



Flitcroft House
114-116 Charing Cross Rd
London WC2H 0JR
tel: +44 (0)20 3640 8508
fax: +44 (0)20 3435 4228
email: info@iceniprojects.com
web: www.iceniprojects.com

Mr. Adrian Tofts
Strategic Planning Manager
Maldon District Council
Council Offices
Princes Road
Maldon
Essex
CM9 5DL

27th October 2016

14/975
BY EMAIL

Dear Mr. Tofts,

MALDON DISTRICT COUNCIL MAIN MODIFICATIONS CONSULTATION

We write on behalf of EA Strategic Land LLP (EA Strategic) in response to the consultation on the Council's Main Modifications to the Maldon Local Development Plan (LDP). EA Strategic submitted representations to the draft LDP in October 2013, March 2014, attended the hearing sessions of the local plan examination in January 2015 and maintains an active interest in land at North Fambridge.

In summary, these representations highlight our concerns of the main modifications and the failure of the updated evidence base documents to rectify previous apprehensions. In particular:

- It does not appear that the additional work to form a final OAN has been undertaken;
- Inspector David Vickery's Interim Findings (3 June 2015) concluded '*all the Plan's housing policies, taken together, are fundamentally unsound because the Plan does not identify and meet objectively assessed housing needs and it is not based on adequate, up-to-date and relevant evidence as required in national policy. This means that the Plan's housing policies should be reconsidered as a whole and further progressed as one integrated series of policies with associated infrastructure.*' The updated evidence still does not provide confidence that a final OAN figure has been arrived at;
- Robust evidence must be provided to indicate how the Duty to Co-operate has been met;
- The housing land supply position within the authority is not clear and the Council's reliance on windfall is not justified;
- The main modifications document does not build on the strengths identified in previous evidence base document, in particular the Sustainability Appraisal which identified North Fambridge as a sustainable location for development does not assess the settlement having regard to the requirement to provide sustainable development.

a. Background

EASL initially submitted representations to the consultation undertaken by the Council in October 2013 for the Draft Local Development Plan. EASL confirmed its support to the Council's intention to provide a district-wide local plan to address the requirements of the National Planning Policy Framework (NPPF) whilst also raising concern regarding the assessment of objectively assessed needs. The representations confirmed that further consideration was required to establish whether the 294

dwellings per annum was a sufficient target to accommodate the needs in accordance with the NPPF and Planning Policy Guidance (PPG).

Paragraph 2.82 of the draft LDP went on to confirm that a minimum 420 new home allocation was to be given to the villages to secure their long-term sustainability, also confirming that North Fambridge *“is one of the more sustainable rural villages given its proximity to a higher level of services within the neighbouring settlement of South Woodham Ferrers, its accessibility by rail and its proximity to a variety of employment and retail markets in South Essex”*. In this context, there was no justification given at the time as to why the housing allocation to North Fambridge had been reduced from 300 units to 75 units, given the need for housing in the borough and the opportunity available at North Fambridge.

Each of these matters remained relevant in our representations to the March 2014 consultation (Pre-submission document), which also clarified why North Fambridge remained a sustainable location for development and should be considered capable of accommodating a larger proportion of growth to the previously identified 75 units. In support of this assertion was the Sustainability Appraisal, published in January 2014 which assessed a series of settlements in the District to determine where would be best suited to accommodate an additional growth of 700 dwellings over the Plan period. The document confirmed that additional growth in North Fambridge would deliver overall positive benefits, specifically stating:

- ‘The creation of a larger settlement will likely support the development of service provision in that area of the District over time.’
- ‘The creation of a larger settlement close to an existing area of development and near a rail line is likely to reduce rural isolation and create a viable community.’
- ‘The further provision of housing on the boundary of existing settlements is considered to be an effective use of land.’
- ‘An increase in housing in North Fambridge may improve the local economy as it will increase the potential workforce for employers. In addition, the creation of a larger settlement in the south [of the District] could in the long term also benefit the local economy.’

