plan.

## 2 The Role of the Independent Examiner

- 2.1 The examiner's role is to ensure that any submitted neighbourhood plan meets the relevant legislative and procedural requirements.
- 2.2 I was appointed by MDC, with the consent of the Town Council, to conduct the examination of the Plan and to prepare this report. I am independent of both MDC and the Town Council. I do not have any interest in any land that may be affected by the Plan.
- 2.3 I possess the appropriate qualifications and experience to undertake this role. I am a Director of Andrew Ashcroft Planning Limited. In previous roles, I have over 30 years' experience in various local authorities at either Head of Planning or Service Director level. I am a chartered town planner and have significant experience of undertaking other neighbourhood plan examinations and health checks. I am a member of the Royal Town Planning Institute.

### *Examination Outcomes*

- 2.4 In my role as the independent examiner of the Plan I am required to recommend one of the following outcomes of the examination:
- (a) that the Plan is submitted to a referendum; or
  - (b) that the Plan should proceed to referendum as modified (based on my recommendations); or
  - (c) that the Plan does not proceed to referendum on the basis that it does not meet the necessary legal requirements.

### *The Basic Conditions*

- 2.5 As part of this process I must consider whether the submitted Plan meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. To comply with the basic conditions, the Plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State; and
  - contribute to the achievement of sustainable development; and
  - be in general conformity with the strategic policies of the development plan in the area; and
  - be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

I have examined the submitted Plan against each of these basic conditions, and my conclusions are set out in Sections 6 and 7 of this report. I have made specific comments on the fourth bullet point above in paragraphs 2.6 to 2.10 of this report.

- 2.6 In order to comply with the Basic Condition relating to European obligations the District Council carried out a draft Screening Opinion. This exercise took account of the changes that had been made to the Plan after the pre-submission consultation phase both generally, and to address environmental matters in particular. The conclusion of the draft screening opinion was that there were no significant

environmental effects as a result of the production of the Plan. The required consultation was carried out with the three prescribed bodies.

- 2.7 A representation made to the Plan comments that the full environmental effects of the Plan's policies have not been assessed. However, from the evidence available to me as part of the examination I am satisfied that this process has been undertaken in accordance with the Environmental Assessment Regulations 2004. In particular, the approach adopted has been proportionate to the policies and proposals set out in the Plan itself.
- 2.8 MDC has also undertaken a Habitats Regulations Assessment (HRA) Screening Opinion of the Plan. This assessment is particularly important given the relative proximity of three European sites to the neighbourhood plan area (the Crouch and Roach Estuaries SPA and RAMSAR site, the Essex Estuaries SAC and the Dengie SPA and Ramsar site). Its HRA screening report concluded that the Plan was unlikely to have any significant effect on a European site. The Screening Report adopts an exemplar approach to addressing the effects of an emerging neighbourhood plan. The table in Appendix 4 shows assessments undertaken at each of the stages of the Plan, from the initial assessment for the February 2015 version, the regulation 14 consultation version and the Regulation 16 consultation version. The assessment rates the likely effects on each of the three Natura 2000 sites using a green, amber and red system. This illustrated any changes in the assessment as a result of changes made to the document either to address any potential effects, or for changes in the policies following earlier consultations. New policies which were previously not included in earlier versions are also included and are notated and assessed for their potential likely significant effects.
- 2.9 Having reviewed the information provided to me as part of the examination I am satisfied that a proportionate process has been undertaken in accordance with the various regulations. None of the statutory consultees have raised any concerns with regard to either neighbourhood plan or to European obligations. In the absence of any evidence to the contrary, I am entirely satisfied that the submitted Plan is compatible with this aspect of European obligations.
- 2.10 In a similar fashion I am satisfied that the submitted Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights (ECHR) and that it complies with the Human Rights Act. There is no evidence that has been submitted to me to suggest otherwise. There has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known. On this basis, I conclude that the submitted Plan does not breach, nor is in any way incompatible with the ECHR.

*Other examination matters*

- 2.11 In examining the Plan I am also required to check whether:
- the policies relate to the development and use of land for a designated neighbourhood plan area; and
  - the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 (the Plan must specify the period to which it

has effect, must not include provision about development that is excluded development, and must not relate to more than one neighbourhood area); and

- the Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

2.12 Having addressed the matters identified in paragraph 2.11 of this report I am satisfied that all of the points have been met subject to the contents of this report.

### 3 Procedural Matters

3.1 In undertaking this examination I have considered the following documents:

- the submitted Plan.
- the Basic Conditions Statement.
- the Consultation Statement.
- the MDC Screening report.
- the MDC HRA Screening opinion.
- the representations made to the Plan.
- the Maldon District Replacement Local Plan 2005.
- the emerging Maldon Local Development Plan and its Main Modifications.
- the National Planning Policy Framework (March 2012).
- Planning Practice Guidance (March 2014 and subsequent updates).
- Relevant Ministerial Statements.

3.2 I carried out an unaccompanied visit to the Plan area on 7 March 2017. I looked at its overall character and appearance and at those areas affected by policies in the Plan in particular. My site inspection is covered in more detail in paragraphs 5.9 to 5.16 of this report.

3.3 It is a general rule that neighbourhood plan examinations should be held by written representations only. Some parties making representations to the Plan asked to participate in a hearing if one was required. One party suggested that a hearing was necessary given the Written Ministerial Statement on neighbourhood plans issued in December 2016. Nevertheless, having considered all the information before me, including the representations made to the submitted plan, I was satisfied that the Plan could be examined without the need for a public hearing. In doing so I was able to rely heavily on the very detailed and helpful representations. I advised MDC of this decision part way through the examination process.

## 4 Consultation

### *Consultation Process*

- 4.1 Policies in made neighbourhood plans become the basis for local planning and development control decisions. As such the regulations require neighbourhood plans to be supported and underpinned by public consultation. In accordance with the Neighbourhood Planning (General) Regulations 2012 the Parish Council has prepared a Consultation Statement. Its title incorrectly describes it as a 'Statement of Community Involvement'. Such statements are produced for local plans rather than neighbourhood plans. However, I am satisfied that the Statement meets the requirements of the regulations. In particular, it describes the people and organisations who were consulted, it summarises the consultation process and it sets out how the emerging Plan took account of the comments received.
- 4.2 The Statement is well-presented and is proportionate to the Plan area and its policies. It also provides specific details on the consultation process that took place on the pre-submission version of the Plan (October-November 2015). The Statement helpfully sets out how the emerging plan took account of the various comments and representations. The various appendices describe the comments received and how the Plan took account of those comments.
- 4.3 The earlier parts of the Statement set out details of the wider consultation events that were carried out to raise awareness as part the evolution of the Plan. Details are provided about:
- the Market Stall event (September 2013)
  - the key stakeholders event
  - the Community workshop (October 2013)
  - the Vision workshop (November 2013)
  - the Test and Review Workshop (March 2014)
  - the informal consultation process on the emerging Plan (February/March 2015)
- 4.4 The Consultation Statement provides very useful information on these and other matters. It helpfully includes several photographs that provide a flavour of the well-attended events that were arranged to seek community views on what should be included in the Plan.
- 4.5 It is clear to me that consultation has been an important and integral part of the Plan's production. Advice on the neighbourhood planning process has been made available to the community in a positive and direct way by those responsible for the Plan's preparation. Consultation and feedback has been a key part of the Plan throughout the various stages of its production.
- 4.6 The positive approach that was taken in responding to the earlier comments is reflected in the range and detail of the representations received to the submitted plan (see paragraph 4.8 below).

- 4.7 From all the evidence provided to me as part of the examination, I can see that the Plan has promoted an inclusive and comprehensive approach to seeking the opinions of all concerned throughout the process. MDC has carried out its own assessment that the consultation process has complied with the requirements of the Regulations.

*Representations Received*

- 4.8 Consultation on the submitted plan was undertaken by the District Council for a six-week period that ended on 15 December 2016. This exercise generated comments from the following organisations:

- Direct Rail Services
- Essex and Suffolk Water
- N Gilmour
- Chelmsford City Council
- National Grid
- Charles Church/Persimmon Homes
- Natural England
- Ken Harris
- Anita Harris
- BROOD
- Pigeon Land
- Essex County Council
- Gladman Developments
- G Clarke
- John James Associates
- J and G Hitchman
- Burnham Allotments Association
- RHS/Sadler/Tollhurst families
- Historic England
- Anglian Water
- Environment Agency

## 5 The Plan Area and the Development Plan Context

### *The Plan Area*

- 5.1 The Plan area covers the whole of the Burnham-on-Crouch parish. The area is very well displayed in Figure 1 of the Plan. It was designated as a neighbourhood area on 24 April 2013. The Plan area sits on the northern banks of the River Crouch. Its principal built development lies within the town itself. The Town has a population of approximately 8000 people. Burnham is the third largest settlement in Maldon District and is an important service centre in its own right.
- 5.2 The character of the Plan area is defined by its physical characteristics. The town sits within the wider context of the Dengie Peninsular.
- 5.3 The town itself reflects its coastal trading activities and sailing history. The town presents itself to the River Crouch and many of its principal buildings reflect its maritime context. Retail and other commercial uses are concentrated in its vibrant High Street. In the round the Plan area presents a very rich and varied context for the preparation of a neighbourhood plan.

### *Development Plan Context*

- 5.4 The development plan context is very comprehensively set out in the Basic Conditions Statement. The adopted Local Plan is the Maldon District Replacement Local Plan (November 2005). Its policies were saved by a Direction of the Secretary of State in November 2008. It is against this Plan that the submitted neighbourhood plan needs to be in general conformity with its strategic policies. MDC is well advanced in its preparation of a new local plan that will fully take account of the NPPF. Its examination started in January 2017 and Main Modifications were published on 17 March 2017.
- 5.5 The Basic Conditions Statement (in its section 5) usefully highlights the key policies in the development plan and how they relate to policies in the submitted Plan. This is good practice.
- 5.6 The submitted neighbourhood plan is in general conformity with the saved local plan. In particular, it continues the process of concentrating new development within the built environment of the town. It also produces a suite of policies to safeguard the environment and community facilities.
- 5.7 The submitted neighbourhood plan has also been produced within the context of the emerging Local Plan. It proposes overlapping strategic growth and the neighbourhood plan takes the opportunity to provide extra local detail to a range of policies.
- 5.8 It is clear that the submitted Plan has been prepared to be complementary both to the saved local plan and to the emerging Local Plan. It sets out to add value by virtue of its more detailed approach to the matters set out in paragraph 5.7 above. In doing so it has relied on up to date information and research. This is good practice which reflects key elements in Planning Practice Guidance on neighbourhood planning.

