

**Epping Forest College,
Borders Lane, Loughton,
Essex (Appeal A)**

**Draft Statement of
Common/Uncommon Ground**

In relation to a decision by Epping Forest District Council

Planning Application Reference: EPF/2905/19

Planning Appeal Reference: APP/J1535/W/20/3258787

24 March 2021

LICHFIELDS

62114/01/SSL/SIN
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Contents

1.0	Executive Summary	2
2.0	Introduction	3
3.0	Site and Surroundings	4
4.0	Proposed Development	5
5.0	Planning History	6
6.0	Planning Policy	7
	Adopted Plan	7
	Emerging Policy	8
	Other Material Considerations	9
7.0	Matters agreed between the Parties	10
	General	10
	Merits of the Development	10
	Land use	10
	Five Year Housing Land Supply	10
	Access and Highways Capacity	11
	Heights	11
	Residential standards	11
	Dwelling Mix	11
	Accessibility	11
	Parking	11
	Sustainability	11
	Ecology	11
	Trees and Vegetation	11
	Heritage	11
	Flooding	11
8.0	Uncommon Ground between the Parties	12

THIS STATEMENT OF COMMON/UNCOMMON GROUND HAS BEEN AGREED BY:

Epping Forest District Council

Signed.....MC Tovey.....

Name.....Marie- Claire Tovey.....

Dated.....08/04/21.....

Fairview New Homes (Epping Forest) No. 1 Limited

Signed.....

Name.....

Dated.....

1.0 Executive Summary

1.1 The Council and Appellant agree that there are a number of matters agreed in relation to the proposed development at Epping Forest College, Borders Lane, Loughton. This includes matters relating to the land use, access and highways capacity, dwelling mix, car parking and sustainability. A full list of these matters is included in Section 7.0.

1.2 In addition, there are many merits of the development which are agreed between the parties.

1.3 The Council and the Appellant agree that the main issues in dispute are whether:

1. The application lacks vision for the site, and is generic placemaking in relation to its context, through its architectural and landscape design. The proposal is therefore not successful in creating a sense of place and identity relating to its context or creating a distinctive character. In addition, the design offers a poor level of amenity to existing and future occupiers of the development site. Therefore, the proposal is contrary to policies CP2, CP7, DBE1, DBE2, DBE 5 and DBE9 of the Adopted Local Plan and Alterations, policies SP3 and DM9 A (i) and (ii) of the Local Plan Submission Version 2017, and the guidance contained within the National Planning Policy Framework.

2. The application does not provide sufficient information to satisfy the Council, as competent authority, that the development would not adversely affect the integrity of the Epping Forest Special Area for Conservation and there are no alternative solutions or imperative reasons of overriding public interest why the development should be permitted. As such, the development is contrary to policies CP1 and CP6 of the Adopted Local Plan and Alterations, policies DM 2 and DM 22 of the Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

3. The submitted viability assessment was found to have insufficient information. It is for this reason that the Council is unable to fully and properly assess whether it would be financially unviable for the proposal to provide 40% of the onsite housing provision. The proposal therefore fails to meet a key housing need within the District and as such is contrary to the requirements of paragraph 62 of the National Planning Policy Framework, policy H5A of the Adopted Local Plan and policy H2A of the Local Plan Submission Version 2017.

4. In the absence of a S106 Agreement, the proposed development fails to deliver the necessary infrastructure to make the development acceptable with regard to education, health, highway, open space and community facilities improvements and impact on the Epping Forest SAC. Therefore, the proposal is contrary to policy D1 and P2 of the Local Plan Submission Version 2017 and National Policy.

2.0

Introduction

2.1

This Statement of Common/Uncommon Ground ('SoCUG') has been prepared by Lichfields, acting on behalf of Fairview New Homes (Epping Forest) No. 1 Limited ('Appellant'), and Epping Forest District Council ('Council'), in relation to a site known as Epping Forest College, Borders Lane, Loughton ('Site').

2.2

This SoCUG relates to the planning appeal ('Appeal') (ref: APP/J1535/W/20/3258787) submitted by the Appellant against the Council's non-determination of planning application reference no. EPF/2905/19 for:

"Redevelopment of the site to provide x 139 no. residential units in 3 buildings ranging from 3-5 storeys, car parking spaces, communal landscaped amenity areas, secure cycling parking & other associated development."

