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The logo for Strutt & Parker, featuring the company name in a white serif font on a red rectangular background.

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Dear Sir or Madam

Epping Forest District: Regulation 19 Local Plan Submission Document

I write on behalf of our client, E.W. Davies Farms Ltd. in relation to Epping Forest's consultation on its Regulation 19 Local Plan Submission Version (LPSV) and in respect of land at the Former Haulage Yard, Sewardstone Hall, Sewardstone Road.

Background and overview

The site is identified as site SR-0063 in the Council's plan-making process. A plan showing the site is provided as **Appendix 1** to this representation.

Representations were made by Strutt and Parker on behalf of E.W. Davies Farms Ltd. and in respect of this site on the Draft Local Plan (2016) (DLP), in response to the Regulation 18 consultation on this iteration of the Local Plan in 2016 (a copy of these representations is provided as **Appendix 2**)

The site that is subject of this representation is on the west side of Sewardstone Road. It is a 3.56 ha brownfield site comprising a former haulage yard, hard standings, two existing residential dwellings, fields, protected trees, and access road. It is adjacent to the existing settlement of Sewardstone on land currently allocated as Green Belt.

The site is in proximity to existing residential development, as well as services and facilities, at Sewardstone, Enfield, Enfield Island, and Waltham Forest. It is well-related in respect of the strategic highway network. The site includes a locally Listed house, Sewardstone Hall Farm house.

The site is not subject to any physical constraints that prohibit its development for residential use, and represents a suitable, sustainable site for development. A pre-application proposal is being prepared for submission to the Council for removal of the existing former commercial buildings and one existing dwelling to be replaced by 39 new dwellings and improved setting to Sewardstone Hall house. A parameter plan is included at **Appendix 3**.

In addition to being suitable and sustainable for development, the site is available and achievable. As such, it is very much a deliverable site with the potential to make a contribution to addressing the District's acute housing needs in the short-term.



Notwithstanding the above and the information provided to the Council at the Regulation 18 stage of the Local Plan, the LPSV does not propose allocation of the formal haulage yard, Sewardstone for residential development.

The reasons for the site's rejection have not, at the time of writing been published by the Council: the Epping Forest District Local Plan Site Selection Report (2017) purports to explain why sites have been selected / rejected. However, the version of the report which was available during the consultation period did not include Appendix B – Assessment of Residential Sites. The Epping Forest District Local Plan Site Selection Report (2017) confirms at paragraph 1.2 that the 2016 Site Selection Report has been updated to address representations received and that the most appropriate sites have been included as proposed sites. Further, para. 1.2 continues that the detailed write-up of this work was not complete in time for the publication of the report; and that a final, updated version of the Report on Site Selection will be published once these appendices has been completed. Without sight of the assessments, it is not clear that the updating (which is anticipated to be quite extensive for certain sites) has been undertaken prior to the selection and rejection of sites, or that the updates are accurate.

The reasons for this site's rejection are not set out in the Strategic Environmental Assessment / Sustainability Appraisal which has been published alongside the LPSV. The Sustainability Appraisal (incorporating Equalities Impact Assessment) for the Epping Forest District Local Plan (December 2017) appears to be the Environmental Report for the purposes of Strategic Environmental Assessment. However, this report does not explain why site SR-0063 has been rejected.

We have significant concerns as to how land at Sewardstone Hall has been considered by the Council through the Local Plan process – issues which give rise to the Local Plan's soundness and legal compliance, as set out within this representation.

Sustainability Appraisal / Strategic Environmental Assessment / (SA/SEA) and Evidence Base

The Environmental Assessment of Plans and Programmes Regulations (2004) requires SA/SEAs to *inter alia* set out the reasons for the selection of preferred alternatives, and the rejection of others, be made set out.

In addition, the Planning Practice Guidance makes clear (paragraph: 038 Reference ID: 11-038-20150209) that the strategic environmental assessment should outline the reasons the alternatives were selected, the reasons the rejected options were not taken forward and the reasons for selecting the preferred approach in light of the alternatives.

However, despite the above, the SA/SEA published alongside the LPSV (Sustainability Appraisal (incorporating Equalities Impact Assessment) for the Epping Forest District Local Plan (December 2017)) does not explain why site SR-0121 has been rejected.

The SA/SEA explains the site selection process, but not the results of this. The SA/SEA makes a number of references to the Site Selection Report (a separate document to the SA/SEA). For example, at paragraph 7.17, in text explaining the site selection methodology it states:

*"However, site assessments for Tranche 1 sites were reviewed against the comments raised in site promoter's representations to the Draft Local Plan consultation. The Report on Site Selection 37 **will** include a table that identifies those sites for which representations from site promoters were made and where a change was made to the assessment in response to the representation"* [emphasis added].