### *Site Visit*

- 5.9 I carried out an unaccompanied visit to the Plan area on 7 March 2017. I was fortunate in having chosen a dry and very pleasant day.
- 5.10 I drove into the Plan area along the B1012/B1010 from South Woodham Ferrers. The nature of these roads highlights the commentary in the Plan that the town is relatively isolated from major settlements and that this creates practical constraints. Nevertheless, the journey is visually interesting and sets the town within its wider context on the Dengie Peninsular.
- 5.11 On arrival in the town I parked by St Mary's Church. It was proudly flying a St George's flag in the light breeze. This proved to be a good central location to look at the three proposed housing sites in the town. I walked back along Green Lane to look at site S2(j). It saw the existing mature trees, the relationship of the site with Green Lane to its north and the houses to the south, and its linkages with Southminster Road. I then traced by steps back to the Church and walked along the Maldon Road to look at site S2(i). I saw its relationship to the wider agricultural landscape in general and to the houses to its east in particular. I then returned to the Church and looked at the proposed housing site to the north of Marsh Road (S2k). I saw that it fell gently to the north down to Pannel's Brook. I saw both the footpath and the excellent views to the west of the Church tower. In looking at these three sites I also looked at the potential housing site promoted by Gladman Developments through its representation to the Plan.
- 5.12 Given the pleasantness of the day I decided to continue my visit on foot. I walked down Southminster Road/Church Road to the railway station and the Foundry Lane area. I saw the station and its extensive car parking area. I saw that its setting was dominated by the industrial buildings off Foundry Lane to the south. I looked at the relationship between this area and the Co-op foodstore.
- 5.13 I then carried on Church Road and Station Road into the High Street. I saw the variety of retail and other commercial properties as set out in Figure 7 of the Plan. There was a clear sense of arrival as I entered High Street and the Primary Shopping area as described in the Plan. The High Street presents as a very traditional and attractive retail centre. It enjoys a range of character and historic buildings that reflect its location by the River Crouch. Its vitality was assisted by the outdoor market. I was also able to experience the conservation area. As the Plan describes I saw the eclectic mix of red brick buildings with elements of white weatherboarding and render. These buildings are set in a structured townscape with many well-connected streets and walkways, especially those leading towards the River Crouch. I had the choice of several venues for lunch.
- 5.14 I then walked along the riverside from Belvedere Road as far east as the Rice and Cole Boatyard, Caravan Park and Chandlery. I saw the variety of river related businesses as identified in the Plan itself. I also saw several wind turbines further inland.

- 5.15 I then retraced my steps back into the town centre and then walked out to the marina to the west. In doing so I walked past the Royal Corinthian Yacht Club, the Royal Burnham Yacht Club, the Quay House with its stunning frontage and the Burnham Sailing Club. I also saw the five house boats and the Millennium Beacon. This river walkway was entirely delightful with variety and interest at every turn. I saw several signs of the maintenance and repair of the various elements of the riverside infrastructure in preparation for the arrival of Spring and the sailing season. I noticed the interesting relationship between this part of the town and the High Street.
- 5.16 I finished my tour of the Plan area by walking through the Riverside Park back to the Station and then to the Church. I then drove along Maldon Road into Springfield Road so that I could see both the existing industrial units and its proposed extension to the east (Policy S2).
- 5.17 The visit was hugely helpful in my understanding of many of the policies in the Plan. In particular it helped me to understand the ideas and concepts set out in the Plan and as described in its paragraph 1.6. The strong sense of community and a town with its own identity was readily apparent. This was very clear in the relaxed, open and welcoming approach I encountered in the town. Without exception, everyone I encountered was pleasant, approachable and happy to exchange pleasantries. Combined with the early Spring weather this made for a very enjoyable day.

## 6 The Neighbourhood Plan as a whole

6.1 This section of the report deals with the submitted neighbourhood plan as a whole and the extent to which it meets the basic conditions. The submitted Basic Conditions Statement has helped considerably in the preparation of this section of the report. It is a well-presented and informative document that does its task in a balanced and proportionate way.

6.2 The Plan needs to meet all the basic conditions to proceed to referendum. This section provides an overview of the extent to which the Plan meets three of the four basic conditions. Paragraphs 2.6 to 2.10 of this report have already addressed the issue of conformity with European Union legislation.

### *National Planning Policies and Guidance*

6.3 The key elements of national policy relating to planning matters are set out in the National Planning Policy Framework (NPPF) issued in March 2012.

6.4 The NPPF sets out a range of core land-use planning principles to underpin both plan-making and decision-taking. The following are of particular relevance to the Burnham-on-Crouch Neighbourhood Plan:

- a plan led system– in this case the relationship between the neighbourhood plan and the adopted Local Plan.
- Proactively driving and supporting sustainable economic development (to deliver homes, business and infrastructure)
- recognising the intrinsic character and beauty of the countryside and supporting thriving local communities.
- Always seeking to secure high quality design and good standards of amenity for all future occupants of land and buildings.
- Conserving heritage assets in a manner appropriate to their significance
- Actively managing patterns of growth to make the fullest possible use of public transport

6.5 Neighbourhood plans sit within this wider context both generally, and within the more specific presumption in favour of sustainable development, which is identified as a golden thread running through the planning system. Paragraph 16 of the NPPF indicates that neighbourhoods should both develop plans that support the strategic needs set out in local plans and plan positively to support local development that is outside the strategic elements of the development plan.

6.6 In addition to the NPPF I have also taken account of other elements of national planning policy including Planning Practice Guidance and the relevant ministerial statements.

6.7 Having considered all the evidence and representations available as part of the examination I am satisfied that the submitted Plan has had regard to national planning policies and guidance in general terms. It sets out a positive vision for the

future of the plan area and, in conjunction with the emerging local plan, promotes sustainable growth. At its heart are a suite of policies to promote sustainable housing and economic growth that respects its setting and maritime history and character. Part 3 of the Basic Conditions Statement is particularly effective in terms of mapping Plan policies with the appropriate paragraphs in the NPPF.

- 6.8 At a more practical level the NPPF indicates that plans should provide a clear framework within which decisions on planning applications can be made and that they should give a clear indication of how a decision-maker should react to a development proposal (paragraphs 17 and 154). This was reinforced with the publication of Planning Practice Guidance in March 2014. Its paragraph 41 (41-041-20140306) indicates that policies in neighbourhood plans should be drafted with sufficient clarity so that a decision-maker can apply them consistently and with confidence when determining planning applications. Policies should also be concise, precise and supported by appropriate evidence.
- 6.9 As submitted the Plan does not fully accord with this range of practical issues. Many of my recommended modifications in Section 7 relate to matters of clarity and precision. They are designed to ensure that the Plan fully accords with national policy.

*Contributing to sustainable development*

- 6.10 There are clear overlaps between national policy and the contribution that the submitted Plan makes to achieving sustainable development. Sustainable development has three principal dimensions – economic, social and environmental. It is clear to me that the submitted Plan has set out to achieve sustainable development in the Plan area. In the economic dimension the Plan sets out to deliver new housing and employment growth (policies S1/S2). It also includes positively worded policies to support the expansion of tourism and river related development. In the social role, it includes policies to safeguard community facilities and to promote the more extensive use of the river. It also promotes new footpaths to link the town centre to existing and new communities. In the environmental dimension the Plan positively seeks to protect the natural, built and historic environment of the parish. In particular, it includes policies on flooding (policies EN1/2) and to safeguard designated sites (policy EN 3).

*General conformity with the strategic policies in the development plan*

- 6.11 I have already commented in detail on the development plan context in the wider Maldon District Council area in paragraphs 5.4 to 5.8 of this report.
- 6.12 I consider that the submitted Plan delivers a local dimension to this strategic context and supplements the detail already included in the adopted Local Plan. Section 5 of the Basic Conditions Statement helpfully relates the Plan's policies to policies in the Local Plan. I am satisfied that the submitted Plan is in general conformity with the strategic policies in the development plan.

## 7 The Neighbourhood Plan policies

- 7.1 This section of the report comments on the range of policies in the Plan. In particular, it makes a series of recommended modifications to ensure that the various policies have the necessary precision to meet the basic conditions.
- 7.2 My recommendations focus on the policies themselves given that the basic conditions relate primarily to this aspect of neighbourhood plans. In some cases, I have also recommended changes to the associated supporting text.
- 7.3 I am satisfied that the content and the form of the Plan is fit for purpose. It is thorough and distinctive to the Plan area. The wider community and the Town Council have spent considerable time and energy in identifying the issues and objectives that they wish to be included in their Plan. This sits at the heart of the localism agenda.
- 7.4 The Plan includes both land uses policies and other proposals which are not land use based. This approach departs from Planning Practice Guidance (41-004-20140306) which indicates that neighbourhood plans must address the development and use of land. I address this point on a policy by policy basis in Section 7 of this report. The same paragraph however identifies that the neighbourhood planning process can inspire local people to consider ways to improve their neighbourhood other than through the development and use of land. Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land uses matters should be clearly identifiable. The general approach adopted in other such plans is that non-land use policies and proposals are positioned in a separate part of the Plan away from the main land use policies. In this case, however I am satisfied that there is benefit in the two elements sitting side by side. They stem from the same supporting text and the Town Council is keen that the natural flow of the Plan is maintained. My recommended modifications do however indicate that the land use policies and the non-land use proposals and projects are clearly distinguishable one from the other.
- 7.5 I have addressed the policies in the order that they appear in the submitted plan. In some cases, there are overlaps between the different policies.
- 7.6 For clarity this section of the report comments on all policies whether or not I have recommended modifications in order to ensure that the Plan meets the basic conditions. In relation to Appendix 1 New Housing Design Principles (and which add value to Policy HO.10) I comment only on the Principles where modifications are required (see paragraphs 7.139 to 7.141).
- 7.7 Where modifications are recommended to policies they are highlighted in bold print. Any associated or free-standing changes to the text of the Plan are set out in italic print.

*The initial sections of the Plan (Sections 1 and 2)*

- 7.8 These introductory elements of the Plan set the scene for the policies. They are commendable to the extent that they are proportionate to the Plan area and the subsequent policies.
- 7.9 Section 1 provides very clear context to the neighbourhood planning process. It helpfully sets out the reasoning that has underpinned the decision of the Town Council to produce the Plan. It also provides a useful connection to national policy and the emerging Local Plan.
- 7.10 It continues by setting out the process and timeline that has been followed (section 1.2), the consultation process (section 1.3), the evidence base (section 1.4) and some background to the Plan area (sections 1.6/1.7). This approach makes the Plan very clear to all concerned. Its key strength is in providing a very clear context to the policies in later sections
- 7.11 Section 2 sets out how the Plan has responded to its current circumstances. A clear vision is established in section 2.1. Its focus is on sustainable growth, enhancing its history and environment and creating a positive experience for residents and visitors alike.
- 7.12 The section continues by setting out key principles that underpin the policies in the Plan. They include general matters such as housing, infrastructure and retail facilities. These are then complemented by more specific matters such as the relationship between the town and the River Crouch, the built heritage and the promotion of events and visitor attractions. These principles then inform the Plan's policies as set out in its Sections 3 to 10. The remainder of this section of the report addresses each policy in turn in the context set in paragraphs 7.5 to 7.7 in this report.

