

Philip Drane
Planning Policy Team Leader
Brentwood Borough Council
Town Hall
Ingrave Road
Brentwood
Essex
CM15 8AY

05 September 2014

BY POST/EMAIL

Dear Mr Drane,

STRATEGIC HOUSING MARKET ASSESSMENT

We are writing on behalf of EA Strategic Land (EASL) to highlight a number of material considerations regarding the Brentwood Borough Council (BBC) draft Strategic Housing Market Assessment (SHMA).

The draft SHMA was published in June 2014 and we understand that it is the intention of each of the constituent authorities within the Heart of Essex (HoE) Housing Market Area (HMA) (including yourselves) to use its findings to inform your plan-making functions as a part of the evidence base.

The purpose of this letter is to draw your attention to our concerns with the SHMA, and the potential issues that may arise in its use in the plan-making process. This letter is provided in addition to the response form we provided in relation to the SHMA event, provided to Christopher Downes on 29th July 2014.

In summary, the NPPF and NPPG identify the following principal matters in relation to housing:

- The need to prepare plans that meet objectively assessed needs, with sufficient flexibility to adapt to rapid change;
- Make every effort to identify objectively assessed needs and then meet them in full;
- Local plans should be based on adequate, up-to-date and relevant evidence;
- In the context of the above, the SHMA should provide the necessary evidence base to facilitate the above. Furthermore it is explicitly required to identify housing need which meets household and population projections, taking account of migration and demographic change;
- The identification of need should quantify the total number of homes needed based on quantitative assessments that is based on facts and unbiased evidence;
- Plan makers should not apply constraints to the overall assessment of need; and

- Use household projections published by the Department for Communities and Local Government as the starting point estimate of overall housing need.

A failure to accord with the above matters would mean it could be argued that the draft SHMA does not accord with the requirements of the NPPF and the consequential weight attributed to the evidence base as a whole must be limited.

In view of the above, it is important to draw out the weaknesses of using the SHMA as a key evidence base document for the calculation of your borough's housing supply requirements.

Having undertaken a detailed review of the draft SHMA, and those of the other constituent authorities within HoE, we are unable to conclude that the draft SHMA complies with the requirements of the NPPF or NPPG. It is cast in the mould of a pre-NPPF SHMA, placing its focus on affordable housing needs. In order to function effectively as a SHMA, and accord with the requirements of the NPPF and NPPG should identify the OAN for housing in the relevant HMA, or HMAs, having, inter alia:

- Identified the HMA, or HMAs, with appropriate and compelling evidence provided to clarify rationale;
- Identified the sources of information for determination of OAN and confirmation of any potential weaknesses or shortcomings in its application in the HMA, or HMAs;
- Apply relevant considerations to the OAN to determine needs associated with specialist groups (as identified at Paragraph 50 of the NPPF);
- Make adjustments to account for socio-economic trends and aspirations (both within, and beyond, the HMA);
- Consider the relationship between the HMA and its neighbouring HMAs, to determine the need to accommodate overspill;
- Consider the effect of the plans and policies in place, or being prepared, in surrounding areas that influence the HMA and the HoE as a whole (including, for example, London and the TGSE area);
- Identify a range of potential scenarios for housing need with clear evidence as to why the scenarios have been identified; and
- Undertake rigorous sensitivity testing to determine the most relevant, robust and justified OAN figure;

In this case, the draft SHMA fails to identify the objectively assessed needs of BBC and furthermore it:

- The SHMA considers BBC to be a single market area without providing any robust justification for this assumption. Therefore BBC is under increased pressure to make provision for the full objectively assessed needs in order to be compliant with the NPPF;
- It has utilised the short term 'interim' 2011 household projections data which only consider projected growth for the 10-year period to 2021 and are subject to recessionary factors that have been assessed to have suppressed the household formulation rates;
- The 2011 household projections should be approached with caution based on the sensitivities outlined above, however we understand that the 2013 CLG household projections are scheduled to be produced this October, which will provide the most up-to-date figures upon which to base the plan; and

- It fails to give adequate consideration to the potential effects of housing requirements arising out of either the in-migration resulting from forecast economic growth, the ability of the London authorities to accommodate theirs and the effect of growth arising from neighbouring HMAs.

The identified position of BBC within the consortium and its relationship with neighbouring authorities is outlined at 3.11.6 within the SHMA. In order to ensure the duty to co-operate is capable of being found legally compliant we consider it is prudent for the Council to publish full details of the work it has undertaken to-date in order to discharge these duties.

