

Town and Country Planning Act 1990 (As Amended)

Epping Forest District Local Plan –
Regulation 19 Consultation

Representations on Behalf of: **Catesby Estates Plc**

21 January 2018



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1.0 Instructions and Introduction

1.1 Neame Sutton Limited, Chartered Town Planners, is instructed by Catesby Estates Plc ("Catesby") to prepare representations on the Regulation 19 consultation draft of the Epping Forest District Local Plan (December 2017) ("the Local Plan").

1.2 These representations deal with a number of specific topics and in accordance with the requirements of the Regulation 19 consultation process identify the relevant policies, paragraphs and proposals where appropriate throughout these representations. Where the relevant soundness tests, duty to cooperate and, legal compliance requirements are not met these are also identified.

1.3 These representations are accompanied by duly completed Part A and B consultation proformas, which should be read in conjunction with one another along with the suite of appendices attached to this document.

1.4 The structure of these representations is set out below:

Section 2	Explores the Council's Housing Requirement and Spatial Strategy
Section 3	Examines the Sustainability Appraisal ("SA") that accompanies the Local Plan
Section 4	Sets out Catesby's Site-Specific Representations in relation to Land off Church Lane, North Weald Bassett
Section 5	Summary and Conclusion

1.5 At the outset Catesby wishes to highlight a number of fundamental failings on the part of the Council in this Regulation 19 consultation:

- The Council has failed to meet its Legal Compliance Requirements by consciously publishing a Local Plan for consultation that does not include all of the key evidence. Catesby has raised this directly with the Council and its Planning Policy Manager has confirmed that the missing evidence will not be available until after the consultation period has closed and that no action is being taken in the interim. The failure primarily relates to the fact that the Council has not published Appendix B of its Report on Site Selection (December 2017);
- The Council has not met the Duty to Cooperate. Whilst a number of Memorandums of Understanding ("MoU") have been completed by the Council, the Local Plan does not meet the full Objectively Assessed Need ("OAN") for the District and the unmet need that consequently arises is not catered for elsewhere within the Housing Market Area ("HMA"). In fact the authorities within the HMA have jointly taken the decision to progress with a Housing Requirement Figure for the HMA that falls short of the OAN

identified in the SHMA, which is in complete conflict with the requirements of the Framework;

- The Local Plan fails to meet the relevant Soundness Tests in relation to its housing delivery policies and the evidence base that supports them; and,
- There is absolutely no evidence to support the Council's deletion of Land off Church Lane, North Weald Bassett (Site Ref: SR-0003) as a housing allocation.

1.6 These fundamental failings are explored through these representations.

2.0 Housing Requirement and Spatial Strategy

2.1 This section deals with the Housing Requirement set out in the Local Plan and the Spatial Strategy being pursued by the Council.

Housing Requirement:

2.2 The Housing Requirement set out in the Local Plan at Policy SP2 does not meet the full OAN for the District as a matter of fact.

2.3 The Council has made great play of the fact that it has worked with its neighbouring authorities within the HMA in order to agree an MoU that distributes the total housing requirement for the HMA across the various authorities. It is on this basis that the Council has settled for its Housing Requirement of 11,400 dwellings over the plan period (518dpa).

2.4 The problem with the Council's approach is that the Housing Requirement chosen by the constituent authorities for the HMA does not meet the full OAN for the HMA as confirmed by the evidence base. This results in all of the authorities within the HMA failing to meet their obligations as required by the first bullet point of Paragraph 47 of the Framework. In short if the housing figure for the HMA is wrong any MoU that agrees distribution within the HMA is of little or no value because all it does is reach agreement on the distribution of a housing requirement that is itself flawed.

2.5 It is perhaps interesting to note that the Foreword to the Local Plan on Page v confirms the Council's intention is to get this Local Plan prepared quickly to try and avoid the 'risk' of the housing requirement rising. The problem here is that the evidence base already shows the housing requirement has risen. The corporate objective of the Council is therefore to avoid meeting the increased housing requirement and to plan positively to significantly boost the supply of housing in accordance with Government policy.

2.6 Having set the background the remainder of this section now explores the reasons why the Council's Housing Requirement is incorrect by reference to its own evidence base and also other research including emerging National guidance on the matter.

