

Maldon District Council

Examination of the Maldon District Local Development Plan

Guidance Note

15 November 2016

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Introduction

1. I am Simon Berkeley, a Planning Inspector appointed by the Secretary of State for Communities and Local Government to independently examine the soundness of the Maldon District Local Development Plan. I have prepared this note to explain the procedural and administrative matters relating to additional hearing sessions I have scheduled.
2. As I explained in my letter of 7 April to participants, **Andrea Copsey** has been re-appointed as the Programme Officer for the examination. Her contact details are given on the cover of this Guidance Note. She is acting as an independent officer for the examination, under my direction. Mrs Copsey will be responsible for organising the programme of hearings, maintaining the examination library, recording and circulating all material received, and assisting me with procedural and administrative matters. She will also advise on any programming and procedural queries. Any matters which the Council or participants wish to raise with me should be addressed to Mrs Copsey.

Purpose and scope of the examination

3. I am aware that the previous Inspector explained the purpose and scope of the examination. However, given the passage of time and for the avoidance of doubt, I reiterate some of the main points here.
4. Firstly, my role is to consider whether the Plan meets the legal and procedural requirements of the Planning and Compulsory Purchase Act 2004 (as amended) and associated Regulations and whether it is sound in accordance with the National Planning Policy Framework.

To be sound the Plan must be:

Positively prepared: based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;

Justified: the most appropriate strategy when considered against the reasonable alternatives and based on proportionate evidence;

Effective: deliverable over the plan period and based on effective joint working on cross-boundary strategic priorities; and

Consistent with national policy.

5. People seeking changes to the Plan have to demonstrate why it is not sound and how their suggested changes would make it sound. Representations will be considered insofar as they relate to soundness and legal requirements. However, my report will not refer to representations individually.
6. At this advanced stage of the plan preparation process, any further changes to the Plan should be limited. The Council cannot itself now make any 'main modifications'. Any changes needed to remedy soundness problems can only come about through a recommendation in my report, and only then if accepted by the Secretary of State.

The Further Matters, Issues and Questions for the examination

7. Hearing sessions were previously held in January and February 2015. The following matters were considered:
 - Matter 1: Legal compliance, including the Duty to Cooperate
 - Matter 2: Strategic housing growth – overall numbers
 - Matter 3: Strategic housing growth – North Heybridge Garden Suburbs
 - Matter 4: Strategic housing growth – South Maldon Garden Suburb + Park Drive + Heybridge Swifts
 - Matter 5: Strategic housing growth – Burnham-on-Crouch Strategic Allocations
 - Matter 6: Strategic housing growth – Reserve Sites
 - Matter 7: Rural housing (including North Fambridge) and Settlement Boundaries
 - Matter 8: Affordable housing, housing mix and specialist needs
 - Matter 9: Provision for Travellers
 - Matter 10: Infrastructure
8. As I explained in my letter of 7 April 2016 to participants, I will take account of all the written evidence produced in relation to these matters, and the evidence given verbally at the hearings – I have listened to all of the audio recordings.
9. Since the previous hearing sessions, the Council has produced a schedule of the main modifications it proposes to the Plan, new evidence concerning the objective assessment of housing need, the five year housing land supply and sustainability appraisal. The Council consulted on these documents between 16 September and 27 October 2016. I will take account of all the written representations received in response to this consultation.
10. I am now setting out further matters which will form the focus for the examination and the hearings going forward. They are shown on the Schedule of Further Matters, Issues and Questions accompanying this Guidance Note.
11. Some of the further matters stem from issues set out by the previous Inspector. This is because there are some discreet areas where I consider further exploration necessary, in large part because of the main modifications put forward by the Council and in the light of updated evidence. **For the avoidance of any doubt, at the forthcoming hearings I will not be re-considering in their entirety matters already debated– this will not be a re-run of the earlier hearings.** Rather, the examination will be clearly focussed on the specific issues I have set out.
12. The Schedule of Further Matters, Issues and Questions has been circulated to representors with this note and is also available on the examination webpage. I have issued a draft timetable for the hearings alongside that Schedule. Any comments from representors on either the draft hearings timetable or the scope of the further matters I have set out should be sent to the Programme Officer by **5.00pm on Friday 25 November**.

Representations and written statements

13. The views of representors can be considered in three ways:
 - a) you can rely on the written representation you have already made

- b) you can if you wish also submit a written statement responding to the Further Matters, Issues and Questions I have issued alongside this note
 - c) you can, if you wish and are entitled to do so, participate in the further hearing sessions – I explain this further below
14. Everyone who has made a representation about the Plan – either during the pre-submission consultation that took place between January and March 2014 or in response to the recent consultation on the main modifications proposed by the Council – can either rely on what they have already submitted in writing or may, if they so wish, now submit a further written statement. There is no need to prepare a further statement if all the points are already covered in the original representation.
 15. For those who do choose to provide statements, they should directly address the matters I have identified in the Schedule of Further Matters, Issues and Questions paper.
 16. All statements from representors should:
 - a) relate solely to the matters raised in their earlier representation
 - b) explain which particular part of the Plan is unsound
 - c) explain why is it unsound, having regard to the National Planning Policy Framework
 - d) explain how the Plan can be made sound
 - e) explain the precise change/wording that is being sought
 17. From the Council, a written statement in response to all of the further matters is required. These should include full and precise references to the evidence base to justify the relevant policies and to demonstrate that the Plan is sound. They should also include references to any further main modifications the Council considers necessary to make the Plan sound and set out the Council's position on changes sought by other parties, where relevant.
 18. All written statements should be succinct, avoiding unnecessary detail and repetition. There is no need for verbatim quotations from the Plan, national planning policy or other core documents (references will suffice). Nonetheless, it is vital that the fundamental elements of cases are set out clearly and succinctly, since the hearings are not the place for new points or evidence to be presented for the first time. All statements should clearly indicate the relevant policy/paragraph/page of the Plan being referred to.
 19. Please note that it is not my role to 'improve' the Plan. I can only recommend main modifications to rectify issues of soundness.
 20. Representors should attempt to reach agreement on factual matters and evidence before the hearings start and I strongly encourage everyone to maintain a dialogue with the Council and other participants in advance of the hearings. **Statements of Common Ground can be particularly helpful and are especially welcomed.**
 21. **Three paper copies** (not bound) of each written statement should be sent to the Programme Officer. Where possible, an electronic copy should also be provided. Statements should be no longer than 3,000 words for each matter. Statements which are excessively long or contain irrelevant or repetitious material may be returned. Any technical evidence should be limited to appendices, and should be clearly related to the case being made. Statements should be on A4 paper and stapled. Plans or diagrams should fold down to A4

