

**8 June 2015**

<b>Report of</b>	<b>Head of Commercial Services</b>	<b>Author</b>	<b>Karen Syrett 01206 506477</b>
<b>Title</b>	<b>Maldon Local Plan</b>		
<b>Wards affected</b>	<b>N/A</b>		

The Local Plan Committee is asked to note the Interim Findings on the soundness of the housing policies in the Maldon Local District Plan.

## **1. Decision(s) Required**

- 1.1 The Local Plan Committee is asked to note the Interim Findings on the soundness of the housing policies in the Maldon Local District Plan. The Inspector published his report on 8<sup>th</sup> May 2015.

## **2. Reasons for Decision**

- 2.1 It is considered useful for the committee to be kept informed about the progress being made on other Local Plans and in particular those where there is a Duty to Co-operate. It is also valuable to develop an understanding of the detail required for a plan to be found sound.

## **3. Alternative Options**

- 3.1 There is no alternative option; the report is for information only.

## **4. Supporting Information**

- 4.1 The Maldon Local Plan (MLP) was submitted for examination on 25 April 2014, and the housing and legal compliance hearings were held between 20 January and 4 February 2015. When submitted The Council described the Plan as “a single local development plan for the Maldon District”. It deals with most of the District’s development and infrastructure requirements in the one plan, apart from two exceptions. These are rural allocations where a later plan would allocate 420 homes out of the total of 4,430 homes in policy S2, and a later plan for traveller site allocations flowing from policy H6.
- 4.2 The Inspector held an Exploratory Meeting in July 2014 where he expressed concern about the outdated evidence base for traveller pitches and the lack of any allocations for them until later in the plan period. There were other concerns including: the methodology of the Plan’s full objective assessment of housing need; the amount and rate of housing delivery; whether infrastructure could be delivered on time; the viability of the allocated housing sites; whether sufficient detail was given about the housing allocations and associated development management policies; and uncertainty about the proposals for employment based on an out-of-date evidence base, with similar concerns for the retail proposals.

- 4.3 The Examination was then suspended at the Council's request, and it submitted new evidence during August and September 2014 to deal with most of the concerns. Having reviewed the new housing evidence, the Inspector decided in October 2014 to hold the housing and legal compliance hearings. The Council asked him to hold the hearings of the housing policies first because of the need to resolve how housing need in the District was to be met.
- 4.4 Since the exploratory meeting MDC has been working with developers of strategic sites which are allocated in the plan and as a consequence permission has been granted on 2 sites and there are other applications pending. The Council has also granted planning permissions on a number of other sites which are not allocated in the Plan. According to the Inspector therefore Maldon's "housing land supply position is, therefore, rapidly improving."
- 4.5 The starting point for the examination is the assumption that the Council has submitted what it considers to be a sound plan. In accordance with section 20(7C) of the 2004 Act the Council requested that the Inspector should, where possible, recommend any main modifications to rectify matters that make the Plan unsound.
- 4.6 In summary, the Inspector findings are that policy H6 (Provision for Travellers), and thus the Plan, is unsound and that he cannot rectify this through recommending main modifications or by suspending the Examination to give time for the Council to resolve the unsoundness. This conclusion is reinforced by his consideration of the Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010. Given that this is a fundamental obstacle to further progress on the Plan the interim findings deal solely with policy H6. He did not consider that it would be relevant or helpful to make any comments on the other housing and legal compliance matters because they would soon be overtaken by events.
- 4.7 The submitted policy sets out that there are 58 existing pitches and a need to increase this to 64 pitches by 2019 and 70 by 2027. The additional sites will be met through the development management/planning application process rather than through allocating sites. The evidence for the pitch requirement was based primarily on a 2009 Gypsy and Travellers Accommodation Assessment (GTAA) and a critical analysis of a trend based 2013 update by the Council.
- 4.8 Following the exploratory meeting, the Council submitted new GTAA, dated July 2014, undertaken by the Essex Planning Officers Association on behalf of all Essex authorities. Table 83 of the 2014 GTAA identified a need for 32 additional Travellers pitches between 2013 and 2028 as compared to the policy's indication of a need for 12 additional pitches by 2027 (70 required minus 58 existing = 12 additional pitches). At that time the Council said that it would "require more time to consider the conclusions and implications" of the 2014 GTAA. It also suggested modifications to delete the policy's pitch requirements (i.e. the deletion of the first table and associated explanatory text) because these had "been superseded by the GTAA", and a clarification that the Council would "undertake a formal/focussed review of policy H6 in 2016 to identify an appropriate provision for Travellers in accordance with the NPPF and associated guidance." The Council confirmed in October 2014 that the 2014 GTAA represented "the latest and most robust evidence" on pitch requirements. .

