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Our Ref: JAC/SG/

17<sup>th</sup> January 2018  
(ldfconsult@eppingforestdc.gov.uk)

Dear Sir/Madam

**RE: THE EPPING FOREST DISTRICT LOCAL PLAN SUBMISSIONS VERSION 2017 – SUBMISSIONS ON BEHALF OF MR STUART ISAACS IN RESPECT OF LAND ADJACENT TO THE GRANGE, HIGH ROAD, CHIGWELL**

We write to set out below our representations on the Epping Forest District Council Regulation 19 Publication and in doing so will make reference to a number of documents published by the Council as well as Regulation 19 of the Town & Country Planning (Local Planning)(England) Regulations (2012).

**BASIS OF SUBMISSIONS AND MAIN ARGUMENTS AS TO WHY IT IS CONSIDERED THAT THE PLAN IS UNSOUND.**

In making these submissions we note that Regulation 8 (2) states that “Local Plan or a supplementary planning document must contain a reasoned justification of the policies contained in it.

We note Regulation 18(3) that states “that in preparing the Local Plan, the **Local Planning Authority must take into account any representation made to them in response to invitations under paragraph 1 of the same Regulation.**”

We note that the NPPF paragraph 151 states “that Local Plans must be prepared with the objective of contributing to the achievement of sustainable development”. **To this end, they should be consistent with the principles and policies set out in this Framework, including the presumption in favour of sustainable development.**

Paragraph 158 states “that each Local Planning Authority should ensure that **the Local Plan is based on adequate, up to date and relevant evidence about the economic, social and environmental characteristics and prospects of the area.** Local Planning Authorities should ensure that their

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assessment of and strategies for housing, employment and other uses are integrated, and that they take full account of relevant market and economic signals”.

A following bullet point requires that in preparing Strategic Housing Land Availability Assessments Council’s should establish realistic assumptions about the availability, suitability and the likely economic viability of land to meet the identified need for housing over the Plan period.

Paragraph 182 states when a Local Planning Authority submits a Plan for examination which it considers is sound one of the bullet points is that **the Plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence**. In this respect we note that the most recent Government figures for the Objectively Assessed Need (OAN) in Epping Forest DC show a significant increase and note that the Regulation 19 Plan has not sought to take account of the increased figure. While we perhaps accept that it would not be appropriate to revisit the whole plan at this stage, we consider that sites such as our clients should be included in order to increase the level of delivery as far as possible to ensure delivery does not fall substantially behind the objectively assessed housing needs.

In making these representations we have also made reference to Planning Practice Guidance published on 19<sup>th</sup> May 2016 by the Ministry of Housing, Communities and Local Government in respect of Local Plans.

We particularly note that within the document it is stated that “the evidence needs to inform what is in the Plan and to shape it as development rather than being collected retrospectively. It should also **be kept up to date**. For example when approaching submission, if key studies were already reliant on data that is a few years old, it should be updated to reflect the most recent information available (and, if necessary, the Plan adjusted in the light of this information and the comments received at the publication stage). It is our submission that this has not been done, notwithstanding that the Council have been alerted to situations where their evidence base is out of date.

Following this introduction we therefore set out our main objections to the Local Plan and argue that it is not sound on the basis that :-

1. In preparing the plan the Council have failed to properly consider representation/submissions made;
2. The Council have not prepared the plan on the basis of an up to date evidence base;
3. The evidence base contains factual inaccuracies which the Council have refused to reconsider;
4. Certain elements of the plan are not “Wednesbury reasonable”;
5. The Council have failed to apply a proportionate evidence base in view of the fact that the Plan involves removal of land from the Green Belt. At minimum the assessments should have included a Landscape and Visual Impact Assessment of key sites (LVIA) undertaken in accordance with the Guidance from the Landscape Institute. There has been no assessment of night time Landscape and visual impact, with matters such as whether streets had pavements and lighting not accounted for. Such matters are key considerations in objectively assessing the current character and appearance of the site and its immediate surroundings, as well as overall judgements of sustainability.



