

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

On behalf of Croudace Homes

Land east of Epping Road, Roydon

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) on behalf of Croudace Homes, and in respect of land east of Epping Road, Roydon.
- 1.2 The invitation to supplement representations follows the publication of Appendices B and C to the Site Selection Report 2017. These appendices include *inter alia* an assessment of the suitability, achievability and availability of potential sites for development; and provide the Council's justification for the rejection or selection of sites for allocation in the LPSV. Furthermore, 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.
- 1.3 On 14 December 2017, EFDC agreed publication of the LPSV for a six-week consultation period, followed by submission of the Local Plan to the Secretary of State. The LPSV was published for pre-submission consultation for six-weeks over the 2017 Christmas period, with consultation closing on 29 January 2018.
- 1.4 Representations were made to this consultation on behalf of Croudace Homes, and in respect of land east of Epping Road, Roydon. As explained within these representations, but restated here for completeness, land was divided into two: Area A to the west; Area B to the east. As noted in the January 2018 representations, for the purposes of consideration by EFDC, Area A and Area B combined were assessed as site SR-0306; separately, Area A was assessed by itself as site SR-0890
- 1.5 These supplementary representations should be read in conjuncture with the representations originally made in January 2018 in response to the Regulation 19 consultation. These supplementary 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 their relevance to the Local Plan.

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

- 2.1. 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.

- 2.2. 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.
- 2.3. We expressed concerns as to the absence of the Site Selection Report in full for the duration of the pre-submission consultation period within our Regulation 19 representations.
- 2.4. 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; and 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.
- 2.5. In addition, it is noted that Appendix B attempts to fulfil the important 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.
- 2.6. In relation to the SA/SEA, we raised concerns in our original January 2018 representations, questioning how EFDC's Local Plan met the requirement of the Environmental Assessment of Plans and Programmes Regulations (2004) for SA/SEAs to set out the reasons for the selection of preferred options, and the rejection of alternatives.
- 2.7. As noted in our January 2018 representations, references to the Site Selection Report (in the future tense) are made in the SA/SEA. The SA/SEA also makes reference to the role of the Site Selection Report (specifically the 2017 iteration) in decision-making process.
- 2.8. As per our January 2018 representations, we consider that the absence of key elements of the Site Selection Report 2017, together with the absence of anything within the supporting evidence base which made clear the reason for the rejection of sites such as land east of Epping Road, Roydon represents a substantial concern in respect of the plan's legal compliance. However, and again as we sought to stress in our January 2018 representations, such flaws can be addressed – as confirmed through *Cogent Land LLP v Rochford District Council* [2012] defects in the SA/SEA can be cured at later stages.

2.9. Whilst we welcome EFDC's acknowledgment that action is required, and attempts to cure defects in the Local Plan process to date, we nevertheless still have reservations that the invitation to pre-submission consultation respondents to supplement their representations may not be sufficient to ensure the Local Plan is sound and legally compliant. Our remaining concerns can be summarised as follows:

- The decision by the Council to both publish the LPSV for pre-submission *and* subsequently submit the Local Plan to the Secretary of State appears to have been taken in the absence of a complete version of the Site Selection Report, with elements unavailable at that time including the detailed assessment of sites, and the justification for their rejection or selection. It is unclear how key information within Appendix B of the Site Selection Report could have been considered and used by decision-makers to inform their decision to agree the LPSV and its submission.
- The status of the invitation to supplement representations made on the LPSV, and the scope of those who have been invited to comment is unclear. It is not clear, for example whether only those who responded to the original consultation on the LPSV have been invited to comment again at this juncture (as could be inferred from the letter that was issued). Such an approach could of course potentially exclude those who may have an interest in the future development of the District, but may have chosen not to respond to the original consultation in the absence of assessment of site and an explanation as to why sites had been selected / rejected.
- Linked to both of the above points, we remain concerned as to whether the SA/SEA is legally compliant given the lack of information contained within it explaining the assessment of sites, why options had been selected / rejected, and its reference to what was – at the time the SA/SEA was published – an incomplete Site Selection Report. We are not aware of the SA/SEA having been updated to reflect the completed Site Selection Report, nor does the invitation to supplement comments on the LPSV appear to include invitation to comment on the SA/SEA.

2.10. 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.

3. Site Selection Report and land east of Epping Road, Roydon

3.1. Two different configurations of land east of Epping Road, Roydon have been assessed by EFDC as part of the plan-making process. The first, SR-0306, is 14.05 ha and comprises the larger of the two configurations and incorporates Area A and Area B as shown in **Appendix 1** to this submission.

