

Further Regulation 19 Representations to EDFLP

May 2018

1. Nexus Planning is instructed by St Congar Provincial to prepare representations to the Submission version of the Epping Forest District Local Plan (EDFLP). St Congar Provincial control land at Old Farm, Chigwell (the site). This land is referenced as parcels 16_Site_02-N-A, 16_Site_02-N-B and 16_Site_02-N-C in the Council's Site Selection Report (December 2017).

Process, Sustainability Appraisal and Legal Compliance

2. As detailed within our January 2018 representations to Policy P7 of the Submission version of the EDFLP, it was highlighted that the Council failed to make crucial site selection information contained within the Site Selection Report (December 2017) available at the time of the Regulation 19 consultation, severely prejudicing our ability to come to a view as to whether the allocated sites are the most appropriate strategy, when assessed against reasonable alternatives i.e. whether the Plan is legally compliant and sound, having regard to paragraph 182 of the NPPF.
3. Paragraph 165 of the NPPF advises that a Sustainability Appraisal (SA) should be an integral part of plan preparation. The Planning Practice Guidance (PPG) explains that the role of a SA is to promote sustainable development by assessing the extent to which the emerging plan, when judged against reasonable alternatives, will help to achieve relevant environmental, economic and social objectives (ID:11-001). The SA needs to compare all reasonable alternatives including the preferred approach. It should predict and evaluate the effects of the preferred approach and reasonable alternatives, and clearly identify the positive and negative effects of each alternative. All reasonable alternatives should be assessed at the same level of detail as the preferred approach. The SA should outline the reasons why the alternatives were selected, the reasons why the rejected alternatives were not taken forward and the reasons for selecting the preferred approach in the light of the alternatives (ID:11-018).
4. In the absence of the Site Selection Report appendices at the time of the preparation and publication of the Council's SA (December 2017) cannot comply with Regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004 the (2004 Regulations), namely that an SA report must identify, describe and evaluate the likely significant effects on the environment of: a) implementing the plan; and b) the reasonable alternatives taking into

account the objectives and the geographical scope of the plan, as plainly that information wasn't available at the time of the SA being prepared.

5. In light of the Council's admitted failure to make crucial appendices of the Site Selection Report available at the time of the Regulation 19 consultation, it is understood that the Council has permitted specific parties (the basis of which is unclear) supplementary time to make representations in respect of Appendices B and C of the Site Selection Report. St Congar Provincial was given 4 weeks to respond, with the deadline being 5pm on 17th May 2018.
6. Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (the Local Plan Regulations) sets out that:

"Before submitting a local plan to the Secretary of State under section 20 of the Act, the local planning authority must—

- a) make a copy of each of the proposed submission documents and a statement of the representations procedure available in accordance with regulation 35, and*
- b)*
- c) ensure that a statement of the representations procedure and a statement of the fact that the proposed submission documents are available for inspection and of the places and times at which they can be inspected, is sent to each of the general consultation bodies and each of the specific consultation bodies invited to make representations under regulation 18(1)."*

7. Regulation 17 of the Local Plan Regulations defines "proposed submission documents" as the following:

- a) "the local plan which the local planning authority propose to submit to the Secretary of State,*
- b) if the adoption of the local plan would result in changes to the adopted policies map, a submission policies map,*
- c) the sustainability appraisal report of the local plan,*
- d) a statement setting out—*
 - i. which bodies and persons were invited to make representations under regulation 18,*
 - ii. how those bodies and persons were invited to make such representations,*
 - iii. a summary of the main issues raised by those representations, and*
 - iv. how those main issues have been addressed in the local plan, and*
 - v. such supporting documents as in the opinion of the local planning authority are relevant to the preparation of the local plan;"*

8. The Council, in offering parties an opportunity to comment upon Appendix B and C of the Site Selection Report, demonstrably acknowledge that this information falls within the remit of point 'v' above and accordingly, the Council's Regulation 19 consultation held over December 2017/January 2018 clearly failed to comply with the Local Plan Regulations. St Congar

Provincial welcome the opportunity to now comment upon Appendix B and C of the Site Selection Report but what is understood to be a targeted re-consultation and for only a period of 4 weeks still fails to comply the minimum prescribed period of 6 weeks, as identified within Regulation 17 of the Local Plan Regulations.