EASL also raised concern with the Council’s strategy to ensuring the delivery of housing succinctly safeguarded the Council’s ability in reaching its housing target and did not restrict the potential housing delivery from sustainable sites whilst awaiting the production of subsequent phases / stages of the LDP. The delay in the plan to date has since resulted in a piecemeal and incoherent approach to development in the District by way of an appeal-led windfall approach which does not necessarily direct growth in the most appropriate locations.

EASL has remained involved in the local process throughout, most recently attending the examination hearing sessions in 2015 for which a Written Statement was submitted to the Inspector. In summary, the Statement outlined the following concerns relating to the evidence supporting the content of the local plan:

- The plan should be accompanied by evidence of the full OAN and an NPPF compliant Strategic Housing Market Assessment (noting that the 2014 SHMA falls significantly short of that required by the NPPF)
- The benefits of additional housing at other locations as set out in the Sustainability Appraisal were not explored sufficiently in terms of developing planning policy. In particular, we would note the conclusions of the Sustainability Appraisals regarding the capacity for, and benefits of, increased housing provision to North Fambridge, noting that it is one of the few rail served settlements in the District and is capable of being expanded without harm to highway or flooding constraints elsewhere in the District.
- The Council has failed to provide sufficient and compelling evidence regarding the level of windfall housing delivery.

- The proposed alteration in the housing requirement from 294 homes to 310 homes per annum increases the plan period requirement to 4,650 homes and would require the delivery of at least 240 homes from the reserve sites, and quite possibly sooner than envisaged in the LDP. Given the issues raised by the inspector in relation to the delivery of the garden suburb allocations, we consider that additional reserve capacity should be identified within the plan.
- Due to the delay in the LDP examination process, the Rural Allocations DPD timetable will clearly be affected. The rural allocations should be forward planned, and as such, the LDP should be revised to ensure that allocations are provided within the RADPD Plan Period.

The issues outlined above remain significant to the Council's current plan position, and which without review could render the local plan incapable of being found sound and legally compliant.

b. Proposed Main Modifications document

The NPPF (paragraph 182) requires that any Plan submitted to the Secretary of State for Examination must be capable of being found both legally compliant and sound. This places various duties on the Council, including, but not limited to ensuring the Plan is 'positively prepared, justified, effective and consistent with national policy'.

The proposed Main Modifications document has been published for consultation alongside the Council's new Sustainability Appraisal, along with the Council's two papers 'Updating Maldon's Objective Assessment of Housing Need' and the 'Five Year Housing Land Supply Statement (August 2016)'. This section will provide comment on all three documents as requested, and in light of the previous comments made by EASL in historic representations to the Council.

Updating Maldon's Objective Assessment of Housing Need

In brief, EASL considers this document provides the reader with no updated information from the work previously undertaken by NMSS with the author summarising *'This note updates that advice and concludes that the best current estimate is 260 homes per year. However, the difference between these two estimates is within the error margins inherent in the projections on which they are based. The difference therefore does not suggest any fundamental change'* [emphasis added].

EASL raised concern in its Written Statement to the previous examination hearing regarding NMSS' methodology of its March 2015 report which, by its own admission, did not take account of market factors, address the issue of undersupply, or the impact that past undersupply has had on increasing the level of concealed units. Moreover, it disregarded a household survey as used as part of the evidence to inform the SHMA. In presenting the methodology for the original assessment, paragraph 6 of the Report stated *"...adjustments may then need to be made to ensure that there is sufficient housing to support any aspirations for economic growth; address market factors; respond to past undersupply and cater for any existing unmet need. Those issues are not, however, dealt with in this report, apart from a brief mention of out migration from London.'* [our emphasis].

EASL concluded the report did not comprise an OAN, as required by the NPPF and NPPG.

The Update considers various figures throughout the report, concluding at paragraph 38 that if a single need to be chosen for the OAN based on the three scenarios (which give a range of 252-259) then an OAN of 260 homes per year should be taken as the most up to date estimate of the OAN. However, the Council should not consider this as conclusive, as a result of paragraph 40 which pertains *'There may be a case for retaining 310 as the housing requirement to provide headroom for potential increased migration out of London'*.

