



**REPORT of
CHIEF EXECUTIVE**

**to
PLANNING AND LICENSING COMMITTEE
16 NOVEMBER 2017**

ADDENDUM

AGENDA ITEM NO. 15 PLANNING FOR THE RIGHT HOMES IN THE RIGHT PLACES

The following sets out the Council's response to the Department of Communities and Local Government:

Question 1 (a)

do you agree with the proposed standard approach to assessing local housing need? If not, what alternative approach or other factors should be considered?

NO

Whilst the proposal for a standardised approach to assessing local need is clear and welcomed, the use of standardised data effectively results in a baseline assessment which the LPA has no control over. The proposed approach, therefore, relies on how local conditions are taken into account, whether they are planning constraints or market conditions. In paragraph 44 the Government do state that 'there may be compelling circumstances not to adopt the proposed approach. These will need to be properly justified, and will be subject to examination.' Where a methodology results in a lower need than the proposed approach, this 'will be rigorously tested by the Planning Inspector through examination' (paragraph 47).

It is the view of Maldon District Council that where a LPA determines that there is insufficient capacity to meet its own needs, or there are constraints that prohibit them from doing so (i.e. Green Belt), that authority must provide comprehensive evidence of their inability to do so. Such constraints without evidence should be used to attempt to force growth on other authorities, particularly, in the case of Green Belt, non-Green Belt authorities.

The Government's proposal to use work based earnings as the basis for any assessment is applied to affordable housing policy would have a negative impact for Maldon. In the District work based earnings are higher in Maldon than resident earnings, and therefore, a shift to work based earnings would reduce requirement for affordable homes, when in fact, the level of need based on resident earnings would be higher.

Question 1(b)

how can information on local housing need be made more transparent?

The Maldon District Local Development Plan approved by the Secretary of State in July 2017, clearly sets out the OAN for the district and how the Council will meet and exceed that requirement. It should be a requirement of all Local Plans to be clear in what its needs are, how the need has been calculated, and how that need has been met, whether it be met entirely within the district or adjoining districts.

Question 2

do you agree with the proposal that an assessment of local housing need should be able to be relied upon for a period of two years from the date a plan is submitted?

YES

The basis of calculating the need is a fundamental part of a local plan and updated data could undermine the local plan principles and objectives, including the SA, where they change the overall need. The Government is right to set a point whether the data used is fixed, and any data is used to review the Plan. Controls should be placed on objectors in their use of new data during examinations.

Question 3

do you agree that we should amend national planning policy so that a sound plan should identify local housing needs using a clear and justified method?

YES

This is vital is the policies are to be tested through Examination.

Question 4

do you agree with our approach in circumstances when plan makers deviate from the proposed method, including the level of scrutiny we expect from the Planning Inspectors?

YES

Where need is met in a Plan then this should be supported. Councils can take bold decisions to meet its local need and this should have the Government's support. The issues will remain however on the spatial strategy in meeting the need.

Question 5(a)

do you agree that the Secretary of State should have discretion to defer the period for using the baseline for some local planning authorities? If so, how best could this be achieved, what minimum requirements should be in place before the Secretary of State may exercise this discretion, and for how long should such deferral be permitted?

YES

Where it is clear that a case can be made to extend the time period an application to the Secretary of State should be made by the LPA setting out the reasons, extension period and how the Council intends to use that time period.

Question 5(b)

do you consider that authorities that have an adopted joint local plan, or which are covered by an adopted spatial development strategy, should be able to assess their five year land supply and/or be measured for the purposes of the Housing Delivery Test, across the area as a whole?

YES

No comments.

Question 5 (c)

do you consider that authorities that are not able to use the new method for calculating local housing need should be able to use an existing or an emerging local plan figure for housing need for the purposes of calculating five year land supply and to be measured for the purposes of the Housing Delivery Test?

YES

To do otherwise could render a recently adopted local plan out of date even if a LPA is delivering against its Local Plan target and housing trajectory. The new rules should only apply to new or reviewed plans.

Question 6

do you agree with the proposed transitional arrangements for introducing the standard approach for calculating local housing need?

YES

No comments.

Question 7(a)

do you agree with the proposed administrative arrangements for preparing the statement of common ground?

NOT SURE

Maldon has recently had its Local Development Plan approved by the Secretary of State. We participate in a full set out DTC meetings and discussions with other Councils and Essex wide planning groups. However, we are not at present producing an LDP, although some SPD is in preparation, which we are discussing with others.

The Government guidance needs to be clear on what is expected of Council's whose circumstances are similar to Maldon's and how a statement of common ground should be prepared.

Question 7(b)

how do you consider a statement of common ground should be implemented in areas where there is a Mayor with strategic plan-making powers?

No Comment

Question 7(c)

do you consider there to be a role for directly elected Mayors without strategic plan-making powers, in the production of a statement of common ground?

