

Our ref    Pre-Submission LDP Representation  
Your ref

17 March 2014

# MALDON DISTRICT COUNCIL

Princes Road  
Maldon  
Essex CM9 5DL



Enquiries to: Planning Policy  
Email: [policy@maldon.gov.uk](mailto:policy@maldon.gov.uk)

Dear Sir / Madam

**Lawson Planning Partnership LLP on behalf of NHS Property Service Ltd and NHS England  
Representation to the Pre-Submission Local Development Plan public consultation**

The information contained within the representations listed below were made by Mrs Aarti O'Leary, Lawson Planning Partnership LLP representing NHS Property Service Ltd and NHS England and should be read in conjunction with the supporting evidence contained within representation: **0156-5312-S6-234**.

- 0156-5313-2.82-234
- 0156-5314-8.50-2
- 0156-5315-8.12-2
- 0156-5316-E3-234
- 0156-5317-H6-234

Kind regards,

Emily Hall  
Planning Technician





# MALDON DISTRICT COUNCIL LOCAL DEVELOPMENT PLAN 2014 - 2029

This form has **two** parts; **Part 1** only needs to be **completed once** for each person / group making a representation. **Part 2** should be **completed for each area of concern individually**. Parts 1 and 2 should be submitted at the same time – if this is not possible Part 1 should be completed to accompany each Part 2 submission.

This is a Regulation **19 and 20** Town and Country Planning (Local Planning) (England) Regulations 2012 “**Pre-Submission LDP**” consultation.

The second Regulation 18 “Draft Local Development Plan (LDP)” consultation took place between August and October 2013, the responses received and further technical work have informed the development of the Pre-Submission LDP. The Pre-Submission LDP has been published prior to its submission to the Secretary of State to allow for representations to be made on its soundness and legal compliance. Any comments can be provided in Part 2 of this questionnaire.

Representations should be submitted **by 12 noon Friday 7<sup>th</sup> March 2014** to the following email address: [policy@maldon.gov.uk](mailto:policy@maldon.gov.uk) or alternatively by post to: Maldon District Council, Council Offices, Princes Road, Maldon, Essex, CM9 5DL. Please note **this form is the only means by which representations will be accepted and late representations will not be accepted.**

**\*\*\*PLEASE NOTE THE PRE-SUBMISSION LDP CONSULTATION PERIOD HAS BEEN EXTENDED TO END AT 12 NOON ON WEDNESDAY 12TH MARCH\*\*\***

The Statement of Procedure, available from the Council Offices and website: [www.maldon.gov.uk](http://www.maldon.gov.uk) provides further guidance on how to complete Part 2 of this form.

Representations received will be publicly available in accordance with Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council will place the names of respondents or organisation where appropriate, to this consultation on its website along with the representations they have made under Part 2 of this response form. Part 1 of this form will not be published. **By submitting responses on the Maldon District Pre-Submission LDP, you confirm that you agree to this. Please note that both Part 1 and Part 2 of this response form will be passed on to the Planning Inspectorate for the purpose of the LDP Examination-in-Public.**

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## Part 1 – personal details (please complete once for each person / group)

### 1.1. Personal Details

Title	Mrs
First name	Aarti
Last name	O'Leary
Organisation (where applicable)	Lawson Planning Partnership Ltd
Job title (where applicable)	Associate Director
Who are you representing (where applicable)	NHS Property Services Ltd (on behalf of NHS England)

### 1.2. Client Details

(if applicable)

Title	
First name	
Last name	
Organisation (where applicable)	NHS Property Services Ltd on behalf of NHS England
Job title (where applicable)	

### 1.3. Contact Address Details

(please provide details of the person who should be contacted regarding this response)

Address line 1	882 The Crescent		
Address line 2	Colchester Business Park		
Town / Village	Colchester		
County	Essex		
Postcode	CO4 9YQ	Telephone number	01206 835150
Email address	aartioleary@lppartnership.co.uk		

### 1.4. Are you responding as:

An individual	<input type="checkbox"/>	A town or parish council	<input type="checkbox"/>
A district / borough council	<input type="checkbox"/>	A district councillor / MP	<input type="checkbox"/>
On behalf of an organisation	<input checked="" type="checkbox"/>	On behalf of a community group	<input type="checkbox"/>
A landowner / developer / agent / architect	<input type="checkbox"/>	Other	<input type="checkbox"/>

### 1.5. Local Development Plan Future Updates

Please tick this box if you would like to be added to the Local Development Plan mailing list to receive updates on the progress of the Plan (*please ensure your details are entered correctly above*)

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## Part 2 - Regulation 19 and 20 Town and Country Planning (Local Planning) (England) Regulations 2012 "Pre-Submission LDP" consultation

Please note that all comments on the Pre-Submission LDP consultation should be provided by completing Part 2 of this form. A separate completed Part 2 should be provided for each comment made within a representation.

**2.1.** To which part of the Maldon District Pre-Submission Local Development Plan (LDP) does this representation relate?