Footnote 37 cited above refers to the Epping Forest District Council (2017) Report on Site Selection. Prepared by ARUP, and invites the reader to access this information via <http://www.efdclocalplan.org/technical-information/>.

Within the introductory text of the Report on Site Selection (2017) referenced by the SA/SEA it is explained, at paragraph 1.2, that the report is incomplete:

“The detailed write-up of the site selection work undertaken in 2017 will be documented in the appendices to this Report. With the exception of Appendices A and D, the remaining appendices were still being finalised at the time of publication. A final, updated version of the Report on Site Selection will be published once the detailed write-up has been completed.”

Missing appendices to the Report on Site Selection (2017) include Appendix B – Assessment of Residential Sites and Appendix C, Settlement Proformas, which is expected to contain the Settlement Visions amongst other information.

As such, not only does the SA/SEA fail to explain the reasons for the rejection of sites, but the entirely separate document – the Report on Site Selection (2017) – it references in discussions in respect of the approach taken also fails to explain the reasons for the rejection of SR-0063.

Without Appendix B, we consider this represents a substantial flaw in the Local Plan as currently proposed to be submitted, and one which potentially means that the Local Plan currently fails to comply with the Environmental Assessment of Plans and Programmes Regulations (2004) in its rejection of site SR-0063.

As established through *Cogent Land LLP v Rochford District Council* [2012], defects in the SA/SEA can be cured – it is still possible for a sound and legally compliant Local Plan to be produced. We would urge the Council to revisit its approach to the consideration of site SR-0063 to ensure that such defects are cured.

Policy SP2 – total number of new homes proposed

Policy SP2 proposes a total of 11,400 dwellings be provided in the District between 2011 and 2033.

The figure calculated as being Epping Forest District’s objectively assessed housing need has fluctuated in recent years. The West Essex and East Hertfordshire Strategic Housing Market Assessment (SHMA, 2015) identified a need for the housing market area (East Herts, Epping Forest, Harlow and Uttlesford) of 46,100 dwellings between 2011 and 2033, of which 11,400 are for Epping District specifically (equating to 514 dwellings per year). August 2016 Opinion Research Services (ORS) updated the overall housing need to take into account more recent information, including more up-to-date household projections, and identified a revised objectively assessed housing need for the housing market area of 54,608 between 2011 and 2033. The update goes on to state that the objectively assessed housing need for Epping Forest District is 13,278 dwellings in Epping Forest (equating to 604 dwellings per year). Subsequently, a further update was produced in 2017. As reported within the LPSV itself (paragraph 2.43), this latest update identified a housing need of 51,700 new homes over the period 2011-2033 for the housing market area; of which 12,573 are need in Epping Forest.

The justification for proposing to fail to meet objectively assessed housing needs in full appears to be that the lower figure of 11,400 dwellings for Epping Forest was set out in a Memorandum of Understanding (MoU), agreed by the authorities within the housing market area.

The MoU was agreed in March 2017 and predates the latest assessment of housing need (July 2017).

The MoU proposes a total of 51,100 homes be provided across the housing market area as a whole for 2011-2033. However, the latest July 2017 assessment of need suggests the total need for this area is 51,700 homes. As such, it is not the case that an element of Epping Forest's proposed unmet need will be met elsewhere within the housing market area, and the total housing need met for the housing market area.

The Local Plan as currently proposed does not meet development needs in full, nor is the unmet need met elsewhere within the housing market area. It is therefore contrary to national policy and cannot be considered positively prepared as per the definition at paragraph 182 of the NPPF. As such, the Local Plan in its current form is unsound.

There is a potential remedy to address this defect: the allocation of additional deliverable site for housing to ensure that – as minimum – development needs will be met.

The LPSV refers, at paragraph 2.54, to the figure of 51,100 net new homes for the housing market area as being agreed by the Co-operation for Sustainable Development Board because it was *"the most sustainable choice for the HMA in light of the evidence available"*.

The provision of 51,100 homes for the period 2011-2033 for the housing market area was considered through the Sustainability Appraisal of Strategic Spatial Options for the West Essex and East Hertfordshire Housing Market Area (SA of SSO) (September 2016).

Firstly, it should be noted that this pre-dates the latest assessment of housing needs.

Furthermore, and in any case, it is considered that the SA of SSO does not robustly support the view that the housing market area cannot accommodate more than 51,100 homes. For example, at page 34 it states:

*"With respect to the overall quantum of c. 51,100 new homes, this reflects the furthest **the authorities consider** that they can reasonably go in delivering the **most recent advice from ORS** regarding housing need, i.e. 54,608 homes to 2033, in light of the available evidence. Critically, the figure of c. 51,100 significantly exceeds the formal OAHN of 46,100 established through the SHMA and represents strong progress towards the revised figure. The critical issue in determining the overall quantum is the level of development that can be accommodated **in and around Harlow** on **suitable** sites during the plan period."* (Emphasis added).