6. The Council's OAN fails to take account of increased housing need figures as published by central Government.

### **CONTEXT OF THE SUBMISSIONS**

We explain below these submissions by making reference to our client's site which was considered in the SHLAA under SR0435. That example is used in respect of each of the matters referred to above.

We have also made submissions in respect of other elements of the plan and submitted a copy of this letter with a form for each where considered necessary. It is however essential that all of the submissions are read together.

Attached at Appendix 1 is a letter from Bircham Dyson Bell dated 27<sup>th</sup> October 2017 which set out the concerns of my client and his advisers. Also attached are the submissions that were attachments to that letter. These also form part of this submission.

### **THE QUESTION AS TO WHETHER THE PLAN REPRESENTS THE MOST APPROPRIATE STRATEGY.**

On page 20 of the Draft Plan, under Local Plan Objectives, Objective( i) is stated as to protect the Metropolitan Green Belt within its revised boundary and to encourage the reuse of previously developed land.

Before this there is a requirement to carefully assess and review the existing Green Belt boundary. It is our submission that this process has not been undertaken in sufficient detail to properly and fully inform a sustainable plan. In addition we submit that the selection of sites has not followed a suitable assessment of the overall sustainability of locations.

We note that on page 26 the ninth bullet point refers to a site selection report 2016 and 2017 undertaken by ARUP. No reference is made to any of the Green Belt reports and we would ask whether or not they were taken into account in the overall process.

If they were not it would seem that ARUP have made conclusions without reference to any other assessment of the impacts of allocations on Green Belt sites. There is certainly no appropriate or proportionate evidence base in respect of the sites that have been considered.

In addition we are concerned that selection of sites has not used site specific information; but instead has sought to use filters that are not specific enough to undertake a rigorous Green Belt Review.

A major concern with the soundness of the plan relates to paragraph 2.66. Within this the Council states that the Local Plan allocates remaining housing requirements identified for Epping Forest District Council by taking a sequential approach where new homes will be provided.

We note that the fourth criteria in the "pecking order" is previously developed land within the Green Belt. For us this is an erroneous basis and clearly at odds with the NPPF. The reason for this is that practically any individual housing site within the Green Belt and all commercial sites other than agricultural sites will constitute previously developed land.



On the face of it therefore the Council's selection process would favour a potentially rural site not well related to a settlement or services over either a Greenfield or Greenbelt site on the edge of settlements; even if such site were more 'sustainably' located. In addition a large house in large grounds would be favoured over a field on the edge of a settlement irrespective of the sustainability credentials of the location and irrespective of the visual impact that would result in each case.

While we do fully understand preference for development of previously developed land, this wording must be carefully applied when considering rural areas.

In our opinion Greenfield and Green Belt land on the edge of sustainable settlements should have been ahead of the fourth selection priority on the basis that in general the overall sustainability credentials of such sites would be better.

In order to do this the Council should have undertaken a detailed review of its existing Green Belt boundary and in particular the edges of sustainable settlements such as towns and larger villages with good transport connections.

The starting point for this is identification of the level of sustainability of settlements. We are mindful that this was undertaken but it is a major concern that this falls behind the fourth of the priorities.

In short the Council's prioritisation and sequencing does not follow the National Planning Policy Framework or principles for the protection of the Green Belt.

We therefore turn to consideration of individual policies:-

#### **POLICY SP<sub>1</sub> AND POLICY SP<sub>2</sub> SPATIAL DEVELOPMENT STRATEGY 2011-2033**

It is a major concern that the incorrect prioritisation and sequencing of site selection has meant that the sustainable settlements within the Local Plan area had not been prioritised to the extent that should be expected.

The District has two town centres and four district centres. Loughton/Loughton Broadway and Buckhurst Hill in the south, Waltham Abbey to the west, Epping in the centre of the district, and Ongar towards to the east. There are a number of large villages including Chigwell, Theydon Bois that also have a reasonable range of services, and crucially have very good rail access

It is our submission that inappropriate and inadequate consideration has been given to the potential for the expansion of the towns and larger villages, and inadequate consideration given to the overall sustainability of such settlements.