We note comments made by DCA in the presentation that is 'not possible for the LPAs to address the under-delivery in the first 5 years of the Plan'. Were these comments made in the context of an NPPF compliant SHMA we would have also felt it necessary to express our concern that the author of the SHMA had adopted such a defeatist attitude from the outset. However, on the understanding that these concerns were cast in the context of affordable housing delivery they can be justified on the basis that the evidence base itself fails to set the necessary parameters to facilitate the delivery of sufficient affordable housing to meet needs.

We would welcome the opportunity to discuss these matters in further detail at your convenience.

Yours sincerely,

P.P. Churchill

David Churchill
DIRECTOR

Andrea Copsey, LDP Programme Officer
Examination Office,
Longcroft Cottage,
Bentley Road,
Weeley Heath,
Clacton-on-Sea,
Essex, CO16 9BX

3 February 2015

14/975
BY EMAIL

Dear Andrea,

MALDON LDP – EXAMINATION

Further to the invitation of the Inspector on Day 1 of the Examination for all parties to make submissions on the late evidence presented by the Council and other parties – notably the alternative Strategic Housing Market Assessment (SHMA) submissions made on behalf of Gladman – we write to confirm our intention to make submissions on behalf of EA Strategic. At this stage, we do not intend to make submissions on the content of the alternative SHMA, save for to reserve our position on making subsequent submissions to address the responses received from other parties to the same.

We note the relevant timescales for the submission of further written representations and will adhere to the timings. Should the Inspector come to the view that the matters arising from the submissions require a further hearing session, or sessions, to explore, then we respectfully request an opportunity to present our case verbally at the Examination. For the avoidance of doubt, and without wishing to pre-empt any decision taken by the Inspector, the two relevant matters for which further submissions were invited – the extent of the objectively assessed housing needs (OAN) and the housing market area (HMA) and the effect of the anticipated publication of the CLG 2014 Household Projections (scheduled for publication at the end of February 2015) – go to the heart of the soundness of the plan and the duty to cooperate and as such we consider that it will be beneficial as a minimum to hold additional hearing sessions to consider the further matters raised as a result.

As such, we will remain in correspondence with you in the coming weeks and will seek to ensure that our submissions are succinct and targeted. However, as it was noted during the Examination, the outstanding matters are significant and may have a significant bearing on all aspects of the plan, including the levels of growth, the distribution of this growth, the alternative sites, the treatment of the reserve sites, the Sustainability Appraisal and the sustainability principles that underpin the plan.

Turning to the key issues, we:

- i. Have reviewed the late evidence submitted on behalf of Gladman, in particular the evidence regarding the extent of the objectively assessed housing needs and the extent of the Housing Market Area;
- ii. Intend to provide comment on the additional statements by other parties, including Chelmsford City Council (CCC), on the matters of OAN and the HMA (by 27th Feb 2015);
- iii. Request the reopening of the hearing, should this be necessary, to address matters arising;

In the context of the above it is significant to note at this stage that:

- The Council provided no opportunity to respond to any of the iterations of its SHMA. Were this opportunity provided earlier, it may have considered a series of issues at an earlier stage. It is significant to note that the other authorities within the scope of the SHMA provided an opportunity to respond to its production. For the avoidance of doubt, EA Strategic responded to just such an invitation from Brentwood Council in July 2014 and we attach a copy of the letter for your reference [enclosed];
- Within the Examination hearing sessions, CCC confirmed that a Peter Brett Associate (PBA) assessment of the HMA is currently being undertaken and is scheduled to be completed by late May 2015. CCC confirmed that whilst Maldon District Council (MDC) was aware of the work, it “wasn’t seen as the right time to ask them” to engage in the production of the document. The reason given for this was simply that MDC had submitted its plan. The response from MDC confirmed that there was no indication that the neighbouring authority areas would work together to determine the HMA for Maldon. This raises two issues, firstly the duty to cooperate and secondly the potential implications to soundness:
 - In terms of the duty to cooperate, the absence of MDC from the collection of authorities undertaking this work should be clarified. We would urge the Inspector to requisition the publication of all correspondence relating to this matter for clarity, including a copy of the brief and instructions that were issued by the collective of authorities to PBA;
 - In terms of the matters of soundness, if it determined that the extent of the HMA isn’t as suggested in the 2014 SHMA, it will have an implication on the level of housing and by extension its distribution;
- Immediately prior to the lunch break on Day 1 the Inspector highlighted his concerns regarding the ‘said’ and ‘unsaid’ matters in the context of the SHMA. In particular, the Inspector highlighted that he was unclear as to what the Council was saying – either that the SHMA is right, or that it accepts that the SHMA is wrong, but that the Council accepted this for whatever reasons it chose to do so. The Inspector specifically noted that he expects the Council to be strenuous and robust in its position, yet we have not yet heard what the Council’s position is. With respect, this is a matter that the Council should have had a ready answer to – it should not need time to consider the matter in great detail and make written submissions;
- Submissions were made regarding the extent of the housing provision necessary to sustain the levels of employment growth that the Council proposes as part of its plan. Whilst there are many matters for the Inspector to address in this context, it is significant that the implications of any failure to provide sufficient housing to sustain the level of employment growth proposed within the plan would worsen the self-containment measures for Maldon in the context of the HMA. Furthermore, the current strategy presents a risk of creating an imbalance and misalignment between the provision of jobs and houses;
- Planning to deliver for the identified need for a minimum 154 affordable dwellings per annum would require that the overall housing provision would need to be set at 385 dwellings per annum if the 40% policy requirement is to be enforced. This is in the context that several developers of the allocated sites have highlighted their concern that 40% affordable housing would render the proposals unviable, and some sites only have a 20% requirement in the submitted LDP;
- Failure to address the affordable housing requirement in full would have an influence on neighbouring boroughs, as this would affect the affordability ratios of those Boroughs and should be a matter that is agreed through the Duty to Co-operate;
- In considering the affordability ratios, the Council cited the extent of the out-commuting as being the influencing factor in the affordability ratios;
- The strategy for the distribution of growth is focussed within two suburban extensions to settlements which do not include railway stations. Like many of the residents groups at attendance at the Examination, EA Strategic considers that a greater focus should be placed

