

## Epping Forest District Council Representations to the Draft Local Plan Consultation 2016 (Regulation 18)

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Method	Email				
Date	19/1/2017				

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### Letter or Email Response:

Dear Sir/Madam, In response to the above consultation please find attached representations submitted by Gladman Developments Ltd. I would appreciate if you could confirm receipt of this submission by responding to this email. Kind regards, Richard \*Attachment - Epping Forest Draft Local Plan Representation\* Gladman Developments Ltd

Representations on Epping Forest District Draft Local Plan Consultation December 2016 1 EXECUTIVE SUMMARY

1.1.1 This submission provides Gladman Development's representations on the Epping Forest District Draft Local Plan.

1.1.2 Through these representations Gladman have raised issues with the basis on which the plan has been produced. Failure to address these issues at this early stage could lead to the plan failing at examination against the four tests of soundness set out in §182 of the National Planning Policy Framework (The Framework), Gladman submit that as proposed the Local Plan could be seen to be inconsistent with the requirements of national policy, not having been positively prepared and not being effective.

1.1.3 Gladman's submissions on the Epping Forest Draft Local Plan; and its supporting evidence base, are provided in full in the main body of this response. To highlight the issues of the Council's approach, a summary of our key concerns and conclusions as to the soundness of the Local Plan's policies is set out below.

The Spatial Option 1.1.4 Gladman submit that the spatial option the Council are pursuing will not meet the full objectively assessed need of the district nor the Housing Market Area. The Council's proposed housing requirement is too low to meet the district's full objectively assessed needs and have not been robustly justified.

1.1.5 Gladman submit that by pursuing a housing requirement of 518 dwellings per annum the Council are progressing a Plan that is fundamentally unsound and inconsistent with the requirements of the Framework. Draft Policy SP2 - Spatial Development Strategy 2011-2033

1.1.6 Gladman submit that as proposed Policy SP2 is fundamentally unsound. The policy is unsound because: ? The proposed housing requirement for Epping Forest is too low to meet the district's full objectively assessed needs ? The proposed housing targets ignore evidence from the updated SHMA produced by ORS.

1.1.7 To be considered sound Gladman submit that Policy SP2 should be amended to reflect the full objectively assessed needs for the district. Draft Policy Sp5 - Greenbelt and District Wide Open Space

1.1.8 Gladman welcome the Council's general approach to Green Belt review, however contend that the plan will not be effective and consistent with the Framework should the revised Green Belt boundaries not be sufficient to last beyond the plan period. Sites capable of delivering 26,447 units were identified as potentially suitable for development through the Green Belt review and Gladman question why more sites have therefore not been released to ensure that the full OAN for the district can be met.

Conclusions 1.1.9 In light of the above issues and the content of our submission, it is Gladman's overall conclusion that the Local Plan is contrary to national policy and that future work needs to be undertaken in order that it can be found sound at Examination.

2 INTRODUCTION 2.1.1 Gladman specialise in the promotion of

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strategic land for residential development with associated community infrastructure. 2.1.2 Gladman are concerned that the proposed housing requirements are significantly lower than the OAN for Epping Forest and that the Council are pursuing a strategy that is not meeting the updated Strategic Housing Market Assessment objectively assessed need for the district. 2.1.3 The National Planning Policy Framework sets out four tests that must be met for Local Plans to be considered sound. In this regard, we submit that as proposed the Local Plan is not: ? Positively Prepared - It fails to meet the full objectively assessed needs for housing within the district ? Effective - It will fail to deliver the required level of homes in the district ? Consistent with national policy - In a number of instances the Local Plan contradicts the requirements of the Framework 2.1.4 The remainder of these representations respond to specific issues of soundness in relation to the Local Plan and are structured as follows: ? Legal and Procedural Compliance ? National Planning Policy Framework ? Planning Practice Guidance ? The Spatial Option ? SP2 - Spatial Development Strategy 2011-2033 ? SP5- Greenbelt and District Open Land ?