In our submission very careful attention should have been given to the edges of these major settlements to determine whether or not individual sites do still fulfill the purposes and roles of the Green Belt. If they do not, or their contribution was relatively low, then such sites should have been considered alongside any strategic allocations and large scale removals from the Green Belt.

For the above reasons we conclude that the Plan and in particular Policy SP<sub>2</sub> fails to present a strategy that allocates land in the most sustainable locations.



For the reasons stated we submit that the Plan is unsound because Policy SP2 fails to present a strategy that allocates land in the most sustainable locations.

Policy SP2 is critically flawed in that it prioritises any developed land within the Green Belt in preference to Greenfield or Green Belt land on the edge of settlements, whether or not the harm in respect of the fifth criteria is greater than that from sites under the sixth criteria. This is not consistent with the NPPF.

In light of the failure to apply an appropriate sequential assessment the settlement allocations cannot be relied on and represent an unsustainable strategy.

We note that the key evidence referred to in this policy is in large part five to seven years old and we consider this is time expired. The failure to update the documents and relevant supporting information means that the Plan is not based on an up to date evidence base. As a consequence it fails to comply with Planning Practice Guidance.

#### **POLICY SP6 GREEN BELT AND DISTRICT OPEN LAND**

We object to the extent of the Green Belt as set out in Map 2.5.

In this respect we note that the Stage 1 Green Belt Review by EFDC in 2015 is now two years old and was at a geographic scale that meant it could not appropriately consider smaller scale i.e., 5 to 50 unit housing sites on the edge of existing sustainable settlements.

The Stage 2 review by Land Use Consultants dated August 2016, did not consider the precise context of sites and would appear to have omitted to make reference to extant planning permissions.

Whilst reference is made in the document to Chigwell, the first reference is a very sweeping statement that states that most parcels still fall with the very high or high harm categories, although some smaller parcels on the eastern side of the village now fall within the moderate harm category.

It would appear that the Stage 2 process only assessed sites that had made a contribution to purpose 3 of the Green Belt.

It would also appear that an overly simplistic judgement of sustainability of sites was undertaken, where, for example in the larger settlements, a 2km distance from a shopping parade was considered acceptable whereas with a village a 1km distance was acceptable. We note that in respect of Chigwell, and in particular in respect of our own clients site, in order to get to the town centre you would walk past a number of employment sites as well as at least two local schools. A very short distance further on you would have access to an underground connected station.

It is our submission that the failure of the report to consider sustainability in enough detail means that sites have been excluded from the Local Plan process that when considered in the round perform better than sites that have been included.



In respect of Paragraph 2.142 we are not satisfied that a Green Belt review has been undertaken thoroughly or in fine enough detail to correctly determine where Green Belt boundaries should be redrawn.

In our view the fact that the north east and northern boundary of Chigwell has not been reviewed does not follow an appropriate assessment of where major developments have occurred and are permitted. We can confirm that this matter was raised on numerous occasions with the Council, including at Cabinet, but the Council refused to revisit the matter notwithstanding the clear change in context and circumstances of the site.

We submit that the boundary should be as shown on the attached plan and that to exclude the large permitted sites shown within Appendix 1 is inconsistent with how the Council has redrawn boundaries for other towns and villages and indeed very small villages such as Stapleford Abbots, Fyfield, Thornwood and High Ongar.

We therefore submit that the Council have applied judgements in respect of Green Belts on an inconsistent basis without reference to up to date information.

As a consequence of the above we consider Policy **SP6 Green Belt and District Open Land unsound**.

The following representations are in respect of Section 3 Housing.

### **HOUSING CHAPTER AND POLICIES**

As the Council are aware we have on behalf of my client submitted representations on the earlier draft versions of the Epping Forest District plan.

We note that in Section 5 the Council set out the categories of settlements in Epping Forest District. We note that Chigwell is categorised as a large village and we would have therefore expected more sites and housing numbers to have been identified for what is clearly a sustainable settlement.

