

**Supplementary Representations on Epping
Forest District Local Plan Submission
Document (Regulation 19)
Response to additional Site Assessment
work**

On behalf of City & Country

Land at Lower Sheering

April 2018



1. Background

- 1.1 These representations are made in response to Epping Forest District Council's (EFDC) invitation, undated but received via email on 26 March 2018, to supplement the representations that were made in response to consultation on the Epping Forest Local Plan Submission Version (2017) (Regulation 19) (LPSV) by Strutt & Parker, on behalf of City & Country, and in respect of land at Lower Sheering (site reference SR-0121 in the plan-making process).
- 1.2 The invitation to supplement representations follows the publication of Appendices B and C to the Site Selection Report 2017.
- 1.3 These appendices include an assessment of the deliverability (suitability, achievability and availability) of potential sites for residential development; and provide the Council's justification for the rejection or selection of sites for allocation in the LPSV.
- 1.4 In addition, it should be recognised that the Sustainability Appraisal / Strategic Environmental Assessment (SA/SEA) published alongside the LPSV makes references to the Site Selection Report, in respect of the approach taken to selecting sites for residential allocation. As such, the Site Selection Report – including key appendices in which the justification for the rejection / selection of sites is set out and confirmed – is critical to the issue of the Local Plan's soundness and its legal compliance.
- 1.5 On 14 December 2017, EFDC agreed the publication of the LPSV for a six-week consultation period, followed by submission of the Local Plan to the Secretary of State.
- 1.6 Accordingly, the LPSV was published for pre-submission consultation for six-weeks over the 2017 Christmas period, with consultation closing on 29 January 2018. However, it has yet to be submitted.
- 1.7 Representations were made to this consultation on behalf of City & Country by Strutt & Parker in respect of site SR-0121 – land at Lower Sheering. These supplementary representations should be read in conjuncture with the representations originally made in January 2018 in response to the Regulation 19 consultation. These representations focus solely on the Site Selection Report 2017, the publication of additional appendices to this since the close of the pre-submission consultation, and the relevance of this to the soundness / legal compliance of the Local Plan in respect of land at Lower Sheering.

2. Site Selection Report and Site SR-0121 (Land at Lower Sheering)

- 2.1. Two iterations of the Site Selection Report have been published as part of the Local Plan evidence base: Site Selection Report 2016 and Site Selection Report 2017.
- 2.2. The Site Selection Report 2016 was published alongside the Regulation 18 consultation iteration of the Local Plan – the Draft Local Plan 2016 (DLP, 2016). The Site Selection Report 2016 had a key role in determining which sites were proposed for allocation in the DLP and which sites were rejected. It included the Council’s justification for the selection and rejection of sites in the DLP.
- 2.3. The DLP 2016, together with its accompanying evidence base (including Site Selection Report 2016), was published for public consultation between 31 October and 12 December 2016.
- 2.4. The DLP did not propose land at Lower Sheering (site SR-0121) be allocated for residential development, in response to the findings of the Site Selection Report 2016. The site was found to be deliverable for 2 dwellings, but rejected nevertheless. The Site Selection Report 2016 confirmed that the site was rejected on the following grounds:

“Although this site is identified as available for development during the Plan period, the indicative capacity assessment suggests that it would not support the minimum 6 units necessary for allocation. It should not be allocated.”

- 2.5. Representations were made on the DLP by Strutt and Parker, on behalf of City & Country and in respect of site SR-0121. Such representations included identification of where factual errors had been made in the assessment of site, as well as questioning some of the more subjective and qualitative assessment findings. A copy of the representations submitted to the DLP in 2016 is provided as **Appendix 2** to this representation, for completeness. Issues raised in respect of the Site Selection Report 2016 and its assessment of SR-0121 can be summarised as follows:

- Site SR-0121 is closer to local amenities than reported in the site assessment.
- Site SR-0121 is closer to the nearest bus stop than reported in the site assessment.
- Site SR-0121 is closer to infant / primary schools than reported in the site assessment.
- Site SR-0121 is closer to a secondary than reported in the site assessment.

