



Planning Policy Team
Maldon District Council
Council Offices
Princes Road
Maldon
Essex
CM9 5DL

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Dear Sir/Madam

MALDON DISTRICT: DRAFT LOCAL DEVELOPMENT PLAN

Thank you for consulting with the Home Builders Federation (HBF) on the Maldon District Local Development Plan.

The HBF is the principal representative body of the house building industry in England and Wales and our representations reflect the views of our membership of multinational PLCs, through regional developers to small, local builders. Our members account for over 80% of all new housing built in England and Wales in any one year including a large proportion of the new affordable housing stock.

We would like to submit the following representations on the Local Plan.

The HBF would also like to appear at the examination to debate further the matters raised in these representations.

Policy SC2: Strategic Growth

We are concerned that the Council is not proposing to set a housing requirement in its local plan that is in line with the evidence of its objectively assessed needs as indicated by the Council's Strategic Housing Market Assessment (SHMA) report of 2012. We recommend that the Council reconsiders its position in the light of the expectations of the National Planning Policy Framework (NPPF) that local planning authorities will meet their objectively assessed needs in full and respond positively to opportunities to support greater levels of growth.

We note that the Council has undertaken a number of assessments to gauge its objective needs for housing. There are three papers:

- The SHMA final report of 2012 (referred to as the SHMA 2012);
- SHMA Explanatory Note, 2013; and
- Draft Local Development Plan Technical Paper: Identification of Maldon District's Objectively Assessed Housing Needs, April 2013 (referred to hereon as the Technical Paper).

We shall consider each.

SHMA 2012

We note that the SHMA 2012 has assessed the market need being for some 687 dwellings per year (dpa). This is referred to on page 84 of the SHMA 2012, but we note that this figure is derived from the earlier SHMA of 2008. This same SHMA assessed the need for affordable housing to be 345 dpa. The figure of 687dpa, however, is repeated in paragraph 2.22 of the draft local plan so we assume it has some veracity in the Council's eyes. The SHMA 2012 assesses that the market need of 687dpa could reduce to 580dpa if 'dissolutions' in the market sector are taken into account each year (paragraph 9.1.13). The Council needs to be careful about the treatment of 'dissolutions'. It cannot bank dissolutions until they have occurred. Until it has the evidence to show that dissolutions have taken place then we consider that the Council is right to state in the local plan that the SHMA 2012 evidence is for 687 markets dwellings per year.

The SHMA 2012 has assessed the need for affordable housing to be 245 units per year over 17 years (paragraph 8.9.9). This figure is broadly comparable to the figure of 242 affordable units required per year quoted in paragraph 2.22 of the plan.

The NPPF requires local authorities to undertake their assessment of housing need through an up-to-date SHMA. We consider the SHMA 2012 to provide an up-to-date assessment although we do recognise that the assessment of market need in this document is in part derived from the indications provided by DCLG 2008-based household projections. However, because a SHMA will provide a more nuanced assessment of local needs, looking at issues of affordability, overcrowding, concealed households etc, the HBF would tend to attach greater weight to the results of the SHMA than a projection-based model.

We note that the affordable housing need over the next 17 years of 242 dpa, is broadly comparable to the total planned provision of 294 dpa. This provides an indication of the degree of housing stress in Maldon. We are surprised that the Council has chosen to disregard this in establishing its housing requirement.

We note that in paragraph 2.22 of the local plan the Council states that "*local authorities are not expected to simply translate housing demand into actual housing targets to be met*". We were surprised to read this. We would question the Council's cavalier assumption that it is under no obligation to

meet its objectively assessed needs. This would appear to be contrary to the thrust of the NPPF. We beg the Council to reconsider its position.

On a minor matter, in view of the uncertainties inherent in all assessments of need, we consider it unwarranted to be so precise about the housing requirement. The Council should round up the figure to 4,500 dwellings over the plan period, or 300 dpa.

SHMA Explanatory Note, 2013

Based upon the SHMA 2012 report, the explanatory note states that the market need is for 580 dpa (paragraph 6.4). It is less clear from this explanatory paper what the Council considers its affordable housing need to be. The paper quotes various figures, based upon different scenarios of future supply and re-lettings. However, the AH need figure could be as high as 356 dpa (paragraph 4.10) or as low as 153 dpa (paragraph 5.4). The latter figure, however, is dependent upon new market supply enabling re-lettings.

The figures above are all higher than the proposed housing requirement.

Paragraph 6.3 of this paper refers to the statement in the SHMA 2012 in paragraph 9.1.18 that local authorities are not obliged to translate the objective assessment into a housing target. The SHMA 2012 authors are saying that LPAs may need to consider other policy implications arising from meeting this need in full. They are referencing Government policy. The authors are not saying that the LPA is at a liberty to disregard its need. If the Council is unable to meet the need in full, without compromising other policy objectives in the NPPF, then it will need to explore with partners the potential for its needs to be provided for elsewhere, i.e. through the operation of the Duty to Cooperate.