9. Furthermore, in light of the identified issues with the Council's SA it is considered that once further work is complete, it should form the basis of an SA report that meets all the relevant requirements of the Directive and the 2004 Regulations. The SA report will then need to be published for public consultation (also for a minimum period of 6 weeks) and, depending on its outcome, further SA work may indicate the need for modifications to the EFDLP. Any such modifications would need to be the subject of public consultation.

Comments on Appendix B and C of the Site Selection Report

10. Notwithstanding the above, St Congar Provincial has reviewed the Appendix B and C of the Site Selection Report and would provide the following comments. These comments should be read in conjunction with our earlier representations to Policy P7 of the EFDLP.
11. Our earlier Regulation 19 representations identified that the Council's SA considered four broad spatial growth options for Chigwell and concluded that the 'more suitable' strategic options included, inter alia, 'north-eastern expansion' of the settlement. They also highlighted that the SA details the 'north-eastern expansion' relates to parcel 035.8 and this is identified within the Green Belt Assessment: Stage 2 (2016) as an area comprising all of the land controlled by St Congar Provincial and further land to the north, up to High Road. The SA outlines the conclusions of the Green Belt Assessment for that parcel as a 'moderate summary of harm'. Paragraph 5.103 of the EFDLP comprises supporting text to Policy P 7 and identifies three appropriate spatial options for Chigwell (and Chigwell Row), one of which includes 'expansion of the settlement to the north east'. Commentary within the Local Plan in respect of this option is as follows:

"This strategic option provides a natural extension to the settlement, promoting settlement rounding, and is the least harmful to the Green Belt relative to the other strategic options. Whilst this strategic option is sensitive to change in landscape terms, this harm can be mitigated or avoided through the careful siting of development and design."

12. Map 2.5 of the EFDLP sets out the proposed Green Belt alterations across the District, which includes a removal of a parcel north east of the settlement, however this does not correlate with parcel 035.8 referenced within the SA and specifically excludes land controlled by St Congar Provincial. At the time of our earlier Regulation 19 representations, nowhere within the SA or the Site Selection Report did it indicate that parts of the north-eastern expansion option performs better or worse than others.
13. The publication of Appendix B and C of the Site Selection Report now provides this missing information. Appendix B1.1 provides an overview of the assessment process relating to

residential sites, which demonstrates that parcels 16_Site_02-N-A and 16_Site_02-N-B were discounted at Stage 6.3, whilst parcel 16_Site_02-N-C progressed to the final stage of assessment (Stage 6.4) before being discounted.