As the Appellant has lodged an appeal against non-determination there are no formal reasons for refusal. The Council have submitted a Statement of Case which identifies the following reasons for why the application would have been refused:

1. The application lacks vision for the site, and is generic placemaking in relation to its context, through its architectural and landscape design. The proposal is therefore not successful in creating a sense of place and identity relating to its context or creating a distinctive character. In addition, the design offers a poor level of amenity to existing and future occupiers of the development site. Therefore, the proposal is contrary to policies CP2, CP7, DBE1, DBE2, DBE 5 and DBE9 of the Adopted Local Plan and Alterations, policies SP3 and DM9 A (i) and (ii) of the Local Plan Submission Version 2017, and the guidance contained within the National Planning Policy Framework.
2. The application does not provide sufficient information to satisfy the Council, as competent authority, that the development would not adversely affect the integrity of the Epping Forest Special Area for Conservation and there are no alternative solutions or imperative reasons of overriding public interest why the development should be permitted. As such, the development is contrary to policies CP1 and CP6 of the Adopted Local Plan and Alterations, policies DM 2 and DM 22 of the Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.
3. The submitted viability assessment was found to have insufficient information. It is for this reason that the Council is unable to fully and properly assess whether it would be financially unviable for the proposal to provide 40% of the onsite housing provision. The proposal therefore fails to meet a key housing need within the District and as such is contrary to the requirements of paragraph 62 of the National Planning Policy Framework, policy H5A of the Adopted Local Plan and policy H2A of the Local Plan Submission Version 2017.
4. In the absence of a S106 Agreement, the proposed development fails to deliver the necessary infrastructure to make the development acceptable with regard to education, health, highway, open space and community facilities improvements and impact on the Epping Forest SAC. Therefore, the proposal is contrary to policy D1 and P2 of the Local Plan Submission Version 2017 and National Policy.

2.3

In this SoCUG the proposed development which is the subject of the Appeal is referred to as the 'Development'. In this SoCUG the Appellant's Statement of Case which has been prepared in support of the Appeal is referred to as the 'SoC'.

3.0 **Site and Surroundings**

- 3.1 The application site is located within the District of Epping Forest and includes an irregular shaped parcel of land with an area of 1.19 ha comprising former college buildings which have been vacant since 2011. The existing buildings are of no particular architectural quality and include a significant footprint in comparison to the surrounding residential area, comprising of two parts: a long rectangular 2 storey block along Borders Lane and a semi-circular 1.5 storey block to the rear. Vehicle and pedestrian access to the site is currently provided from Borders Lane.
- 3.2 The area surrounding the site to the east and north is characterised by a mix of terraced and detached residential development of two to three storeys in height. Along the south-east boundary there is a dense mature woodland which offers a pedestrian route through. The main Epping Forest College campus is located further to the east.
- 3.3 Since the beginning of the century, the pattern of new development in Loughton is one of greater density, efficiency of land use and of a greater variety of dwelling types, recognising a different need for, and demands of, housing. This is evidenced by the neighbouring developments to the west and north, including the 'Campus' Development which immediately adjoins the site and the Infinity development located at the corner of Newman's and Borders lane. These have prevailing height of 3-4 storeys.
- 3.4 The application site is in an accessible location, being located less than 0.8km from Debden Underground station (approximately a 9 minute walk) which provides Central line services to Stratford, Liverpool Street and Bank. In addition, the site is served by a number of bus routes which run along Borders Lane, the closest of which is approximately 0.16km to the west of the site and provides regular services (every 10-20 minutes) between Walthamstow and Debden. The Broadway which includes a number of shops, restaurants, cafes and banks is located approximately 450m walking distance to the east of the site.
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4.0 **Proposed Development**

- 4.1 The proposed scheme would result in the demolition of the former college buildings and provision of 139 residential units across three buildings. The proposal includes a mix of flat types, including 1-bed, 2-bed and 3-bed family units.
- 4.2 The scheme provides a total of 3,057sqm of communal amenity space on site and 750sqm of private amenity space in the form of terraces and balconies. Open space is provided in three areas around the site, adjoining Blocks A (podium amenity) and C and between Blocks B and C. The scheme will also deliver net gains in biodiversity through habitat enhancements within the onsite open space.
- 4.3 The scheme includes provision of 118 parking spaces (including one car club space and four disabled bays), 87 of which are located in the undercroft car park. The scheme also provides 139 secured cycle parking spaces.
- 4.4 Further details of the proposed scheme are included in the DAS and DAS Addendum submitted with the application.