### **POLICY P1 EPPING AND P2 LOUGHTON**

In view of our concerns regarding the failure of the Council to apply a rigorous enough approach in respect of the de-allocation of Green Belt land, we have submitted objections to Policy P1 in respect of Epping, and P2 for Loughton. Our submission is that such large scale incursions into the Green Belt should not be considered until the Council can be confident that there are not suitable alternative sites available. Due to the lack of rigour in the assessment of the Green Belt and the clear errors that have occurred in the Plan process, we submit that it does not therefore meet the Town & Country Planning Regulations or the NPPG.

### **POLICY O4 - ONGAR**

We have concerns in respect of policy P4 Ongar in that in our assessment a number of the residential sites including R4, R7 and R6 are more publicly visible and more harmful to landscape impact than our client's site. In addition the sites perform less well in respect of sustainability. Ongar is not served by a railway service and we consider that inadequate attention has been paid to appropriate Green Belt site selection criteria.



At present Greensted Road is very much of rural appearance. It does not have a pavement on the side of the road where site ONGR5 is located. In addition it is highly visible in that it is placed on a bend and in order to provide adequate visibility splays it is inevitable that large areas of hedging will need to be removed as there is no verge.

We object to the allocation of site ONGR6 as it is located on a rural road where the site is highly visible from public vantage points when one enters Ongar from the southern direction. There is no street lighting in place and development on the site will inevitably require street lighting which will be highly intrusive.

There are very open views between Brentwood Road and the site as well as from Stanford Rivers Road.

We also use site ONG.R4 as an example of our objections to the Council's site allocation process.

In this case whilst perhaps part of the site is in our view suitable for development in that it is enclosed on three sides by existing development, the part of the site that fronts High Ongar Road currently has no street lighting and is simply a high quality attractive open landscape from where very limited views of development can be gained. Development on the site will therefore inevitably result in significant encroachment into the Green Belt.

#### **NORTH WEALD BASSETT POLICY P6.**

In respect of North Weald Basset Policy P6 we have significant concerns that the lack of appropriate analysis of landscape and visual impacts means that the evidence base is inadequate as a basis to remove land from the Green Belt.

We therefore object to the allocations in that when seen alongside those to the south of Harlow, they will significantly erode the strategic gap between North Weald Bassett and Tylers Green and Harlow.

Unless no alternative more suitable Green Belt sites are available such land should not be identified for development as it involves significant harm to and erosion of the Green Belt. In the absence of consideration of GB sites being in enough detail the policy is unsound.

#### **POLICY P7 CHIGWELL**

We object to the boundary line for Chigwell shown, in that the boundary on the northern extremity of the site adjacent to our client's site does not logically follow what is a heavily developed area.

Any reasonable assessment (using the Wednesbury sense of the word) of the site confines would extend around the development at Bramble Close, that to the north of Green Lane, as well as that off Grange Farm Lane comprising Chigwell Village. We evidence this with reference to the *Google* image contained within Appendix 1. We reiterate that the way in which confines have been shown for north Chigwell are at odds with the way in which the Council have drawn confines in other locations.

We therefore object to the policy and consider it to be unsound. We also consider the following allocations to be unsound.



## **POLICY CHIGR2**

We object to Policy CHIGR2 on the basis that the proposal involves a site with just one relatively large building in a parkland setting. The proposal will very significantly and harmfully impact upon the character and appearance and functioning of the Green Belt in this location and will serve to begin to combine the linear development along Manor Road to properties in Brockett Way in Hainault. This will erode the role that the Green Belt currently makes in this particular location.

We also note that the drawing of confines around some of this linear development is entirely at odds with the approach taken elsewhere in Chigwell and this lack of consistency is a significant concern and against the Town & Country Planning Regulations in that the Council are required to be consistent in the way they identify development confines.

In short we consider that decisions in respect of Chigwell have been made on the basis of an out of date evidence base which has failed to take adequate account of developments that have recently been permitted and/ or are currently under construction. As a consequence site selection has been made without reference to up to date information.

As stated earlier in this letter this is contrary to Town & Country Planning Regulations and the advice contained within the NPPG and Planning Practice Guidance.