- 3.2. The western portion of this site, immediately to the east of the village and measuring 6.33 ha, has been assessed separately as site SR-0890.
- 3.3. Both sites were also assessed through the previous iteration of the Site Selection Report (the 2016 version), which supported the Epping Forest District Draft Local Plan 2016 (DLP), published by the Council for consultation at the Regulation 18 stage in 2016.
- 3.4. The Site Selection Report 2016 rejected site SR-0306 at Stage 2 of the site assessment process. The reason given for this was that the site was set out in Appendix B1.1 of the 2016 report, and was that the site was considered to be part of a strategic option which was “judged to be a less favourable growth direction”; and “would be most sensitive in Green Belt terms, risking the coalescence of Roydon and Harlow”.
- 3.5. The Site Selection Report 2016 concluded that part of site SR-0890 was suitable, available and achievable for development. The Site Selection Report 2016 started by considering the indicative baseline position of 247 dwellings for this site, which was then reduced to a net capacity of 15 dwellings, with the assessment stating that development should be limited to the land fronting Epping Road.
- 3.6. Detailed representations were made by Strutt and Parker on behalf of Croudace Homes on the DLP during the formal consultation period. These included a review of the Site Selection Report 2016’s assessment of sites SR-0306 and SR-0890.
- 3.7. A copy of the representation made at the Regulation 18 consultation stage is provided again for completeness as **Appendix 2** to this representation. A Landscape and Green Belt Assessment was prepared for the sites and submitted alongside these representations. For completeness, this is provided again as **Appendix 3** to this representation.
- 3.8. In summary, the points made in respect of the Site Selection Report 2016’s approach to sites SR-0306 and SR-0890 through our consultation response to the DLP were as follows:
 - It was unclear what was meant by “less favourable growth location”. Whilst it is recognised that the site is not within a proposed strategic growth location for Harlow (Policy SP3) this clearly does not make it necessarily unsuitable as a housing location for Roydon.
 - Roydon is a sustainable, suitable location for additional homes, and one which national policy encourages a proportion of housing growth to be directed towards.
 - Whilst the proposal to restrict growth in Roydon to 40 additional homes may have been informed by the Community Choices exercise undertaken in 2012 (though it is far from clear from the published information that this is purported to justify the proposed limit of 40 homes) it must be recognised that this exercise was undertaken in very different circumstances to those which the Local Plan must now address. Such changes in circumstances include the need to deliver a much greater number of new homes to meet need.

- The EFDC Green Belt Stage 1 Review considered various, large parcels of land and provided a broad scale assessment of the District’s existing Green Belt, but only at a scale that would not allow for a field-by-field assessment of sites’ contributions to the Green Belt.
- A site-specific Landscape and Green Belt Assessment was prepared and submitted as Appendix 2 to the consultation response, which robustly demonstrated that development of site SR-0306 would not risk coalescence of Roydon and Harlow. The Landscape and Green Belt Assessment concluded that site SR-0306 (Areas A and B combined) and the western part of this site which the Council has separately considered as site SR-0890 (Area A) make a weak contribution to the purposes of including land in the Green Belt.
- The detailed Landscape and Green Belt Assessment identified that, having regard to landscape impacts and the strategic purposes of the Green Belt, areas Area A and B have net development areas of 4 ha and 3 ha, respectively, i.e. 7 ha of site SR-0306 is suitable for development from this perspective.
- A landscape led development strategy – informed by the findings of the Landscape and Green Belt Assessment – was submitted alongside the representations. This identified that SR-0306 could suitably accommodate 180 dwellings; and that SR-0890 alone could suitably accommodate 120 dwellings.

3.9. The representations provided a detailed and evidence-led argument that the rejection of site SR-0306 as a residential allocation was unjustified; as was the proposal to only allocate a small proportion of SR-0890 for 15 dwellings.

3.10. We would have expected the representations made to the Regulation 18 stage consultation to have fed into and be considered ahead of the preparation of the LPSV and the accompanying evidence base, including the update to the Site Selection Report.

3.11. Appendix B1.2.3 of the Site Selection Report 2017 (one of the appendices published in March 2018) purports to summarise representations received and explain how the site assessment work has been updated to account for these. However, it provides little detail as to how comments have been addressed.

3.12. Representations made by Strutt and Parker on behalf of Croudace Homes in respect of SR-0306 and SR-0890 (Stakeholder ID 4840) are summarised within Appendix B1.2.3 as follows:

“Representation submitted by the site promoter commenting on the assessment of the site, including the indicative capacity assessment”

3.13. The stated update made to the site assessment work in response to comments submitted was as follows:

“The assessment of the site was reviewed in light of the comments made. The assessment of the site is included in the appendices to the Report on Site Selection 2017”.

