

Maldon District Council Local Plan Examination in Public

Inspector: David Vickery DipT&CP MRTPI

Programme Officer: Andrea Copsey
Examination Office
Longcroft Cottage
Bentley Road
Clacton-on-Sea
Essex CO16 9BX

Tel: 07842 643988
copseyandrea@gmail.com

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Dear Mr Martin,

Sustainability Appraisal of the Maldon District Local Development Plan

Thank you for the copy of your letter of 16 March 2015 which you sent to the District Council about the sustainability appraisal (the SA) of the Plan. I cannot comment in detail on your letter as I am currently considering the matter, but it does not seem to me to raise any new issues which have not already been mentioned either in writing or verbally at the legal compliance hearing session on 21 January 2015.

However, I would point out to both you and the Council (to whom I have copied this letter) that since that hearing session closed there have been two further court cases about the SA of local plans. I set these out below, together with web links to them. I also set out what I believe to be their key points of applicability to the SA of local plans in general (not necessarily to this Plan in particular):

No Adastral New Town Ltd v Suffolk Coastal District Council & Anor [2015] EWCA Civ 88: Court of Appeal – 17 February 2015:

<http://www.bailii.org/ew/cases/EWCA/Civ/2015/88.html>

The judgement confirms the Cogent Land case that a SA can be corrected or "*cured*". It confirms that the corrections that can be made to a SA are very wide – "*any deficiencies*" (paragraphs 52 to 54). It deals with the necessity to not have a closed mind (paragraph 57) when considering the consultations on any SA corrections. On the "*paper chase*" point (mentioned in your letter), the judgement says that there can be some reference back to previous documents (paragraphs 58 & 59) so long as it is intelligible.

Satnam Millennium Ltd v Warrington Borough Council [2015] EWHC 370 (Admin) - 19 February 2015

<http://www.bailii.org/ew/cases/EWHC/Admin/2015/370.html>

The section on SA in the judgement starts at paragraph 47. In summary, the judgement says that it was acceptable in principle to undertake a later additional SA

for a new site and that, in this case, it was not a predetermined "*bolt on*" outcome, but that the Council in this case (Warrington) did not follow the 2004 SEA Regulations on how a SA should be done as the correcting SA did not have, for example, sections on existing environmental problems, mitigation measures, monitoring, or a non-technical summary.

As these are new court cases which may affect my Interim Findings, if you or the Council wish to comment on them then please do so within two weeks. Please would the Council place both this letter and your letter of 16 March 2015 on the "Extra Work Tasks" page of the Examination web pages under a new Matter 2 legal compliance sub-heading. As soon as this has been done I have asked my Programme Officer to write to all participants giving two weeks for any comments to be received by her on these two court cases.

Yours sincerely,

David Vickery

Inspector