DON'T KNOW

No comment

Question 8

do you agree that the proposed content and timescales for publication of the statement of common ground are appropriate and will support more effective co-operation on strategic cross-boundary planning matters?

NOT SURE

As set out in response to Q7a

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wide planning groups. However, we are not at present producing an LDP, although some SPD is in preparation, which we are discussing with others.

The Government guidance needs to be clear on what is expected of Councils whose circumstances are similar to Maldon's and how a statement of common ground should be prepared.

Question 9(a)

do you agree with the proposal to amend the tests of soundness to include that:

i) plans should be prepared based on a strategy informed by agreements over the wider area; and

ii) plans should be based on effective joint working on cross-boundary strategic priorities, which are evidenced in the statement of common ground?

YES

this is a logical step given the requirement for statement of common ground. However, it should be used with caution. If an LPA can demonstrate that it has not been able to reach cross boundary agreement and has a robust reason for doing so, its plan should not be deemed unsound. Effective cross boundary working does not necessarily equate to an agreement.

Question 9(b)

do you agree to the proposed transitional arrangements for amending the tests of soundness to ensure effective co-operation?

YES

No comments to make

Question 10(a)

do you have any suggestions on how to streamline the process for identifying the housing need for individual groups and what evidence could be used to help plan to meet the needs of particular groups?

Housing mix should be clearly identified and explicit in the SHMA. The HSMA process if undertaken correctly, adequately provides the evidence on mix, including the requirements for concealed households.

Question 10(b)

do you agree that the current definition of older people within the National Planning Policy Framework is still fit-for-purpose?

YES

No comments

Question 11(a)

should a local plan set out the housing need for designated neighbourhood planning areas and parished areas within the area?

NO

The local plan should be free to propose a spatial strategy and allocated strategic sites. This would inevitably identify sites and a spatial distribution across neighbourhood planning and parish areas.

A principle of neighbourhood planning is the local identification of housing need and sites to meet that need - including the appropriate mix and tenure of dwellings. This should be evidenced based, and if need cannot be met, evidence should be in place to justify why that is not the case. All of this is subject to testing under examination. Plans should accord with the local plan otherwise the LPA is unlikely to make the Plan or it will not be found to be sound.

A top down approach could undermine neighbourhood plans and not provide scope for local solutions to meeting local need. Whilst local plans being specific on how many units a neighbourhood plan should plan for adds certainty, it may deter communities from producing neighbourhood plans or support for compliant plans at the referendum stage.

An alternative approach would be for Local Plans to identify an overall target for neighbourhood plans. The Maldon LDP identifies 100 units for neighbourhood plans, a relatively small provision given an overall target of 4,650.

Question 11(b)

do you agree with the proposal for a formula-based approach to apportion housing need to neighbourhood plan bodies in circumstances where the local plan cannot be relied on as a basis for calculating housing need?

NO

This is an arbitrary approach that may deter neighbourhood planning groups from coming forward they knew that progression of a neighbourhood plan could lead to the imposition of a housing target. It may also lead to neighbourhood plans being used to restrict further housing. It would also mean that a LPA is bound by the apportionment to one particular area when it finalises its local plan. The area in mind may not be the most sustainable area for growth and a distortion to a District wide spatial strategy could have serious implications for managing economic growth, and the planning/delivery of strategic infrastructure.

Question 12

do you agree that local plans should identify the infrastructure and affordable housing needed, how these will be funded and the contributions developers will be expected to make?

YES

Each local plan should provide clarity to the development industry on infrastructure and affordable housing. Early indications of both assist developers in setting land values and assessing viability. It also provides certainty to residents, businesses and service providers - including RPs - that infrastructure and affordable housing needs will as far as practicable be delivered.

Maldon's plan includes an infrastructure delivery plan and clearly defined affordable housing policies, which identify the requirement on a strategic site by site basis as well as by sub-area. The levels of affordable housing vary depending on viability and accessibility for residents.

Question 13

in reviewing guidance on testing plans and policies for viability, what amendments could be made to improve current practice?

The current approach should be sufficient. Viability assessments should be mindful of general economic cycles not just prevailing economic conditions. This will result in robust assessments which identify the viability tipping point into negative viability and provide insight into contingency measures which could be introduced to maintain development trajectories.

Question 14

do you agree that where policy requirements have been tested for their viability, the issue should not usually need to be tested again at the planning application stage?

YES

LPAs want certainty, and if a viability assessment at the Local Plan stage demonstrates that the infrastructure and/or affordable housing is deliverable.

However, developers must accept their obligations and assess land values and viability accordingly. The Government must also back LPAs through the appeal process against developers who will use changes in viability to renegotiate their obligations weakening the ability of the LPA to deliver the local plan.