3.14. The Overview of Assessment of Residential Sites in the Site Selection Report 2017 (Appendix B1.1) provide greater detail in respect of the stated justification for rejecting site SR-0306 than the 2016 iteration, stating:

“This site did not proceed for further testing at Stage 3 as it is ranked lower in the land preference hierarchy which, based on the Council's Local Plan Strategy, as set out in the Site Selection Methodology, states the order in which sites should be identified for allocation. The site was less preferable because it is greenfield land not adjacent to a settlement and there are a sufficient number of sites within the settlement that are ranked more favourably.

“This site was re-considered as part of Stage 6.3 in 2017 since it was identified as potentially being able to contribute to the Council's five year housing land supply. Although the site could potentially contribute to the five year housing land supply, it was considered that this benefit did not override the constraints identified, including landscape sensitivity and harm to the Green Belt, and therefore the site did not proceed any further.”

3.15. In respect of the first paragraph of the purported justification for the rejection of the site, further detail is provided to the 2016 assessment description of the site as being in a “less preferable location”.

3.16. However, the reason why the site is less preferable, as confirmed within Appendix B1.1 of the 2018 assessment, is that firstly it is a “greenfield land not adjacent to a settlement”. This is simply factually incorrect. Whilst SR-0306 is a greenfield site (as per a number of sites that are proposed to be allocated) it *is* adjacent to the existing settlement of Roydon. Indeed, its relationship with the settlement boundary is as per site SR-0890: a site against which the Site Selection Report 2017 raises no concerns in terms of its relationship with the existing settlement boundary (correctly so, given that it too adjoins it); and part of which (an element adjoining the existing settlement) is proposed to be allocated.

3.17. The second part of the justification as to why the site is considered less preferable is that there are “sufficient number of sites within the settlement that are ranked more favourably”.

3.18. There are two observations we wish to make in respect of the reasons given for the site's rejection:

1. The site has been judged to be less favourable than others within the settlement based on the erroneous assertion that it is not adjacent to the settlement; and
2. The assessment does not suggest that the site is unsuitable per se, and is only of relevance if there sufficient deliverable sites are proposed to be allocated which will meet objectively assessed housing needs in full, including the unmet needs of neighbouring areas, in a manner that ensures there will be a consistent five-year housing land supply throughout the plan period, and with sufficient flexibility to respond to rapid change. As per our original representations at the Regulation 19 stage, this is not the case in respect of the LPSV.

- 3.19. The second paragraph of the justification for rejecting the site confirms that the site could potentially contribute to five-year housing land supply, but states that this benefit does not override landscape sensitivity and harm to the Green Belt. However, as noted earlier within this representation, a detailed Landscape and Green Belt Assessment has been prepared in respect of the site which confirms 7 ha of SR-0306 can be suitability developed from a landscape and Green Belt impact perspective. The Site Selection Report 2017 does not provide any evidence that the findings of the Landscape and Green Belt Assessment are incorrect, nor does it even refute its conclusions. Rather it appears to have simply ignored it.
- 3.20. Indeed, on review of the site suitability assessment for SR-0306, the scoring for the site in the Site Selection Report 2017 (Appendix B1.4.2) is identical to that in the Site Selection Report 2016 (again, Appendix 1.4.2). There is no evidence that the detailed information provided in response to consultation has been given due consideration.
- 3.21. In respect of site SR-0890, the LPSV proposes that only a small part of the site is allocated for residential, and that the site only has capacity to deliver 14 dwellings.
- 3.22. In terms of the purported justification for the limited allocation and the rejection of the majority of the site, the DLP (2016) – led by the conclusion of the Site Selection Report 2016 – set out such an approach for the iteration of the Regulation 18 iteration of the Local Plan. The Site Selection Report 2016 initially considered a capacity for the site of 60 dwellings (Stage 2 of the assessment, Appendix B 1.4.2). At Stage 3 of EFDC's 2016 site assessment process, an indicative baseline density of 39 dwellings per hectare was applied to the site, resulting in an indicative baseline yield of 247 dwellings. Such a figure has clearly not been derived from site-specific matters or consideration of the site's characteristics, and an adjustment to this is clearly appropriate. However, the conclusion of the Stage 3 site assessment that the extent of the allocation should be limited to 6% of the site put forward, within the area to the west of the site, is not justified. On the contrary, the justification for the approach to SR-0890 set out within the Site Selection Report 2016 at Appendix B 1.1 where one would reasonably expect this approach to be explained simply stated: "Site is recommended for allocation".
- 3.23. In response to the Regulation 18 consultation on the DLP and accompanying Site Assessment 2016 – and as noted earlier within this representation – detailed representations were made, including in relation to SR-0890: its suitability and potential capacity having regard to site-specific factors. As noted earlier, these included the results of Landscape and Green Belt assessment work, which evidenced the site's potential to accommodate 120 dwellings having regard to such factors.
- 3.24. However, as with SR-0306, it is far from clear how this information presented to the Council has been given proper consideration in respect of site SR-0890, the LPSV or the update to the Site Selection Report.
- 3.25. At Appendix B1.6.4 of the Site Selection Report 2017 an assessment of the potential capacity of the site is reported. This suggests an indicative net site capacity of 196 units. This is then

reduced to 14 units, with the assessment stating that development should be limited to the property fronting Epping Road with a revised site area is 0.41 ha. No evidence is provided to justify this approach.