Strategic Policies

Policy S1 – Strategic Housing Growth

- 7.13 Together with policy S2 this policy sets the scene for the wider Plan. In effect, they translate national and local planning policy into the neighbourhood plan context.
- 7.14 As already addressed in paragraph 5.8 of this report the development of both the strategic approach to the Plan and to this policy has been carried out in close alignment with that of the emerging Local Development Plan. This will ensure that the two plans have complementary roles to one another during their lifetimes. Within this context, I recommend a series of detailed modifications that take account of factual matters that were published in the Main Modifications to the Local Development Plan during this examination. They refer specifically to housing site's anticipated build trajectories as follows:

S2(i) West of Burnham

138 dwellings in years 1-5 and 42 dwellings in years 6-10

S2(j) North of Burnham (West)

123 dwellings in years 1-5 and 57 dwellings in years 6-10

S2(k) North of Burnham (East)

90 dwellings in years 6-10

Their overall and cumulative total yields remain unaffected.

- 7.15 I also recommend a modification so that the policy requires the delivery of a minimum level of housing. This matter has been properly raised by several developers. The modification will ensure that the Plan meets the basic condition of having regard to national planning policy on boosting the supply of housing (NPPF paragraphs 47-50).
- 7.16 In terms of the details of the policy its wording in the submitted Plan is narrative largely setting out the relationship between the two plans. It is a continuation of the well balanced supporting text that precedes it in section 3 of the Plan. I recommend modifications both to the policy and to the text to address this matter and to provide clarity and certainty to the decision-maker.
- 7.17 The main modifications to the Local Plan also take account of the progress of the planning application process with regards to the site to the west of Burnham-on-Crouch. In May 2016 MDC resolved to grant planning permission for the residential/employment and community use of this site, the area in the Plan to the south identified for employment development and for the land between these two allocated sites. The proposed yield on the site remains at 180 dwellings. The Main modifications reflect this resolution to approve the planning application in any extended site area for the housing site.
- 7.18 There are different regimes for the examination of local plans and neighbourhood plans. The former regime is based on the tests of soundness. The latter regime is more limited to an assessment of a submitted plan against the basic conditions. Given that planning permission has not yet been granted on the extended site and that the main modifications are to an emerging local plan it is not within my ability to recommend that the site area is extended. In these circumstances where there will be a degree of inconsistency between a local plan and a neighbourhood plan the decision-maker will favour the policy contained in the last document to become part of the development plan. Based on current timetables this will be the local plan. In practice this will be an academic issue given the advanced nature of development proposals on the site. In addition, it has no impact on the overall yield of the housing part of the site or its proposed build out trajectory.
- 7.19 It has been suggested in the representation made by Gladman Developments Limited that it would be appropriate to identify a reserve site for residential development in the Town. The representation proposes a potential reserve site off Southminster Road. It is located on the northern edge of the town and opposite the cemetery. This approach is underpinned by Gladman's assertion that there is uncertainty about both the objectively assessed housing need in the District and the delivery assumptions for the strategic sites are overly-ambitious. The proposed reserve site was refused planning permission in January 2015. A second application was also refused in September 2015. An appeal was made against the refusal of the second application and a public inquiry was held in November 2016. The matter is now with the Secretary of State for determination.

- 7.20 Since the neighbourhood plan was submitted for independent examination the local development plan has moved further towards adoption as I have set out in paragraph 5.4 of this report. In particular, Main Modification have now been published. In association with the publication of the modifications the Council has also published its responses to Matters 2,3,4 and 5 (Strategic Housing Growth) arising from the local development plan hearings. It includes detailed commentary on the contribution of strategic sites to housing delivery (examination Q11 and 12). This commentary provides information on the trajectory for the development of the strategic housing sites including those in Burnham-on-Crouch.
- 7.21 On the basis of all the information available to me I am satisfied that the submitted neighbourhood plan meets the basic conditions on this important matter. In particular, it has regard to national policy in that it will boost the supply of housing in the town. In doing so identifies a supply of specific, deliverable sites. There is already significant progress in relation to planning applications on two of the three identified sites. In addition, it supports the delivery of the three strategic housing sites in Burnham-on-Crouch as identified in the emerging local development plan. In doing so it accords with Planning Practice Guidance (41-009-20160211) in that the neighbourhood plan and the emerging local development plan have been produced in a complementary and collaborative way. In particular, they rely on the same up to date housing needs evidence. As part of the work on the local development plan modifications MDC has updated its housing land availability assessment to the end of December 2016. This shows a 6.2 years housing supply. On the basis of the evidence I am satisfied that there is no need to identify a reserve site in Burnham-on-Crouch to contribute to the delivery of the wider District housing requirement. In any event the Secretary of State will be making a separate decision on the appeal that has been made against the most recent planning application on the site.
- 7.22 The representation made by Gladman Developments Limited also comments on updates to Planning Practice Guidance on the matter of the review or update of a neighbourhood plan. This was introduced in May 2016 (41-084-20160519). This update to national policy sets out that there is no requirement to review or update a neighbourhood plan. It indicates that policies in a neighbourhood plan may become out of date if they conflict with policies in a local plan that is adopted after the making of the neighbourhood plan. As I have explained earlier these circumstances do not apply in respect of the relationship between the submitted Burnham-on-Crouch neighbourhood plan and the emerging Maldon Local Development Plan. The submitted neighbourhood plan does not identify any monitoring or review arrangements. However, based on the most recent government guidance on this matter I am satisfied that it is not necessary to meet the basic conditions.

*Reposition the policy into the supporting text at the end of Section 3 and with the following modifications:*

*In the first paragraph replace 'target' with 'minimum'*

*In the second paragraph replace 'has a target of' with 'will deliver a minimum of'*

**Replace the policy with:**

**Within the Plan period a minimum of 450 dwellings will be provided.**

**These dwellings will be provided through both the development of the strategic housing sites shown in table X and figure 4 and on other windfall sites.**

**Proposals for the residential development of the following three strategic sites will be supported within the context of site specific policies set out in policies H.7, H.8 and H.9 of this Plan:**

- **Land west of Burnham on Crouch (Policy H.7)**
- **Land north of Burnham-on-Crouch (West) (Policy H.8)**
- **Land north of Burnham-on-Crouch (East) (Policy H.9)**

*Modify the left-hand reference number and the year 0-5, 6-10 and 11-15 trajectories in the table at the top of page 20 to reflect the figures indicated in the Main Modifications to the Local Plan and give it a table number (to cross refer to the modified policy).*

Policy S2 – Strategic Employment Growth

7.23 This policy is the second half of the strategic context to the Plan. It is also affected by the main modifications to the emerging local development plan.

7.24 As already addressed in paragraph 5.8 of this report the development of both the strategic approach to the Plan and to this policy has been carried out in close alignment with that of the emerging Local Development Plan. This will ensure that the two plans have complementary roles to one another during their lifetimes. Within this context, I recommend a series of detailed modifications that take account of factual matters that were published in the Main Modifications to the Local Development Plan during this examination. They refer firstly to overall amount of employment land required in the wider District, secondly to a change in policy numbering, thirdly to an extended range of uses and fourthly to a revised site area to the extension to Burnham Business Park. The first three of these three points are as follows:

Overall District requirement 11.4 ha rather than 11.0 ha

Policy number E1p rather than E1q

Site E1p B1, B2 and B8

I recommend modifications accordingly.

7.25 The third matter overlaps with comments made in representations to the submitted Plan. It will provide the maximum flexibility to assist in the promotion of new and extended business opportunities in the neighbourhood plan area. In particular, it reflects the approach in paragraphs 20 and 21 of the NPPF. These paragraphs respectively indicate the need to plan proactively to meet the needs of business and that investment in business should not be over-burdened by the combined requirements of planning policy expectations.

- 7.26 The fourth matter overlaps with my comments in paragraph 7.18 of this report in respect of one of the strategic housing sites. I reach the same conclusion for the same reasons.
- 7.27 As I have already commented in relation to Policy S1 this policy in the submitted Plan its narrative largely setting out the relationship between the two plans. I recommend modifications to address this matter and to provide clarity and certainty to the decision maker.

*Reposition the policy into the supporting text at the end of Section 3 and with the following modifications:*

*In the first sentence replace 'there is a need....jobs within' with 'a minimum of 2000 new jobs will be created in', replace '11' with '11.4' and replace 'B1 and B2' with 'B1, B2 and B8'.*

*In the third sentence delete 'which'*

**Replace the policy with:**

**Proposals for the development of the extension to Burnham Business Park (E2p) for employment uses (Class B1, B2 and B8) as shown on figure 4 will be supported**

Community and Social Infrastructure Policies

Policy CS.1 – Community Assets and Services

- 7.28 This policy has two separate parts. The first sets out to support community groups such as the sea scouts and the youth club. This is an important community function. Nevertheless, it is not a land use matter that can be controlled through the planning system. I recommend a modification so that this element of this policy is identified as an aspirational non-land use proposal.
- 7.29 The second part of the policy seeks to protect existing community assets. Some of the assets identified in this part of the policy are physical (such as the cinema). Others are more related to events and activities (such as the monthly Sunday Farmers Market). I recommend that the second part of the policy is modified to ensure that it safeguards community buildings and community land uses. This approach would reflect the control that the planning system can exert over such buildings and uses. As part of the modification I recommend that a degree of flexibility is introduced into the approach, especially when improved or relocated facilities may arise as a direct outcome of any such planning applications. It also reflects that some community buildings or uses may become economically unviable during the Plan period.

**Modify the second part of the policy to read:**

**The following community buildings and uses will be safeguarded:**

- **The clock tower;**
- **The cinema**
- **The market**

**Proposals for their change of use to non-community uses will not be supported unless:**

- **alternative community facilities are provided within the locality as part of the planning application concerned; or**
- **it can be clearly demonstrated that the community building or use concerned is no longer financially viable.**

#### Policy CS.2 – Community Facilities

- 7.30 This policy proposes that community facilities should only be provided where there is a need to do so. The underpinning nature of the policy is to retain and consolidate existing facilities in the town as it expands. This reflects the strong sense of community that exists in the town and that is captured in other policies in the Plan.
- 7.31 Plainly there is a balance to be struck between providing appropriate community facilities on the three strategic housing sites allocated in the submitted plan (and the emerging local plan) and in consolidating the more strategic existing community facilities in the town. Considerable progress is already being made on the first point as part of the ongoing determination of planning applications on the strategic sites. This approach takes account of Policy S6 in the emerging Local Development Plan.
- 7.32 I recommend a modification to this policy to ensure that it meets the basic conditions with regards to national and local planning policy. It is appropriate that developers make contributions to community and other facilities where the need to do so directly relates to the scale and form of the development concerned. The application of community facilities contributions is properly a matter for local debate and consideration. The modified policy retains the preference for the improvement of existing facilities in the town but provides the necessary flexibility to allow some community facilities to be provided directly on site. The approach will help to develop new communities that are sustainable in their own right on a day to day basis and yet which will have a wider relationship to and usage of community facilities elsewhere in the town. I also recommend that the policy establishes the scale of the contribution by reference to the most up to date MDC standards.

