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TEMPLE

LEADERS IN ENVIRONMENT,
PLANNING & SUSTAINABILITY.

26th October 2016

Adrian Tofts (Strategic Planning Manager)
Via Email: policy@maldon.gov.uk
Maldon District Council
Princes Road
Maldon
Essex
CM9 5DL

Dear Sir,

Local Development Plan Current Consultation – September 2016 – Representation by Temple Group for and on Behalf of Persimmon Homes Essex

Persimmon Homes welcomes the opportunity to comment on the Local Development Plan current consultation. Persimmon Homes are actively promoting land 'North of Scraley Road'. The site was identified as a reserved site in the Pre-Submission Local Development Plan (site ref. RE2). The *Proposed Main Modifications to the Maldon District Local Development Plan* seeks to remove the reserved sites from *Policy S2: Strategic Growth* in response to the concerns raised at the 2015 examination. Persimmon Homes strongly opposes the removal of these sites and argue in this representation that the sites should be reinstated.

There are two issues upon which the case is made for the reinstatement of the Reserve Sites:

1. Whether the Reserve Sites are and still should be fundamental to the strategy of the Plan.
2. Whether there will be sufficient infrastructure capacity if they are brought forward.

The Reserve Sites are Fundamental to the Strategy

It seems to be beyond doubt that the Reserve Sites were fundamental to the strategy of the Plan; they were included in Policy S2 which contains the growth strategy for the district and which allocates land for the principal sectors of housing and employment. Reserve Sites are included, not simply as a good idea, but because they fulfil essential requirements of the growth strategy: "*To provide for further flexibility and contingency, and ensure the future delivery of the growth strategy, including providing for the objectively assessed need for housing and to provide adequately for a 5 year supply of deliverable land for housing.*" The Council state that the Reserve Sites contribute to flexibility, to meeting the OAN and to ensuring a five-year supply. There is no doubt about the materiality of these issues to planning policy generally (such flexibility is expressly endorsed by the NPPF at para 14) and to the Maldon Plan in particular.

The need for flexibility is not only a matter of policy compliance; it is an essential practical measure in the particular circumstances of Maldon District:

- The wide range of estimates of Objectively Assessed Housing Need (OAN) that have been produced for the District, from 220 dwellings per annum (DCLG 2014) to 310 dwellings per annum (the Council's Main Modifications 2016) means that reliance should not be placed on a single figure unless the supply can respond flexibly and quickly;

- A major factor in the future population of the district is the difference between very large flows of population into and out of the district, which can be subject to unexpected short-term changes. For example in NMSS' Advice on OAN in 2015, inflows from the rest of the UK in the period 2014-29 are expected to be about 50,000 and outflows about 42,000 and small changes in either of these will outweigh the effects of changes in births (about 8,000), deaths (about 10,000) or international flows (around 2,000 in and a similar number out). Such changes could produce major shifts in the OAN for Maldon District;
- Whilst the Council has taken some account of the demand for housing arising from people moving from other districts, there is a concern that, by not agreeing to consider a joint Housing Market Area with the Districts of Chelmsford, Colchester, Braintree and Tendring, the Council has underestimated the real need for housing; and
- In summing up and finding the previous policy unsound, the Local Plan Inspector at the time of the last EIP, confirmed that the policy must be flexible in accordance with the NPPF (on Day 6 of the hearing into the Reserved sites policy).

All these factors, together with national issues such as the largely unexplained but widespread lag between the grant of planning consent and the start of construction, mean that there will almost certainly be a shortfall against whatever annual housing target is adopted very early in the plan period. The requirement for flexibility is compelling, as it was when the Council wisely included Reserve Sites in the Submission Draft.

Against this background of a well-grounded reasoning for Policy S2, the Council has proposed, in the Schedule of Main Modifications, that the S2 text relating to Reserve Sites be deleted and replaced with:

“Monitor and Review

The Council will monitor housing delivery against the housing trajectory for the District using the indicators specified in the Monitoring Framework set out in the LDP. If after three years from the adoption of the Plan, the Authority Monitoring Report (AMR) demonstrates that there is a significant shortfall in housing delivery and expected housing completions in the following five years are insufficient to compensate for this shortfall, **the Council will undertake a fast track partial review of the Plan to ensure the housing needs of the District can be fully met.** In undertaking this review, the Council will ensure that sufficient infrastructure capacity is available and that the potential allocation of additional housing sites will not prejudice delivery of the infrastructure required by the Plan.” (our emphasis)

Procedural Practice in the Examination of Local Plans, The Planning Inspectorate, June 2016 (4th Edition v.1) states: “The Planning Inspectorate has developed a revised examination timeline for a review of one or a small number of specific policy issues, to help councils update discrete parts of their plan in around 6 months. Such reviews could consist of, for example, car parking standards or provision of open space and recreation, but are **unlikely to be able to cover issues which are fundamental to a plan such as housing or employment strategies.**” (our emphasis)

It is clear that the Council’s intended “fast track partial review of the Plan”, with its consideration of housing delivery, completions (recent and expected future), infrastructure capacity and site selection, is not an acceptable route. The Pre-submission Draft Plan established a clear need for Reserve Sites to support the growth strategy; that insurance is no longer available unless the Reserve Sites are restored to Policy S2.