## **POLICY P9 ROYDON**

In respect of Roydon we note that site allocations ROYD.R2 and ROYD.R3 and ROYD.R4 are some 1.4 kilometres from the train station , a very similar distance to the case of our client's site.

In respect of ROYD.R2 it would appear that the allocation is based on the site being previously developed in that it contains what would have been a large country house at some time. The site has a high quality parkland setting and it surrounded by attractive farmland. Development of the site will encroach significantly into the Green Belt and this encroachment will be visible from a significant number of public vantage points including Public Rights of Way.

We note that the route towards services and facilities does not have a footway adjacent to the highway and that the route is relatively narrow with minimal lighting.

We therefore argue that the site is not well connected to services. Our argument in this case is that the overly simplistic approach to sustainability in simply stating the distance to a town or village centre is not adequate.

In order for a correct assessment to be made, the quality and likely utility of Public Rights of Way and pedestrian and cycle routes is absolutely essential. The absence of these and the absence of features such as lighting should have weighed against site selection. The fact that it did not is in our view a fundamental error in considering the sustainability of the site, and in considering the scale of landscape and visual impact that proposals would have.

It is also a concern that if a proposal were to need to result in the implementation of lighting there has been no assessment of the impacts of this on the Green Belt.



The impact on the night time environment is just as important as the impact on the day time environment and it is clear that it has not been assessed based on the evidence in respect of the allocations for Roydon or the failures elsewhere in the Plan.

### **POLICY P11 THORNWOOD**

Thornwood is currently one of the smaller settlements within Epping Forest District Area. In our submission there are a very limited range of services within the settlement. We note that the sites promoted in question do have lights and pavements but we note that to access THOR.R1 there will inevitably need to be removal of a substantial amount of vegetation on the site frontage and the proposal will encroach onto an area of land that does not have development around it and does not have an urban feel. We consider the allocation of the site to be inconsistent with other sites identified and have significant concern in respect of the large parkland trees that lie within the site. Again we are concerned that no night time landscape and visual impact assessment has been undertaken.

### **POLICY P12 – COOPERSALE, FYFIELD, HIGH ONGAR, LOWER SHEERING, MORETON, SHEERING AND STAPLEFORD ABBOTS**

Firstly we note in respect of FYFR1 that the site is located at the far western end of Fyfield which is a relatively small Hamlet. The site lies adjacent to very attractive and what we assume to be Listed cottages and contains a number of large parkland trees. The settlement has little in the way of services and facilities with relatively infrequent bus routes. Whilst there is a very small Post Office and local shop and Public House, any development in this particular settlement will be very largely reliant on the private car. Fyfield should fall toward the lower end of any sustainability audit and in those circumstances we consider that the designation FYF.R1 does not meet the requirements of the NPPF in that the site is not sustainably located.

In respect of site allocations SHR.R1, R2 and R3 the scale of allocations for Sheering appears entirely disproportionate to the size of the settlement and the range of services provided. Sheering is not well connected to public transport, does not have good ready access to a train station and journeys to public transport would be along roads that do not have lighting. As such, and unless new and intrusive lighting was installed, for large parts of the year people would not be inclined or feel encouraged to walk, cycle or use public transport.

In addition, whilst Sheering does have a small local primary school there is an extremely limited range of services available.

The settlement is unduly reliant on the private car to access services such that the allocations as stated are entirely disproportionate to the settlement. We note that all of the allocations must be on land that is currently Green Belt and note that the allocation to the north of the B183, just outside the western boundary of the settlement as exists at the moment, would be on very exposed ground. The proposal at R1 would link the main block of the settlement to the sporadic linear development along the street harmful to the rural character of that part of the settlement.

In respect of STAP.R1 we are concerned that the Council's application of its site selection criteria is not consistent with that applied in respect of our client's site. As with our client's site the site is surrounded by built development on three sides (albeit we note that the road does not have lighting)



but again we are extremely concerned that Stapleford Abbots is extremely limited in terms of the provision of services. New residents will again therefore be heavily reliant on the use of the private car if development is to take place in this location. The allocation does not follow the Council's settlement hierarchy and there is no reason why this should be identified over sites such as my Client's site which performs much better in terms of overall sustainability criteria.