**Delete ‘only’ from the first sentence.**

**Add at the end of the first sentence ‘in relation to proposals for new housing development in accordance with Maldon District Council standards at the time’.**

**Add a new sentence after the extended first sentence to read ‘Community facilities should be provided or improved either within the town in general or on the site concerned, including the three strategic sites identified in Policy S1’.**

**Retain the second sentence in the submitted policy (now the third sentence)**

#### Policy CS.3 – New Sports and Amenity Space

- 7.33 This policy offers general support for new sports and amenity open space. This is appropriate based on the evidence in the Plan
- 7.34 I recommend a modification to ensure that the policy is more inclusive. As drafted the support is from the Town Council rather than as part of the development plan as a whole

**Proposals for investment and improvements in new and existing sports and leisure facilities in the town will be supported.**

Policy CS.4 – Amenity Space Provision in the North of the Town

- 7.35 This policy follows on from CS 3 and is specific in its approach towards a new amenity space adjacent to St Mary’s Church. This is entirely appropriate. The policy addresses a variety of factors. They would be clearer to the decision maker if they were set out as criteria in the policy. I recommend accordingly
- 7.36 Some elements of the policy are supporting text rather than policy. I recommend accordingly

**Modify the policy to read:**

**Proposals for amenity space adjacent to St Mary’s Church will be supported subject to the following criteria:**

- **The amenity space should respect the setting of the listed church building;**
- **The amenity space should respect the setting of Burnham Hall; and**
- **The facilities included in the amenity space should address the recreational needs of households in the immediate vicinity of the site.**

**Delete ‘This should be ...a nature trail’**

*Insert ‘This should be ...a nature trail’ into the supporting text immediately before the policy itself*

Policy CS.5 – Allotments

- 7.37 This policy seeks to safeguard existing allotments throughout the Plan period. The Town Council has clarified that the reference to site SN38 has now been overtaken by events.
- 7.38 The policy as drafted is part policy and part supporting text. I recommend that the policy is replaced with a modified policy and that the elements of the supporting text sit before the policy

**Replace the policy with:**

**Existing areas of allotments in the Town will be safeguarded. Proposals for built development on allotments will not be supported.**

*Insert the following supporting text before the policy:*

*Allotments in the Town are a valued and well-used resource. Policy CS5 safeguards existing allotments. This will be a key component of delivering the community infrastructure key principle as set out in Section 2 of the Plan.*

#### Policy CS.6 – St Mary’s Primary School

- 7.39 The policy offers support for a physical extension to the school to replacement the existing temporary facilities. This is appropriate given the planned levels of growth in the Plan.
- 7.40 The reference to the option of taking children to Southminster by a school bus service is not directly a land use issue. It is an operational matter under the control of Essex County Council as the education authority. On this basis, I recommend that it is removed from the policy.

#### **Modify policy to read:**

**Proposals to extend St Mary’s Primary School to replace temporary classrooms will be supported.**

#### Policy CS.7 – Early Years Facilities

- 7.41 This policy sets out guidance on the location of early years’ facilities in the town. It recognises the impact that the planned housing growth in the town will have on this important part of the community facilities in the town. The policy is welcomed by the County Council in its capacity as the education authority. In the preparation of the Maldon Local Development Plan, the County Council assessed the potential need for such facilities arising from the planned growth in Burnham on Crouch, and concluded that a new 56 place facility was necessary. Progress on providing these places is already taking place with the processing of current planning applications.
- 7.42 Representations highlight that there is a positive recognition amongst the development community on this matter. It has been suggested that there would be merit in locating such facilities close to employment as well as housing development. This approach reflects the requirement to drive sustainable development through its three separate dimensions and I recommend accordingly.

#### **Insert ‘or employment’ after housing.**

#### Policy CS.8 – Station and Foundry Lane Areas

- 7.43 This policy provides a positive context for a series of measures that would result in a more attractive gateway to the town centre from the north both in general terms and to those arriving by rail in particular. As I saw on my visit to the Plan area whilst the station and its car park is well-maintained it is dominated by the industrial buildings in Foundry Lane to the south. In addition, its car parking areas are significantly under-used.
- 7.44 The policy has two subsidiary policies (CS 8.1/8.2). The former supports frontage improvements for Station Road/Foundry Lane and the latter supports the development of retail, residential and office units adjacent to the station.

- 7.45 I recommend a series of policy and supporting text modifications to these policies. In particular, I recommend that the policies are combined into a single policy. This will bring clarity to land owners, investors and decision-makers alike. The modifications also take account of the inherent limitations of the planning system. Issues around the under use of the station car park, its charging regime and the potential for the Town Council to secure operational control over the car park are not land use matters.

*Include the following supporting text before the policy:*

*The area around the Station and Foundry Lane is an important gateway into the town centre in general terms and for rail users in particular. Whilst the station itself is well-maintained its extensive car park is underused and it is dominated by the industrial premises off Foundry Lane to the south. In addition, its relationship with the adjacent Co-op store is poor. There are significant opportunities to improve the public realm in this part of the town and to secure improved circulation between the station and the supermarket. Include from Policy CS.8 ‘This will involve.... station car park’*

*Policy CS.8 also supports the development of new retail, residential and office accommodation adjacent to the railway station. There is a significant opportunity to bring forward brownfield development in a highly sustainable location. Include from Policy CS 8.2 ‘Burnham Town Council.... secondary area’*

**Replace Policies CS.8/CS 8.1/CS 8.2 with:**

**Proposals to rationalise the area around the railway station and Foundry Lane to create a more attractive gateway to the town will be supported.**

**Particular support will be given to proposals that deliver some or all of the following:**

- **Physical improvements to the frontages of buildings in Foundry Lane;**
- **The development of retail, residential and office units adjacent to the railway station; and**
- **The implementation of landscaping and public realm improvements that would deliver better and safer circulation between the railway station and the supermarket.**

Physical Infrastructure Policies

Highway Proposals

Policies PI. 1-5

Road Access Proposals

Policies PI. 6-9

Pedestrian/Cycle Friendly Proposals

Policies PI. 10 -12

Improved Bus and Rail Services

Policies PI.13 and 15

Railway Station Key Zone

Policy PI.16

- 7.46 Whilst their contents will be important to the future of the town, these policies are non-land use proposals and projects. In accordance with government policy they need to be distinguished from the land use policies elsewhere in the Plan. This is particularly important in procedural terms as only land use policies will sit as part of the development plan in the event that the neighbourhood plan is made.
- 7.47 Given both the significance and the number of these proposals I am satisfied that they remain within the order in which they sit in the submitted Plan. Nevertheless, I recommend that they are shown in a different colour to that used for the land use policies. In addition, I recommend that a further paragraph is added to the introduction of the Plan to highlight this matter. I also recommend that the highways-related proposals are referenced against the Essex County Council highways procedures for the development and implementation of such proposals

*Ensure that the policies listed above are displayed in a different colour to that used for the land use policies*

*Include the following additional text to the end of Section 1.5 of the Plan:*

*National planning policy indicates that policies in neighbourhood plans should be land use based. It is on this basis that these policies will sit with the Maldon Local Plan as part of the development plan for planning purposes. National policy anticipates that neighbourhood planning groups will generate a series of non-land use policies and proposals. This is the case in this Plan. Whilst they sit within the main body of the Plan they are shown in (insert colour) shading. This distinguishes them from the main land use policies (shown in blue).*

*Insert an additional paragraph before section 5.1 to read:*

*The highways proposals listed in Policies PI. 1-12 are currently unfunded. They may be suitable for consideration for funding under the Maldon Local Highways Funding Panel process.*

- 7.48 Policy PI.10 is part land use and part non-land use. On this basis, I make separate comments on this distinction below

Policy PI.10 – Safe Cycle and Pedestrian Routes

- 7.49 This policy has two separate parts. The first part proposes that new footpaths should be designed and constructed between new and proposed neighbourhoods and the town centre. It also proposes that the existing network of footpaths should be better maintained and more widely connected. Whilst these are laudable objectives they are aspirational in design and context. This part of the policy should sit separately as a non-land use proposal with the batch set out above.
- 7.50 The second part refers to a more specific proposal for a pedestrian and cycle path adjacent to the Riverside Park car park. This is a land use policy that should be

retained as such and separated from the non-land use component set out in the previous paragraph. I recommend a modification to this part of the policy so that it has the clarity required by the NPPF.

**Proposals to create a combined pedestrian walkway/cycle path along the existing walkway adjacent to Riverside Park car park will be supported.**

Policy PI.14 – Railway Station

- 7.51 This policy seeks to facilitate the appearance of the railway station. It overlaps with Policy CS.8. I saw the station as part of my visit to the Town
- 7.52 The policy acknowledges that improvements to the railway station and its immediate environment will need the involvement of a wide range of stakeholders.
- 7.53 I recommend modifications to the policy so that it sits as a supportive policy for the variety of improvement envisaged in the policy. This will provide the clarity required by the NPPF and provide a clear context for the various organisations to assess and organise their investment programmes throughout the lifetime of the Plan. The modifications also make the appropriate distinction between policy and supporting text and acknowledge that some of the potential investment projects may not need planning permission.

**Replace the policy with:**

**Proposals for the improvement of the railway station and for the implementation of public realm works in its immediate surroundings will be supported.**

**Insofar as planning permission is required particular support will be given to any or all of the following proposals:**

- **Improvements to existing facilities (including café, business and commercial space); and**
- **Improvements to the ticket office and customer lounge; and**
- **The introduction of new retail units; and**
- **The introduction of new public toilets**

*Insert the following additional text after the second paragraph of section 5.4 of the Plan:*

*Policy PI. 14 sets out a positive context for the delivery of improvements to the railway station and its immediate surroundings. The delivery of this policy will require the involvement of a variety of stakeholders. The policy acknowledges that some of the investment sought may not need planning permission. The Plan also supports the introduction of bus stops and visitor information in this locality. This matter overlaps with the approach adopted in Policy PI. 15*

Policy PI.17 – Car Park Provision

- 7.54 This policy offers a positive context within which proposals for new and extended car parking provision in the town. This is an important part of a strong and vibrant tourism offer.
- 7.55 The third component of the policy refers to the surfacing and marking out of the Riverside Park car park. Whilst I can see that this would be a very worthwhile venture it would not require planning permission. On this basis, I recommend that it is addressed in the supporting text. I also recommend a modification to the policy so that it makes absolutely clear that the Plan (as well as the Town Council) supports the development of further car parking facilities.

**Replace the policy with the following:**

**Proposals that would deliver new or improved car parking provision within the town centre will be supported. Particular support will be given to the following proposals:**

- **The incorporation of parking spaces for coaches into the Marina Car Park; and**
- **The extension of the Millfields car park to the west**

*Include new supporting text at the end of paragraph 5.6:*

*The existing Riverside Park car park would benefit from being resurfaced and marked out to an appropriate standard. This process would assist in making the most effective use of the space and presenting a positive image to visitors and local residents alike*

Policy Pl.18 – Telecommunications and Broadband Service

- 7.56 The policy has two separate parts. The first sets out an expectation that Broadband and mobile phone signals should be improved in the Plan area. Whilst this is appropriate it depends on commercial judgements that are beyond the planning system. I recommend a modification to the policy so that its first sentence is identified separately as a non-land use policy and in a separate colour.
- 7.57 The second part sets out the Plan's general support for new installations subject to environmental considerations. I recommend a modification to this land use part of the policy so that its purpose and role is clear.

