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Your ref

Dear Sir or Madam

**Maldon District Local Development Plan (LDP) Draft LDP Public Consultation:
Representations on behalf of Linden Homes in respect of the Wycke Hill Site, Spital Road**

We write on behalf of our client, Linden Homes, regarding the above consultation in respect of their proposed residential development at Wycke Hill (Site S2(c) within emerging policy S2) (hereafter "the Linden site").

Land at Wycke Hill (Site S2(c))

Linden Homes has promoted residential development on this site for some time and submitted representations to the Maldon Local Development Plan (LDP) (Preferred Options Consultation – July 2012) in respect of this. They have also recently submitted a currently undetermined outline planning application (with all matters reserved except for access) seeking the redevelopment of the site to provide up to 120 homes and associated works (LPA ref. OUT/MAL/13/00763).

Notwithstanding their concerns about the potential timing implications (which we expand upon below) arising from Maldon District Council 's (MDC's) proposals for a Masterplan for the South of Maldon Garden Suburb Linden Homes have engaged with this process. On Thursday 3rd October they submitted a Statement of Agreement to the draft South of Maldon Masterplan Brief which has been agreed between Linden Homes and the two other parties with a land interest in this area (sites S2(a) and (S2b)) – Commercial Estates Group (CEG) and Dartmouth Park Estates (DPE).

Linden Homes welcome the opportunity to comment on the latest version of the LDP. MDC's first objective for the LDP's spatial vision is "to provide sufficient, well designed, quality housing to meet our housing needs, increase the supply of affordable housing across the District and focus future development in sustainable locations, within settlement boundaries, garden suburbs and strategic allocations." The Linden site is clearly well placed to assist in meeting this objective and the emerging LDP recognises this by allocating it for the provision of 120 residential units within the first five years of the LDP.



There is a clearly recognised need for the provision of further residential development within Maldon. The MDC Annual Monitoring Report (March 2013) identifies (table 5.4) just 300 deliverable residential units, which on the basis of the MDC's own assessment of housing need (which we comment on below) results in just one year and one weeks housing land supply. Not surprisingly the Planning Inspector in the recent Oval Park appeal (24 July 2013) concluded (para 41) that there was a "*pressing need for housing development*" within the District.

As we expand upon below it is important that the emerging LDP does not, inadvertently or otherwise, risk delaying the progression of residential development that the LDP itself recognises is capable of assisting in meeting this clear housing need in an appropriate location. Specifically it is important the determination of the current outline planning application for the Linden site is not delayed by the LDP process (and / or associated South of Maldon Masterplan). The site's location and proposed use is compliant with the draft LDP but capable of delivery outside of the LDP / masterplan process, without fettering the subsequent development of the wider area.

Our comments below focus on the allocation of the Linden Site (and the wider area) at South Maldon and the timing implications of this. Where relevant we also comment on other development management policies.

Local Development Plan

Policy S1 Sustainable Development

Linden Homes welcome the "*positive approach*" set out in policy S1 which supports sustainable development. They are concerned however that elements of this policy conflict with other aspects of the LDP (and we expand on this below).

Policy S2 Strategic Growth

The emerging LDP identifies an annual housing target of 294 dwellings (para 2.24). Linden Homes welcome the substantial increase from the earlier Regional Strategy (RS) target of 126 dwellings per annum which more closely reflects the clear housing need within the District. They are however concerned about the absence of transparency over the derivation of this figure (para 2.21) and also at the reference (Policy S1) of seeking to identify a level of housing need to meet "*local needs*" which differs sharply from the requirement in the NPPF para 14) to meet "*objectively assessed needs.*"

These concerns lead 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. This reflects the fact that the Strategic Housing Market Assessment (SHMA) identifies an overall total demand for 687 units and 242 affordable units per year (LDP para 2.22).

Linden Homes also disagree with the statement in the LDP (para. 2.34) which suggests that the District does not have a persistent under delivery of housing. This is simply inconsistent with the facts that (1) MDC, on the basis of their own figures in the AMR, has a housing land supply of just one year (2) MDC has not met its' (much lower) annual target since 2008/9 and (3) last year saw the development of just 36 units. The statement within the LDP is also inconsistent with the



observations of the Oval Park Planning Inspector (summarised above). Instead the available evidence is indeed consistent with a record of “*persistent under delivery*” and in accordance with the NPPF (para. 47), a 20% buffer should be applied to the identification of a five year housing land supply.

Linden Homes Site (S2(c))

The Policy S2 allocation of the site ‘South of Maldon’ (Wycke Hill South (ref: S2 (c))) for 120 units to be delivered in 0-5 years is strongly supported by Linden Homes. However, in relying on the site to assist in meeting the initial 5 year supply of housing provision it is important that other elements of the LDP / proposed masterplan do not fetter it’s development. Specifically, as we expand upon below, the site is capable of being granted planning permission and developed ahead of the adoption of the LDP and associated masterplan.

Policy S3 Place Shaping

This policy builds upon the anticipated residential delivery from the Linden Homes site (and other neighbouring sites) identified in Policy S2.

Whilst Linden Homes support a number of these policy aspirations they also have concerns about some of the potential implications.

The reference to “*Garden Suburb*” is noted but we are concerned that the implications of this are unclear and elements of this aspiration duplicate or contradict other parts of the LDP. The references to matters such as a “*strong landscaped character*” and “*wide tree lined streets*” need to be balanced against the residential density anticipated in Policy S2 as well as Policy H4 which requires development to “*optimise the use of land*”.

