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Planning. Design. Economics.

**Maldon Local Development Plan  
Examination**

**Matter 4** (Hearing Day 4 – Tuesday 27th  
January)

Hearing Statement on behalf of Linden  
Homes (ref. 0154)

Site S2(c)

9 January 2015

12865/DL/TN

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## 1.0 Introduction

1.1 This Hearing Statement has been prepared by Nathaniel Lichfield and Partners (NLP) on behalf of Linden Homes (LH). It relates to LH's interest in site S2(c) within the South Maldon Garden Suburb (SMGS).

1.2 NLP have previously submitted representations to the previous versions of the emerging Local Development Plan (LDP), specifically:

- LDP Preferred Options Consultation (July 2012) – NLP submitted representations on 28<sup>th</sup> August 2012
- LDP Public Consultation Draft (Aug 2013) - NLP submitted representations on 14<sup>th</sup> October 2013
- Pre-Submission LDP (Jan 2014) - NLP submitted representations on 13<sup>th</sup> March 2014

1.3 We refer to, but do not repeat, our earlier representations.

## Matters since March 2014 Representations

1.4 As we amplify below there have been a number of events since our most recent LDP representations (March 2014) which have resulted in LH's concerns regarding a number of areas of the LDP being removed or reduced. These include:

- The resolution by Maldon District Council (MDC) (July 2014) that planning applications within the SMGS would be invited and proactively determined.
- The endorsement of the South Maldon Garden Suburb Strategic Masterplan Framework (SMGSSMF) by MDC (September 2014);
- Publication of Schedule of Minor Modifications (SD04) and Additional Proposed Minor Modifications (SD04b)
- The grant of outline planning permission for up to 120 residential units on the site S2 (c) (PINS Ref. APP/X1545/A/14/2213988) (December 2014).
- The resolution by MDC to grant outline planning permission for a duplicate application to the appeal scheme (LPA ref. OUT/MAL/14/00698) on 13<sup>th</sup> November 2014.
- Publication of various correspondence and document relating to the emerging LDP Process – including the Matters, Issues and Questions prepared by the LDP Inspector on 1<sup>st</sup> December 2014.

## Scope of Hearing Statement

1.5 This Hearing Statement is therefore submitted in a context where site S2(c) benefits from outline planning permission for up to 120 units (with all matters,

except access, reserved for future consideration) and with MDC accepting LH's planning analysis in resolving to permit the duplicate planning application.

- 1.6 The SMGSSMF has been endorsed and both this document (para 2.1.7) and the emerging LDP (as proposed to be amended by SD04B/052) recognise that this *"is for illustrative purposes and as a guide for developers"*
- 1.7 This means that the scope of representations that it is necessary for LH to pursue in respect of the emerging LDP policies relating to SMGS (and specifically emerging policies S2, S3, S4 and H1) is significantly reduced since March 2014. Furthermore MDC's stance regarding residential development on site S2(c) has also changed since March 2014 and, as we highlight below, changes to the LDP are necessary to both reflect their subsequent stance and ensure that the LDP is "sound."
- 1.8 Accordingly this Hearing Statement, having regard to the Guidance Notes for Participants (IED 12) (para 30) focusses on providing a succinct summary that addresses the Matters, Issues and Questions (MIQs) set out by the Inspector and we do not seek to repeat at length material that has already been submitted.
- 1.9 Specifically the Hearing Statement addresses the following issues (for ease of reference these are separated into proposed LDP policies and cross referred to the MIQs identified by the Inspector).
- Section 2 addresses the planning status of site S2(c) and the potential delivery of housing development on it.
  - Section 3 addresses emerging Policy S2 (Strategic Growth) in the context of the SMGS and our residual concerns on housing need and the potential for site S2(c) to assist in meeting this.
  - Section 4 deals with emerging Policy S3 (Place Shaping) and our residual concerns regarding the status of the SMGSSMF
  - Section 5 sets out Linden Homes concerns on emerging Policy S4 (Maldon and Heybridge Strategic Growth)
  - Finally, Section 6.0 summarises the changes that we consider are necessary to the LDP to make it sound

## Minor Modifications

- 1.10 We note that MDC have published minor modifications to the LDP (SD04 and SD04b). We concur with the comments of the LDP Inspector (**MIQ Matter 1 Issue 4 para 14**) that many of these are not minor modifications but main modifications.
- 1.11 We anticipate therefore that in due course MDC will revisit this and issue proposed main modifications (and Linden Homes reserve their position in respect of this). Where appropriate however this Hearing Statement comments on the proposed minor modifications to the extent that they indicate a "direction of travel" in MDC's policy proposals.

## **Representations on Other LDP Policies**

1.12

Linden Homes have also submitted representations to other policies (including Policies E1 and N2) which are not the subject of this element of the LDP Inquiry. They reserve their position to pursue representations relating to these subsequently.