From the above, in addition to the provision of the most recent assessment of objectively assessed housing need not having been appraised, it is also apparent that the view of a ceiling of the number of homes that could be provided is based on the perception of the authorities.

There has also been a focus on the capacity for Harlow to accommodate growth to determine overall housing number, overlooking the multiple other settlements in the housing market area.

Furthermore, the identified quantum appears to be based on suitable site in and around Harlow (again overlooking other settlements) which results in a figure that could not have accounted for additional sites submitted for consideration since 2016; or sites initially identified as unsuitable but which information submitted through consultation confirmed the deliverability of.

In addition to concerns that the objectively assessed need is not proposed to be met through the LPSV, it is unclear if, in determining the housing figure the Local Plan will seek to provide, the Local Plan has considered the feasibility of 1) an uplift to help improve affordability of housing in the District (as per PPG 020 Reference ID: 2a-020-20140306) and para.9 of the NPPF); and / or 2) whether the total quantum of housing proposed will engender the delivery of affordable housing needs.

Policy SP2 – ability for Local Plan to respond to rapid change

As noted elsewhere within this representation, SP2 proposes to deliver fewer homes than have been identified in recent assessment work as being needed in the District.

In addition to requiring the Local Plan to meet objectively assessed housing needs in full, the NPPF requires (paragraph 14) the Local Plan to meet needs with sufficient flexibility to respond to rapid change.

One such change that the Local Plan can and should anticipate is the impending increase in the District's objectively assessed housing need.

The Government published proposals to reform the planning system to increase the supply of new homes and increase local authority capacity to manage growth within 'Planning for the right homes in the right places' in September 2017. This includes proposals to introduce a standard methodology for calculating housing need. The consultation document makes very clear that the Government will be introducing a standardised methodology for Local Authorities to use to calculate their housing needs. It is noted that using this standardised methodology, Epping Forest District's housing need is 923 dwellings per annum. A substantially greater number than the 514 dwellings per annum the LPSV currently proposes.

The Council are clearly aware of the impending increase in objectively assessed housing need, and the change this would necessitate in respect of their Local Plan. We note that in the foreword of the plan it states:

"We are on schedule to deliver the Plan to the Inspectorate before the end of March 2018 deadline... To fail to do this would expose us all to the risk of the housing requirement rising from 11,400 to over 20,000 homes by 2033."

In addition, the Officer's Report to Council on 14 December 2017 at which the LPSV was agreed suggested to Members that there were one of two options available to them: agree the LPSV; or delay the Local Plan and accept a new housing target of 923 homes per annum.

It is pertinent to note that Epping Forest District is predominantly Green Belt. In the event that a Local Plan were to be adopted allocating land which left a substantial unmet, development need, having regard to the NPPF (which makes clear that for the purposes of applying the presumption in favour of sustainable development, development of the Green Belt is a specific policy which indicates development should be restricted (paragraph 14); and that Green Belt should only be altered through a Local Plan (paragraph 83)) there is little realistic prospect that the unmet need could be met through reliance on the presumption in favour of sustainable development. Even if it such an approach could potentially meet the unmet demand, it would clearly not be effective or consistent with national policy.

Paragraph 85 of the NPPF sets out the criteria Local Planning Authorities should meet when defining Green Belt boundaries. One criterion is that Local Planning Authorities should satisfy themselves that the Green Belt boundary will need to be altered at the end of the Plan. In the case of the LPSV, it is clear that the Green Belt boundary will required to be altered significantly before 2033 and the end of the plan period. Furthermore, the Council are clearly aware that this is the case.

Having regard to the above, the above, the LPSV in its current form is not sound. However, this defect could be addressed through the allocation of additional land for housing to account for the – likely – event of a significant increase in housing need. One possible solution, which could account for circumstances in which housing need were not to exceed what the current LPSV proposes to provide, would be to safeguard additional sites such that they remained part of the Green Belt unless shown to be required to meet need.

Policy SP2 – accompanying housing trajectory

The housing trajectory which the LPSV and policy SP2 is projected to deliver is set out within Appendix 5 of the LPSV.

There are two potential approaches to address shortfall in housing land supply. The first, the 'Liverpool approach' is where the shortfall is spread across the remaining Plan period and is sought to be met over this period. The alternative, the 'Sedgefield approach', seeks to make up the shortfall within the five-year period.