- 4.9 Paragraph 4 of the National Planning Policy Framework (the NPPF) says that it should be read in conjunction with the Planning Policy for Traveller Sites (the PPTS) and that plan preparation for travellers “should also have regard to the policies in this Framework (i.e. the NPPF) so far as relevant.” Paragraph 1 of the PPTS says that it should be read in conjunction with the NPPF.
- 4.10 The NPPF says that Local Plans should identify and meet objectively assessed housing needs (paragraphs 14 and 17’s third core principle). It goes on to say at paragraph 158 that a Local Plan should be “based on adequate, up-to-date and relevant evidence.” NPPF paragraph 159 requires local planning authorities (LPAs) to have a clear understanding of housing needs in their area and to address the need for all types of housing. Footnote 34 to this paragraph says that the PPTS sets out how travellers’ accommodation needs should be assessed.
- 4.11 In producing a Local Plan, paragraph 9 of the PPTS says that it should:  
“a) identify and update annually a supply of specific deliverable sites sufficient to provide five years’ worth of sites against their locally set targets” and  
“b) identify a supply of specific, developable sites or broad locations for growth, for years six to ten and, where possible, for years 11-15.”
- 4.12 The Inspector did not consider that the policy is justified because it was not “properly based on proportionate evidence which is trustworthy and accurate. The evidence base of this policy’s traveller provision is not adequate because it does not include robust or up-to-date evidence which establishes the accommodation needs of travellers as required by the NPPF (14, 17 and 158) and the PPTS (6). The Council therefore does not have a clear understanding of housing needs in its area, contrary to paragraph 159 of the NPPF. The consequence of this is that the Plan does not address the need for all types of housing (NPPF 159), and the pitch numbers that it sets out in policy H6 for travellers are incorrect (PPTS 8). The Plan does not identify a supply of specific deliverable traveller sites sufficient to provide five years’ worth of sites, or identify a supply of specific, developable sites or broad locations for growth, for years six to ten and, where possible, for years 11-15 (PPTS 9). Policy H6 is not, therefore, consistent with national policy.”
- 4.13 The Council said during the Examination that they proposed to deal with traveller provision by reviewing the allocation and requirement for pitches by producing an additional Traveller Local Plan. The Council said that this additional Local Plan was necessary for two reasons. Firstly, because it would take considerable time to review the latest evidence, to consider its implications, and to undertake further site assessment work and local consultations if new allocations are required. And secondly, flowing from the first reason, the Council therefore did not wish to delay further the adoption of other important strategic policies in the Plan such as housing growth and infrastructure delivery. The Inspector said that the first reason was “a tacit acknowledgement by the Council that it has not complied with national policy in the production of the submitted Plan.”

- 4.14 The Inspector concluded that the Plan was not sound because policy H6:
- is not **positively prepared** in that it does not meet objectively assessed needs or development requirements for housing for travellers;
  - is not **justified** by proportionate evidence as what evidence there is either is out-of-date or cannot be relied upon; and
  - is not **consistent with national policy** because it does not deliver sustainable development in accordance with the NPPF or with the PPTS.

He also concluded that there was no clear justification as required by paragraph 153 of the NPPF for the Plan's proposal to set out traveller provision in an additional Local Plan at a later date.

- 4.15 The Inspector advised that the options now available to Maldon are to either withdraw the Plan or to receive a formal report from the Inspector recommending non-adoption.
- 4.16 Correspondence from MDC states that they are 'shocked and concerned by the nature and content' of the report and that the 'Council has spent a great deal of time, money and good will to produce a Local Development Plan (LDP) to help meet the needs of the local community whilst protecting the local environment and the character of the District.' 'The interim findings do not appear to provide any way forward for the Plan other than withdrawal or non-adoption, which we feel represents a disproportionate approach and is not in the public interest.' To date, the Council has incurred costs of in excess of £145,000 on the Examination process alone (excluding staffing costs) and approximately one million pounds on the production of the LDP since 2011.
- 4.17 In light of the interim findings, the Council is currently pursuing a number of options in relation to the Examination-in-Public. Firstly, the Council is seeking to identify and agree a way forward with the Planning Inspectorate for the progression and completion of the Examination-in-Public. Secondly, the Council is making a request to the Secretary of State to call-in the Plan under Section 21 of the Planning and Compulsory Purchase Act 2004. The Council considers that the interim findings represent a disproportionate response in terms of the interpretation of national guidance, and that the Secretary of State should be provided with the opportunity to reconsider the findings. Thirdly, legal advice is being sought in relation to a potential judicial review.

## 5. Proposals

- 5.1 The Committee is asked to note the Interim Findings from the Maldon LP examination. It is particularly important to note the following:
- The need for up to date robust evidence which should be reflected in the plan, i.e. correct housing targets and allocations.
  - That criticism of a joint study can have implications for other local authorities. Undermining the Essex GTAA could have knock on effects for CBC.
  - One seemingly small element of the Plan can undermine the whole document.
  - The cost of producing a Local Plan and the need to ensure that it is fit for purpose.
  - The importance of the Duty to Co-operate.

## **6. Strategic Plan References**

- 6.1 An up to date Local Plan will help the Council deliver its strategic priorities to generate opportunities for growth and supporting infrastructure, improve sustainability, provide opportunities to increase the number of homes available including those that are affordable for local people and to develop a strong sense of community across the Borough by enabling people and groups to take more ownership and responsibility for their quality of life.

## **7. Consultation**

- 7.1 None.

## **8.0 Publicity Considerations**

- 8.1 None

## **9. Financial Implications**

- 9.1 None

## **10. Equality, Diversity and Human Rights implications**

- 10.1 N/A

## **11. Community Safety Implications**

- 11.1 None.

## **12. Health and Safety Implications**

- 12.1 None

## **13. Risk Management Implications**

- 13.1 N/A