Conclusions 3 LEGAL AND PROCEDURAL COMPLIANCE 3.1 Duty to Cooperate 3.1.1 Section 110 of the 2011 Localism Act introduced the Duty to Cooperate. This requires local planning authorities, county councils and prescribed bodies to co-operate, engage constructively, and actively on an ongoing basis throughout the preparation of development plan documents in relation to strategic matters (including meeting unmet housing need). The Duty to Cooperate is not a duty to agree, however it must be demonstrated that this process has been undertaken throughout the plan formation process. Failure to meet the Duty to Cooperate has proven to be fatal to the examination of Local Plans, with plans at Aylesbury Vale, Hart, Mid Sussex and Runnymede all being withdrawn as a result. 3.1.2 In pursuing the chosen spatial strategy of this Plan the council will have to demonstrate how the Council have tried to meet the current unmet need of the district and the wider HMA. 3.2 Sustainability Appraisal/Strategic Environmental Assessment 3.2.1 In accordance with Section 19 of the 2004 Planning and Compulsory Purchase Act, policies set out in Local Plans must be subject to Sustainability Appraisal (SA). Incorporating the requirements of the Environmental Assessment of Plans and Programmes Regulations 2004, SA is a systematic process that should be undertaken at each stage of the Plan's preparation, assessing the effects of the Local Plan's proposals on sustainable development when judged against reasonable alternatives. 3.2.2 The Council should ensure that the results of the SA process clearly justify its policy choices. In meeting the development needs of the area, it should be clear from the results of the assessment why some policy options have been progressed, and others have been rejected. Undertaking a comparative and equal assessment of each reasonable alternative, the Council's decision making and scoring should be robust, justified and transparent. 3.2.3 Gladman remind the Council that there have now been a number of instances where the failure to undertake a satisfactory SA has resulted in Plans failing the test of legal compliance at Examination (South Somerset) or being subjected to later legal challenge (Heard vs Greater Norwich Development Plan).

4 NATIONAL POLICY AND PRACTICE GUIDANCE 4.1 National Planning Policy Framework 4.1.1 The National Planning Policy Framework (The Framework) provides the contextual basis against which Local Plans are prepared. Policies and strategies outlined by Local Plans must be prepared in accordance with the policies of the Framework in order for the Local Plan to be considered sound and up-to-date (see Paragraph 182 and Annex 1 of the Framework and Section 19 of the 2004 Planning and Compulsory Purchase Act). Should policies be found not to comply with the Framework, there will be a presumption in favour of sustainable development. 4.1.2 The Framework clearly establishes the Government's commitment and expectations in the achievement of sustainable development. Paragraph 7 outlines; "There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to a planning system to perform a number of roles: ? An economic role - contributing to the building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure. ? A social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and ? An environment role - contributing to the protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources more prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy. 4.1.3 The role of Local Plans in the achievement of sustainable development is set out from Paragraph 150. Paragraph 151 confirms the need for Local Plans to be "prepared with the objectives of sustainable development and their need to be consistent with the principles and policies as set out in the Framework." Paragraph 152 expands advocating that "Local Planning

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Authorities should seek opportunities to achieve each of the economic, social and environmental dimensions of sustainable development and net gains across all three.” 4.1.4 The Framework also expresses the Government’s goal to ‘significantly boost the supply of housing’ and how this should be reflected through the preparation of Local Plans. In this regard, it sets out specific guidance that local planning authorities must take into account when identifying and meeting their objectively assessed housing needs: “To boost significantly the supply of housing, local planning authorities should: ? Use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area ? Identify and update annually a supply of specific deliverable sites sufficient to provide five years’ worth of housing against their housing requirements...” ? Identify a supply of specific, developable sites or broad locations for growth, for years 6-10, and where possible for years 11-15” (Paragraph 47) 4.1.5 The starting point of identifying objectively assessed housing needs is set out in paragraph 159 of the Framework, which requires Local Planning authorities to prepare a Strategic Housing Market Assessment, working with neighbouring authorities where housing market areas cross administrative boundaries. It is clear from the Framework that the objective assessment of housing needs should take full account of up-to-date and relevant evidence about the economic and social characteristics and prospects of the area, with local planning authorities ensuring that their assessment of and strategies for housing and employment are integrated and take full account of relevant market and economic signals (paragraph 158). 4.1.6 Once a Council has identified its objectively assessed needs for housing these needs should be met in full, unless any adverse impacts would significantly and demonstrably outweigh the benefits of doing so (paragraph 14), with any unmet needs being accommodated through Duty to Cooperate. 4.2 Planning Practice Guidance 4.2.1 As the Council will be aware the Government published its final suite of Planning Practice Guidance (PPG) on the 6th March 2014, clarifying how specific elements of the Framework should be interpreted when preparing their Local Plans. The PPG on Housing and Economic Development Needs Assessments in particular provides a clear indication of how the Government expects the Framework to be taken into account when identifying their objectively assessed housing needs. Key points from this document include: ? Household projections published by the Department for Communities and Local Government should provide the starting point estimate of overall housing need ? Plan makers should not apply constraints to the overall assessment of need, such as limitations imposed by the supply of land for new development, historic underperformance, infrastructure or environmental constraints. ? Household projection based estimates of housing need may need adjusting to reflect factors affecting local demography and household formation rates which are not captured by past trends, for example historic suppression by under supply and worsening affordability of housing. The assessment will need to reflect the consequences of past under delivery and the extent to which household formation rates have been constrained by supply. ? Plan makers need to consider increasing their housing numbers where the supply of working age population is less than projected job growth, to prevent unsustainable commuting patterns and reduced local business resilience. ? Housing needs indicated by household projections should be adjusted to reflect appropriate market signals, as well as other market indicators of the balance between the demand for and supply of dwellings. ? The more significant the affordability constraints (as reflected in rising prices and rents, and worsening affordability ratio) and the stronger other indicators of high demand (e.g. the differential between land prices), the larger the improvement in affordability needed, and the larger the additional supply response should be. ? The total affordable housing need should be considered in the context of its likely delivery as proportion of mixed market and affordable housing developments, given the probable percentage of affordable housing to be delivered by market housing led developments. An increase in the total housing figures included in the local plan should be considered where it could help to deliver the required number of affordable homes. 5 OBJECTIVELY ASSESSED HOUSING NEED 5.1 Background 5.1.1 The process of undertaking an OAN is clearly set out in the Framework principally in §14, §47, §152 and §159 and should be undertaken in a systematic and transparent way to ensure that the plan is based on a robust evidence base. 5.1.2 The starting point for this assessment requires local planning authorities to have a clear understanding of housing needs in their area. This involves the preparation of a Strategic Housing Market Assessment (SHMA) working with neighbouring authorities where housing market areas cross administrative areas as detailed in §159 of the Framework. The Framework goes on to set out the factors that should be included in a SHMA including identifying “the scale and mix of housing and the range of tenures that the local population is likely to need over the plan period which: ? Meets household and population projections taking account of migration and demographic change; ? Addresses the need for all types of housing including affordable housing and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people