Question 15

how can Government ensure that infrastructure providers, including housing associations, are engaged throughout the process, including in circumstances where a viability assessment may be required?

Infrastructure planning should start with the local plan and associated infrastructure delivery plan. Partners will be engaged in the local plan and SPD preparation process.

In addition, master plans and planning briefs for strategic sites can be used to identify specific needs and retest viability, again with the engagement of partners.

In the event that a developer claims a scheme is not viable to deliver the required infrastructure and or affordable housing, the LPA could consult with the relevant bodies. Furthermore, viability assessment appraisals undertaken on behalf of the LPA are carried out by professional organisations who maintain contact and engagement with partners.

Question 16

what factors should we take into account in updating guidance to encourage viability assessments to be simpler, quicker and more transparent, for example through a standardised report or summary format?

This question is far too generalised.

The government should establish a task force composed of LPAs, development and consultants sectors to review a standardised approach to viability assessments. At present there is a reliance on the RICS approach based on benchmark land values. This approach is confusing, lacks transparency and can lead to projected negotiations. The consultants engaged by both parties often work for both parties. The system of mediation and arbitration is not clear.

The Councils in Essex have recognised the need for a standard approach and charged the Essex Planning Officers Association to establish an approach which will provide greater certainty and strengthen the position of LPAs to ensure that viability assessments are open and robust.

Question 17(a)

do you agree that local planning authorities should set out in plans how they will monitor and report on planning agreements to help ensure that communities can easily understand what infrastructure and affordable housing has been secured and delivered through developer contributions?

YES

Maldon Council has a monitoring system in place - enshrined in the LDP. This ensures that we are able to provide information on the delivery of schemes and the associated infrastructure. Now that the LDP has been approved, this will form the basis for next year's AMR.

Question 17(b)

what factors should we take into account in preparing guidance on a standard approach to monitoring and reporting planning obligations?

Maldon's S106 Monitoring system covers the following:

- Basic site, development and application/agreement details
- Details of the obligations - including who the obligations are held with
- Trigger points for obligations
- Discharge of obligations
- Clawback periods

Question 17(c)

how can local planning authorities and applicants work together to better publicise infrastructure and affordable housing secured through new development once development has commenced, or at other stages of the process?

Maldon reports on S106 monitoring on a 6-monthly basis to its Overview and Scrutiny and Planning and Licensing Committees. These reports are publicly available.

For strategic sites, developers are encouraged to establish regular communication with local communities which should include details on infrastructure delivery.

The use of Planning Performance Agreements and a project planned approach during delivery phase will create an environment of trust between developers and the LPA that encourages transparency which in turn can be used as a basis for greater public trust.

Question 18(a)

do you agree that a further 20 per cent fee increase should be applied to those local planning authorities who are delivering the homes their communities need? What should be the criteria to measure this?

NO

The simplest approaches would be those LPAs who are meeting their target, however, it would be arbitrary for the government to only reward those who meet targets as that would lead to underinvestment for those LPAs who acknowledge their responsibility to assist in delivery or have a clearly evidenced service investment plan to assist the development industry deliver - i.e. the service structure, skills and resources in place. Therefore, it should be for the LPAs to demonstrate to the Government how the 20% will be used and they can clearly evidence a service investment plan to assist the development industry deliver - i.e. the service structure, skills and resources in place.

Question 18(b)

do you think there are more appropriate circumstances when a local planning authority should be able to charge the further 20 per cent? If so, do you have views on how these circumstances could work in practice?

YES

As set out in response to 18 (a):

The simplest approaches would be those LPAs who are meeting their target, however, it would be arbitrary for the government to only reward those who meet targets as that would lead to underinvestment for those LPAs who acknowledge their responsibility to assist in delivery or have a clearly evidenced service investment plan to assist the development industry deliver - i.e. the service structure, skills and resources in place. Therefore it should be for the

LPAs to demonstrate to the Government how the 20% will be used and they can clearly evidence a service investment plan to assist the development industry deliver - i.e. the service structure, skills and resources in place.

Question 18(c)

should any additional fee increase be applied nationally once all local planning authorities meet the required criteria, or only to individual authorities who meet them?

Apply nationally

LPAs should not be penalised simply because they all meet the criteria.

Question 18(d)

are there any other issues we should consider in developing a framework for this additional fee increase?

None

Question 19

having regard to the measures we have already identified in the housing White Paper, are there any other actions that could increase build out rates?

YES

The white paper focuses on the role of the LPA. LPAs are generally doing all they can to meet housing needs. There are some exceptions, but where plans are in place that have been properly tested, even if they over-provide there are circumstances beyond the LPAs control which result in delivery delay. Some of the additional measures identified in this response would help LPAs plan growth with greater confidence.

If the LPAs have put the plans in place, attention must also be given the delivery of homes and the role the housebuilders and RPs play, and the role Councils can play beyond their capacity as the LPA.