## 2.0 **Planning Status of Site S2(c)**

- 2.1 On 17th December 2014 outline planning permission was granted at appeal (PINS ref. APP/X1545/A/14/2213988) for the demolition of existing buildings and the erection of up to 120 residential dwellings and associated works. All matters, except access, are reserved for future consideration. The planning permission is accompanied by a Unilateral Undertaking (UU).
- 2.2 Prior to this, at a meeting of the Planning and Licensing Committee on 13<sup>th</sup> November 2014, MDC resolved to permit a duplicate planning application of this scheme (LPA ref. OUT/MAL/14/00698), subject to the completion of an S106 agreement. This resolution followed an earlier positive resolution at a meeting of the Central Area Planning Committee on 22<sup>nd</sup> October 2014.
- 2.3 The UU relating to the appeal scheme provides 30 % affordable housing and governs financial contributions for Early Years, Primary and Secondary education provision, Health Care provision, Youth and Childrens facilities, Highway maintenance, Travel Plan requirements relating to (and similar provisions are envisaged in the draft S106 agreement in respect of the duplicate planning application).
- 2.4 It also provides a mechanism for contributions towards the provision of a series of highways infrastructure, or, alternatively the provision of the "Wycke Hill roundabout" with the latter having the ability to serve other elements of the SMGS in addition to site S2(c). This mechanism ensures that the development of site S2(c) is not dependent on the provision of "pooled funding" to facilitate access to the site.

### **Next Steps**

- 2.5 Linden Homes anticipate submitting a Reserved Matters Submission in late January relating to the layout, scale, appearance and landscaping of a residential scheme of up to 120 units.
- 2.6 Following Reserved Matters Approval (and obtaining the relevant highways agreements from Essex County Council – who have already agreed the principle of the access which is "fixed" by the outline planning permission) then the site is capable of delivering up to 120 residential units.
- 2.7 There is no requirement for any further involvement by a third party and the mechanism within the appeal UU ensures that the delivery of the site access from the A414 is within the control of Linden Homes without a requirement for any additional third party infrastructure provision or funding (**MIQ Matter 4 Issue 1 paras 4 and 5**)

## 3.0 **Policy S2 Housing Need**

3.1 We set out below Linden Homes residual concerns on elements of this policy.

### **Housing Growth**

3.2 Linden Homes recognise that matters relating to overall housing growth are being addressed on Days 1 and 2 of the hearing.

3.3 Our earlier representations have consistently highlighted Linden Homes concerns about MDC's assessment of Objectively Assessed Need (OAN) and the lack of transparency in how MDC identified it. Our March 2014 representations noted that Linden Homes analysis "lead[s] them to conclude that there is no evidence that the figure of 294 dwellings per year in the draft LDP (para 2.24) equates with objective assessment of housing need and such an exercise would increase this figure further."

3.4 We note the subsequent work undertaken by MDC on this (in the light of the LDP Inspectors "Key Concerns Letter" (IED 06) on this point). This includes CED 10 which contends that OAN is 310 dwellings per annum. Irrespective of the conclusions reached by the LDP Inspector on OAN, it is clear that there is a substantial housing requirement within the District over the LDP period which Site S2(c) is well placed to assist in meeting.

### **Persistent Under Delivery of Housing**

3.5 We note that the LDP Inspector has queried **MIQ (Matter 2 para 13)** whether MDC are correct in assuming that there is no persistent under-delivery of housing. Our March 2014 representations highlighted the basis for concluding that there is, as:

- MDC, on the basis of their own figures, had a housing land supply of just one year
- MDC has not met its' (much lower) annual target since 2008 / 9
- The 12 month period of 2010 / 2011 saw the development of just 36 residential units.

3.6 We do not consider that these conclusions are materially altered by the updating housing supply analysis within EB096b.

### **Residential Yield from Site S2(c)**

3.7 Our March 2014 representations set out a comprehensive rebuttal of the reduction in the proposed residential yield from 120 in the LDP Public Consultation Draft (Aug 2013) to 75 in the Pre-Submission Draft LDP (Jan 2014). The reduction in the proposed allocation for site S2(c) was accompanied by a reduction in the total allocation of residential units in the SMGS to 1,375 and corresponding increase in the number of units allocated in

the proposed North Heybridge Garden Suburb and the fact that such a reduction did not comply with the test of soundness as it had not been *“positively prepared.”*

- 3.8 Our concerns included :
- The proposed reduction in the size of the residential allocation on site S2(c) was arbitrary and not consistent with the LDP evidence base – and was therefore not “justified”;
  - The appeal proposal (since permitted) demonstrated that the site could accommodate up to 120 units appropriately
  - The viability assessment underpinning the reduced allocation was flawed
  - MDC’s assessment of appropriate density levels within Garden Suburbs was also flawed.
- 3.9 Our representations concluded that a reduced allocation seeking a lower level of housing provision on site S2(c) and the SMGS area would be *“entirely ‘inconsistent with national planning policy’ on sustainable development, viability, affordable housing provision and density.”*

### **Subsequent Events**

- 3.10 Since our March 2014 representations were submitted a number of events have occurred;
- i The SMGSSMF as endorsed acknowledges (para 1.1.1.) “a minimum requirement of 1,375 dwellings” across the SMGS
  - ii The outline planning permission granted on appeal permits “the erection of up to 120 residential dwellings” (IR para 1)
  - iii MDC have also resolved to permit the duplicate planning application for “up to 120 residential units”
- 3.11 On this basis there is no reason for the allocation relating to Site S2(c) (and associated tables etc) not to revert to its’ original allocation of 120 residential dwellings.