2.7 The Council (along with the other authorities in the HMA) commissioned a SHMA in 2015. The findings of the SHMA have then been updated in 2016 and 2017 by Opinion Research Services ("ORS") to take account of the more recent 2014 based household projections and the 2016 mid-year estimates produced by Office of National Statistics ("ONS").

2.8 The most recent update is set out in the document West Essex and East Hertfordshire Strategic Housing Market Assessment – Establishing the Full Objectively Assessed Need – July 2017. Commentary is also set out on Pages 26 – 30 of the Local Plan.

2.9 The starting point for the assessment of OAN is the CLG Household Projections, which is confirmed as the correct approach at Paragraph 159 of the Framework and in the NPPG. ORS note this at Paragraph 1.4 of the July 2017 document.

2.10 It is relevant to note that for Epping Forest the following changes occur between the 2012 and 2014 based household projections:

Projections	Total Requirement 2011 - 2033	Annual Average
2012 Based	14,366	653
2014 Based	15,049	684

Figures taken from Paragraph 1.7 of ORS July 2017 Report and Pages 16 and 17 of SA.

2.11 This compares with the requirement for the HMA as a whole as follows:

Projections	Total Requirement 2011 - 2033	Annual Average
2012 Based	51,627	2,347
2014 Based	52,728	2,397

Figures taken from Paragraph 1.7 of ORS July 2017 Report and Pages 16 and 17 of SA.

2.12 The ORS report then correctly confirms that adjustments should be made to the base projections to deal with factors such as housing market signals and the alignment of jobs and workers.

2.13 In relation to housing market signals the most recent ONS data (see Appendix 3) confirms that Epping Forest has an affordability ratio of 16.77, which is more than twice the national average of 8 that Sajid Javid MP confirmed in his speech to the LGA (July 2017) was unacceptable and that the Government would be taking immediate measures to resolve. In short this makes Epping Forest one of the top 5 most expensive places in the country to live outside of London. An adjustment to the projections to deal with affordability and in particular to reduce that ratio is essential.

2.14 When looking at the right level of uplift required to affect a meaningful change to the affordability ratio over the Plan period Lichfields prepared a research paper that informed a joint Examination Statement prepared by Lichfields, Neame Sutton and RPS on behalf of the Waverley Housing Forum (see Appendix 2). Figure 5 in that document confirms that where the current affordability ratio is in excess of 16 a market signals uplift of at least 30% is required.

2.15 It is evident from the ORS report at Paragraph 3.21 that only a 20% uplift was applied in the SHMA. This has however been reduced in the ORS review based on an argument relating to net migration and average household sizes. The argument employed by ORS ignores the purposes of the uplift in the first place, which is to bring the affordability ratio down over time

rather than simply looking to maintain it over the Plan period. The approach of maintaining the same poor affordability ratio is not positive planning as required by the Framework.

- 2.16 As a consequence it is clear that a 20% uplift is insufficient to have a positive effect on the affordability ratio in the District. There is also certainly no evidence to justify a reduction below 20%.
- 2.17 With regard to employment trends it is clear that there is an upward trend in jobs growth also as confirmed by the 2015 Objectively Assessed Economic Need report prepared for the FEMA, which identifies a requirement of 325 – 335 jobs per annum over the plan period (Paragraph 6.8 of the SA refers). As correctly confirmed in the ORS report at Paragraph 1.25 the effect of an upward trend in jobs growth is to require more housing to allow for higher net migration and draw in the additional population. Despite this ORS concludes that there is no need for an upward adjustment to the base projections, which simply cannot be correct where there is a clear requirement for substantial jobs growth over the plan period. This component of the OAN calculation has therefore not been properly considered and the approach currently being taken by the Council is likely to suppress rather than facilitate jobs growth.
- 2.18 The other factor not considered by ORS or the original SHMA is the matter of unmet need arising from London. Given the close geographic relationship between the District and London it is reasonable to expect that some of the unmet need arising from London should be met within the HMA and the District. No allowance at all is made for this in the SHMA or the ORS report of July 2017. The current OAN calculation therefore ignores the effect of unmet need arising from London.
- 2.19 On the 01 December 2017 the Mayor of London published the London Plan for consultation until 02 March 2018. The London Plan sets out an ambitious proposal to deliver some 65,000 dpa over the Plan period. This however falls short of the OAN identified in the SHMA, which sets a minimum requirement of 66,000 dpa. There will therefore undoubtedly be unmet need arising from London and authorities such as Epping Forest that are directly connected to the capital and have a consequent functional link should be expected to help address that need. An uplift to the OAN should therefore be included to respond to this unmet need.