Sustainability Appraisal and Infrastructure Capacity

In the Council's Main Modification 088 relating to Policy S2 they express concern about infrastructure capacity, a concern that is repeated in the Modification quoted above under the heading "Monitor and Review". This concern is misplaced. Our response to this concern relies partly on our answer to the Inspector's query as to whether the Reserve Sites had been assessed in the Sustainability Appraisal (SA). The Inspector also asked if the Reserve Sites had been assessed against capacity in schools and highways, and similarly if both allocated and Reserve Sites came forward together.

The Council, in their response to the Inspector's issue about the SA (or not) of the Reserve Sites, state that the sites were not subject to SA. In the sense that each site was not appraised individually, this may well be the case; it would be appropriate for that assessment to be carried out when the site is brought forward. However the Reserve Sites undoubtedly must have been appraised through SA, unless the whole SA is flawed, as they were fundamental to the Plan strategy, which was appraised. The whole Draft Plan including Policy S2 was assessed in "Maldon District Council Pre-Submission Local Development Plan 2014-2029, Sustainability Appraisal Report incorporating Strategic Environmental Assessment and Habitats Regulations Assessment, 2014." Policy S2 was assessed in paras 7.3.2 (Sustainability Appraisal) and 8.4.5-8.4.7 (Habitats Regulations Assessment) and Appendix C, Table 2. It is not possible to assess Policy S2 without taking account of the significant role of Reserve Sites in mitigating the risks to the strategy of the Draft Plan. No major negative effects were identified in relation to Policy S2.

The ambiguous status of the Reserve Sites in the SA is perpetuated in the SA Update, September 2016: RE2 is expressly included in the SA assessment (Table 8, page 20) but it is also recorded as due for deletion (Table 6, page 16). The only logical way in which the sites can have been assessed is as Reserve Sites having the role attributed to them in Policy S2 of the Submission Draft Local Plan. Again, they were assessed as sustainable.

Page 118 of Appendix C of the SA Update (September 2016) clearly assesses land North of Scraley Road (Reserve Site RE2). Development of the site for residential use is considered to have significant social benefits with criteria 2, 3 and 4 being assessed as having a positive impact. Therefore the site is suitable for residential development and Persimmon Homes have demonstrated the site to be also available and achievable for development in the Plan period.

This understanding of whether and how the Reserve Sites were assessed in the SA confirms the view that the Reserve Sites were fundamental to the strategy of the Draft Plan. Their status in terms of infrastructure capacity depends on two features of the sites: they are central to the growth strategy and they are **Reserve Sites**.

The Council's Community Infrastructure Levy (CIL) is being examined at the same time as the Draft Plan, which makes good sense as the CIL, together with the Infrastructure Delivery Plan (Update 2014) is designed to ensure that the infrastructure will be in place to support delivery of the proposals in the Draft Plan (see para 1.7 of the IDP Update December 2013 and para 2.1 of the IDP Update, May 2014) including Policy S2 and the reliance on Reserve Sites in S2. The Delivery Plan does not expressly mention the Reserve Sites, but that is not surprising, as the IDP is concerned with the delivery of the Plan as a whole, not with the individual parts. Furthermore Reserve Sites are not designed to be brought forward simultaneously with the allocated sites listed in the IDP. Conversely if infrastructure capacity had been assessed in relation to the Reserve Sites it would clearly mean that the Reserve Sites would deliver development that is additional to the

allocated sites, which is clearly not the intention.

The role of the Reserve Sites was for them to be brought forward under certain conditions, the most important of which was that housing completions were falling short of the targets required by the plan; in other words the sites were to be in substitution for and not in addition to sites allocated in the Plan. In that sense, which is the proper understanding of Reserve Sites, it is clear that there will be sufficient infrastructure capacity for the Reserve Sites on the terms on which they are provided (there may be local deficiencies, but they would be addressed by CIL or s.106 payable on the Reserve Sites). The sites can only have been provided in the Plan on the basis that there would be sufficient infrastructure capacity for the sites in this reserve role.

At the previous EIP, there was obvious confusion as to what role the Reserve Sites should play and whether there would be sufficient infrastructure capacity to support them. The highways authority for instance confirmed that it had not specifically modelled the capacity for their development. Nevertheless, the District Council clarified that position clearly by confirming their role as expressed above.