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5.0

Planning History

5.1

There is no planning history associated with the Site which is relevant to the determination of this appeal. However, planning permission was granted in October 2019 for new two-storey higher education buildings and the retention and upgrade of existing studio buildings for the land immediately to the east of the site (ref. EPF/1987/19). One of the new buildings is proposed to be located along the adjoining eastern boundary of the site.

FINAL

6.0

Planning Policy

Adopted Plan

6.1

For the purpose of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the current development plan (“Development Plan”) for the Site comprises the Epping Forest District Local Plan (1998) and Local Plan Alterations (2006). The relevant policies from the adopted Local Plan for the appeal are:

- CP1 – Achieving sustainable development objectives
- CP2 – Protecting the quality of the rural and built environment
- CP3 – New development
- CP4 – Energy conservation
- CP5 – Sustainable building
- CP6 – Achieving sustainable urban development patterns
- CP7 – Urban form and quality
- CP9 – Sustainable transport
- CP10 – Renewable energy schemes
- HC12 – Development affecting the setting of Listed Buildings
- NC1 – SPAs SACs and SSSIs
- H1A – Housing provision
- H2A – Previously developed land
- H3A – Housing density
- H4A – Dwelling mix
- H5A – Provision of affordable housing
- H6A – Site thresholds for affordable housing
- H7A – Levels of affordable housing
- H8A – Availability of affordable housing in perpetuity
- DBE1 – Design of new buildings
- DBE2 – Effect on neighbouring properties
- DBE3 – Design in urban areas
- DBE5 – Design and layout of new development
- DBE6 – Car parking in new development
- DBE7 – Public open space
- DBE8 – Private amenity space
- DBE9 – Loss of amenity

6.2

Due weight should be given to the policies of the adopted Plan, according to their degree of consistency with the NPPF - the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given.

6.3 Other local policy documents that are material to the consideration and determination of the application include supplementary planning guidance and documents prepared by Essex County Council as follows:

- Essex Design Guide (2018)
- Parking Standards: Design and Good Practice (2009)
- Local Transport Plan
- The Essex County Council Developers' Guide to Infrastructure Contributions (2016)
- Sustainable Drainage Systems Design Guide (2014)

Emerging Policy

6.4 The emerging Local Development Plan was submitted to the Secretary of State in September 2018 for Examination in Public. Hearing sessions took place between February and June 2019. Following this the Inspector raised a number of concerns in relation to matters including housing requirement, housing supply and viability, the Habitats Regulations Assessment and allocation and site specific matters. EFDC are concluding the MMs for consultation with the Inspector and this is likely to take place in May/June 2021. Provided the Inspector finds the plan to be sound, it is projected that it could be adopted by the Council in Autumn 2021.

6.5 Relevant policies are:

- SP1 – Presumption in favour of sustainable development
 - SP2 – Spatial development strategy 2011-2033
 - SP3 – Place shaping
 - H1 – Housing mix and accommodation types
 - H2 – Affordable housing
 - T1 – Sustainable transport choices
 - DM1 – Habitat protection and improving biodiversity
 - DM2 – Epping Forest SAC and Lee Valley SPA
 - DM7 – Heritage assets
 - DM9 – High quality design
 - DM10 – Housing design and quality
 - DM16 – Sustainable drainage systems
 - DM18 – On site management of waste water and water supply
 - DM19 – Sustainable water use
 - DM20 – Low carbon and renewable energy
 - DM22 – Air quality
 - D1 – Delivery of infrastructure
 - P2 – Loughton
 - Appendix 6 – LOU.R9
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Other Material Considerations

National Policy

6.6 In addition to the above the following are material considerations in the determination of this appeal:

National Planning Policy Framework

National Planning Policy Guidance: Design

National Planning Policy Guidance: Determining planning application

National Planning Policy Guidance: Use of Planning Conditions

National Planning Policy Guidance: Viability

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7.0 **Matters agreed between the Parties**

General

- 7.1 The executive summary in Section 1.
- 7.2 The description of the Site and its surroundings in Section 3.
- 7.3 The description of the Development in Section 4.
- 7.4 The description of the planning history of the Site in Section 5.
- 7.5 The identification of relevant planning policies in Section 6.