Calculation of OAN:

- 2.20 The SHMA and ORS updates set out an OAN for the HMA of 51,710 dwellings (figure 5 on Page 21 or ORS July 2017 report) with a District requirement of 12,573 dwellings for Epping Forest. This figure is however lower than the starting point of 52,728 dwellings for the HMA and 15,049 for Epping Forest set out in 2014 projections. It is therefore hard to see how this lower figure has been arrived at particularly bearing in mind the need to make an upward adjustment for market signals, responding to employment trends and also addressing unmet need from London.

- 2.21 Notwithstanding this and before setting out Neame Sutton's calculation of OAN it is important to note that the Local Plan seeks to provide 11,400 dwellings i.e some 1,173 dwellings lower than the OAN identified by ORS. This shortfall is also not being met elsewhere in the HMA because the total housing proposed within the MoU is 51,100 dwellings, which is accepted at Paragraph 3.4 of the MoU as not meeting the OAN identified by ORS.
- 2.22 The Local Plan is therefore set up to fail in terms of meeting even the low OAN identified by ORS and the SHMA and the unmet need that arises from this Local Plan strategy is not met elsewhere in the HMA.
- 2.23 Taking the above factors into consideration Neame Sutton considers that the OAN for the District should comprise:

Neame Sutton OAN for Epping Forest District		
	Dwellings	dpa
2014 based projections	15,049	684
Market Signals Uplift of 30%	4,515	205
TOTAL OAN	19,564	889

- 2.24 An additional uplift should also be considered to address unmet need arising from London.
- 2.25 At this point it is useful to compare the above calculation with the emerging standardised methodology published by Government for consultation in September 2017 as part of the Planning for the Right Homes in the Right Places consultation (see extract in Appendix 4).
- 2.26 This document indicates that if the standardised methodology advocated by Government is applied to the Council's OAN calculation an annual average of 923 dpa is generated. This is close to Neame Sutton's calculation particularly if an allowance for unmet need arising from London is to be included. This quantum of growth is also acknowledged by the Council as confirmed in the Foreword to the Local Plan. This refers to a 'risk' of the Council having to accommodate growth of over 20,000 dwellings if it does not get this Local Plan adopted quickly.
- 2.27 A comparison between the OAN identified by ORS, Neame Sutton and, the Local Plan Housing Target is set out below:

Comparison of OAN and Housing Target					
OAN from ORS/SHMA		OAN from Neame Sutton		Local Plan Housing Requirement	
dwellings	dpa	dwellings	dpa	dwellings	dpa
12,573	572	19,564	889	11,400	518

- 2.28 It is clear that the Local Plan is deficient whether measured by its own ORS/SHMA figure or the OAN calculated by Neame Sutton.
- 2.29 The shortfall in the District is not being met elsewhere in the HMA either and in this respect the Council has failed in the Duty to Cooperate. Whilst the MoU indicates a degree of cooperation between the constituent authorities in the HMA it does not satisfy the Duty to Cooperate. In effect the MoU confirms that all of the authorities in the HMA have been complicit in not meeting the OAN identified for the HMA and therefore their respective Local Plans will all fail to comply with the requirements of Paragraph 47 of the Framework and the Duty to Cooperate, which is the base legal requirement if a Local Plan is to proceed to Examination.
- 2.30 On the matter of housing requirement the Local Plan is therefore deficient and the total housing growth planned for should be increased substantially. **The Local Plan therefore fails all of the Soundness tests in this regard and also Legal Compliance in relation to the Duty to Cooperate.**
- 2.31 Because of the flaws in the evidence base underpinning the OAN calculation it is not considered that the Local Plan could be modified easily without the need for substantial work being undertaken. It is therefore considered that the most appropriate course of action for the Council to take is not to submit this Local Plan until the evidence base has been reviewed and an appropriate OAN calculated that can then be tested to set the correct Housing Requirement in the Local Plan. If the Council was to proceed with the submission of this Local Plan it is highly likely to fail at the Examination stage.
- [Spatial Strategy:](#)
- 2.32 The Council sets out its Spatial Strategy in draft Policy SP2. North Weald Bassett is identified as one of the most sustainable locations for growth in the District that is allocated 1,050 dwellings under the terms of the draft Policy. This allocation is the second largest in the District outside of Harlow and is a clear demonstration that the Council regard the settlement as a highly sustainable location for growth.
- 2.33 Catesby is broadly supportive of the Council's spatial strategy insofar as it identifies North Weald Bassett as a sustainable location for growth. However, the Council has failed to take full opportunity of the sustainable development potential of the settlement as explained in Section 4 below.
- 2.34 The failure of the Council to make best use of suitable and sustainable development locations within its spatial strategy is symptomatic of the overall approach set out in the Local Plan that seeks to depress the housing requirement and delivery over the plan period. The Council should therefore revisit its spatial strategy and development options alongside a correct appraisal of its OAN to ensure that all available, suitable and achievable opportunities are