upon the growth at rail served settlements to reflect the travel to work patterns as identified by the Council;

- Following the submission of the LDP, the Council has proposed a change in the housing requirements from 294 dwellings per annum to 310 dwellings per annum. This could have a potentially significant environmental implications, and a Sustainability Appraisal of changes in housing numbers should be prepared;
- Equally, a change in the HMA would also have significant environmental implications and should be subject to a Sustainability Appraisal;
- Any subsequent consideration of reasonable alternatives to the distribution of housing in the district should also require a Sustainability Appraisal. We would suggest that in this scenario, the Examination hearing sessions should be reopened to address these outputs as it cannot simply perform this exercise as an ex-poste facto justification of a decision it has already taken and notwithstanding the outputs of the Sustainability Appraisal. In this context you will no doubt wish to ensure that the instructions to the consultant appointed by the Council is published to ensure these matters are clarified; and
- We raised concern as to the deliverability of the proposed garden suburbs at both North Heybridge and South Maldon. Our experience of large scale urban extension allocations has demonstrated difficulty in delivering these schemes. This is especially in light of several of the developers for the allocated sites raising concern as to the viability of delivering 40% affordable housing. For instance, a similar proposal is the Beaulieu Park allocation to the north of Chelmsford. This has taken over 10 years from inception to the present day, yet the site has not delivered any dwellings.

We will expand upon the above, as necessary, within the further submissions to the Inspector.

Finally, we would also like to take this opportunity to invite the Inspector to visit the site controlled by EA Strategic in North Fambridge which is considered, for the reasons set out in the various representations and submissions to the Council before the Examination. The site is identified on the attached plan.

Yours sincerely,

David Churchill,
DIRECTOR

cc. EA Strategic Land

Andrea Copsey, LDP Programme Officer
Examination Office,
Longcroft Cottage,
Bentley Road,
Weeley Heath,
Clacton-on-Sea,
Essex, CO16 9BX

27 February 2015

14/975
BY EMAIL

Dear Andrea,

MALDON LDP – EXAMINATION

RESPONSE TO GLADMAN HOMES STRATEGIC HOUSING MARKET ASSESSMENT

Further to the invitation of the Inspector to make comment on the responses of Maldon District Council and the Mid Essex Consortium to the late evidence submitted to the Examination of the Maldon Local Plan on behalf of Gladman, we are writing to confirm the observations of EA Strategic Land (EA Strategic).