Merits of the Development

- 7.6 Matters relating to the merits of the Development that are agreed between the parties are:

- 1 It will secure efficient re-use of a disused site.
- 2 It will provide new housing which will make a contribution towards meeting the local housing requirements. Subject to planning permission being granted, the Site is available, and housing could be delivered within the short term.
- 3 It will provide a range of residential units of varying size and type.
- 4 The site is accessible by a range of transport modes, including walking, cycling, public transport and private vehicle.
- 5 There are a number of local services provided or readily accessible. The Site is served by existing amenities, including schools, doctors/hospital, shops and community centres.
- 6 The Site would provide new amenity space for future residents.
- 7 The landscape proposals will allow for the creation of new habitats and will achieve a net biodiversity gain.
- 8 It will generate indirect beneficial effects to the local economy by creating jobs during the construction phase and induced employment in the area through the local spending of residents.

Land use

- 7.7 The principle of residential use of the Site is acceptable. This is previously developed land within an urban area of predominantly residential development and in an accessible and sustainable location. The site is allocated for housing in the emerging local plan for approximately 111 new homes.

Five Year Housing Land Supply

- 7.8 The Council cannot currently demonstrate a five-year housing land supply. Based on the Housing Implementation Strategy update 2019 and Appendices 5 and 6 of this document the Council's Land supply is currently calculated at 2.43 years. For this appeal, it is agreed that the presumption in favour of development would apply at this current time if the impacts on Epping Forest SAC can be satisfactorily mitigated. However, the Council expects that upon adoption of the Local Plan it will be able to demonstrate a full 5 year housing land supply.
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Access and Highways Capacity

- 7.9 The proposed access to the site is acceptable. There are no objections on highway grounds.

Heights

- 7.10 The proposed building heights are agreed as acceptable in principle,

Residential standards

- 7.11 The proposed development complies with Nationally Described Space Standards.

The Council are satisfied with the quantum of amenity space provided Dwelling Mix

- 7.12 The Council have not brought a reason for refusal in respect of Housing Mix.

Accessibility

- 7.13 The site is in an highly accessible location, having regard to public transport, shops and services.

Parking

- 7.14 The proposed quantum of parking is acceptable in terms of the parking standards,

Amenity Space

- 7.15 In principle, the amount of amenity space provided within the Site is acceptable,

Sustainability

- 7.16 The Development will meet Building Regulations Part L energy efficiency standards.

Ecology

- 7.17 The Site comprises land with habitats of relatively low ecological interest for which appropriate mitigation to ensure no adverse effects occur will be utilised. The proposed development would meet Biodiversity Net Gain requirements.

Trees and Vegetation

- 7.18 There are no objections to the proposals in relation to the retention of relevant trees and shrubs and tree protection, subject to a condition in accordance with the response received from the Tree Officer

Heritage

- 7.19 The site is not within a conservation area
- 7.20 There are no heritage assets on the site
- 7.21 There is no adverse impact on heritage assets.

Flooding

- 7.22 The site is not within a flood plain.
- 7.23 There is no objection to the proposed development from the Lead Local Flood Authority.
-

8.0 Uncommon Ground between the Parties

8.1 Matters that are not yet agreed between the parties are:

- 1 The surrounding context.
- 2 The proposed scale, bulk and massing.
- 3 Layout.
- 4 The design of the public realm.
- 5 The visual effect of the proposed developments on the character and appearance of the surrounding area.
- 6 The effect on the living conditions of future occupiers.
- 7 The provision of affordable housing.
- 8 The effect on the Epping Forest Special Area of Conservation.
- 9 Whether the proposals make adequate provision for any additional need for education, health, highways, open space and community facilities arising from the development.
- 10 The weight to be afforded to the conflict with the emerging and existing development plan.
- 11 The effect of the proposed development on the amenity, outlook, privacy, and access to sunlight of existing occupiers.
- 12 The effect of the proposed development the consented University building, in terms of overshadowing, outlook and privacy.