explored to deliver a Local Plan that will significant boost the supply of housing and plan positively for the future of residents in the District.

Housing Land Supply and Trajectory:

- 2.35 The Council's housing land supply and delivery trajectory is set out in Appendix 5 of the Local Plan.
- 2.36 The Council's explanation of its approach is set out on pages 27-30 of the Local Plan and within the Housing Implementation Strategy.
- 2.37 In Catesby's view there are a number of inherent problems with the housing land supply position and consequent trajectory relied upon by the Council in Appendix 5, which are explored below.
- 2.37.1 **Meeting the Shortfall – The Buffer** – The Council suggests that it does not have a record of persistent under delivery such that a 20% buffer should be applied to its housing land supply. Instead the Council applies a 5% buffer to its housing land supply position (Paragraph 2.14 of the Housing Implementation Strategy refers).
- 2.37.2 The Council's justification for applying 5% instead of 20% is that, despite under delivering a total of 1,778 dwellings over the last 6 consecutive years, the Council should not be penalised for failing to have an up-to-date Local Plan and because of the impact of the recession (some 10 years ago) along with the fact that the District is constrained including by Green Belt.
- 2.37.3 In Catesby's view none of these reasons justify the use of a 5% buffer. The effects of the recession were limited in those areas that are directly connected to London, which includes Epping Forest and, in any event the economy has recovered sufficiently for this no longer to have a significant impact on rates of housing delivery. Secondly the Council's failure to bring forward an up-to-date Local Plan is just that, a failure on the part of the Council, not a reason to justify a 5% buffer.
- 2.37.4 6 consecutive years of failure to deliver sufficient numbers of new homes amounts to persistent under delivery and in this respect a 20% buffer should be applied to the Council's figures. Equally the level of undersupply is high and amounts to 3.5 years supply based on the Council's proposed housing requirement of 11,400 dwellings over the Plan period.
- 2.37.5 **Meeting the Shortfall – Liverpool/Sedgefield** – The Council suggests that the Liverpool method for dealing with its shortfall is the correct approach. The reasons given for this are set out at Paragraph 2.11 of the Housing Implementation Strategy. The 3 reasons given by the Council can be summarised as:

- (i) The Council has identified a number of larger allocations that have longer lead in times;
- (ii) The Council must ensure the Local Plan is realistic; and,
- (iii) The Council has sought assistance from neighbouring authorities.

2.37.6 The first point is flawed because the Council accepts that it has a pool of small deliverable sites, indeed Catesby's own site interest at Church Lane, North Weald is one such opportunity that could contribute to meeting the shortfall. The Council has only identified three large scale sites that together amount to 3,900 dwellings or 34% of the total requirement. This leaves delivery of some 7,500 dwellings or 66% from smaller sites.

2.37.7 On the second point it is incumbent on the Council to properly plan for the needs of the District including meeting the real and present need arising from the unmet need in the first 6 years of the Plan period. This is a national policy imperative.

2.37.8 On the final point and given that all of the authorities in the HMA have planned not to meet the OAN for the HMA it is hard to see how neighbouring authorities can help the Council meet its requirement. In any event meeting unmet need and demonstrating a 5-year supply as required by the Framework is an obligation placed on the Council and not a matter that can or should be passed to neighbouring authorities.