16 Site 02-N-A and 16 Site 02-N-B

14. Appendix B1.1 summaries that both sites (16_Site_02-N-A and 16_Site_02-N-B) scored poorly against several criteria at Stage 6.2, including "*landscape sensitivity*" and that development of the parcels "*would promote unsustainable patterns of development (sprawl)*".
15. Our earlier Regulation 19 representations already addressed landscape sensitivity through a Landscape Technical Note prepared by Arc Landscape Design & Planning Ltd (Appendix 2 of those representations), which concluded that these parcels were not of high landscape sensitivity.
16. The second point in the Council's Site Selection Report suggests "*unsustainable patterns of development*" would result but this statement also includes reference to sprawl, which can only be inferred to relate to urban sprawl in the context of Green Belt. However, parcels 16_Site_02-N-A and 16_Site_02-N-B fall within parcel 035.8 of the Green Belt Assessment: Stage 2, which as identified by the assessment is the weakest performing Green Belt site around Chigwell.
17. Further, figure 4.6 of the Green Belt Assessment demonstrates that parcel 035.8 would only result in 'moderate' harm to the Green Belt as a result of its release and as detailed earlier, the Council's SA confirms that removal of this parcel from the Green Belt is least harmful relative to other options around the settlement i.e. the most appropriate area for release in Green Belt terms around Chigwell. The scoring for this parcel is also comparable or lower (i.e. weaker in Green Belt terms) than many other sites proposed for release from the Green Belt across the District.
18. It is noted that the Green Belt Assessment concluded that the topography of parcel 035.8 is such that it slopes away from the settlement, creating a stronger relationship with the countryside than the village and that the eastern boundary along Green Lane is relatively weak, being defined by intermittent hedgerows. However, we have already advocated that the agricultural track (Green Lane) and intermittent hedgerow along the eastern part of the site would form an identifiable boundary (having regard Table 3.1 of the Green Belt Assessment) and that paragraph 3.3 of the Green Belt Assessment acknowledges that it can be appropriate to use 'weaker boundaries' to define new Green Belt boundaries but consideration needs to be given to potential strengthening, which St Congar Provincial would more than willing to deliver and this is an approach the Council appears to be adopting on other allocated sites. This offers an opportunity to deliver a new logical, permanent and enduring Green Belt boundary.
19. For the reasons set out above, it is clear that the purported issues relating to parcels 16_Site_02-N-A and 16_Site_02-N-B identified within the Site Selection Report are not

determinative, must be read in the context of the relative performance of these parcels against other sites around Chigwell (and indeed the District as a whole) and that these parcels would be appropriate for allocation and release from the Green Belt.

16 Site 02-N-C

20. As already identified, Appendix B1.1 shows that parcel 16_Site_02-N-C was only discounted at Stage 6.4, the last stage before the selection of sites to be allocated. The justification for this is as provided as follows:

“Although this site was identified as available within the first five years of the Plan period, with no identified constraints or restrictions that would prevent it coming forward for development, it was considered that other sites in Chigwell were more preferable in terms of their overall suitability, noting the constraints posed by BAP Habitat, existing allotments and landscape sensitivity. If these alternative sites were allocated, they would cumulatively provide the desired growth in this settlement. This site is therefore not proposed for allocation.”

21. Given the above, it is demonstrable that the Council accepts that 16_Site_02-N-C is an appropriate location for growth and would be deliverable, having regard to footnote 11 of the NPPF. St Congar Provincial supports these specific conclusions, which align with the evidence we have submitted in response to EFDLP consultations to date. The Site Selection Report does however outline that when considered against other sites in Chigwell and having regarding to the Council’s desired level of growth at this settlement, there are more preferable sites in terms of their overall suitability.
22. Appendix B1.6.6 outlines the Council’s decisions relating to residential sites for potential allocation at Chigwell and Chigwell Row. Overall, 21 sites are listed, of which 7 are proposed for allocation. Having regard to the 14 sites that were not proposed for allocation, it is clear that all of the omission sites around Chigwell and Chigwell Row, with the exception of site 16_Site_02-N-C, were discounted due to significant issues, which if included in the EFDLP as housing allocations would render it unsound, as shown below:

Site Ref	Council’s Reason for Discounting the Site
16_Site_02-N-C	Considered that other sites in Chigwell are more preferable in terms of overall suitability and if those sites were allocated, they would cumulatively provide the desired growth in this settlement.
SR-0318	Planning permission already granted for the north eastern part of the site. Western part identified in the Chigwell Neighbourhood Plan as Local Green Space and now District Open Land in EFDLP. Southern part of the site relates to site ref. 16_Site_02-N-C.
SR-0601	Benefits from planning permission for 4 dwellings and cannot accommodate anymore growth owing to site constraints.
SR-0820	Not appropriate as a standalone parcel and forms part of a wider allocation (site ref. SR-0557).
SR-0822	Land unavailable during the plan period.
SR-0823	Land unavailable during the plan period.