- Site SR-0121 is closer to a GP surgery than reported in the site assessment.
- Site SR-0121 should be scored more positively than the site assessment suggests in respect of its proximity to a railway station, as it is approximately 100m from Sawbridgeworth Railway Station.
- Site SR-0121 should be scored less negatively than the site assessment suggest in respect of impact on agricultural land, as the site is Grade 2/3 and is not viable for agricultural use due to its size.
- The site does not contribute to the purposes of including land in the Green Belt, as set out within the NPPF. The site assessment should reflect this.
- If the site could only accommodate 2 dwellings, this would not constitute a reason for its rejection; and in any case...
- ...the site can accommodate more than 6 dwellings. The reason given for the site assessment identifying a capacity of 2 dwellings in the Site Selection Report 2016 was the extent to which the site was designated as a BAP Habitat. However, a site-specific Preliminary Ecological Appraisal was undertaken and submitted alongside representation to the DLP 2016 which confirmed that only 10% (0.05 ha) of the site meets the criteria for UK BAP Habitat. Accounting for this, the site has a capacity for 6-10 dwellings. An indicative layout was prepared and submitted demonstrating how 7 dwellings could be suitably accommodated on the site.

2.6. The subsequent iteration of the Site Selection Report should have addressed the above points by correcting factual inaccuracies and responding to other issues raised (either by updating the assessment to reflect evidence provided, or by provided robust reasons as to why the changes should not be made). However, and despite the assertion within Appendix B.1.2.3 that the assessment has been updated to reflect comments submitted, this does not appear to have been the case.

2.7. On review of the appendices to Site Selection Report 2017, a number of the errors made in the 2016 persist; and a number of suggested changes have not been made, nor has the suggestion they should be made been refuted.

2.8. In respect of the State 2 assessment of site SR-0121, the only score that has been changed between the 2016 and 2017 iterations of the Site Selection Report at Appendix B1.4.2 is in respect of criterion 3.7 – distance of nearest GP surgery. This has been amended to state that the site is between 1,000m and 4,000m from the nearest GP surgery (as opposed to over

4,000m) and as such the impact revised from negative to neutral. The site is in fact, as per representation made on the DLP, just under 1km from the nearest GP surgery (Central Surgery). This is very much materially closer than a hypothetical site that may, for example, be 4km from its nearest GP surgery. The site assessment score should reflect this.

2.9. In terms of the other issues raised, none of the criteria have been corrected in Stage 2 of the Site Assessment 2017. If they had been, the site would score considerably more positively. The below table suggests the changes to the score that should have been made in response to the representations on the DLP:

Criteria	Current score (2017)	Suggested score	Justification
2.1 Level of harm to Green Belt	--	0	As set out within representations on the DLP, the site does not make a contribution to the purposes of including land in the Green Belt. Its loss could not set to have a negative impact on the strategic functions of the Green Belt.
3.2 Distance to nearest bus stop	-	+	Site is less than 100m from the nearest bus stop.
3.4 Distance to local amenities	0	+	Site is less than 800 metres from the main focus of retail uses and services on Bell Street, Sawbridgeworth.
3.5 Distance to nearest infant/primary school	0	+	Site is less than 1000m from Reedings Junior School and Fawbert & Barnard Infants School.
3.6 Distance to nearest secondary school	-	+ / 0	Site is approximately 1km from the nearest secondary school (Leventhorpe Academy).

3.7 Distance to nearest GP surgery	0	+	Site is less than 1km from Central Surgery in Sawbridgeworth.
4.2 Impact on agricultural land	--	0	Site is a relatively small parcel of land currently enclosed by existing development / highways. It is not used as agricultural land, and is considered that it would be in no way viable for the site to be put to such a use. Development of the site would not result in the loss of agricultural land.

2.10. In addition to the above, it is considered that whilst the assessment of the SR-0121 in respect of proximity to nearest rail / tube station is technically correct having regard to the site assessment methodology, the site assessment would be more effective if it were to acknowledge the particularly positive impacts of the site being in such close proximity to Sawbridgeworth Railway Station.

2.11. Having regard to the above it is clear that site SR-0121 should have been scored considered more positively than it did through the Site Selection Report 2017 at Stage 2.

2.12. At Stage 3 / 4 of the Site Selection Report 2017, it is stated that the BAP habit covers almost the entire site and, as such, the indicative net site capacity is 0 dwellings. This differs from the 2016 Site Assessment Report, in which the same issue is identified but it was found that this should reduce the capacity to 2 dwellings.