We made a number of observations on behalf of EA Strategic about the matters arising during Day 1 of the Examination in our letter of 3 February 2015, which is attached for reference. In particular, we noted the following matters that are relevant to the SHMA and the extent of the HMA:

- “The Council provided no opportunity to respond to any of the iterations of its SHMA. Were this opportunity provided earlier, it may have considered a series of issues at an earlier stage. It is significant to note that the other authorities within the scope of the SHMA provided an opportunity to respond to its production. For the avoidance of doubt, EA Strategic responded to just such an invitation from Brentwood Council in July 2014 and we attach a copy of the letter for your reference;
- Within the Examination hearing sessions, CCC confirmed that a Peter Brett Associate (PBA) assessment of the HMA is currently being undertaken and is scheduled to be completed by late May 2015. CCC confirmed that whilst Maldon District Council (MDC) was aware of the work, it “wasn’t seen as the right time to ask them” to engage in the production of the document. The reason given for this was simply that MDC had submitted its plan. The response from MDC confirmed that there was no indication that the neighbouring authority areas would work together to determine the HMA for Maldon. This raises two issues, firstly the duty to cooperate and secondly the potential implications to soundness:
- In terms of the duty to cooperate, the absence of MDC from the collection of authorities undertaking this work should be clarified. We would urge the Inspector to requisition the publication of all correspondence relating to this matter for clarity, including a copy of the brief and instructions that were issued by the collective of authorities to PBA;
- In terms of the matters of soundness, if it determined that the extent of the HMA isn’t as suggested in the 2014 SHMA, it will have an implication on the level of housing and by extension its distribution;
- Immediately prior to the lunch break on Day 1 the Inspector highlighted his concerns regarding the ‘said’ and ‘unsaid’ matters in the context of the SHMA. In particular, the Inspector highlighted that he was unclear as to what the Council was saying – either that the SHMA is right, or that it

accepts that the SHMA is wrong, but that the Council accepted this for whatever reasons it chose to do so. The Inspector specifically noted that he expects the Council to be strenuous and robust in its position, yet we have not yet heard what the Council's position is. With respect, this is a matter that the Council should have had a ready answer to – it should not need time to consider the matter in great detail and make written submissions;

- Submissions were made regarding the extent of the housing provision necessary to sustain the levels of employment growth that the Council proposes as part of its plan. Whilst there are many matters for the Inspector to address in this context, it is significant that the implications of any failure to provide sufficient housing to sustain the level of employment growth proposed within the plan would worsen the self-containment measures for Maldon in the context of the HMA. Furthermore, the current strategy presents a risk of creating an imbalance and misalignment between the provision of jobs and houses;
- Planning to deliver for the identified need for a minimum 154 affordable dwellings per annum would require that the overall housing provision would need to be set at 385 dwellings per annum if the 40% policy requirement is to be enforced. This is in the context that several developers of the allocated sites have highlighted their concern that 40% affordable housing would render the proposals unviable, and some sites only have a 20% requirement in the submitted LDP;
- Failure to address the affordable housing requirement in full would have an influence on neighbouring boroughs, as this would affect the affordability ratios of those Boroughs and should be a matter that is agreed through the Duty to Co-operate;
- In considering the affordability ratios, the Council cited the extent of the out-commuting as being the influencing factor in the affordability ratios;
- The strategy for the distribution of growth is focussed within two suburban extensions to settlements which do not include railway stations. Like many of the residents groups at attendance at the Examination, EA Strategic considers that a greater focus should be placed upon the growth at rail served settlements to reflect the travel to work patterns as identified by the Council;
- Following the submission of the LDP, the Council has proposed a change in the housing requirements from 294 dwellings per annum to 310 dwellings per annum. This could have a potentially significant environmental implications, and a Sustainability Appraisal of changes in housing numbers should be prepared;
- Equally, a change in the HMA would also have significant environmental implications and should be subject to a Sustainability Appraisal;
- Any subsequent consideration of reasonable alternatives to the distribution of housing in the district should also require a Sustainability Appraisal. We would suggest that in this scenario, the Examination hearing sessions should be reopened to address these outputs as it cannot simply perform this exercise as an ex-poste facto justification of a decision it has already taken and notwithstanding the outputs of the Sustainability Appraisal. In this context you will no doubt wish to ensure that the instructions to the consultant appointed by the Council is published to ensure these matters are clarified; and
- We raised concern as to the deliverability of the proposed garden suburbs at both North Heybridge and South Maldon. Our experience of large scale urban extension allocations has demonstrated difficulty in delivering these schemes. This is especially in light of several of the developers for the allocated sites raising concern as to the viability of delivering 40% affordable housing. For instance, a similar proposal is the Beaulieu Park allocation to the north of Chelmsford. This has taken over 10 years from inception to the present day, yet the site has not delivered any dwellings.”

Having noted the above, we turn to consider the responses of Maldon District Council and the Mid Essex Consortium to the late evidence submitted on behalf of Gladman below:

a. Maldon District Council

In the first paragraph of its response the Council seeks to submit that the correct approach to the definition of the HMA is to accept what is said by the Council unless other proposals are put forward. This is manifestly wrong as a matter of principle as it is incumbent on the Council to submit a plan for examination which is capable of being found sound in accordance with the requirements of the NPPF.