**Modify the policy to read:**

**Proposals for the siting of new 4G phone masts in the Plan area will be supported where they respect the character of the area in which they are located and where they safeguard the built heritage of the town.**

*Separate the first part of the policy from the second part and identify it separately as a non-land use policy*

Policy Pl.19 – Water Infrastructure

- 7.58 This policy sets out to ensure that new development takes adequate account of existing and future drainage capacity in the town. The Plan comments about localised flooding in spells of heavy rain.
- 7.59 Anglian Water (AW) has made a very helpful representation on this matter. It sets out the detailed operation of this important technical matter. AW is responsible for the operation and maintenance of the existing foul and surface water sewer network in the town. In general terms water recycling centre upgrades, which are required to provide for additional growth, are wholly funded by AW through its Asset Management Plan.
- 7.60 Foul network improvements are generally funded or part-funded through developer contributions via the Water Industry Act 1991. The costs and extent of the required network improvements are determined on a case by case basis. AW also suggest that the reference to CIL be deleted from the implementation section of the policy. This reflects that the necessary provision is made in line with the Water Industry Act
- 7.61 On the basis of this technical response I recommend modifications to the policy so that it reflects national planning policy and provides the necessary clarity for developers throughout the Plan period.

**Replace the policy with:**

**Proposals for new development should demonstrate that there is or will be sufficient infrastructure capacity at Burnham-on-Crouch water recycling works and underground sewage/surface water infrastructure in the Town to meet all current and projected future necessary requirements.**

*Amend the heading at 5.8 to read:*

*Water recycling centres and underground sewerage/surface water infrastructure*

*Delete the second sentence of the first paragraph of section 5.8*

*Replace 'Burnham Town Council' with 'The Plan'*

*Delete the final sentence of the second paragraph of section 5.8*

*Delete ECC/ MDC CIL budget from the Implementation Section*

Policy PI.20 – Drainage

- 7.62 This policy continues the approach adopted in Policy PI. 19. It expects all small applications and development proposals to commit to front load mitigation works to the water and sewerage infrastructure. This approach reflects local concerns in the town about the adequacy and operation of local networks
- 7.63 The policy has attracted representations from developers. The policy is considered too onerous and well beyond national and local legislation and policy. On the basis of my comments in relation to Policy PI.19 I share this approach. The policy does not have regards to national policy and other associated legislation. On this basis, I recommend that the policy is deleted.

**Delete policy**

## The Economy Policies

### Policy EC.1 – Springfield Business Park

- 7.64 The policy seeks to protect the allocated employment land at the Springfield Business Park. It provides general guidance on the size of industrial uses that would be supported and provides commentary on the tenure of the units concerned. The latter elements of the policy are supporting text rather than policy.
- 7.65 I recommend a series of modifications so that the policy and the supporting text elements are separated and so that the policy itself has long term clarity for both the investor and the decision-maker. In doing so I recommend the deletion of any direct reference to the tenure of the buildings concerned. This is a matter of commercial judgement rather than one of planning control. I also recommend that the Park is shown on one of the Maps. This will provide clarity not currently provided in the submitted Plan.

#### **Replace the policy with:**

**Land at Springfield Business Park (as shown on Map Insert number) will be safeguarded for employment purposes.**

**Proposals for new employment buildings will be supported, particularly for the knowledge based sector.**

*Insert new supporting text at the end of 6.1 to read:*

*As part of a package of measures to stimulate the economy in the town Policy EC.1 sets out to safeguard the Springfield Business Park for employment uses. A range of new buildings will be supported. Insert at this point the final two sentences of the policy in the submitted plan*

*Show the Springfield Business Park on one of the various maps in the Plan*

### Policy EC.2 – River related uses

- 7.66 This policy encourages the development of river-related trades. I saw the importance of existing river-related businesses when I visited the town. In the submitted Plan the policy offers such support in locations where existing uses are proposed to be safeguarded by Policy RI. 3. Plainly the majority of any new such businesses will either be close to the river or in the safeguarded locations. Nevertheless, there is no reason why this policy cannot apply throughout the town. This would accord with the positive approach to job creation in the NPPF. In any event as figure 8 demonstrates there are river related uses already operating successfully throughout the built-up area

**Delete ‘Encourage’.**

**Replace ‘in locations....RI.3’ with ‘will be supported’.**

### Policy EC.3 – Retention of Retail Uses

- 7.67 This policy sets out to retain the existing retail uses in the primary shopping part of the High Street. This area is shown very clearly on Figure 7. As I mentioned earlier in this report the sense of arrival into this part of High Street is very clear. Whilst the High Street consists of a variety of traditional town centre uses there is a more significant concentration of retail uses in this area than in the secondary areas.
- 7.68 The policy seeks to define the spatial extent of the primary retail area by reference to the names of the properties at either end of its northern side. As one of the representations comments the area extends to both sides of the Street. In addition, by defining one of the properties with the name of its current shop there is a significant risk that the policy will lose its clarity throughout the Plan period in the event that the occupier of this unit changes or changes its business name. On this basis, I recommend that the extent of the policy area is defined by the addresses of the buildings concerned.
- 7.69 I also propose a modification to the policy itself so that it has the necessary clarity on what proposals will and will not be supported. The policy will need to have regard to national planning policy. The General Permitted Development Order 2015 has introduced significantly different permitted development rights than those that were in place at the time was being developed. In particular Classes C, D and M respectively of that Order provide a degree of flexibility (subject to conditions) for changes of use from retail use to a restaurant/café, to a financial and professional service use and for use as a dwelling house without the need for planning permission. In the case of Classes C and M such proposals would need prior approval from MDC. As part of the process MDC would need to take a view about the likely effects of such proposals on the sustainability of this shopping area.
- 7.70 The second part of the policy offers support for the retention and development of new retail businesses in this primary shopping area. I recommend a modification to this part of the policy to address two issues. The first is that most changes of use from commercial buildings to retail use would not need planning permission. Nevertheless, it would be appropriate to modify the policy to support the expansion of existing retail units. I recommend that appropriate safeguards are put in place given that this part of the High Street is at the heart of the Town and its impressive and distinctive conservation area. The second is that the planning system cannot directly ‘maintain’ existing retail units.

#### **Replace the policy with the following:**

**A Primary retail area is defined between the Cinema to No.40 High Street (northern side) and No.51 to 151 High Street (southern side).**

**Insofar as planning permission is required within the primary retail area proposals for the change of use from retail to other uses will not be supported.**

**Within the Primary retail area proposals for the expansion of existing retail uses will be supported where they preserve or enhance the character or appearance of the Burnham Conservation Area.**

*Include additional supporting text at the end of paragraph 6.2:*

*Policy EC.3 recognises that there is a particular concentration of retail units in High Street itself. They sit at the heart of the town and its impressive conservation area. The retention of a strong core of retail units is vital to the economic and social well-being of the Town and its inherent sustainability.*

Policy EC.4 – Coop/Mildmay Foundry

- 7.71 This policy overlaps with Policy CS.8. Its focus is specifically on the Co-op/Mildmay Foundry. I have commented earlier on the Plan's positive measures to secure improvements to this important gateway to the Town.
- 7.72 The policy also reflects the community's support for the potential extension of the supermarket. It is sustainably located in its own right and is accessible on foot or by car into the town centre itself. I recommend a modification to the policy so that its planning purpose is absolutely clear.

**Replace policy with:**

**Proposals for the enhancement or the extension of the Co-op supermarket and its immediate environment will be supported.**

Policy EC.5 – High Street Character

- 7.73 The policy recognises the importance of the town centre in its own right and the opportunities that exist to improve the public realm even further.
- 7.74 I recommend two modifications. The first clarifies the purpose of the policy and ensures that it will be effective as a development management tool throughout the Plan period. The second clarifies the importance of the conservation area in this part of the town centre and the obligations that this designation places on land owners and investors.

**Replace policy with:**

**Proposals for public realm improvements in High Street will be supported where the works concerned:**

- **Respect the character and appearance of the Burnham Conservation Area:**
- **Use high quality materials; and**
- **Use designs that respect the local vernacular and the Town's maritime heritage**

*Include the following additional supporting text at the end of paragraph 6.4:*

*All such proposals should be designed to have regard to the character and appearance of the designated conservation area. High quality materials and designs should be used. Wherever possible designs should reflect the rich and varied maritime heritage of the town.*

Policy EC.6 – Tourism

- 7.75 This policy seeks to improve the tourism offer in the town. I saw from my visit that tourism is an important current economic factor in the town. The promotion of sensitive tourism will do much to deliver the economic dimension of sustainable development.
- 7.76 The policy offers support for a range of facilities including bed and breakfast accommodation, restaurants, cafes and other such outlets. The associated policy EC 6.1 addresses the retention of the petrol station (off Maldon Road) and the establishment of a tourist information and booking office in the town.
- 7.77 I recommend that these two policies are combined into a single policy. This will bring clarity to land owners, investors and decision-makers alike. I also recommend the inclusion of additional supporting text at the end of paragraph 6.5 of the Plan to provide context and explanation for the modified policy.

*Insert the following supporting text at the end of paragraph 6.5 of the Plan:*

*The promotion of tourism in the Plan area will do much to secure the economic dimension of sustainable development. It will also make the most effective use of the existing tourism related infrastructure in the town such as car parking. Policy EC.6 sets out a positive context in which new tourism will be encouraged. It acknowledges that in certain circumstances planning permission will not be required for the implementation of such proposals.*

*As a key part of this approach the policy sets out a context to safeguard the existing petrol filling station (in Maldon Road) and the tourist information centre (in High Street). The former provides a key element of the sustainability and self-sufficiency of the town. The latter provides a well-located facility for both visitors and local residents*

**Replace Policies EC.6 and EC.6.1 with:**

**Proposals that would improve and extend the tourism offer in the Town will be supported.**

**Particular support will be given to the following activities insofar as planning permission would be required:**

- **The development of bed and breakfast accommodation or the change of use of existing properties to this use;**
- **The development of sailing schools and other water-related sports;**
- **The development of walking and cycling facilities; and**
- **The change of use of buildings to create restaurants and cafes**

**The petrol filling station in Maldon Road and the Tourist Information Centre in High Street will be safeguarded to reflect their importance to the tourism economy of the Town. Their use or redevelopment for other purposes will only be supported where it can be demonstrated that their continued uses are no longer economically viable or where satisfactory alternative provision has been provided.**

## The Environment Policies

### Policy EN.1 – Public Realm Flood Prevention

7.78 This policy reflects the geography of the Plan area. It seeks to ensure that any new public realm works along the riverside should be capable of withstanding flooding. Large parts of the town are at risk from tidal flooding. I saw this situation on my visit to the Plan area and the existing measures that are in place.