- 3.26. At Appendix B1.1 of the Site Selection Report 2017 (which sets out an overview of the assessment of sites), in a manner very similar to the Site Selection Report 2016, there is no reference to the majority of the site put forward being rejected. It simply states: "Site is proposed for allocation. The justification for the allocation can be found in Appendix B1.6.6".
- 3.27. Turning to Appendix B1.6.6 of the Site Selection Report 2017, this states that only an element of the site is proposed for allocation, and the capacity is only 14 dwellings. It confirms that the reasons (and the only reasons) why a large proportion of the site put forward has been rejected are:
- Potential for harm to the landscape character across the eastern part of the site; and
 - Access constraints.
- 3.28. In respect of landscape impact, as set out earlier within this representation, and as provided as part of previous submissions, a detailed and site-specific Landscape and Green Belt Assessment has been undertaken in respect of land east of Epping Road, Roydon. This identified a net area of 4ha within Area A of the assessment (i.e. SR-890) in which residential development could be suitably accommodated through a landscape-led approach.
- 3.29. As in the case of the assessment of SR-0306, the Site Selection Report 2017 provides no evidence to suggest the findings of the Landscape and Green Belt Assessment are incorrect, and does not challenge its conclusion. Again, it appears to simply ignore it.
- 3.30. A detailed, site specific assessment has informed the conclusion that 4ha of SR-890 are suitable for residential development from a landscape and Green Belt perspective. Conversely, the Site Selection Report 2017's view that only 0.41ha of the site can be developed without undue harm to landscape considerations is not supported by any such equivalent evidence. The view that only 0.41ha of site SR-0890 should be allocated is unjustified.
- 3.31. In respect of access constraints, an Access Appraisal was prepared and submitted to the Council at an earlier stage in the plan-making process. It is provided again here, for completeness, as **Appendix 4**. This confirms that suitable access to the site can be achieved for land east of Epping Road, Roydon. As confirmed in information provided to the Council in response to its Developer / Landowner / Promoter Survey in 2016, a vehicular access point has been designed and agreed in principle with Essex County Council.
- 3.32. Having regard to the above, concerns in respect of access are very much misplaced. The limiting of the extent of the allocation on the basis of access concerns is unjustified.

- 3.33. On review of Appendix B of the Site Selection Report 2017, it is clear that the decision to reject SR-0306 and the majority of SR-0890 is unjustified. The sites are suitable, available and achievable for residential development. Detailed, robust evidence has been provided to the Council as part of the plan-making process to demonstrate this is the case. However, to date, this does not appear to have been properly considered.

4. Summary and Overview

- 4.1. Critical evidence which seeks to provide the justification for the selection or rejection of sites has, albeit belatedly, been published and it is acknowledged that those who responded to the consultation on the LPSV have been invited to supplement their representations. Nevertheless, we remain concerned that the action taken by the Council to seek to cure defects in the plan-making process is not yet sufficient to ensure a sound and legally compliant Local Plan (particularly in relation to decision-makers opportunity to consider key information, and in respect of the SA/SEA). There remains opportunity for such issues to be addressed, and we urge the Council to take action to ensure the Local Plan is sound and legally compliant.
- 4.2. On review of Appendix B of the Site Selection Report 2017, it is clear that evidence submitted to the Council in respect of the suitability of sites SR-0306 and SR-890 has not been given due consideration.
- 4.3. The rejection of the sites is not justified, and is not supported by any robust, site-specific evidence. In respect of some concerns raised on the suitability of the sites, the Site Selection Report 2017 is simply factually incorrect, e.g. the rejection of SR-0306 on the basis that it is not adjacent to the settlement, when in fact it is.
- 4.4. Conversely, robust, site-specific evidence has been provided to the Council which confirms that the sites are deliverable, achievable and available; and that concerns expressed in respect of the allocation of the sites are misplaced.
- 4.5. The rejection of the sites is particularly disconcerting as, as per our representation on the LPSV, the proposed new Local Plan does not currently allocate sufficient land for housing across the District, or for Roydon itself, to ensure the Local Plan is sound.
- 4.6. In order to ensure the Local Plan evidence base is robust, the Council is urged to revisit its assessment of sites SR-0306 and SR-0890 to ensure it is factually correct and that evidence submitted is given due consideration. Following necessary revisions to the Site Selection Report 2017, the Local Plan will require updating to ensure that it is justified and can be sound.