size.

22. **Paper copies of all statements must be received by the Programme Officer by 4.00pm on 21 December 2016 at the latest.** If material is not received by this deadline, the Programme Officer will assume that written statements are not being provided.
23. Participants should adhere to the timetable for submitting written statements. **Late submissions and additional papers are unlikely to be accepted on the day of the relevant session,** since this can cause disruption and result in unfairness, and may lead to the hearing being adjourned.
24. I will not accept any further representations or evidence after the hearing sessions have finished unless I specifically request it. Any late or unsolicited material is likely to be returned.

Participation at hearing sessions

25. **Only those who have made representations seeking to change the Plan have a right to appear before, and be heard by, the Inspector.**¹ However, it is important to stress that written representations carry the same weight as those made orally at a hearing session. Consequently, participation at a hearing session is only necessary if, in the light of the Further Matters, Issues and Questions, you have specific points you wish to contribute.
26. People who are able to participate in the forthcoming hearing sessions are those:
 - a) who made representations seeking to change the Plan under Regulation 20 (ie when the Council invited representations before submitting the plan for examination) where their representation relates to a point either not already debated at a hearing or where the point is among the further matters for the examination; and
 - b) who have made representations opposing a main modification put forward by the Council where the point of the representation is among the further matters for the examination.
27. If you have a right to be heard, and you wish to exercise that right, you should contact the Programme Officer **by 5.00pm on Friday 2 December** indicating the appropriate Matter and the session you wish to attend (see the draft Programme). You need to do this regardless of what you may have indicated previously. **Please note that if you do not contact the Programme Officer by that date it will be assumed that you do not wish to appear and be heard and you will not be listed as a participant.** You should only request to be heard at a hearing session if you have made a relevant representation seeking a change to the Plan. However, the hearing sessions are open for anyone to observe.

The hearing sessions

28. The hearing sessions will start on **Tuesday 10 January 2017.** They will be held in the Three Rivers Golf and Country Club, Stow Road, Cold Norton, Purleigh, Essex CM3 6RR.
29. Every effort will be made to keep to the draft timetable, but late changes may be unavoidable. Priority will be given to starting the debate on each matter at the appointed time, and it may be necessary to extend the discussion in the

¹ S20(6) of the Planning and Compulsory Purchase Act 2004

afternoon session. The Programme Officer will inform the participants of any late changes to the timetable, **but it is the responsibility of the participants to keep themselves up to date with the arrangements and programme. Participants should be ready to attend on the Reserve time indicated on the programme – this will be used if necessary to complete any unfinished sessions.**

30. Those who attended the previous hearing sessions will be familiar with the format – they will take the form of a round table discussion which I shall lead. It will not involve the formal presentation of cases by participants or cross-examination. There will be a lot to cover and all contributions should be focussed.
31. Sessions will normally start at 9.30am and 2pm each day, with a break for lunch at about 1pm, and a finish at about 5pm. A short break will be taken mid-morning and mid-afternoon.
32. Please let the Programme Officer know as soon as possible if you have any specific needs in relation to attendance and participation at the hearing sessions.

My report and consideration by the Secretary of State

33. After the final hearing session I will write a report setting out my conclusions about the soundness of the Plan, including recommendations on any actions or modifications I consider necessary to make it sound.
34. This report will be addressed to the Secretary of State and will be for his consideration. It will then be for the Secretary of State to decide whether to accept my conclusions and recommendations, and whether to approve or reject the Plan. The examination will remain open until my report has been submitted to the Secretary of State. However, as mentioned above, I will not accept any further representations or evidence after the hearing sessions have ended unless I specifically request it. Late or unsolicited material may be returned.
35. If approved by the Secretary of State, the Plan will become part of the development plan for Maldon. If rejected, it will not. In this circumstance, it will likely be for the Council to decide the next steps.

I trust that you find this Guidance Note helpful. If you have any further questions please contact Mrs Copsey – she will be happy to assist if at all possible.

Simon Berkeley

Inspector

Reminder of key dates:

- Deadline for comments on my matters schedule/hearings timetable: **25 November 2016, 5.00pm**
- Deadline to confirm with the Programme Officer whether you wish to exercise the right to be heard if you made a relevant representation seeking a change to the Plan indicating the appropriate Matter and the hearing session: **2 December 2016, 5.00pm**
- Deadline for submission of statements (including from the Council): **21 December 2016, 4.00pm**
- Hearing sessions open: **Tuesday 10 January 2017, 9.30am**