- |   |  |   |
|---|--|---|
| i. Paragraph<br>(please specify paragraph number) _____ | j. Policy<br>(please specify policy reference) _____ | E3: Community<br>Facilities and Services<br>_____ |
| k. Proposals Map<br>_____                               | l. Other section<br>(please specify) _____           | _____   |

**2.2.** Do you consider the Maldon District Pre-Submission LDP to be (tick as appropriate):

- e. Legally compliant** Yes ☒  
To be 'legally compliant' the LDP has to be prepared in accordance with the Duty to Co-operate and legal and procedural requirements. This is required by Government guidance No ☐
- f. Sound** Yes ☐  
To be 'sound' a Local Plan should be positively prepared, justified, effective and consistent with national policy. This is required by Government guidance No ☒  
(if you **do not consider the LDP to be sound**, please complete section 2.3. below)

**2.3.** Do you consider the Maldon District LDP to be unsound because it is not (tick as appropriate):

- i. Positively prepared** ☐  
To be positively prepared the plan should be prepared on a strategy which seeks to meet objectively assessed development and infrastructure requirements
- j. Justified** ☒  
To be justified the plan must be:
- Founded on a robust and credible evidence base;
  - The most appropriate strategy when considered against the reasonable alternatives.
- k. Effective** ☒  
To be effective the plan must be:
- Deliverable;
  - Flexible;
  - Able to be monitored.
- l. Consistent with National Policy** ☒  
The Plan must be consistent with Government guidance as set out within the National Planning Policy Framework

On the following pages, please explain why you think the Plan is unsound or not legally compliant, and set out any changes you feel should be made to the Plan to make the Plan sound or legally compliant.

**Please note:** As there will not normally be a subsequent opportunity to make further representations based on your representation at this stage, please include all the information, evidence and supporting information necessary to support/justify your representation and the suggested change(s) to the Plan. After this stage, further submissions will only be invited at the request of the Planning Inspector, based on the matters and issues the Inspector identifies for examination.

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**2.4.** If you consider the Maldon District LDP to be unsound or not legally compliant please explain why in the box below.

Please be as precise as possible. Please also use this space for any comments in support of the LDP.

NHS Property Services Ltd, on behalf of NHS England, notes that no amendment has been made to Policy E3 following the representations that were submitted to the previous draft of Local Plan. Therefore, NHSPS wishes to restate its objections to the Policy, as set out below.

NHSPS supports the Council's intention to "*retain and enhance provision of community services and facilities within the District*" and welcomes the requirement for new development to "*contribute towards the provision of community facilities where an increased need will arise*".

However, the remainder of the policy requirements are not appropriate with respect to healthcare related development proposals.

The policy requires the submission of details relating to the viability of providing healthcare services and the marketing of facilities for viable and appropriate alternative community service based uses. This would appear to require the NHS to seek approval from the Council for its own strategy and programmes before planning permission would be granted for the change of use or redevelopment of facilities. In this way, the Council would be acting as a health authority as well as a local planning authority by requiring justification in terms of patient and visitor needs. In light of this, the Policy is not 'justified' and, therefore, not 'sound'.

It is noted that the policy makes provision for development proposals that would "*help to improve provision of, and accessibility to, community services and facilities in a local area*" and that this includes "*the relocation, co-location, modernisation and expansion of existing services*". However, it is unclear whether such proposals would still be required to submit viability and marketing justification evidence.

With regard to assets of community value, NHSPS wishes to draw the Council's attention to the decision made by Uttlesford District Council in a recent review of the decision to list Saffron Walden Community Hospital as an asset of community value. The review concluded that healthcare facilities do not fall within the definition of land of community value as they do not further the social wellbeing or social interests of the local community. A copy of this decision is *attached* as **Appendix 4** to these representations.

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**2.5.** Please explain in the box below what change(s) you consider necessary to make the Maldon District LDP legally compliant and sound.

Please be as precise as possible. Please explain why this change will make the Maldon District LDP legally compliant and sound. It will be helpful if you are able to put forward any suggested revised wording of the policies or supporting text.

In light of Uttlesford District Council's recent Asset of Community Value decision in respect of Saffron Waldon Community Hospital, and in order for the Policy to be found 'justified', 'effective' and 'consistent with national policy', it is requested that paragraph 4.28 is amended as follows:

"For the purposes of Policy E3 community services and facilities include, but are not limited to, local shops, post offices, public houses, libraries, places of worship, education facilities, fuel filling stations, public halls, ~~health care facilities~~, sporting facilities and local green spaces."

This amendment would also ensure that the Council is not acting outside its legitimate role as planning authority and taking over responsibilities that are held by the health authority.

**2.6.** Do you consider it necessary to attend and give evidence at the hearing part of the examination? (tick as appropriate)

**No**, I wish to communicate through written representations ☐

**Yes**, I wish to speak to the Inspector at the hearing sessions ☒

**Please note:** The Inspector will determine the most appropriate procedure to hear those who have indicated that they wish to participate at the hearing part of the examination

**2.7.** If you wish to participate at the hearing part of the examination, please outline why you consider this to be necessary.

NHS England is a key statutory service provider and Policy S6, as currently worded, is not considered to be justified, effective or consistent with national policy for achieving sustainable development. It is requested that the NHS is given the opportunity to attend the EiP in order to participate in the relevant inquiry sessions to contribute to making the Local Plan 'sound' in the interest of delivering sustainable development.