Furthermore, the Council has not submitted its HMA to consultation, so no formal avenue has been made available to challenge its extent.

The extent of evidence presented on the matter has been limited and the manner in which it has been treated is insufficient to allow the Inspector to come to a clear view on what its extent should be. In this context, EA Strategic would support the detailed interrogation of the extent of the HMA following the preparation of detailed evidence to respond to the guidance in the NPPG. To date the Council has failed to produce clear evidence that accords with the NPPG, the only possible remedy to which is for the Inspector to requisition the production of clear and unequivocal evidence by the Council which is subject to consultation and Examination.

The Council refers to paragraph 3.3 of the Inspectors conclusions on the Uttlesford Local Plan in the context of the HMA. It is significant that the Inspector in this instance was considering the extent to which joint working with other authorities could be evidenced. In the context of the second bullet point above, where CCC confirmed that the Council had not been invited to engage in the wider assessment of the HMA as it “wasn’t seen as the right time to ask them”, the decision to cite this in its own evidence by the Council is confusing as it runs directly counter to the approach it took of determining what it considers to be its HMA based on the convenience of its boundaries and not with reference to any evidence (as required by the NPPG) or in joint working with its neighbouring authorities.

The evidence the Council presents regarding containment of house moves is limited and acts to further undermine its position. We would disagree that 63% is ‘sufficiently close’ to 70%, particularly as the extent of the parameters within which figures are set are not 1-100%, but a far tighter range. As such, the extent of the difference between the two figures is, in real terms, far greater than it appears.

The Council appears to cite an inconclusive outcome to the assessment of Travel to Work Areas as a basis for criticising the alternative HMA suggested by Gladman. Unfortunately the extent of the evidence to back up its position amounts to no more than a simple ‘shrugging of the shoulders’ as to the issue rather than a full and detailed assessment of the evidence base that is required to justify the position it has adopted.

The Council refers to the extent of its population density in the context of the differences from other authorities within the suggested Colchester HMA. Whilst there is no doubt that Maldon is different to other neighbouring authorities, the extent of its differences do not amount to a cogent and relevant consideration as to whether it forms part of a wider HMA. For example, the population density table that is presented fails to provide any relevant context and the existence of a difference in population density is attributable in part to the extent of land within the District that is uninhabitable by virtue of environmental constraints and sustainability in terms of access to services and transport infrastructure.

The evidence presented by the Council and CCC in Examination confirms that the extent of the cooperative working in the assessment of the SHMA and HMA is insufficient to address the requirements of the NPPF and NPPG. This is further justified with reference to the recent consideration given to the Inspector in the case of Central Bedfordshire.

Finally, we should note that the ‘demonstrably preferable’ test derived from the Central Bedfordshire letter that is referred to by the Council in conclusion is not a test applied by the NPPG. Furthermore, the context in which it was applied in Central Bedfordshire was in the context of a brief summary of the other matters, not one that went to the heart of the matters considered by that Inspector. Its use in the context by the Council once again amounts to no more than a simple ‘shrugging of the

shoulders' as to the issue. The evidence the Council has presented is neither detailed, conclusive, nor based on the relevant evidence.

b. Mid Essex Consortium

The evidence presented by the Mid Essex Consortium by its nature seeks to justify the position adopted by the Mid Essex Consortium regarding the extent of the HMA, or HMAs, within its boundaries. It notes at paragraph 2.4 that the evidence presented by Gladman 'has no bearing on whether Braintree, Chelmsford, Colchester, Maldon and Tendring form an HMA'. Critically, the evidence has not been prepared to assess the extent of the HMA, or HMAs that site within Maldon, or which Maldon sits within, but merely to justify the exclusion of Maldon from its area for the purposes of its assessment. As such, its contribution to the current question is minimal.

Nevertheless, it refers in 'Step D – economic growth' to the matters relevant to the consideration of economic uplift. The extent of the uplift that is necessary to apply to the housing targets to support the economic aspirations of the Council can be simply summarised with reference to the relevant figures contained within the EPOA Phase 6 Demographic Forecasts for the 'Jobs' and 'Employed People' scenarios. These indicate that the annual average dwelling requirement to meet these aspirations should exceed the figure proposed by the Council and should fall within a range of 331-345 using the average headship rate (or up to 351-365 using the 2008 headship rates).

We would be grateful for confirmation of receipt of these comments and take this opportunity to request a position at the table to discuss the above should further Examination hearing sessions be arranged.

Yours sincerely,



David Churchill,
DIRECTOR

cc. EA Strategic Land