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wishing to build their own homes); and ? Caters for housing demand and the scale of housing supply necessary to meet this demand.” 5.1.3 Key points that are worth noting from the above is that the objective assessment should identify the full need for housing before the Council consider undertaking any process of assessing the ability to deliver this figure. In addition, §159 specifically relates to catering for both housing need and housing demand within the authority area. It is worth pointing out that any assessment of housing need and demand within a SHMA must also consider the following factors; falling household formation rates, net inward migration, the need to address the under provision of housing from the previous local plan period, the results of the Census 2011, housing vacancy rates including the need to factor in a housing vacancy rate for churn in the housing market, economic factors to ensure that the economic forecasts for an area are supported by sufficient housing to deliver economic growth, off-setting a falling working age population by providing enough housing to ensure retiring workers can be replaced by incoming residents, addressing affordability and delivering the full need for affordable housing in an area. 5.1.4 Of particular importance is the need to consider market signals. The consideration of market signals is one of the core planning principles considered in §17 of the Framework, which states: ‘.Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities.’ 5.1.5 Of critical importance is what the Framework goes onto say in §158 in the section discussing Plan Making. It states here: ‘Local planning authorities should ensure that their assessment of and strategies for housing, employment and other uses are integrated, and that they take full account of relevant market and economic signals.’ 5.1.6 Market signals are therefore at the very core of what the Framework is trying to achieve in promoting sustainable development and boosting the supply of housing land. 5.1.7 The formal publication of the Planning Practice Guidance in March 2014 gives further explanation to what the Framework means with regard to market signals, and sets out, in a range of paragraphs, the way in which local planning authorities should go about factoring in relevant market signals in arriving at their OAN. §19 and §20 of the PPG gives guidance on what market signals should be taken into account and how plan makers should respond to these market signals. The below extracts identify some particularly pertinent points. ‘The housing need number suggested by household projections (the starting point) should be adjusted to reflect appropriate market signals, as well as other market indicators of the balance between the demand for and supply of dwellings. Prices of rents rising faster than the national/local average may well indicate particular market undersupply relative to demand.’ 5.1.8 The paragraph goes on to indicate that these factors would include, but should not be limited to, land prices, house prices, rents, affordability, rates of development and overcrowding. However, given what the Framework says at §17, quoted above, it seems clear that particular consideration should be given to affordability. 5.1.9 In order to consider how market signals should be taken forward §20 identifies some key concepts: ‘Appropriate comparisons of indicators should be made. This includes comparison with longer term trends (both in absolute levels and rates of change) in the: housing market area; similar demographic and economic areas; and nationally. A worsening trend in any of these indicators will require upward adjustment to planned housing numbers compared to ones based solely on household projections.’ 5.1.10 It is therefore clear that where market signals are apparent (in any of the indicators assessed) there is an absolute and clear direction that an upward adjustment to housing numbers is required. It is also clear that both the absolute level of change and the rates of change are considerations, and that local planning authorities need to carefully bench mark themselves against other areas. This should not simply be a case of considering neighbouring authorities but should look at, as well as these, local authorities on a national basis, if the demographic and economic indicators are relevant. Gladman are firmly of the view that considering comparisons purely against neighbouring authorities is not sufficiently robust and does not address the underlying issues which both the Framework and PPG are trying to tackle with regard to housing. 5.1.11 What is of further importance when considering these issues is the period of time analysed when considering both relative and absolute change. It has become apparent, in our consideration of a number of plans that many local authorities choose to look at periods of time which are not fully representative of the depth of the housing crisis which we are currently within. 5.1.12 The problems are noted in Fixing the Foundations: Creating a more prosperous nation published by HM Treasury in July 2015. In paragraph 9.7 the report states: ‘There remains more to do. As the London School of Economics (LSE) Growth Commission found, ‘under supply of housing, especially in high-growth areas of the country has pushed up house prices. The UK has been incapable of building enough homes to keep up with growing demand.’ 5.1.13 Gladman are therefore of the view that local planning authorities must take a long term view when considering affordability and consider the relative and absolute change over a long term 15-20 year period, which coincides with the normal time span of a Local Plan. Authorities should assess, as a