Draft Local Development Plan Technical Paper (Projection modelling)

We have noted the discussion in the Technical Paper. The problem with projections is that they will tend to replicate what has happened in the past. They will, therefore, reflect the effect of previous rounds of local planning. So if a district has been an area of constraint in the past (for whatever reason) then this will be reflected in the forward projections. It is for this reason that the NPPF requires the assessment of housing needs to be conducted objectively (i.e. as free as possible from past and current policy influences) and through a SHMA that considers local problems of housing affordability and need. This is necessary to complement any projection modelling based upon the most recent household and populations projections.

Projections, provide a starting point for the assessment of need, but they should not be relied upon alone.

We note that the web-enabled demographic toolkit *What Homes Where* (a toolkit that is supported by the RTPi, the Planning Officers Society and the LGA among others) registers that over the 15 year plan period 2014 to 2029

some 389 households may form per year. This is based on the DCLG 2008-based household projections. We consider the DCLG 2011-Interim Household Projections to be of limited use because they only project up to 2021. As a basis for projecting forward the Council would need to make some assumptions about what will happen between 2021 and 2029, taking into account that the Government guidance in the draft National Planning Practice Guidance (dNPPG) which attaches caution to the use of these projections on the basis that they reflect a period of recession when household formation will have been suppressed.

The Council has utilised its own projection modelling. We consider that all three scenarios considered are flawed. The Population Stable Scenario is effectively one of zero net migration. We note that the LGA/PAS guidance *Ten Key Principles for Owning Your Housing Number: finding your objectively assessed needs* rightly advises against this as a reliable scenario (page 5). The Workforce Stable Scenario would not help to improve employment (which would be at odds with the local plan objective to provide 2,000 additional jobs by 2029, as set out in policy E1). Also, it might harm the economy if a greater number of inward-migrants and the non-economically active consumed the housing supply in Maldon.

The third scenario: one based upon tweaking done to the 2010 based update to the Sub National Population Projections, is flawed because it just replicates the past and ignores the more nuanced evidence of local need. It also fails to take into account local problems of affordability, such as the note in paragraph 3.2 of the SHMA Explanatory Note of the barriers to market entry. The SHMA 2012 in paragraph 4.2.4 shows that 31% of households have incomes below the £20k threshold which is the lowest income needed to access market housing. The SHMA 2012 notes on page 37 that of recently formed households 31.4% were unable to buy the lowest priced 1-bed flat, and 37.7% would be unable to buy the cheapest 2-bed terrace. These are indicators of problems of affordability. The Council cannot ignore these signs in favour of simplistic projections. The dNPPG advises that where there is a significant affordability constraint the larger the improvement in affordability is required, and therefore the larger the additional supply response should be (see the section entitled *How should plan makers respond to market signals?*). The paucity in supply in recent years in Maldon will have suppressed the ability of household to form. The drawback with the SNPP projection-based scenario is that it treats the lack of affordability in the district – and the consequences of this – overcrowding and issues of affordability - as a *fait accompli*, and the something to which the Council is not obliged to respond.

The figure of 294 in this scenario is also only marginally above the figure of 264 in the Workforce Stable scenario. It is hard to see how this scenario which would provide only an additional 450 homes would support the ambition to create an additional 2,000 jobs. Although we recognise that there is no strict correlation between jobs and homes, given the projected rise in the numbers of economically in-active over the plan period there is the risk that the figure of 294dpa will be too low to complement the local plan's employment objectives. Table CC14 below has been reproduced from the

What Homes Where toolkit. This shows that those falling within the category of the economic inactive, i.e. those persons 60 years of age and over, will constitute 35% of the population of the district by 2029. This demographic group will be competing with the working age population for access to the scarce housing stock.

CC 14: Age profile for selected years			
	1991	2014	2029
0-19	26.5%	22.2%	20.6%
20-39	26.1%	19.7%	18.7%
40-59	27.6%	29.5%	25.7%
60-79	15.9%	23.3%	25.2%
80+	3.9%	5.3%	9.8%

We consider that the SHMA 2012 provides a more authoritative statement of the objective needs of the district. This is a more reliable source than the Council’s projection-based modelling which does not address the affordability problems that are so manifest in the district.

Lastly, the Council would be unwise to assume that those policy constraints that might have operated in the past, as in the case of the East of England Regional Strategy (RS), will continue to be valid in the future. Maldon might have been treated as an area of constraint by the East of England RS, but if its neighbours are unable to accommodate their own development needs or else they have adopted plans that do not meet their own needs in full, then Maldon will need to prepare a plan that responds to this. We will consider this question some more in the section below.