The PPG is clear that the Sedgefield approach should be applied where possible, stating:

"Local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible. Where this cannot be met in the first 5 years, local planning authorities will need to work with neighbouring authorities under the 'Duty to cooperate". (PPG, Paragraph: 035 Reference ID: 3-035-20140306).

The Sedgefield approach is also clearly more closely aligned with the requirements of the NPPF and the need to boost significantly the supply of housing and address under delivery.

Nevertheless, housing trajectory in Appendix 5 confirms that the LPSV is proposes to adopt the Liverpool method to addressing backlog, i.e. by seeking to make up existing shortfall over the entirety of the plan period.

It is considered that such an approach is contrary to national policy; and justification for adoption of this method has not been justified.

Furthermore, we are concerned that the trajectory is somewhat optimistic and that the five-year requirement will not be delivered.

The trajectory in Appendix 5 shows delivery of Local Plan allocation sites from 2018/19. The Local Plan is not scheduled to be adopted until after this year, in May 2019.

Even for sites that are projected to be delivered in the years after 2018/19, the majority of these are large sites which are likely to seek to acquire outline planning permission. Prior to commencement of development it would still be necessary for the prospective developer to secure approval of reserved matters, discharge conditions, meet S106 obligations, and agree S278 requirements. Of course, commencement of development does not immediately result in completions, and time should be factored in for this also.

Having regard to the above, there are significant concerns that the LPSV in its current form fails to address housing need in the short-term. A potential solution to this is the allocation of additional, smaller sites which can be delivered relatively quickly.

Policy E 1 Employment Sites

Chapter 2 sets out the need for additional employment and to meet the need to generate 7900 during the period of 2016-2033. This is broken down to employment land comprising 2-5 ha of land for offices and 14ha of land for new industrial sites. At Policy E 1, in Chapter 3, the sites allocated are identified and the total area included is for 23 ha. This exceeds the stated requirement and further evidences the lack of need to retain unsuitable existing sites, such as the Former Haulage Yard at Sewardstone Hall. The site can make a more valuable contribution to sustainable development in terms of housing and open space.

No evidence has been found of the need for contributions towards 'local employment training and small business growth programmes supported by the Council' either in the 'Employment Review' (December 2017) or 'West Essex and East Hertfordshire Assessment of Employment Needs' (October 2017). This requirement is unjustified for inclusion within the policy.

Comments on the Site

Rejection of site SR-0063 and its justification

In order to be sound, the Local Plan is required to *inter alia* be justified. The NPPF confirms at paragraph 182 that this means the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence. Furthermore, it states at paragraph 162 that that a sustainability appraisal which meets the requirements of the European Directive on strategic environmental assessment should be an integral part of the plan preparation process (paragraph 165).

As such, it is clear that the decision to reject allocation of site SR-0063 is required to be justified, and should be informed by the findings of the SA/SEA that accompanies the LPSV.

As set out elsewhere within our representations, we have concerns that the SA/SEA which accompanies the LPSV does not, in its current form, meet the requirements of the Environmental Assessment of Plans and Programmes Regulations (2004).

There is nothing within the SA/SEA which purports to justify the rejection of site SR-0063. Furthermore, no evidence is published alongside the LPSV that suggests the site's rejection is justified.

The absence of Appendix B of the Report on Site Selection (2017) during the consultation is of course a fundamental concern, but especially so in the case of SR-0063 given that there were a number of errors in how the site was appraised through the site assessment process which underpinned the DLP (2016).

We reserve the right to make further representations on the Report on Site Selection (2017) once it has been completed, particularly in respect of Appendix B - Assessment of Residential Sites as – presumably – this will seek to explain the justification for the rejection of the site.

This is particularly the case in relation to the former haulage yard, Sewardstone, given that it represents one of the view brownfield sites available for development within the District. The appeal decision on the site, was clear that the reasons for refusal did not relate to matters related to the principle of development per se, but the need to reduce the number of dwellings given the Green Belt location of the site. The applicants have now reduced the number of dwellings on the site, to address the planning inspector's reasons for not allowing the appeal. Allocation of this site, would reduce pressure on the Council to release Green Belt land that has not been previously developed for development. The number of units proposed (39) is consistent with the size of the settlement.

Conclusions

The plan in its current form is not justified, effective or in accordance with national policy and has not been positively prepared. It is unclear why the Former Haulage Yard, Sewardstone, has not been allocated for development. Allocation of this brownfield site, would be sound in planning terms and would assist in protection of undeveloped Green Belt land, which is fully compatible with the NPPF, which seeks to encourage the re- use of brownfield land.

If you have any queries in relation to the above, please do not hesitate to contact me.



Yours sincerely

David Fletcher
Associate Partner
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Enc.

Location Plan
Previous Reg 18 Rep
Indicative Parameter Plan