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constituent part of their OAN, how they can improve affordability over the life time of a plan to a point where affordability is more in line with average earnings and affordable mortgage lending rates. They should assess a level of housing over the 15-20 year plan period which would enable this step change and consider its deliverability in the plan. Only through planning for significant housing growth can local authorities realistically tackle market signals in the way advocated by the PPG and tackle the affordability and housing crisis.

5.1.14 The need to identify the full OAN before considering any issues with the ability of a Local Planning Authority to accommodate that level of development has been confirmed in the High Court. Most notably in *Solihull Metropolitan Borough Council v (1) Gallagher Homes Limited (2) Lioncourt Homes Limited* where it was considered that arriving at a housing requirement was a two stage process and that first the unconstrained OAN must be arrived at. In the judgement it was stated: “The NPPF indeed effected a radical change. It consisted in the two-step approach which paragraph 47 enjoined. The previous policy’s methodology was essentially the striking of a balance. By contrast paragraph 47 required the OAN [objectively assessed need] to be made first, and to be given effect in the Local Plan save only to the extent that that would be inconsistent with other NPPF policies. [...] The two-step approach is by no means barren or technical. It means that housing need is clearly and cleanly ascertained. And as the judge said at paragraph 94, “[h]ere, numbers matter; because the larger the need, the more pressure will or might be applied to [impinge] on other inconsistent policies”.

5.1.15 Therefore, following the exercise to identify the full, OAN for housing in an area, “Local planning authorities should seek opportunities to achieve each of the economic, social and environmental dimensions of sustainable development, and net gains across all three. Significant adverse impacts on any of these dimensions should be avoided and, wherever possible, alternative options which reduce or eliminate such impacts should be pursued. Where adverse impacts are unavoidable, measures to mitigate the impact should be considered. Where adequate mitigation measures are not possible, compensatory measures may be appropriate.” (NPPF §152)

5.1.16 This statement clearly sets out that local planning authorities should seek to deliver the full OAN and that this should be tested through the evidence base. Only where the evidence shows that this is not achievable should they then test other options to see if any significant adverse impacts could be reduced or eliminated by pursuing these options. If this is not possible then they should test if the significant adverse impacts could be mitigated and where this is not possible, where compensatory measures may be appropriate.

5.1.17 The final stage of the process is outlined in §14 and involves a planning judgement as to whether, following all of the stages of the process outlined above, “Local Plans should meet OAN, with sufficient flexibility to adapt to rapid change, unless: ? any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework taken as a whole; or ? specific policies in this Framework indicate development should be restricted.”

5.1.18 It is also worth noting that the final part of this sentence refers to footnote 9 of the Framework which sets out the types of policies that the Government consider to be restrictive. These include: “sites protected under the Birds and Habitat Directive (see paragraph 119) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion”.

5.1.19 Although this list is not exhaustive it is clear that local landscape designations, intrinsic value of the countryside, the character of areas, green gaps etc. are not specifically mentioned as constraints by the Framework.

5.1.20 The National Planning Practice Guidance (NPPG) contains guidance to support local authorities in objectively assessing and evidencing development needs for housing (both market and affordable) and economic development. This document supports and provides further guidance on the process of undertaking such assessments, in addition to what is set out in the Framework.