In response to the Inspector's queries on highways and school capacity, we conclude that:

- The Reserve Sites were assessed in both SA and infrastructure terms because they are a fundamental part of the Plan, which was the subject of the SA and the IDP; they have been expressly assessed in the SA Update; and
- The risk of both allocated and Reserve Sites coming forward together can be entirely mitigated by the Council exercising their development management powers in compliance with the development plan which says (in the Submitted and preferred version) that Reserve Sites will be brought forward only if there is a shortfall in housing delivery.

Housing Market Area

Persimmon Homes note from the Inspector's letter to the Council (Reference IED21 dated 7th April 2016) that there is some dispute (raised by participants during the hearing) over the extent of the Council's Housing Market Area (HMA). It was argued that Maldon falls within the Colchester HMA, also involving Chelmsford, Tendering and Braintree Districts. There is a degree of interdependence between adjoining areas within which jobs are created, people search for work or housing, and where they shop and play. For instance, and as the inspector notes in his letter, it has been argued that based on the Council's figures there is significant out-commuting and subsequently a wider HMA should be drawn.

The above would suggest to us that Maldon are looking at a degree of interdependence with the wider HMA and as such are not properly assessing their objectively assessed needs.

Paragraph 47 of the National Planning Policy Framework (NPPF) requires LPAs to "meet the full, objectively assessed needs for market and affordable housing in the housing market area". It is not clear whether Maldon comply with this requirement as they are not using a HMA which accurately reflects the areas trends, including commuting patterns.

Notwithstanding our representation above, Persimmon Homes would strongly suggest that if the Maldon HMA formed part of the Colchester HMA then Maldon's housing numbers would significantly increase and the Local Plan would not be sound, as it does not meet the requirement

of Paragraph 47 of the NPPF.

Conclusion

No evidence has been provided to dislodge the prudent provision by the Council of Reserve Sites in the Growth Strategy for the District they should be restored to the Plan in Policy S2 for the following reasons:

1. They formed a part of the Growth Strategy policy and were there for the good reason of providing flexibility to respond to unexpected circumstances, a reason that is endorsed in NPPF 2012;
2. As part of the single most important policy of the Draft Plan, the Reserve Sites have been appropriately assessed in the SA and the HRA and subsequently in the SA Update September 2016;
3. As part of the Draft Plan, for which the Infrastructure Delivery Plan makes provision, the infrastructure requirements of the Reserve Sites have been taken into account as substitutes for allocated land.
4. There is considerable evidence in the SA and the IDP to support the identification of the Reserve Sites;
5. The Council has not set out the reasons for the proposed Modification; its justification and robustness cannot be assessed. The Inspector's queries can be answered satisfactorily without deleting the Reserve Sites;
6. The Council's intended reliance on a fast track partial review of the Plan is not valid, as the procedure is not available for such a fundamental or strategic element of the Draft Plan as housing policy; and
7. The Council's concern about infrastructure capacity in relation to the release of Reserve Sites is misplaced (notwithstanding their role as stated by them at the last EIP): the most likely scenario involving the release of additional land is a shortfall in the delivery of housing, which will mean that infrastructure capacity has not been utilised to the expected extent, leaving spare capacity for the released sites.

We propose the following wording as part of Policy S2 to support the identification of the Reserve Sites:

Reserve Sites - *To provide for further flexibility and contingency, and ensure the future delivery of the growth strategy, including providing for the objectively assessed need for housing and to provide adequately for a 5 year supply of deliverable land for housing, the Council has identified the following reserve options:*

Then follows the list of sites. Delete the two sentences after the list and insert:

Within one year of the adoption of this Local Plan the Council will publish a Supplementary Planning Document (SPD) which will report on the conclusions of the following tests of the Reserve Sites:

1. *Sustainability Appraisal and Habitats Regulations Assessment (in cases where this has not been carried out).*
2. *Their availability for development within 12 months of the site being released for development.*
3. *Any residual requirement for local infrastructure.*
4. *Their appropriateness in broad scale and location to provide adequate coverage across the*

District, taking account of the scale of housing development planned in different parts of the District which may need to be supplemented by the development of Reserve Sites.

- 5. The broad housing capacity of the sites are appropriate, taking into account their design, environmental constraints and the tests above.*

The outcome of the SPD will be a list of those Reserve Sites that meet the above tests and which can be brought forward for development quickly, subject to planning applications.

The Council will review the progress of housing delivery against the long term Plan targets and the short-term 5-year supply target in the annual Authority Monitoring Report, or sooner if evidence indicates housing delivery to be falling short. Whichever document carries the review will, if needed, trigger the release of one or more Reserve Sites for development.

Yours sincerely,



Mark Furlonger
Senior Technical Director

Cc. David Moseley, Planning Manager Persimmon Homes, Anna Davies, Strategic Planner
Persimmon Homes