In addition we would strongly argue that development on this particular site will be visually far more intrusive than our Client's site where there is already street lighting in place.

### **SUMMARY OF SUBMISSIONS**

In summary we do not consider that the Council have applied site selection with an appropriate level of detail. Green Belt is one of the higher designations and therefore a site selection process should have more carefully assessed sites. The overly simplistic approach of the Council means that sites such as our Client's, which is surrounded on three sides by large scale development and within a safe, well-lit, pedestrian walk to a main line railway station and a good range of services, have been excluded at the cost of much less accessible sites, where there is in some cases no pavement and no lighting present. In addition many of the sites identified in the Green Belt appear to have been chosen similarly because they can be argued to constitute brownfield land, notwithstanding the fact that the sites will be highly visible in the countryside. In some cases sites are also poorly served by facilities. We consider the inclusion of rural "brownfield" land to be fundamentally flawed for the reasons previously stated.

A number of sites set out above do not have street lighting at present and as stated there are in many cases no footways to nearby services. As such there will inevitably be a heavy reliance on the private car. The failure to assess landscape and visual impacts at night time is in our submission a failure to properly understand how development can impact upon the Green Belt.

In all of the above circumstances we do not consider the Plan to be based on a robust evidence base. We do not consider the evidence base is proportionate to the consideration of sites within the Green Belt.

In accordance with Paragraph 182 we submit that the Inspector should consider that the Local Plan has not been justified as the most appropriate strategy when considered against the reasonable alternatives, based on a proportionate evidence base.

We consider that the detailed characteristics and context of sites has not been appropriately considered or the character of land immediately adjoining.

It is a major concern that much of the information underlying and informing the Local Plan is now considerably out of date, some as old as seven years, but it is also clear that in some cases significant changes in local context have been ignored.

We consider Policy SP2 fails to recognise available land at Chigwell that is sequentially preferable to other sites.

The Council have failed to accurately or consistently apply criteria in respect of consideration of my client's (SR/0435) and have used incorrect evidence to underpin their decision making.



In particular in respect of criteria 2.1 of the Arup Assessment we note that they concluded that the site is within the Green Belt with a level of harm caused by the release of land for development would be high or very high.

We submit that this judgement was based on a study that was undertaken at far too large a scale, such that the precise circumstances and context of the site was simply not considered on the basis of the objective evidence prevailing. The failure again to consider night time impacts in reaching judgements is a substantial failing.

Our client's particular site lies back from High Road and is bordered by two large development sites. It is surrounded by existing residential development as well as the Beis Shammei School and the Chigwell Primary School that was recently subject to a significant scale of development approved at planning committee. The road accessing the site already has pavements and street lighting and in our judgement it is unreasonable to conclude that the impact on the Green Belt would be high or very high in such circumstances when seen alongside other sites that are being promoted by the Council.

This is especially the case when the consideration of other parcels of land that do not have pavements or lighting and are not so surrounded by existing development have been concluded to have lesser impact.

We are also extremely concerned that under criteria 3.8 ARUP concluded that the site did not have good access. We have submitted evidence which is attached at Appendix 1 from our Client's Solicitor demonstrating there is ready access to the public highway.

In respect of criteria 4.1 our concern is that the ARUP report did not properly consider the development that was being undertaken. As far as we can tell from our research, there has been no proper assessment of this area of the Green Belt or indeed this boundary to the northern end of Chigwell following the very large scale developments that have been granted by the Council. We do therefore conclude that the ARUP report is out of date and reaching conclusions on it is unreasonable. Concluding that the nearest settlement is 500 metres away is again incorrect, and this means that the Council mis-directed itself in respect of my Client's site.

As stated we therefore consider that the Council have used contradictory evidence base that is not founded on the actual circumstances of the case.

We hereby request the Inspector to allow us to explain in detail the above objections to the Local Plan. We ask the Inspector to find the Plan as currently drafted **UNSOUND**.

Yours sincerely,

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Director

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