### **Embargo on Development pre Masterplan**

- 3.12 MDC have now addressed our earlier concerns that references to MDC withholding planning permission until the SMGSSMF had the potential to delay much needed residential development on land allocated for this use within the emerging LDP.
- 3.13 These concerns have been superseded by the stance taken by MDC in July 2014 that “that the submission of planning applications be invited and pro-actively consider applications which are in accordance with the Submitted Local Development Plan for sites located within the South Maldon Garden Suburb (LDP sites S2(a), S2(b) and S2(c)) in order to boost the five year supply of deliverable housing land and demonstrate the deliverability of the LDP.” In addition the SMGSSMF has been endorsed and site S2(c) benefits

from outline planning permission (and a resolution to grant planning permission for a duplicate planning application).

3.14

Accordingly, all references to the earlier “embargo” (including Policy S4 and paras 2.45 and 2.50) should be removed from the final version of the LDP to ensure it is “positively prepared.”

## 4.0 **Policy S3: Place Shaping**

4.1 Our earlier representations noted that many of the objectives within this policy are capable of being dealt with through the development management process, rather than through a masterplan (with the latter route threatening to become unduly prescriptive).

4.2 We note that **MIQ Matter 1 Issue 1 paras 12 and 13** queries the appropriate status and weight to be attached to the SMGSSMF (and North Heybridge equivalent). Linden Homes view is that the SMGSSMF appropriately recognises (para 1.2.1) that in advance of the adoption of the LDP the document cannot form SPD at this stage. Furthermore Linden concur that the SMGSSMF (as endorsed) (para 2.1.7) and proposed minor modification to policy S3 (SD04b 052) that the SMGSSMF is “for illustrative purposes and as a guide for developers” both accurately identify the role and purpose of the SMGSSMF within the planning policy hierarchy

4.3 We note that proposed modification (SD04 07) (which relates to policy S4), in maintaining the earlier reference to development proposals within the Garden Suburbs needing to be “*in accordance with a masterplan endorsed by the Council for the respective areas*” is inconsistent with both the SMGSSMF and SD04b and this will need to be modified to reflect the latter policy documents.

5.0 **Policy S4: Maldon and Heybridge Strategic Growth**

5.1 In addition to our comments above (where there is overlap with the provisions of Policy S4) we have the following additional comments.

**Archaeology**

5.2 Our previous representations identified concerns that the references to archaeological investigation (para 2.61) were unduly prescriptive and were capable of being dealt with by way of planning condition (a point confirmed by the planning condition subsequently attached to the appeal decision and proposed to be attached to the permission for the duplicate application by MDC).

5.3 Proposed modification SD04/006 proposes an amendment that addresses our earlier concern.

**SMGS Relief Road**

5.4 Our earlier concerns regarding the need for the references to the relief road (para 2.61) not being open to interpretation as constraining the delivery of the initial stages of residential development with the SMGS have been superseded by the subsequent planning permission (and resolution to grant planning permission) on this site.

6.0

## Changes sought to the LDP

6.1

In conclusion Linden Homes consider that the following modifications are required to the emerging LDP to make it “sound”

6.2

These are in addition to the conclusions reached by the LDP Inspector on the Objectively Assessed Need for housing (including whether there has been a persistent under-delivery of housing).

Policy/Para of LDP	Summary of revision sought	Revision sought to ensure that the LDP is
Allocation S2(c)	Allocation for 120 residential units	Positively prepared
Policy S4 and paras 2.45 and 2.50	Removal of text referring to the endorsement of the SMGSSMF being a pre-requisite for the grant of planning permission	Positively prepared
Policies S3 and S4	Clarification that the SMGSSMF is “ <i>for illustrative purposes and as a guide for developers</i> ”	Consistent with national policy
Policy S4	Clarification that addressing archaeological issues are capable of being addressed by way of planning permission	Justified















Table 6.1: Changes sought by Linden Homes in relation to the SMGS / site S2(c)





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-  Applications & Appeals
-  Climate Change & Sustainability
-  Community Engagement
-  Daylight & Sunlight
-  Economics & Regeneration
-  Environmental Assessment
-  Expert Evidence
-  Graphic Design
-  Heritage
-  Property Economics
-  Site Finding & Land Assembly
-  GIS & Spatial Analytics
-  Strategy & Appraisal
-  Urban Design

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