2.13. The findings of the Stage 3 / 4 Site Selection Report 2017 in respect of SR-0121 also completely ignore the evidence provided to the Council in response to consultation on the DLP in 2016, through which an Preliminary Ecological Appraisal was submitted confirming that only 10% of the site merited designation as BAP Habitat, and that the site could accommodate 6-10 dwellings. Nothing to challenge / contradict the evidence that was submitted in 2016 has been provided by the Council. There is no evidence of site-specific assessment work considering this issue which may have contradicted the findings of the Preliminary Ecological

Assessment for the findings. Rather, the evidence submitted through the formal consultation appears to have been simply overlooked.

- 2.14. Site SR-0121 is significantly more suitable for residential development than the assessment within the Site Selection Report 2017 would indicate.
- 2.15. The Site Selection Report 2017 includes EFDC's justification for the rejection / selection of sites. The Site Selection Report 2017's role in this respect is particularly important in this respect, as the reasons for sites' rejection / selection is not set out within the accompanying SA/SEA. Rather, the SA/SEA includes references to the Site Selection Report 2017.
- 2.16. The justification for the rejection of site SR-0121 is set out in Appendix B1.6.6 of the Site Assessment Report 2017, under the heading 'Allocation Justification' where it states:

"Although this site was identified as available for development during the Plan period, the indicative capacity assessment suggests that it would not support the minimum six units necessary for allocation. It is not proposed for allocation."
- 2.17. The supporting text within the same appendix for this site states:

"No on-site restrictions or constraints were identified and it was considered that identified deficiencies in primary and secondary school places or GP surgeries would not be an insurmountable constraint that would adversely affect the achievability of the site; consideration of infrastructure requirements has been dealt with through the Infrastructure Delivery Plan (2017)."
- 2.18. In short, the conclusion of the Site Selection Report explains that the rejection of site SR-0121 is not due to any concerns in respect of suitability, achievability, or availability. Rather, the reason for its rejection is that the site cannot accommodate what is deemed to be the minimum number of dwellings: 6.
- 2.19. The reason given for rejecting the site is not considered robust, and does not provide justification for the rejection of the site in the Local Plan.
- 2.20. Firstly, as per evidence that was provided to the Council in response to consultation at the Regulation 18 stage, the site is capable of accommodating more than 6 dwellings without undue ecological impact.

- 2.21. Secondly, even if the site were not capable of suitably accommodating 6 dwellings, this would not constitute a legitimate reason for its rejection. Clearly, small sites are capable of making a contribution to meeting housing need in the District. As we noted in our response to consultation on the DLP 2016, small sites are also often those that can be delivered relatively quickly as they are not required to be accompanied by major infrastructure improvements. Indeed, since we cited this point in our consultation response, the Government has made clear the important role smaller developments can have to meeting housing need: the draft Revised NPPF (2018) (paragraph 69) promotes the allocation and development of smaller sites, and proposes a requirement for at least 20% of sites identified for housing in Local Plans to measure less than 0.5 ha. There is nothing to support the rejection of a possible allocation simply by virtue of it being considered incapable of accommodating a certain number of dwellings. Whilst the NPPG suggests that housing and economic land availability assessments should consider *all* sites capable of delivering 5 or more dwellings¹, firstly this does not preclude assessment of smaller sites (particularly if the Council is made aware of such sites). Secondly, this guidance pertains to the preparation of an evidence base document, not to the allocation of sites per se. The function of the evidence base is not the same as the Local Plan, as confirmed within the NPPG.²
- 2.22. As, again, raised through consultation on the DLP (2016), the exclusion of the site from consideration for residential development on the basis of its potential yield is particularly disconcerting given that the site is within the Green Belt. The NPPF is clear that alterations to Green Belt boundaries should be made through the Local Plan process, and that residential development within the Green Belt is inappropriate. Consequently, the only feasible way in which a current Green Belt site could be brought forward for development would be through a review of the Green Belt as part of a Local Plan.
- 2.23. As was also set out within our representations on the DLP 2016 consultation, the arbitrary exclusion of site SR-0121 not only raises concerns in respect of the soundness of the Local Plan, but also concerns in respect of legal compliance – the premature rejection of sites from the process without robust justification is not considered compatible with the Environmental Assessment of Plans and Programmes Regulations (2004) requirement that all reasonable alternatives to be assessed to the same level of detail as the preferred approach.

