

Maldon District Council
Council Offices,
Princes Road,
Maldon CM9 5DL

27th February 2019

For the attention of Mr Paul Dodson - Director of Strategy, Performance and Governance

Cc: Miss Emma Foy - Director of Resources, Mr Richard Holmes – Director of Service Delivery

Official complaint following a formal resolution of ‘No confidence in MDC Planning Officers’ by Burnham-on-Crouch Town Council (please handle this through the MDC complaints procedure)

Dear Mr Dodson,

At an Extraordinary Meeting of the Burnham-on-Crouch Town Council held on 26th February 2019, the Council passed the following Resolution, as originally approved in outline at the Council meeting on 19th February 2019:

Burnham Town Council has lost confidence in the ability and willingness of MDC Planning Officers to deliver on the letter or spirit of both their own LDP and the Burnham Neighbourhood Development Plan in terms of policies.

This follows concerns, detailed below, with the way that planning application *OUT/MAL/18/00443 - Land North West of 2 Maldon Road, Burnham-on-Crouch, Essex* was determined by Maldon District Council on 31st January 2019.

The Council’s concerns centre around MDC’s failure to follow its own procedures, and the law, with regards to the policies of the fully approved *Maldon District Local Development Plan* and *Burnham-on-Crouch Neighbourhood Development Plan*. The Town Council also thinks MDC gave out misleading information in the Officer’s report and failed to investigate rigorously the lack of compliance of the application with these local plans.

In summary, the Council is very concerned that MDC is not doing what it said it would, thus leaving Burnham on Crouch and the district open to further speculative development outside the LDP and BNDP, and causing widespread anger within the community, who feel the democratic process has been seriously compromised.

Policy H3 Accommodation for ‘Specialist’ Needs in the LDP

- This policy sets eight sequential tests and concludes with the statement ‘*Any relaxation of the above requirements will only be considered where the Council is satisfied, on a site by site basis, that such requirements will render any development proposals unviable.*’
- In the event the Officer’s report does not contain rigorous or forensic evaluation of compliance of any of the eight sequential tests. The thrust of the Officer’s and Leader’s arguments for acceptance centre on peripheral factors such as the possibility of MDC partnering with private

Housing Associations rather than ECC and arguing on macro district housing figures rather than micro Burnham data per the LDP 2.85 Policy Clarification.

The Officer's written and verbal reports

(The below is numbered for reference, not in order of importance)

1. The Officer failed to prove non-availability of more centrally located land elsewhere in the district. The Officer showed little evidence of a serious investigation into alternatives.
2. No account was taken of the site being outside settlement boundaries.
3. No account was taken of the lack of pedestrian or cycling linkage to the town (contrary to Policy Clarification 7.5, T2, S3 (pts 7/8/9), S6 pt 2 etc. Nor was there a draft Section 106 requirement for the proposed developer to fund such important infrastructure.
4. MDC did not present a complete list of existing and approved planning applications for 'similar use' within a reasonable radius (there is already a "concentration of similar uses" nearby which MDC ignored or glossed over).
5. MDC ignored the fact that Burnham has approved planning permission for large numbers of affordable properties and bungalows (way in excess of Burnham's share of SHLAA requirements) within its approved + 900 units.
6. 18/00443 creates a resultant concentration of similar uses in our small town that indeed will be *'detrimental to the character and function of an area and/or residential amenity'*.
7. MDC failed to take sufficiently into account ECC's description of the proposed site as isolated, therefore ignoring the fact that it fails to meet potential residents' social needs.
8. The fundability and viability of the site is unproven. Think Green, the applicant, has no apparent relevant experience of operating anything of this nature, let alone something of such an unusually large scale, in close proximity to active competitors *who have spare capacity*. Think Green's group business interests appear confined to a very small property development business in Stoney Hills Burnham and a solar energy telesales business.
9. In its 2018 accounts, Think Green Construction (company number 08975642) has only £47,954 in shareholder funds (total assets minus liabilities) to safeguard residents against financial issues should business plan objectives not be reached. Why was this not mentioned by MDC?
10. The Officer's report could not demonstrate *'that the development is designed and managed to provide the most appropriate types and levels of support to its target resident'*. Nor did it demonstrate *'that revenue funding can be secured to maintain the long term viability of the scheme'*. In any event, even with an experienced and capable operator, robust viability would be exceptionally challenging because of the strong local competition and sheer scale proposed.
11. **Crucially**, principal potential public funders Essex County Council Adult Social Care and the NHS 'do not support nominations into this scheme.' LDP Policy Clarification # 5.22 states *'Given the nature of the uses and the projected increase in the need for specialist housing, proposals for specialist housing must demonstrate their long-term sustainability and financial viability. They must also receive unequivocal support from the relevant statutory agencies, in particular those who may be expected to commission such services or provide ancillary services such as care and support to the intended residents.'*