## 6 THE SPATIAL OPTION

### 6.1.1

As part of the evidence base of the Local Plan the combined local authorities of Epping Forest, Harlow, Uttlesford and East Hertfordshire commissioned Opinion Research Services (ORS) to conduct a Strategic Housing Market Assessment (SHMA). This was produced in 2015 using Department for Communities and Local Government 2012 household projections as a starting point. ORS challenged these projections due to inconsistencies of migration trends and suggested a figure of 46,100 dwellings to be delivered across the combined Housing Market Area (HMA) during the plan period, with 11,300 within Epping Forest. Following advice from PINS to East Hertfordshire, the SHMA was updated to use DCLG 2014 household projections and updated migration trends. The results of the updated SHMA suggest an Objectively Assessed Housing Need of 54,608 across the HMA for the plan period. Using the same distribution as before, this would result in an updated housing requirement of 13,278 dwellings for Epping Forest.

### 6.1.2

To establish the best strategy to deliver the housing requirement for the HMA the combined authorities commissioned AECOM to undertake a Sustainability Appraisal of the potential housing strategies. Six options were suggested with four using the original OAN

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figure, one based on meeting the 2014 household projections and the final strategy which would exceed the minimum housing requirement detailed in the updated SHMA. 6.1.3 The strategy that the authorities decided upon targets 51,000 new homes across the HMA. This significantly exceeds the original SHMA OAN of 46,100 however does not meet the minimum requirement set out in the updated SHMA. The combined authorities have drafted a Memorandum of Understanding which indicates how much growth each authority will take. The table from the draft plan is shown in the table below.

Local authority	Net new dwellings 2011-2033
East Hertfordshire District Council	~18,000
Harlow District Council	~9,200
Uttlesford District Council	~12,500
Epping Forest District Council	~11,400
Total across the HMA	~51,100
Harlow* will provide	~16,100

which the area in and around Harlow\* will provide the OAN set out in the updated SHMA, the authorities consider that the delivery of 51,100 dwellings would make good progress towards meeting the overall identified housing need and that this would show that the plan is positivity prepared. Policy Analysis 6.1.5 In progressing the chosen spatial option, the Council are pursuing a strategy that is likely to lead to the Local Plan being found unsound. The Council need to undertake additional work to ensure that it has made every effort possible to deliver the full OAN for the district and if this is not possible within Epping Forest then detailed discussions need to have taken place to ensure that any unmet need can be delivered within the wider HMA as required by the Framework. 6.1.6

6.1.6 The spatial strategy proposed in the Plan will not meet the full objectively assessed housing need for Epping Forest as set out in the updated SHMA. The Framework is clear that the Council must make every effort to meet the housing need of the area before possibly seeking to collaborate with neighbouring authorities within the wider HMA to deliver any unmet need from Epping Forest. It is only after this exercise has been robustly undertaken should the Councils seek to address any unmet need outside the HMA. The Council must therefore be confident that every possibility to meet the full housing requirement of the district has been explored and exhausted for the Plan to be found sound. 6.1.7

6.1.7 At this time, with the evidence that the Council has prepared to support the Plan, Gladman believe that there is more work that Epping Forest can do to help meet the full housing requirement across the HMA. Epping forest have undertaken an extensive review of the Green Belt within the authority's boundaries and have identified 88 sites capable of delivering over 7,200 dwellings. This figure includes both potential sites for allocation and some reserve sites which would only be drawn upon should some of the proposed sites not come forward. However, if all the sites proposed in the Plan were allocated the full objectively assessed housing need of the district would be met. 6.2 Meeting Housing Needs in Epping Forest

6.2.1 Gladman have concerns regarding the Council current SHMA which was prepared by ORS in 2016, which could mean that the is OAN higher than that expressed in the latest evidence base. 6.2.2 The updated SHMA utilises the latest 2014 DCLG Housing Projections but raises a challenge to their robustness stating that the migration assumptions used are too high. Gladman question this assumption, especially as Gavin Barwell has recently stated that the household projections produced by DCLG should be the starting point for calculating housing need and that these projections already assume a significant decline in net migration in the region of a fall of 45% by 2021 from the 2015 levels. 6.2.3

6.2.3 In addition, the latest DCLG statistics on affordability show a considerable worsening of affordability in the district with the 2015 ratio of lower quartile house prices to lower quartile earning being a staggering 14.0. This has increased by 23% in just 3 years. If the Council continue with its current proposed strategy, this affordability problem will only get worse. Indeed this is only exacerbated by the fact that in a recent appeal decision the Council did not contradict that they have the worst housing land supply in the country.1 6.2.4 Potential impacts on heritage assets, archaeology, trees, habitats, individual species and contaminated land but likely to be adequately mitigated.

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