Furthermore, with regards to the appropriate Housing Market Area for Maldon, it is noted this issue formed one of the Inspector's main concerns in his letter to the Council dated 7 April 2016. Whilst the Council provided a response on the matter dated which concluded it considers itself a single HMA. The document also states that *'neighbouring authorities have concluded that the inclusion of Maldon in a larger NHPAU-defined HMA has a limited effect on the area's containment. The different*

authorities, Maldon and its neighbours, are capable of addressing their housing needs through their respective HMAs and Local Plans and there is no need for a single HMA to accomplish this.'

EASL acknowledges this work, but raises concern that the updated NMSS Report does not provide an independent and objective view on the matter, nor provide clarification on the overall effect the Council considers still exists, albeit it *limited*. Paragraph 10 of the Council's response, goes on to place great emphasis on the duty to co-operate to ensure it continues to work with neighbouring authorities on the matter. We have highlighted the failures of nearby Castle Point Council at a later stage in these representations which should not be taken lightly by the Council.

As such, EASL maintains its view that the report does not comprise an OAN, as required by the NPPF and NPPG. It does not instil confidence or provide sufficient clarity that the figure arrived at (260 pa) is the correct figure for the development plan period.

Five-year housing land supply statement August 2016

Reference 098 of the proposed modifications outlines the proposed housing target to cover a period of 15 years, giving a plan-period of 2014-2029. As a consequence of the current consultation it is likely that a delay will be experienced in the adoption of the subsequent Local Plan. EASL considers that a more realistic date for adoption of the Local Plan would be no earlier than 2017.

As a result, the plan should seek to cover the period should run until at least 2031/32, and the Council may wish to consider extending this further in order to ensure additional required growth can be delivered. It may be prudent to prepare the plan to cover the period 2017-2037, thereby allowing for delays in the adoption process and ensuring the plan will cover a minimum of 15 years at the point of adoption. By planning for a longer plan period from the outset, the Council will protect itself from needing to make changes to the plan period later in the process of plan preparation and will reduce the risk of any subsequent adoption being predicated on an immediate plan review.

Taking this into consideration with regards to the Council's housing land supply, table 3 in the update statement confirms in the year 2014/15 only 69 dwellings were completed against a target of 310 (-241 shortfall), and only 248 completions were recorded for 2015/16 (shortfall of -62). Therefore, the Council is already failing to meet its targets despite a number of its strategic allocations already having the benefit of planning permission. Furthermore, it is significant that these figures do not make allowance for the requisite buffer or previous undersupply which could render the Council's position out of date.

The Council has not provided sufficient evidence to suggest that 300 units will come forward on windfall sites during the plan period as suggested within the housing trajectory at reference 43 of the main modifications document. The latest information on delivery rates within the District is contained within the latest Annual Monitoring Report (page 19) which does not detail the proportion of completions on windfall sites since the Council began its monitoring in 2001/02. The Council has not provided compelling evidence "that such sites have consistently become available in the local area", or "will continue to provide a reliable source of supply" (NPPF, Paragraph 48). There is no analysis – let alone compelling evidence – that windfalls have a record of past delivery, or will continue to be a reliable source of supply (PPG Ref: 3-24-20140306).

Furthermore, it is understood in the latest Planning Policy Update (September 2016) that the Council outlines '*With a five-year housing land supply in place, the Council is in a stronger position to refuse development proposals which do not accord with the LDP, and importantly a stronger position to refuse applications which could threaten the delivery of sites allocated in the LDP and associated infrastructure.*' It is also noted that the majority of sites which have come forward as windfall since the Council invited sites to come forward for development in June 2015 have been refused at committee level and subsequently fallen to the Planning Inspectorate to consider the merits of the development.