12. **OUT/MAL/18/00443 totally fails to meet any of these requirements.** This vital binary clarification, 5.22, **is not even mentioned in the Officers report** nor in the verbal points covered by the Officers and Council Leader during the determination.
13. **Burnham meeting its own needs:** Both LDP 2.85 Policy Clarification and the Burnham on Crouch NDP identify Burnham as a unique micro area within the district with its own subset of LDP policies: *'It is therefore appropriate to limit the level of growth for Burnham-on-Crouch to meet its own needs. As set out in Policy S2, the LDP seeks to deliver a minimum of 450 dwellings in Burnham-on-Crouch'*. The Officer gave this no serious consideration.
14. Burnham is far too small to provide enough elderly residents who are sufficiently well-off and willing to even part-fill the proposed development. The application therefore does not meet the 'sufficient for its (Burnham's) own needs' test. This policy also states that the proposed housing numbers in MDC's LDP includes provision for an ageing population and special needs, etc.
15. The NDP also identifies a defined settlement/development boundary and clearly marked strategic development zones. The Officer gave this important fact, that means so much to local residents, no serious consideration.
16. We draw your attention to the Officer's report from conclusion 3.3.1 which actually fails to describe how a 'strong local care service will be provided'¹, considering the isolation of the development, its distance from major medical facilities and provisions. When taking into account the age of occupants and the nature of the development, this policy requirement is far more important than this approved development.

Why ignoring the NDP really matters

1. While the NDP was being prepared, and throughout the long process of 'pre-meetings' and evidence gathering, NDP group leaders met with developers, with the knowledge of BTC, where a number of ideas and suggestions were made. Examples are:
 - a. Lifetime homes standard (Charles Church site agreed to this) for some properties.
 - b. Electric vehicle charging points (Burwest, Pigeon agreed).
 - c. Green energy, options of solar panel and domestic wind turbines, ground source heat pumps (Burwest, Pigeon agreed).
 - d. Ultra-fast broadband/wireless connectivity as standard (Burwest, Pigeon agreed).
2. Maldon District Council Directors of Planning, at various meetings throughout the years of work that went into the preparation of the NDP said that these were not economically viable and had to be removed. *This decision has proved short sighted.*
3. **The Housing Minister, James Brokenshire**, said yesterday at an event held at The Law Society, that the government is looking to introduce 'strong policies' to enable councils to implement basic requirements for infrastructure improvements, which are not limited to the 'normal build, more roads' approach. Technology is the future, especially for the NHS, economic prosperity and public services. Mr Brokenshire emphasised the importance of strong policies to enable councils to implement them accordingly.
4. MDC's statement of community involvement November 2018 is clear that the Localism Act 2011 enables local people to establish their own plans. Burnham on Crouch Town Council did just this with its NDP, and its work was supported by a massive local majority in the 2017 referendum. The NDP then passed the legal tests – and we were assured by MDC that it would have the power of law.

¹ Quotation from Rt Hon James Brokenshire MP at PPP breakfast discussion supported by Bevan Brittan and Pegasus Life chaired by Rt Hon Stephen Dorrell. Brokenshire made it clear that they are working closely with Rt Hon Nick Hancock (Health Secretary) to deliver successful housing for the ageing population.

5. Yet MDC has chosen not to adhere to the requirements of our NDP, its own LDP or to other vital service providers like the ECC Head of Older Peoples Commissioning, the NHS and the recommendations of The Essex Wildlife Trust.

We ask MDC to respond openly and honestly to the Town Council's each and every concern as listed above.

Yours sincerely,

S Grimes
Town Clerk