7.79 The policy is clear and is distinctive to Burnham. It meets the basic conditions

### Policy EN.2 – New development and flood risk

7.80 This policy follows on from the precautionary approach adopted in the previous policy. It establishes key principles for the location and design of new development in relation to flooding. Anglian Water supports the policy approach in general, and the use of sustainable drainage principles in particular. It also comments that under no circumstances will surface water be permitted to discharge into the public foul sewerage network. The approach is also supported by Essex County Council in its capacity as the Lead Local Flood Authority.

7.81 I recommend a series of modifications to the policy and its supporting text. The first repositions elements of the submitted policy that are more supporting text than planning policy. The second element makes an appropriate distinction between where development will and will not be supported.

#### **Replace the first sentence of the policy with:**

**New development will not be supported in areas at risk from surface water flooding.**

**In the third sentence of the policy replace ‘Where’ with ‘All new’, ‘does occur it must’ with ‘should’**

**In the fourth sentence of the policy replace ‘pass through.... other areas’ with ‘be discharged in a self-contained fashion and to appropriate standards in place at the time of the determination of the planning application concerned’**

*Insert the following supporting text at the end of paragraph 7.1:*

*Policy EN.2 sets out a policy approach towards the location and design of new development in the town. It takes account of the NPPF in general, and the precautionary principles in particular. In particular, new development will not be supported in areas at risk from surface water flooding.*

### Policy EN.3 – Protection and Enhancement of the Natural Environment

7.82 This policy celebrates and safeguards the habitats and wildlife in the Plan area. It reflects its very distinctive environment.

7.83 The policy comments on Sites of Special Scientific Interest and other internationally designated sites. It takes appropriate account of the Habitats Regulations. Together with Policies EN.1 and EN.2 this policy will make a very significant contribution to

promoting the environmental dimension of sustainable development. The policy is beautifully-crafted. It meets the basic conditions.

#### Policy EN.4 – Renewable Energy

- 7.84 This policy sets out support for renewal energy projects in the Dengie Peninsular. I saw several wind turbines on my travel into the Plan area and to the north of the town when I was walking along the riverside. The policy has regards to national policy. In particular, it provides a local context to the Written Ministerial Statement (HCWS42) of June 2015.
- 7.85 I recommend a modification to the policy so that it makes absolutely clear that the Plan (as well as the Town Council) supports the development of renewable energy projects. The recommended modification is arranged in criteria based fashion to address the very helpful and important factors set out in the supporting text in section 7.3.2.

#### **Replace the policy with:**

**Proposals for the development of renewable energy proposals will be supported in the Plan area subject to the following criteria:**

- **They preserve or enhance the character and appearance of the conservation area;**
- **They take account of the setting of the Town within the Dengie Peninsular**
- **They do not have an unacceptable detrimental effect on the integrity of a listed building or its setting; and**
- **They do not have an unacceptable detrimental effect on the amenities of residential or other properties in the site's locality.**

#### Policy EN.5 – Access to renewable energy sites from the River Crouch

- 7.86 This policy sets out the Plan's approach towards encouraging the future construction and maintenance of wind turbines from the river. This would reduce the impact of these activities on the local road network. The maintenance regime of existing and future wind turbines is not directly a planning and land use matter a degree of control. The policy is not land use based and I recommend accordingly.

*Display the policy in a different colour to that used for the land use policies*

#### Policy EN.6 – Domestic Recycling and Amenity Site

- 7.87 This policy seeks to ensure that the Town Council works with the District and the County Councils to maximise the amount of recycling in the town. This would be a very worthwhile ambition. Nevertheless, it is a non-land use project. In accordance with other such policies it should be highlighted by a different colour in the Plan

*Display the policy in a different colour to that used for the land use policies*

#### Policy EN.7 – Waste Bins Storage

- 7.88 This policy sets out to ensure that new developments incorporate waste bin storage in their layouts and designs.
- 7.89 Such an approach is entirely appropriate. It will help to improve the design and appearance of new developments. It meets the basic conditions.

#### The River Policies

##### Policy RI.1- Protection and Improvement of the Riverside

- 7.90 This policy sets out the Plan's ambitions to improve the quality of the riverside. As section 8.1 of the Plan comments it is 'the most popular place to spend time around the Town. Many people enjoy walking along the riverside or just sitting on the sea wall'. This reflects my own experience when I visited the Town.
- 7.91 The Environment Agency has made two very helpful representations on this policy. In the first instance, it draws attention to the potential need for a Flood Risk Activity Permit for the delivery of such works. Secondly it identifies the need for early discussion on the implementation of any emerging projects. Particular attention is drawn to the more remote sections of the seawall at Holliwell Point and also to the area to the west of the town to avoid impacts on the unique flora in the SSSI. I reflect these important matters of national policy in my recommended modifications.
- 7.92 The policy also usefully highlights the importance of the proposals to implement the England Coast Path within the Plan area.
- 7.93 I also recommend a modification so that the policy is more directed towards its delivery through the planning system. This will bring the clarity as required by the NPPF. It also reflects that some elements of these proposals will not need planning permission.

#### **Replace the initial part of the policy with:**

**The riverside will be protected and improved throughout the Plan period. Proposals that deliver any or all of the following measures will be supported:**

*Insert new supporting text at the end of section 8.1 of the Plan:*

*Some of the projects identified in Policy RI.1 may not need planning permission. At the same time, some or all of the works may need a Flood Risk Activity Permit under the provisions of the Environmental Permitting Regulations 2010. In addition, there would be benefit in the agencies promoting these works in having early discussions with the Environment Agency on the implementation of any emerging projects. This will particularly apply to the more remote sections of the seawall at Holliwell Point and also to the area to the west of the town to avoid impacts on the unique flora in the SSSI.*

##### Policy RI.2 - Design Sensitivity of Riverside Developments

- 7.94 This policy seeks to ensure that any adjacent development takes account of the extent and topography of the riverside. This is an important and distinctive policy.

- 7.95 The various criteria in the policy are entirely appropriate to this very special part of the town. I recommend a modification to the introduction to the policy so that its applicability through the planning process is clear. I also recommend some consequential changes to the criteria.

**Replace the first part of the policy with:**

**New development adjacent to the riverside should be designed to reflect its relationship to the river and to respect its prominence and visibility from the river. Proposals will be supported that bring forward good design appropriate to its location and which satisfactorily address the following matters:**

**In the first criteria replace ‘contributing’ with ‘contributes’**

**Replace fourth criteria with:**

**Any access arrangements to the Quay are sensitive both to the development concerned and the wider Quay side. The appearance of any access arrangements should be sensitive when viewed from the River**

Policy RI.3 – Retention of Primary River related employment uses

- 7.96 This policy proposes safeguarding land which is primarily or directly used for river related employment uses from residential use. A degree of flexibility is introduced in respect of alternative uses such as retail, leisure and tourism. Figure 8 usefully shows the various buildings and sites currently in river related uses.
- 7.97 The policy reflects the important maritime character of the Town. Its implementation will be important to the longer-term sustainability and economic prosperity of the Town.
- 7.98 Whilst the land uses as shown in figure 8 were readily apparent when I visited the town neither the policy nor the map provides the degree of clarity needed by landowners, developers and decision-makers throughout the Plan period. I recommend that an appendix is produced identifying the buildings to which the policy would apply.
- 7.99 I also propose a modification to the policy itself so that it has the necessary clarity on what proposals will and will not be supported. The policy will need to have regard to national planning policy. The General Permitted Development Order 2015 has introduced significantly different permitted development rights than those that were in place at the time was being developed. In particular Classes O and P respectively of that Order provide a degree of flexibility (subject to conditions) for changes of use from offices (B1a) and storage/distribution (B8) to residential use without the need for planning permission.

**Replace the policy with the following:**

**Land and buildings in primary or directly related river employment uses (and as shown in figure 8 and Appendix X) will be safeguarded.**

**Insofar as planning permission is required their conversion to residential use will not be supported.**

**Proposals for the retail, leisure or tourism uses of the buildings concerned will be supported where they would comply with other policies in the development plan and where they would not change the overall character of the riverside.**

*Insert additional text at the end of Section 8.2:*

*Policy RI.3 establishes key criteria to safeguard the variety of uses in the town that are directly related to the river. It takes account of the flexibility that exists in relation to permitted development rights to convert offices and storage and distribution facilities to residential use. It also offers flexibility in the event that river related uses cease to trade for retail, leisure or tourism uses to take their places. These will help to safeguard and consolidate the economic base and vibrancy of these parts of the town*

*Produce an Appendix listing the land and buildings identified in figure 8.*

Policy RI.4 – Secondary River related employment uses

- 7.100 This policy continues the approach adopted in Policy RI 3. It offers support a variety of secondary and indirect marine-related uses. This approach will be an important component to the delivery of the economic dimension of sustainable development in the Plan area. I recommend a modification to the format of the policy so that it has the clarity required by both the decision-maker and the developer.
- 7.101 I also recommend that the second sentence of the policy is captured in supporting text rather than the policy itself. As drafted it highlights the potential for additional slipways rather than providing a policy commitment to their development.

**Replace policy with:**

**Proposals for the development of maritime related employment uses alongside the River Crouch in the town centre will be supported.**

**Particular support will be offered to proposals for the development of chandleries, cafes restaurants and sailing schools.**

*Include additional supporting text at the end of Section 8.2 of the Plan:*

*Within the context set by both policies RI.3 and RI.4 there is the potential for additional public slipways to give access to the River for the launching of smaller craft. Such proposals should be considered on their merits taking account of these and other policies in the Plan.*

Policy RI.5 – Gateway to RSPB Wallasea

- 7.102 This policy proposes joint work between the Town Council/MDC and the RSPB for Burnham to be identified as a gateway to the RSPB Wallasea facility. I can see that this is an entirely appropriate proposal in its own right and one that will assist tourism in the Plan area. Nevertheless, it is a non-land use proposal

*Display the policy in a different colour to that used for the land use policies*

#### Policy RI.6 – East Coast Sailing Activities

- 7.103 This policy proposes that the Town Council and MDC support the relaunch of the Town as the premier centre for East coast sailing and associated activities. I can see that this is an entirely appropriate proposal in its own right and one that will assist tourism in the Plan area. I wish it every success. Nevertheless, it is a non-land use proposal.

*Display the policy in a different colour to that used for the land use policies*

#### Policy RI.7 – Swimming facility

- 7.104 This policy has two separate parts. The first offers support for new swimming facilities in the town. This is a land use policy. I recommend a modification to ensure that the purpose of the policy is clear.
- 7.105 The second part of the policy offers support to recreational uses of the river. The uses identified are beyond planning control and are, in effect, of a promotional nature. In this regard, they fall into the same category of other non-land use proposals identified elsewhere in the Plan. I recommend accordingly.