2.37.9 In Catesby's view the Sedgefield Method should be applied.

2.37.10 When a 20% buffer and the Sedgefield Method is applied the Council has an immediate 5-year supply shortfall and this will continue across much of the Plan period. This demonstrates that even before an uplift to the OAN is considered the Council must allocate further sites to ensure a consistent supply over the Plan period.

2.37.11 The table attached at Appendix 5 sets out Neame Sutton's calculation of the Council's rolling 5-year supply position using its proposed trajectory and the housing requirement of 11,400 dwellings, applying a 20% buffer and Sedgefield.

2.38 **In this regard the Council's spatial strategy, housing supply and trajectory set out in the Local Plan is flawed and fails all of the relevant soundness tests.** Fundamental changes are required to the approach being taken by the Council even before an uplift to the OAN is applied.

3.0 Sustainability Appraisal

- 3.1 This section sets out specific comments on the Sustainability Appraisal ("SA") prepared to accompany the Local Plan.
- 3.2 This section should be read in conjunction with the representations in Sections 2 and 4 where cross references are also made to the SA.
- 3.3 The SA confirms the various approaches to the assessment of OAN that have taken place in the iterations of the SHMA and ORS reports and helpfully confirms at Paragraph 6.18 that the OAN is not planned to be met within the HMA. This supports Catesby's view that the Council has not properly assessed, considered and, identified the OAN to be addressed through the Local Plan.
- 3.4 The appraisal on Pages 67 and 68 is incorrect. The SA states that the Council has planned to meet the housing requirement. Whilst this is factually correct it is clear from the evidence base that the housing requirement proposed does not meet the OAN identified by the ORS report nor does it deal with unmet need. Furthermore, and for the reasons given in these representations, the OAN is incorrect and as a consequence the Housing Requirement being planned for by the Council is even further from the correct position.
- 3.5 It is therefore difficult to see how the SA conclusions have been reached bearing in mind that the Local Plan does not plan positively to meet the needs of the District over the plan period.
- 3.6 Further detailed comments in specific relation to North Weald Bassett are set out in Section 4 below.

4.0 Site-Specific Representations – Land off Church Lane, North Weald Bassett

4.1 This section of Catesby's representations deals with its site-specific promotion of Land off Church Lane, North Weald Bassett. This section is accompanied by a Vision Framework document (Appendix 1) that sets out the merits of the promotion site including its suitability, achievability and, availability for delivering new housing in the early years of the Plan period.

4.2 As a starting point it is important to highlight that the site was proposed for allocation by the Council (Site Ref: SR-0003) in the 2016 Consultation Draft version of the Local Plan. The proposal for the allocation of the site at that time was supported by a raft of evidence confirming its suitability and sustainability for delivering new housing as an extension to North Weald Bassett.

4.3 At the point of the publication of this Regulation 19 version of the Local Plan the Council removed the proposed allocation. This has been done without warning or indeed without any evidence to support the removal of the site.

Document Missing from Evidence Base:

4.4 Before exploring the evidence base that supports the Local Plan it is important to highlight that the Council has not published a key document that relates to the identification and selection of its proposed housing allocations, namely Appendix B of the Report on Site Selection (December 2017). The omission of this document from the publicly accessible evidence base has been raised by Catesby directly with the Planning Policy Manager [REDACTED]. Despite this and at the time of preparing these representations the missing document has not been provided by the Council.

4.5 Given the importance of this missing document Catesby are strongly of the view that the Council has failed to meet its Legal Compliance requirements under the terms of Regulations 17 and 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. To this end a letter is being prepared by Eversheds Sutherland that specifically addresses the Legal Compliance issues raised by the Council's approach.

4.6 The missing document must be made available for all parties to review, including the Inspector and, in this regard Catesby reserves its right to provide further representations once the document is provided by the Council.

Evidence Available Demonstrates that Land off Church Lane, North Weald Bassett Should be Allocated:

4.7 Having identified that the Council's key evidence document relating to its selection of land allocations is in fact missing from the evidence base the remainder of this section now explores the available evidence, which clearly demonstrates that Land off Church Lane should be allocated.