Sustainability Statement

The Sustainability Appraisal produced for the Council in January 2014 assessed a series of settlements in the District to determine where would be best suited to accommodate an additional

growth of 700 dwellings over the Plan period. The document confirmed that additional growth in North Fambridge would deliver overall positive benefits. Specifically, it states that:

- *'The creation of a larger settlement will likely support the development of service provision in that area of the District over time.'*
- *'The creation of a larger settlement close to an existing area of development and near a rail line is likely to reduce rural isolation and create a viable community.'*
- *'The further provision of housing on the boundary of existing settlements is considered to be an effective use of land.'*
- *'An increase in housing in North Fambridge may improve the local economy as it will increase the potential workforce for employers. In addition the creation of a larger settlement in the south [of the District] could in the long term also benefit the local economy.'*

Royal Haskoning DHV was commissioned to undertake an updated Sustainability Assessment to accompany the main modifications consultation which also provided an assessment of 'alternative sites' at appendix C. Specifically table S11 assesses the merits of an extension at North Fambridge in regards to its contribution towards achieving the three strands of sustainable development. The report is in direct conflict with the previous assessment of the settlement despite a change in national policy which fundamentally seeks to direct growth to those locations with access to a railway station. North Fambridge was, and still is, one of the only settlements in the south of the district with such access which should be considered a significant positive to its sustainability.

No evidence has been presented to demonstrate how or why the Sustainability Appraisal contained within the pre-submission consultation no longer considers North Fambridge as a sustainable and deliverable option for accommodating the future growth needs of Maldon. Furthermore, the requirement to provide for a greater level of growth should result in the determination to maximise the opportunities presented by North Fambridge as an alternative site location.

c. Duty to co-operate

As you are aware, the Duty to Co-operate is a legal duty which must be complied with. It must be clearly evidenced and this evidence must demonstrate joint working on areas of common interest has been diligently undertaken for the mutual benefit of neighbouring authorities (paragraph 178 of the NPPF). It is the first hurdle for any authority at the examination stage of a Local Plan. Local planning authorities have a Duty to Co-operate on strategic planning issues that cross administrative boundaries. The purpose of the duty to co-operate is to ensure strategic priorities are properly co-ordinated and clearly reflected in Local Plans. The failure to demonstrate compliance with the Duty to Co-operate would render the plan incapable of being found legally compliant.

In respect of ensuring the duty can be discharged at the examination of MDC's Draft Plan, you will be aware of the Inspector's concerns regarding neighbouring Castle Point Borough Council and its duty to co-operate, dated 22 September 2016. The Inspector concludes the Duty cannot be discharged with the plan in its current form; however, has confirmed a number of matters and questions which provided an evidenced response can be actioned by the Council, would ensure the duty has been discharged.

The Inspector outlines the most expedient process to deal with DtC is in isolation at the outset, having regard to the PPG advice. Significantly, it follows that detailed preparation work on other issues such as the assessment of the OAN; whether the proposed housing requirement is the most appropriate strategy; and whether the New Local Plan has been positively prepared will not commence until the Inspector is satisfied the duty has been discharged, causing significant delay to the remaining examination proceedings.

Furthermore, the Greater London Authority (GLA) has confirmed that growth in London is anticipated as outlined in the adopted Further Alterations to the London Plan document which plans for 62,000 homes per annum, an increase of 30,000 homes from the previously adopted document. As a

consequence of this high level of need, the GLA previously wrote to authorities within commutable distance of London to confirm that the target still results in a significant shortfall that will need to be met by LPAs outside London. It stands as reason that Maldon, building on the conclusions of the updates NMSS document, has a potential role to play in accommodating London's growth. North Fambridge in particular, as one of the only settlements with a train station providing direct access to London, should be considered to accommodate the additional growth required.

Thank you once again for the opportunity to respond to the main modifications consultation. We would be very grateful for confirmation that these representations have been received and confirm that we would like to be involved in future stages of the Local Plan process.

In particular, we would like to register our interest in appearing at the Examination of the plan at the appropriate time.

Yours sincerely,

pp. 

David Churchill
DIRECTOR