¹ Paragraph: 010 Reference ID: 3-010-20140306

² Paragraph: 003 Reference ID: 3-003-20140306

2.24. The Site Selection Report 2017's rejection of the site – even based on an assessment which is unduly negative – is still unjustified. Once the assessment is updated to account for the above, evidence submitted through previous consultation, the site is clearly even more suitable and the rejection still unjustified. Once the site is reconsidered on this basis, it is clear that it merits allocation for development through the Local Plan.

3. The Site Selection Report and decision-making in respect of the Local Plan

- 3.1. EFDC's Local Plan was approved for public consultation and subsequent submission to the Secretary of State at an Extraordinary Meeting of Council on 14 December 2017.
- 3.2. The precise date of the finalisation and publication of the complete Site Assessment Report (including appendices) is not known, but what is clear is that it was not available at the time this decision was taken, nor at any point during the Regulation 19 consultation (18 December 2017 – 29 January 2018). It is notable that there are a number of plans within the Site Assessment Report Appendix B which are dated March 2018. The first we were made aware of the publication of the Site Assessment Report in full was via email from EFDC dated 26 March 2018.
- 3.3. The Site Selection Report clearly plays an important role in the plan-making process, specifically in respect of decisions as to whether to allocate or to reject potential sites for allocation for development. The importance of the Site Selection Report to the Local Plan process becomes acutely apparent upon review of Appendix B, which comprises a series of documents which assess the suitability, availability and achievability of sites through an iterative process through which sites which fail to meet certain criteria are rejected, whereas others are ultimately progressed and – subject to the findings of the Site Selection Report – may ultimately be proposed for allocation in the Local Plan.
- 3.4. In addition, it is noted that Appendix B seeks to fulfil the role of explaining the justification as to why certain sites are rejected and others are proposed for allocation. Not only does this form an important element of seeking to demonstrate the soundness of the Local Plan, it is particularly pertinent given that the SA/SEA published alongside did not, unlike many SA/SEAs at this juncture, include a detailed comparative assessment of potential sites, nor did it set out the justification for the selection or rejection of sites.
- 3.5. We note that the Site Selection Report 2017 has now been published in full. However, it postdates the Council's decision to agree a version of the Local Plan to be submitted. Decision-makers would have had the Site Selection Report 2016 and the detailed assessment of sites undertaken for this available to them. However, whilst the 2017 update has failed to address all of the issues with the previous iteration, it nevertheless does include a number of material changes. For example, in respect of SR-0121, the Site Selection Report 2016 assessed

the site as having a negative impact in relation to proximity to a GP surgery. The Site Selection Report 2017 has amended this to a neutral impact. However, there is no evidence that decision-makers were aware of this update.

- 3.6. We are of the view that the above issues can be addressed, and a sound and legally compliant Local Plan for Epping Forest District can still be prepared. However, we would urge the Council to seek to take action to resolve the above. This may require, for example, the LPSV to be reconsidered by decision-makers in light of the information now available to Members in the complete Site Selection Report 2017.

4. Overview

- 4.1. The Site Selection Report 2017 has failed to respond to evidence submitted as part of the land at Lower Sheering (SR-0121), resulting in its assessment of the site's suitability, availability and achievability being unduly negative.
- 4.2. Even considering the site based on the unduly negative assessment of its suitability, availability and achievability, the Site Selection Report 2017 provided no robust justification for rejecting the site for allocation.
- 4.3. Appendix B to the Site Selection Report 2017 confirms site SR-0121's rejection for residential allocation through the Local Plan is unjustified, rendering the Local Plan as currently drafted unsound.
- 4.4. The Local Plan can be made sound. This will require updates to the evidence base to account for evidence previously provided in respect of site SR-0121, and the proper reconsideration of this in respect of the Local Plan.
- 4.5. Site SR-0121 is suitable, available and achievable for residential development. It represents a sustainable and deliverable site to help meet the District's housing needs. Accordingly, the Local Plan should include allocation of the site for residential development.