#### **Modify the first part of the policy to read:**

**Proposals for a new swimming pool or other swimming facilities will be supported where they safeguard the amenities of any adjacent residential properties and take account of the local environment in which they are located.**

*Separate the second part of the policy from the first and identify it as a non-land use proposal by different colouring*

#### Heritage and Character Policies

#### Policy HC.1 – Shop Front Design

- 7.106 This policy provides policy guidance for the installation of new shop fronts. I saw that the existing shop fronts were principally of a traditional design. They add significantly to the character, vitality and attractiveness of the town centre.
- 7.107 The first part of the policy is very well-designed and meets the basic conditions. In particular, it provides clear guidance on how developers should propose any new shop fronts to respect the traditional character of the town centre.
- 7.108 The second part of the policy is more aspirational. It indicates that the Town Council and MDC will develop a more detailed implementation policy to assist in this process. I have no doubt that this will be both a useful and a helpful process. Nevertheless, it will be subject to its own consultation and adoption process at that time. It does not meet the basic conditions given that there is no clarity at this stage on the more detailed approach. On this basis, I recommend that the second part of the policy is deleted and incorporated into the supporting text at section 9.2 of the Plan.

#### **Delete ‘Burnham Town Council.... commercial frontages’**

*Insert the deleted text above immediately after the second paragraph of section 9.2 of the Plan*

#### Policy HC.2 – New Development Features

- 7.109 This policy applies certain elements of the traditional building approaches in the town to new developments. It makes reference to design principles set out in Appendix 1 of the Plan. That appendix is covered in later sections of this report.
- 7.110 The policy identifies two particular features that new development should incorporate as appropriate (local materials and vertically proportioned window). Plainly these are important characteristics of the local building vernacular. Nevertheless, in order to ensure that developers have the necessary clarity I recommend that the policy is modified so that the two features concerned sit within the wider context of good design. Otherwise the two features could be seen outside a wider context. This recommended modification would also overlap with my recommended modifications to Policy HO.10. That is the principal policy that establishes the design expectations of the Plan and provides a context for the introduction of the design principles in Appendix 1

**Replace the policy with:**

**Proposals for new housing development should produce high quality schemes that reflect the character and appearance of their immediate surroundings.**

**Where appropriate new residential developments should incorporate the following features:**

- **The use of traditional local materials such as brick and weatherboarding; and**
- **The use of vertically-proportioned windows.**

#### Policy HC.3 – Street Layout Principles

- 7.111 This policy provides important commentary on the layout of new development. It is primarily related to new residential development.
- 7.112 Its key principles will do much to encourage good design and layouts. A developer has commented that the approach in the policy that resists the development of cul-de-sacs is inappropriate and may detract from the delivery of good design. Plainly there is a degree of judgement to be applied on this matter. Nevertheless, the restrictive approach on this point as set out in the Plan does not have regards to national policy as set out in paragraphs 59 and 60 of the NPPF. It is too prescriptive. I recommend modifications to the policy and the supporting text accordingly.

**Replace the initial section of the policy with:**

**‘Proposals for new residential development will be supported where they incorporate the following principles:’**

**In the first bullet point delete ‘rather than cul-de-sacs’**

**After the third bullet point replace the full stop with ‘; and’**

*In the third paragraph of section 9.3 replace the third sentence with the following:*

*Within this context cul-de-sacs should only be proposed where they reflect the character of the surrounding area and would produce good design and a high-quality living environment.*

Housing Policies

Policy HO.1 – New Residential Development

- 7.113 This policy provides support for residential development in the Plan area where it complies with other policies of the Plan and the emerging Local Plan. It identifies that proposals should demonstrate that compliance through a design and access statement.
- 7.114 I recommend two modifications to this policy. The first would replace reference to the emerging local plan with the concept of the development plan. This will ensure that the Plan sits within its wider planning context and is future-proof. The second deletes reference to the role of a design and access statement in the policy. Such statements have a very specific role in the planning process and which are not best suited to the requirements of the policy. I recommend that the process for compliance is set out in modified supporting text

**Replace ‘Maldon District... (2014-2029)’ with ‘development plan’**

**Delete ‘Such compliance....application’**

*Add the following supporting text to the end of Section 10.1:*

*Policies HO.1 and HO.2 set out key policy approaches towards new residential development in the Plan area. Policy HO.1 supports new residential development where it complies with other policies in this Plan and the wider development plan. Once the Maldon Local Development Plan is adopted it and the neighbourhood plan will constitute the development plan for Burnham. Planning applications should set out how they comply with development plan policies. This could be done either generally or through the preparation of a Planning Statement*

Policy HO.2 – Range and Type of new residential development

- 7.115 This policy requires that new housing development has two components. The first is that it should meet the needs of local families. The second is that the range of houses developed should address the needs of a wider range of buyers and deliver different housing sizes. The second component has proper regard to national policy. In particular paragraph 50 of the NPPF is clear that new housing should address demographic and market trends and in doing so set out guidance on the size type and range of housing. This approach is also adopted in the emerging local plan (policy H2).
- 7.116 However the need for new housing to meet the ‘needs of local families’ is far less closely aligned to meeting the basic conditions. Plainly in many instances the second Burnham-on-Crouch Neighbourhood Plan – Examiner’s Report

component of the policy will be informed to a greater or lesser extent by the needs of these families. Nevertheless, the definition of local families is not made clear in the Plan, nor is there any direct evidence on this matter. The Plan will be contributing to meeting the wider objectively-assessed housing needs of the wider Maldon area. This need takes account of a variety of factors including the demographic needs of the local population and in migration. On this basis, I recommended that the first component of the policy is deleted so that the policy has the clarity required by the NPPF.

**Delete ‘properly meet...This should include’.**

Policy HO.3 – Housing for retired and elderly persons

- 7.117 This policy sets out the need for new housing development to provide for the needs of retired and elderly people. It also indicates that such dwellings should be provided close to shops and services.
- 7.118 The first part of the policy is supported by evidence and meets the basic conditions. The second component of the policy is both unclear in its definition and purpose. In the first instance, there is no definition of ‘close’ in the policy. This will therefore present practical issues for its consistent application through the development management process. In the second instance the policy takes no account of the strategic policies in the Plan that would result in the majority of new dwellings being located on the three strategic sites to the west and north of the town. A strict interpretation of the submitted policy may prevent housing for the elderly being developed on this sites.
- 7.119 I recommend that this component of the policy is deleted so that there is clarity on the content and application of the policy. Nevertheless, I also recommend that the issues about the desirability of such housing being located close to shops and services is set out separately in the supporting text. In practice developers, will take this factor into account in selecting and purchasing sites for developments that will be focused on the need of the elderly.
- 7.120 I also recommend the deletion of the word ‘local’ to ensure consistency with my recommended modification to Policy HO.2
- 7.121 I also recommend that other elements of the policy explaining the relationship between this policy and policy S6 in the emerging local plan are transferred into the supporting text. They are not in themselves of a policy nature.
- 7.122 Finally I also recommend that the references in the policy to Lifetime Homes and Built for Life assessment homes are deleted. The Ministerial Statement of March 2015 identified that planning policies should not identify local technical standards or requirements relating to the construction, internal layout or performance of new dwellings. This included policies requiring any level of compliance with the Code for Sustainable Homes to be achieved by new development. Plainly this is a matter where the emerging neighbourhood plan has been overtaken by national policy. Nevertheless, the examination process requires that the Plan is examined against national policy at the time of the examination rather than at the time of its preparation.

**Replace the policy with:**

**Housing for retired and elderly persons and people with mobility and sensory impairment will be supported. They should be provided on the strategic housing sites and elsewhere as appropriate.**

*Take 'The Maldon District... unviable' from the submitted policy and reproduce as supporting text within Section 10.1 of the Plan.*

*Insert as additional supporting text:*

*Policy HO.3 requires the development of houses to meet the need of retired and elderly persons as part of new housing developments. Proposals that position either general housing or bespoke housing for the elderly close to shops and services will be particularly supported subject to such proposals conforming with other policies in the Plan.*

**Policy HO.4 – New Residential Development and Infrastructure requirements**

- 7.123 This policy seeks to address the infrastructure requirements that arise from the potential range of smaller scale housing schemes that may be approved during the Plan period. The approach adopted reflects the Town Council's concerns about the historic effects that such developments have had on infrastructure in the town.
- 7.124 As submitted the policy does not identify any specific policy requirements or expectations. On this basis, it would be impractical for MDC to apply consistently throughout the Plan period. In addition, it provides no clarity to developers. I recommend the deletion of the policy. In any event the issue will be overtaken by any future introduction of a Community Infrastructure Levy regime in the District. The approach set out in the submitted policy does however represent a genuine concern within the town generally. As such I recommend that a revised form of words sits at the end of Section 10.2 that addresses the wider issue.

**Delete Policy**

*Insert the following additional supporting text at the end of section 10.2 of the Plan:*

*Given the concerns set out in this section of the Plan the Town Council will work closely with the District Council to ensure that all the relevant cumulative effects of windfall and other developments in the Plan period are addressed and mitigated where appropriate.*

**Policy HO.5 – Affordable Market Housing**

- 7.125 This policy sets out support for affordable market housing in the Plan area. This is an important local response to national policy on this matter with regards to starter homes.
- 7.126 Whilst the supporting text in section 10.3 clarifies that the policy takes this approach rather than the more traditional affordable housing route, this matter becomes far less clear in the policy itself. I recommend a modification to bring the clarity required by the NPPF

## **Replace ‘Initiatives’ with ‘Proposals’**

### **Delete ‘The Maldon .... all others’**

#### Policy HO.6 – Sustainable Building Standards

- 7.127 This policy sets out to ensure that new residential development meets national technical standards in terms of sustainability and efficiency
- 7.128 This process will be supported by all concerned. However, it is now controlled by the Building Regulations. I recommend that the policy is deleted for identical reasons to those set out in relation to that part of policy HO. 3 on this matter as set out in paragraph 7.122 of this report

### **Delete policy**

#### Policy HO.7 – Land at Burnham West

- 7.129 This is one of three detailed policies that sets out a greater degree of detail on the strategic housing sites as described in Policy S1. This approach is appropriate and gives the opportunity for the neighbourhood plan to add local detail to the strategic approach being developed in the emerging local development plan. Nevertheless, the approach of these policies needs to be proportionate to nature of the site. Where appropriate it should also take account of the progress of planning applications on a site by site basis. Paragraph 59 of the NPPF encourages the use of design codes where they could help deliver high quality outcomes. However, it goes on to comment that ‘design policies should avoid unnecessary prescription or detail’ and should concentrate on guiding the general principles of the development of the site. I will approach the examination of these policies in this context and to ensure that they meet the basic conditions. In doing so I will also take into account the helpful comments made by developers concerned on these sites.
- 7.130 Policy HO.7 addresses the strategic site at Burnham West (S2i). In August 2016 MDC resolved to grant planning permission for a hybrid application on the site and land to its immediate south (MAL/14/00356). Part of the application was for full planning permission for 180 homes (including 20 bungalows), a new vehicular access onto Maldon Road, a spine road through the development, green space, and associated infrastructure. The other part of the application was for outline planning permission with all matters reserved (except for access) for a 50-60 bed care home, a nursery school, 3.4 hectares of B1, B2 and B8 with 0.65 hectares of allotments.
- 7.131 The policy provides information on the Maldon Road/Chandlers/Creeksea Lane frontages, connectivity to its surrounding context, the location of green space and the orientation of the new housing. Representations from developers involved in this site point out that some of these elements have been both addressed and overtaken by the resolution to grant planning permission on the wider development site. Plainly this is an important matter.
- 7.132 A neighbourhood plan needs to be both practical and to meet the basic conditions. Within this context, I recommend modifications to the policy and its supporting text to reflect this updated set of circumstances. Nevertheless, there is merit in retaining the

policy to provide a policy framework against which any new or revised planning applications can be assessed. This approach will provide the clarity required by the NPPF at the same time as meeting the requirements of paragraph 59 of the NPPF on design matters and their level of detail.

