

Local Plan Regulation 19 Representation
Planning Policy Team
Epping Forest District Council
Civic Offices
323 High Street
Epping
Essex CM16 4BZ

Date: 29 January 2018

Your ref:

Our ref: ANDREWST

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By E-Mail (LDFconsult@eppingforestdc.gov.uk)

Dear Sirs

**SUBMISSION VERSION OF THE EPPING FOREST DISTRICT LOCAL PLAN 2011 - 2033
(REGULATION 19 PUBLICATION)**

We have recently been instructed by Catesby Estates, St. Congar Provincial, M. Scott Properties, Redrow Homes, Croudace Homes, Pigeon Investment Management Ltd and Wates Developments Limited in connection with the Regulation 19 publication of the Submission Version of the Epping Forest District Local Plan 2011-2033.

We enclose a completed representation form which provides our details and confirms of our intention to take part in any relevant hearing at the Local Plan examination. We have indicated in the submitted form that we consider that the submission version of the Local Plan is neither legally compliant nor sound and these concerns relate to all of the allocation policies contained in the draft Local Plan.

We are concerned that the Regulation 19 publication of the Local Plan has been undermined and is fundamentally flawed due to the failure of the District Council to provide the following documentation both in preparation for and during the consultation relating to the Regulation 19 submission:-

- EB 204 Sustainability Appraisal 2017;
- EB401 A and EB401B – 2x Gypsy and Traveller Assessments and Modelling Reports 2017;
- EB501 – Baseline analysis of highway conditions 2013;
- EB707 – Essex BAP 2011; and
- EB802B – Site Selection Report (notably Appendix B).

The absence of this important and critical information ensured that the elected members of the District Council had no available information to inform or corroborate the site selection and proposed allocation process identified by officers and which was self-evidently necessary for Councillors to make any rational and reasonable assessment that the Submission Version of the Epping Forest District Local Plan is based upon a reliable and appropriate evidence base. That is, specifically, a sustainability appraisal that meets legal requirements. The Directive and case law clearly establish the importance of an assessment of reasonable alternatives and the reasons why alternatives were rejected. This is a significant error which could well infect the remaining process and vitiate the decision ultimately to adopt the plan.

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It is also the case that the general public, statutory consultees, neighbouring local authorities and our clients have been unable to identify the justification and rationale that has determined the site allocation strategy identified by the District Council. This significant deficiency has, in the case of our clients, made it impossible to make informed and reliable representations in response to the recent consultation process.

Planning Policy Guidance (Paragraph: 003 Reference ID: 12-003-20140306) makes clear that Councils have a duty in preparing Local Plans to consult effectively in the development and formulation of a development strategy for their relevant administrative area:-

"Local planning authorities develop a Local Plan by assessing the future needs and opportunities of their area, developing options for addressing these and then identifying a preferred approach. This involves gathering evidence, carrying out a Sustainability Appraisal to inform the preparation of the Local Plan and effective discussion and consultation with local communities, businesses and other interested parties."

The identified failings of the recent consultation process ensure that this policy requirement has not been met and, in our submission, this deficiency means that the prospective Local Plan will be based upon a legal error which is likely to ultimately ensure that the policy document is found unsound or the decision to adopt it, vitiated.

We have, as a consequence, concluded that this failure of process necessitates that the District Council undertake a re-consultation of the Submission Version of the District Local Plan. These arrangements would then provide the opportunity for Councillors to review and consider the above information prior to publication of the Regulation 19 version of the draft Local Plan and for the same information to then be made available to the public to scrutinise and consider in preparation of any representations.

We would respectfully suggest that in the absence of these arrangements it will be incumbent upon the Local Plan Inspector to either direct that this exercise should be undertaken pre-Examination to ensure that the Local Plan is sound or the appointed Inspector will have to substantially extend the Examination process to ensure that this flawed consultation exercise is rectified to allow those that objected to the Submission Version of the Local Plan to have a fair hearing. We would, in this context, confirm our intention to attend the relevant Examination hearings to ensure that this requirement is met in respect of our clients residential land interests.

We would be grateful for written acknowledgement of receipt of these representations.

Yours faithfully

Eversheds Sutherland (International) LLP

Eversheds Sutherland (International) LLP

cc: Colleen O.Boyle – Solicitor to the Council, Epping Forest District Council, Civic Offices, High Street, Epping, Essex CM16 4BZ