Embargo on Development Pre Masterplan

A number of references within the supporting text (eg. paras. 2.42 / 2.47 and Policy S4) risk resulting in an embargo on development in Garden Suburb areas. Specifically the emerging LDP states (para 2.42) “*planning consent for each of the Garden Suburbs will only be granted by the Council if the proposals are in accordance with a masterplan which has been endorsed by the Council*”

This is inappropriate for a number of reasons. Firstly there is no suggestion within the NPPF (or draft National Planning Practice Guidance) that it is appropriate for a proposal that is in accordance with an emerging / adopted Local Plan to be refused planning permission on the basis that a forthcoming Masterplan / SPD has not been adopted.

At a local level it is internally inconsistent draft policy S1 (3) which seeks to “*prioritise development on previously developed land and planned growth at the Garden Suburbs and Strategic Allocations*” and the stated intention of the Council to “*always work proactively with applicants jointly to find a solution which means that development proposals can be approved wherever possible.*”

As part of the recent South Maldon Masterplanning workshop (17th September) the minutes reflect that Planning Officers agreed that applications coming forward within Garden Suburbs ahead of the LDP adoption “*would need to clearly demonstrate that they have **not fettered** the masterplanning*



process and would not undermine the emerging Draft LDP growth strategy” (our emphasis) (source : ATLAS note of meeting).

This is considered to be a more appropriate test for inclusion within the LDP. The current Wycke Hill scheme which is under determination by the Council meets this requirement. This is reflected in the Statement of Agreement between Linden Homes, DPE and CEG.

Conversely the blanket “*embargo*” on development within the South of Maldon and Heybridge Garden Suburbs, in advance of an endorsement of a masterplan (which is inherent within Policy S4 and paras 2.42 and 2.47) risks further exacerbating the extremely poor housing delivery record of MDC.

Policy S4 Maldon and Heybridge Strategic Growth

In relation to Policy S4, there appears to be an incorrect policy reference in the third paragraph starting, ‘Garden Suburbs and Strategic Allocations’. We presume it should refer to Policy E1 Employment rather than Policy E2 Retail Provision.

Within the supporting text the reference to archaeology assessments with para 2.58 is unduly prescriptive. Site specific archeological assessments being are capable of being undertaken / controlled by planning condition (as recognised in consultation response to the Linden Homes outline planning application - LPA ref. OUT/MAL/13/00763).

In relation to Para 2.61, concerning highways, the reference to a new relief road at land south of Maldon should be consistent with on-going ECC highways analysis. It is not needed to accommodate the initial stages of development in the strategic allocation and the LDP text should reflect this.

Policy E1 Employment

In relation to the second table within Policy E1 detailing new employment space, it is highlighted that the site reference should be amended to clarify that the employment designation ‘South of Maldon’ does not apply to the Wycke Hill South site (ref: S2 (c)). The Linden Homes site is only 2.8 ha, whereas the designation is for circa 4.5 ha. It is clear that the employment allocation should relate to site S2 (a) (and this is consistent with the Agreed Statement between the parties).

Policy H1 Affordable Housing

Consistent with our representations to the earlier consultation document Linden Homes do not agree with the variable affordable housing target set across the District. In particular the 40% affordable housing for Garden Suburbs is too high.

The NPPF is clear in relation to plan preparation (Para. 173) that “*development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.*”

The emerging LDP has two key flaws in this respect. Firstly the critical issue of affordable housing requirement in being undertaken in advance of, and in isolation of, any assessment of Community Infrastructure Levy (CIL). We understand that even on the basis of the most optimistic timeframe MDC do not envisage commencing the CIL process until November 2013 with submission of the



draft CIL Charging Schedule anticipated in June 2014. MDC therefore simply do not have an evidence base which enables them to assess an appropriate and viable level of affordable housing provision in the absence of assessing anticipated CIL levels. Indeed the MDC Local Plan & Community Infrastructure Viability acknowledges this stating (para 2.14) that *"in due course this study will form one part of the evidence that the Council will use to assess the deliverability of the Local Plan and to set CIL"*

Secondly the Viability Assessment also acknowledges (para 7.17) that major strategic sites (such as the wider South Maldon Garden Suburb allocation) *"can have very significant infrastructure requirements that can have a dramatic impact upon viability."* Notwithstanding this clear acknowledgement the emerging LDP goes on to propose that the *"Garden Suburbs and Strategic Allocations at Maldon and Heybridge"* should have the highest affordable housing requirement.

In essence therefore, in the absence of any guidance on anticipated CIL requirements, there is no evidence that the 40% affordable housing requirement is viable and consistent with the NPPF and planning policy, indeed the highest requirement for the Garden Suburbs conflicts with the acknowledgement that these types of location are particularly susceptible to risks to their viability.

Linden Homes consider that the absence of appropriate viability testing of policy H1 means that the policy will act as a barrier to housing delivery and result in regular (and inefficient) viability testing on a the majority of planning applications in these areas (increasing the burden on developers).

Policy N2 Natural Environment and Diversity

The policy test suggested in the third paragraph of Policy N2 is not consistent with the NPPF. It states that where any *"potential adverse effects"* to the biodiversity value of a designated site are identified, the proposals will *"not normally be permitted"*. Such a threshold however is very low and the NPPF (para 118) appropriately recognises both that the appropriate threshold for assessing proposals is instead *"significant harm."* It also recognises the need to assess whether, if such harm cannot be avoided, LPA's should explore if it can be *"adequately mitigated, or, as a last resort, compensated for"* before an LPA should refuse planning permission. This policy is clearly inconsistent with National Planning Guidance and unsound in this respect.

We trust that the above is self-explanatory and will be addressed by MDC in progressing the LDP to the next stage. If you have any queries please do not hesitate to contact me or my colleague Clare Catherall.

Yours sincerely

A handwritten signature in blue ink that reads 'Daniel Lampard'.

Daniel Lampard

Director

Copy Robert Church - Linden Homes
 Graham Bridgman – Linden Homes