*Include additional supporting text at the end of Section 10.5 of the Plan:*

*In August 2016, the District Council resolved to grant planning permission for a planning application on the allocated site, on land to its south and on the allocated employment site (Policy E1p). This addresses many of the important components set out in Policy HO.7. The policy takes account of this development proposal. Plainly that proposal is now well-advanced in the planning process. The policy will apply to any revised or new planning applications that may be submitted on the site.*

**Replace the second and third paragraphs of the policy with the following:  
Development proposals should bring forward high quality designs that take account of the following factors:**

- **The delivery of low density development along the Maldon Road frontage;**
- **The delivery of higher density development within the middle part of the site;**
- **The delivery of pedestrian and cycle route throughout the site and which are well-integrated into the existing network;**
- **The preservation and enhancement of existing rights of way;**
- **The provision of facilities for persons of all ages;**
- **The provision of green and open space to District Council standards; and**
- **The delivery of affordable housing to District Council standards at the time of the determination of the planning application concerned**

*Modify Figure 11 by adding ‘that reflects the character of the immediate locality’ after ‘Low-rise residential development’*

Policy HO.8 – Land at Burnham North (West)

- 7.133 This policy addresses the strategic housing site at Burnham North (West) (S2j). In May 2016 MDC resolved to approve a full planning application on this site (MAL16/00093). The same principles apply to this site as I have set out in relation to Policy HO.7 (paragraphs 7.129 to 7.132). I recommend a similar set of modifications in general, and which reflect the site details in particular.

*Include additional supporting text at the end of Section 10.5 of the Plan:*

*In May 2016, the District Council resolved to grant planning permission for a planning application on the allocated site. This addresses many of the important components set out in Policy HO.8. The policy takes account of this development proposal. Plainly*

*that proposal is now well-advanced in the planning process. The policy will apply to any revised or new planning applications that may be submitted on the site*

**Replace the policy with the following:**

**Development proposals should bring forward high quality designs that take account of the following factors:**

- **The delivery of a layout that respects and is set back from the Green Lane frontage to the site;**
- **The delivery of a layout that respects the existing green gap that exists between the two principal built-up elements of the town along the section of Southminster Road in the eastern part of the site;**
- **The delivery of satisfactory access into the site;**
- **The protection of existing mature trees and their incorporation into the layout of the proposal; and**
- **The delivery of affordable housing to District Council standards at the time of the determination of the planning application concerned.**

*Modify Figure 12 to indicate the potential for an alternative ‘new vehicular route’ into the site from Southminster Road and for an alternative ‘indicative vehicular access’ at this same point*

Policy HO.9 – Land at Burnham North (East)

- 7.134 This policy addresses the strategic housing site at Burnham North (East) (S2k). Unlike the other two strategic sites a planning application has yet to come forward on this site. This is reflected in its later delivery in the housing trajectory set out earlier in this report.
- 7.135 Whilst this site is less advanced than the other two strategic sites I recommend similar modifications to the policy by way of setting out key development principles. Several of these principles are helpfully set out in the representation from agents acting for the site owners.

**Replace the policy with the following:**

**Development proposals should bring forward high quality designs that take account of the following factors:**

- **The delivery of a layout that respects and takes advantage of the topography of the site as it falls to Pannel’s Brook to the north;**
- **The delivery of a layout that respects the setting of St Mary the Virgin Church and which provides appropriate vistas towards its tower;**
- **The delivery of a layout that respects the Marsh Road frontage and provides a strong design solution towards that frontage**
- **The delivery of a layout that reduces in both scale and density from south to north**
- **The delivery of affordable housing to District Council standards at the time of the determination of the planning application concerned; and**

- **The delivery of a layout that takes account of Pannel's Brook both in terms of urban design and the protection of properties from potential flooding**

#### Policy HO.10 – Housing Design Principles

- 7.136 This policy sets out a series of design principles to which it requires housing developments to comply. The principles are set out separately in Appendix 1
- 7.137 There is a disjoint between the supporting text and the policy itself. The Principles set out in Appendix 1 are primarily design-led. The supporting text refers primarily to viability and development costs. Plainly these two important factors both overlap and interplay one with the other. I recommend modifications so that these matters are addressed. This will provide the decision maker with longer term clarity on the purpose of the policy
- 7.138 In addition I also recommend a modification to the structure of the policy itself. Whilst it refers the reader to the Principles in Appendix 1 it fails to set out its clear purpose of wanting to secure high quality design in accordance with the NPPF.

#### **Replace the policy with:**

**Proposals for new housing development should produce high quality schemes that reflect the character and appearance of their immediate surroundings.**

**Proposals should take account of the Housing Design Principles set out in Appendix 1 insofar as those principles apply to any particular site.**

*Add the following to the end of the existing supporting text at 10.8:*

*Within this context all new housing development proposals should be designed, planned and delivered in a fashion to bring about high quality design in terms of layout, materials and vernacular finishes. Policy HO.10 sets out the policy basis that underpins this approach. Specific Housing Design Principles are set out in Appendix 1.*

#### Appendix 1- New Housing Design Principles

- 7.139 As set out above Appendix 1 establishes a series of Housing Design Principles. The approach is both thorough and comprehensive.
- 7.140 The NPPF indicates that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. In paragraph 60 it comments that 'planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness'. It is on this basis that I will examine the various principles set out in the Appendix.

7.141 Given the number of Principles in the Appendix I comment only on those where modifications are recommended. Where this is the case the following reasoning applies:

D Too detailed matters - more properly addressed at planning application stage

P Too prescriptive and contrary to the NPPF

C To provide clarity

NHD 3

Delete the final sentence in brackets (P)

NHD 6

Delete the first element (P)

NHD 7

Modify second component to read:

All dwellings should be provided with safe and convenient car parking spaces. Proposals for communal garage courts will be supported where they have a clear functional and visual relationship with the dwellings concerned. (C)

NHD 8

There is already sufficient detail in the site-specific housing policies

Delete (P)

NHD 9

The Principle is unclear on what is 'a sufficiently generous standard'. In any event the imposition of standards would be too prescriptive and may in itself prevent the delivery of good design.

Delete (D/P/C)

NHD 10

Insert 'wherever possible' at the end of the first element (P)

NHD 17

Replace 'village' with 'Town' (C)

NHD 19

This principle is very general and is repetitive of other principles

Delete (C)

NHD 20

Insert 'wherever possible' after 'management' (P)

NHD 21

This Principle is very prescriptive. It may hinder good design and may not result in the best use of development land

Delete (D/P/C)

NHD 22

This Principle is far too vague for inclusion in a development plan

Delete (D/P/C)

NHD 23

This Principle requires community involvement for all applications.

The approach is both unreasonable and prescriptive.

Delete (P)

A more proportionate approach is applied for residential developments of 10 or more dwellings

NHD 27

This is more of a process issue than a design principle

Delete (P)

NHD 28/29

There is already sufficient detail in the site-specific housing policies. In any event the requirements lack clarity

Delete (C/P)

NHD 30

Replace 'will require' with 'should be accompanied' (C)

NHD 32/33

These Principles do not add local value either to national or local standards on traffic generation and highways matters. In any event, they are both lacking in detail and clarity.

Delete (C)

NHD 34

The final sentence refers to traffic speed. This is not a land use matter

Delete final sentence (C).

Other Matters

7.142 This report has recommended a series of modifications both to the policies in the submitted Plan. Where consequential changes to the text are required directly as a result of my recommended modifications to the policy concerned I have identified them in this report. However, there may be other required factual changes to the

general text elsewhere in the Plan as a result of the recommended modifications to the policies. It will be appropriate for the District Council and the Town Council to have the flexibility to make the necessary changes. I recommend accordingly.

*Modification of general text (where necessary) to achieve consistency with the modified policies.*

## **8 Summary and Conclusions**

### *Summary*

- 8.1 The Plan sets out a range of policies to guide and direct development proposals in the period up to 2029. It is thorough and distinctive in addressing a specific set of issues that have been identified and refined by the wider community. It has helpfully been produced in very close alignment with the Maldon Local Development Plan. This has been particularly helpful given the importance of Burnham-on-Crouch in the

settlement hierarchy of the District in general, and its contribution to meeting its objectively assessed housing needs in particular.

- 8.2 Following my independent examination of the Plan I have concluded that the Burnham-on-Crouch Neighbourhood Development Plan meets the basic conditions for the preparation of a neighbourhood plan subject to a series of recommended modifications.
- 8.3 This report has recommended a number of modifications to the policies in the Plan. In some cases, I have identified policies that are of a non-land use nature. These have naturally arisen as part of the preparation of the Plan. I have recommended that they are shown in a different colour to distinguish them from the land use policies. Nevertheless, the Plan remains fundamentally unchanged in its role and purpose. Its focus is on promoting sustainable growth, safeguarding its distinctiveness and extending its promotion of the town as a visitor and tourist centre based on its position on the River Crouch.

#### *Conclusion*

- 8.4 On the basis of the findings in this report I recommend to Maldon District Council that subject to the incorporation of the modifications set out in this report that the Burnham-on-Crouch Neighbourhood Plan should proceed to referendum.

#### *Referendum Area*

- 8.5 I am required to consider whether the referendum area should be extended beyond the Plan area. In my view the neighbourhood area is entirely appropriate for this purpose and no evidence has been submitted to suggest that this is not the case. It is a relatively self-contained and sustainable location based both on the size of the town and its location in the southern part of the Dengie Peninsular. I therefore recommend that the Plan should proceed to referendum based on the neighbourhood area as approved by the District Council on 24 April 2013.
- 8.6 I am grateful to everyone who has helped in any way to ensure that this examination has run in a smooth and efficient manner. The examination has reflected both the number of policies and the various issues that they address. The examination has also been assisted by the detail provided in many of the representations made by developers and land owners. This has specifically been the case where the developers and land owners of the three strategic housing sites have provided updates on the progress of relevant planning applications. This has been supplemented by commentary on the detailed policies on these sites (Policies HO.7-HO.9). This overall process should assist in the delivery of high quality development on these important sites.
- 8.7 The examination has involved much hard work on the part of the two councils concerned. I am particular grateful both to the Town Council and to Leonie Alpin at the District Council for the way in which they have responded to my many and various queries.

**Andrew Ashcroft**

**Independent Examiner**

**22 March 2017**