- 4.7.1 **Sustainability Appraisal** – The SA draws together the Council's evidence and insofar as it relates to the preferred distribution of growth and North Weald Bassett in particular it clearly confirms the following:

'The Community Visioning exercise in 2010/11 made clear that local residents favoured a development pattern which focuses development 'close to public transport links' and 'around or within existing settlements''

Paragraph 5.8 of the SA

- 4.7.2 North Weald Bassett is an established settlement with high quality public transport links and Land off Church Lane is well related to the existing settlement.
- 4.7.3 Turning to the District-wide assessment of reasonable alternatives in 2017 set out at Table 7.1 of the SA North Weald Bassett is not mentioned in any of the alternatives explored. This is because the settlement is taken, by the Council, as a constant in all of the alternatives explored i.e. the Council considers the settlement to be highly sustainable and somewhere that should accommodate growth in all alternatives.
- 4.7.4 This is confirmed in Figures 7 – 9 that show housing development at North Weald Bassett, including Land off Church Lane, as a constant in all alternatives. In other words the Council's evidence supports the delivery of housing and the allocation of Land off Church Lane under any scenario/alternative tested.
- 4.7.5 When considering the distribution of housing at North Weald Bassett itself the table on Pages 136 – 138 of the SA sets out the justification for the Council's preferred scenario of allocations.
- 4.7.6 Of particular importance is the fact that the SA justification relies on two key further pieces of evidence to support the 'preferred allocation approach', namely the Green Belt Review: Part 2 (2016) and the North Weald Bassett Masterplanning Study (September 2014).
- 4.7.7 **Green Belt Review** – This document confirms that the land parcels to the north of the settlement perform moderately in relation to Purpose 2 and as a consequence have capacity to deliver new development. These areas include Land off Church Lane.
- 4.7.8 **North Weald Bassett Masterplanning Study** – This document sets out a series of Scenarios, which are then tested based on a range of housing numbers for the settlement. A key point to highlight is that in every Scenario and across the whole range of housing numbers Land off Church Lane is present as a housing allocation. The Masterplanning Study therefore comprehensively supports the allocation of the site under any scenario and growth option.

- 4.7.9 The Local Plan is based on Scenario B, which as confirmed on Page 136 of the SA provides *'potential to align development with existing physical boundaries (Church Lane, Vicarage Lane and Merlin Way), promoting settlement rounding and limited, small-scale infill along the northern frontage of Vicarage Lane and ensuring the settlement has a logical, clearly defined edge which limits potential visual impacts on the surrounding landscape.'*
- 4.7.10 The masterplanning study confirms the capacity of each land parcel within the various growth options and is therefore unequivocal in its identification of Land off Church Lane and its reliance upon housing delivery from this location under all scenarios.

5.0 Summary and Conclusion

5.1 To conclude on the basis of the available evidence:

- The community consultations confirm that development in sustainable locations that are accessible to high quality public transport and would be adjacent to established settlement boundaries is preferred by residents;
- North Weald Bassett is a highly sustainable location acknowledged as such by the Council in its Spatial Strategy;
- All of the Council's alternatives assessed in the SA include North Weald Bassett as a constant for a substantial housing allocation;
- Land off Church Lane is of moderate to low landscape sensitivity and does not make a significant contribution to the objectives of the Green Belt;
- All of the scenarios and growth options set out in the North Weald Bassett Masterplanning document include Land off Church Lane as a constant for allocation for housing;
- Development on Land off Church Lane is confirmed in the SA as part of the preferred option offering potential to align development with existing physical boundaries and promoting settlement rounding; and,
- The Council is not planning to meet the OAN identified by ORS, let alone the correct OAN identified by Neame Sutton, nor is it dealing with its housing land supply or delivery trajectory correctly and as a consequence it cannot possibly suggest that Land off Church Lane is not required to meet clearly identified needs.

5.2 The Council's evidence base therefore confirms unequivocally that Land off Church Lane, North Weald Bassett (Site Ref: SR-0003) should be allocated for housing. There is no evidence currently available that suggests the previous draft allocation of the site should be removed as has been the case. **The Council's approach in this Local Plan is therefore without foundation and consequently unsound in that it has not been positively prepared, nor supported by evidence, nor effective and it is not consistent with national policy.**

5.3 The draft allocation of the site should therefore be reinstated.