

RESPONSE OF HEYBRIDGE RESIDENTS ASSOCIATIONMATTER 2 LEGAL COMPLIANCE

Your letter of 17th March 2015 and that of Andrew Martin Planning of 16th March have been considered along with the recent court cases quoted by yourself . Heybridge Residents Association and would comment as below:-

We have looked at the court cases and consider they do not affect the issue which Andrew Martin Associates raises which ,in our view, is black and white. The Council arrived at its 'preferred options' without seriously considering any alternatives. We agree with Andrew Martin Associates that the failures of the submitted plan cannot be remedied by subsequent 'retrofit' modifications. It seems to us that they set the facts out very clearly but to quote from the 10th December late response from Dr Robert Burns (which you accepted on 11th December):-

“the Draft LDP as submitted fails to conform to the requirements of the NPPF and also the Localisms Act. It fails to conform to the former because inter alia it has not fulfilled the NPPF requirement that, prior to the selection of preferred options, an investigation be made of alternative sites to those finally chosen for development in order *'to ensure choice and competition in the market for land (NPPF 47)*, and, more generally, that a Local Plan can be considered *'sound'* only if it shows that it has adopted *'the most appropriate strategy when considered against the reasonable alternatives based on proportionate evidence'* (NPPF 182). It also fails to conform to the Localism Act's requirement that a local authority fulfil its Duty to Cooperate by engaging on an *'ongoing'* basis with neighbouring authorities in *the preparation of development plan documents*, not just in the final stages, but in all *'activities that can reasonably be considered to prepare the way'* for the *'preparation of development plan documents'* (Localism Act 2011, Section 110).”

No clear reasons have been stated by MDC for not adopting alternative sites and they have merely quoted their subjective decision making process. The present SA simply retro-fits policies already decided by the Council with no evidence to suggest that the SA influenced or informed the LDP as submitted.

Lack of proper consideration of alternative sites goes to the nub of the consultation process and in particular NPPF 182. We consider that the flaws in the LDP in relation to consideration of alternative sites are so significant they go beyond the point of being “cured” and we agree with Andrew Martin that a fresh SA is required. It is not acceptable or legal to 'patch up' the present SA which was clearly 'fixed' in the first instance. Furthermore MDC's

reference documents are inaccessible to most people and unintelligible to the “man in the street”. One also “loses the will to live” when endeavouring to follow MDC's website and we are of the opinion that it is designed to hinder and not help the consultation process.

We cannot overstate how politically motivated and biased MDC is and how out of touch and dismissive it is of its residents. It pays lip service to due process and then “goes it's merry way”. In this vein it is relevant to note that one councillor representing Heybridge West who is a great advocate of the NHGS has been suspended for “breach of trust in Council matters.” This is the calibre of person who has voted on the LDP and goes some way to explain the inadequacies of the submitted plan.

DG Sargood FRICS

For Heybridge Residents Association.