The duty to cooperate

There is no discussion in the plan of strategic planning developments beyond Maldon’s borders. I have not had an opportunity to review the situation among Maldon’s neighbours for the purposes of these representations, but the Council should give consideration to whether its neighbours are planning to meet their own needs in full, or whether they are expecting to reduce their planned-for housing requirements to a level below that which is indicated by their own evidence bases. This could have a bearing on the housing requirement in Maldon’s plan because an undersupply elsewhere could increase the level of inward migration into Maldon above trend levels. This threatens to render the Council’s projection-based assessment of its housing need even more unreliable than it already is.

Undersupply elsewhere in the East of England, but also especially London, will negate the discounts that have been applied in the Council’s SNPP projection such as higher average household sizes or the effects of the recession on suppressing the rate of household formation. Undersupply elsewhere will cancel out the discounts the Council has assumed.

If the SHMA 2012 evidence is to be accorded weight, which it should do to be in accordance with the NPPF, then there clearly is a considerable disparity between the planned level of supply in Maldon and the need. The Council would need to have a plan to ensure these unmet needs are accommodated elsewhere if not through the Maldon plan itself.

Five year housing land supply and the housing trajectory

We consider that the Council should apply a 20% buffer to create the best conditions to support delivery. The HBF considers that it is appropriate to apply a 20% buffer in all cases, irrespective of whether a council is judged to be a persistent under-deliverer or not. This is recommended to foster the optimum conditions to encourage housing delivery and economic growth. If the residential allocations that the Council has identified are sustainable (by virtue of being included in the plan) we see no problem with them being brought forward sooner rather than later. This would be consistent with the presumption in favour of sustainable development.

Policy D2: Climate change & environmental impact of new development

The requirement that development should secure at least 10% of energy from decentralised or renewable sources is contrary to Government policy. The policy is not consistent with the Government's changes to the Building Regulations and its definition of Allowable Solutions. We recommend that this is deleted. How developers achieve the carbon reduction targets of Part L of the Building Regulations is a matter for them to decide. The Council cannot specify how this is achieved. There are also legal considerations relating to connection to district heating that means that the role of the Council is prescribing in detail how energy reduction targets will be achieved and so is unlawful. Customers (home purchasers or tenants) are required under law to have the freedom of choice from whom they purchase their energy.

Secondly, under the CDM Regulations anyone that specifies a particular material/technology could be deemed under the law, to be the 'principle designer'. This carries with it legal responsibilities. So if a fatality occurs as a consequence of the Council specifying the use of a particular technology, then the Council could be legally liable.

Bullet 2 specifies that developers achieve Code level 3. In view of the Government's signalling that it might abandon the Code in its *Housing Standards Review* (see page 40) we would query whether it would be appropriate for the Council to prescribe adherence to a potentially obsolete standard in its local plan.

Bullet 4 should clarify that development is required to meet zero carbon homes standards from 2016 onwards.

Policy H1: Affordable housing

We note the proposed rates. However, we also note in the *Local Plan and CIL Viability Study, August 2013* that the Council has not made an allowance for meeting the changes to the Building Regulations and the requirement that all new homes are to be built to zero carbon standards from 2016 onwards. As this is a national regulatory requirement that will apply within the first five years of the plan being adopted the Council must assess for the effect of this regulatory change on development viability. This is necessary for the Council to ensure that its plan is deliverable.

We note that paragraph 7.6 of the viability assessment has undertaken modelling on the basis of Code 4, but the cost associated with the energy component of Code 4 is not representative of the costs of building to zero carbon. It is an under-estimation. The cost of zero carbon homes is greater. Zero carbon homes in 2016 will represent a significant cost for the industry and that is why the NPPF and the Harman guidance on viability (*Viability Testing of Local Plans*) both require local planning authorities to take this cost into account in combination with their other local plan policies.

Secondly, the viability evidence does not demonstrate that the rate of 40% affordable housing is viable on the strategic sites. Paragraph 12.8 of the report observes that not all the strategic sites are viable on the basis of 40% affordable housing, or even 30% in the case of Burnham-on-Crouch. Paragraph 12.7 states that the achievement of 40% affordable housing is contingent upon lower levels of planning gain. It is necessary for the Council to clarify what it is intending to charge as a CIL in order to assess what effect this may have on development viability.

Policy I2: Health and wellbeing

The Council requires developers to provide health and wellbeing assessments. The policy is surprising. If the Council is anxious about the health and wellbeing of its residents then it needs to ensure that it is meeting its objectively assessed housing needs to the level indicated by its SHMA. Overcrowding and the unaffordability of housing are the cause of much greater problems to the health of the public than the distance of new housing to services. In these circumstances we would question whether the policy is proportionate. Would the production of such studies materially benefit anyone and wouldn't the money involved be put to better use?

Yours faithfully,

James Stevens
Strategic Planner

Email: james.stevens@hbf.co.uk
Tel: 0207 960 1623