Site Ref	Council's Reason for Discounting the Site
SR-0824	Complex land ownership and unlikely to be available during the plan period.
SR-0825	Land unavailable during the plan period.
SR-0869	Uncertainty when land would become available and could only accommodate 4 dwellings, falling below the EFDLP allocation threshold.
SR-0897	Would not support the minimum 6 units necessary for allocation.
SR-0990	Identified in the Chigwell Neighbourhood Plan as Local Green Space and now District Open Land in EFDLP
SR-0998	Would not support the minimum 6 units necessary for allocation.
SR-1009	Would not support the minimum 6 units necessary for allocation.
SR-1017	Would not support the minimum 6 units necessary for allocation.

23. This further reinforces the position that if further growth is allocated at Chigwell/Chigwell Row site 16_Site_02-N-C should be the first to be allocated.
24. Nevertheless, whilst the Site Selection Report does not identify any absolute constraints that would prevent the site being allocated, it does highlight three areas which appear to have been key drivers in the Council deciding to allocate alternatives. These are BAP Habitat, existing allotments and landscape sensitivity, which are addressed in turn below:

BAP Habitat

25. An Ecological Appraisal of the site has been carried out by ACD Environmental, which identifies that the BAP Habitat relates to small area of semi-material broad-leaved Woodland in the west of the site.
26. The Ecological Appraisal identifies that the woodland would be retained within development proposals and that it could be protected during construction and operational phases through the use of buffers alongside the woodland edge. It also details that existing woodland copses could be connected with new woodland planting to enhance the benefits of this habitat and that overall, residual impacts would be neutral.
27. It is therefore clear that the presence of the BAP Habitat should not be a reason to discount the site.

Existing Allotments

28. The site contains a small area of partially used allotments. Subject to demand, these could be retained or re-provided within the site or adjacent land controlled by St Congar Provincial, as already advocated within our earlier Regulation 19 representations. It is therefore clear that the presence of allotments should not be a reason to discount the site.

Landscape Sensitivity

29. The Council does not purport the site to be high in landscape sensitivity (unlike parcels 16_Site_02-N-A and 16_Site_02-N-B) or conclude that the site would not be a suitable location for housing due to landscape considerations. Out of all land controlled by St Congar Provincial, it is agreed that parcel 16_Site_02-N-C is the least sensitive in landscape terms,

notwithstanding the fact that we consider all sites can sensitively accommodate development. It is also important to note that the Council's relative judgement of landscape sensitivity almost exclusively considers the site against allocations within the built up area or on previously developed land, which inherently are likely to be less sensitive in landscape terms.

30. It is therefore clear that landscape considerations should not be a reason to discount the site.

Growth at Chigwell / Additional Housing Allocations

31. Given the above and as set out within the Council's Site Selection Report, it is common ground that site ref. 16_Site_02-N-C is an appropriate location to accommodate housing growth. We have also advocated the appropriateness of further housing allocations at sites ref. 16_Site_02-N-A and 16_Site_02-N-B.
32. In respect of housing growth, our earlier Regulation 19 representations identified that the objectively assessed housing need (OAN) for the District is demonstrably too low, and that even if the Council's calculation of OAN is accepted the housing requirement should be changed from 11,400 dwellings to 12,573 dwellings to align with the Council's calculation of OAN, that there should be a reduction in the reliance upon growth at Harlow and that growth at Chigwell should be increased. We have also outlined how we consider these issues result in the EFDLP being unsound, having regard to paragraph 182 of the NPPF.
33. Measures to rectify these soundness issues will require the allocation of additional housing sites in sustainable locations, such as Chigwell. Therefore, in a situation whereby the Council's own evidence demonstrates that the only reason site ref. 16_Site_02-N-C is not allocated is due to the Council pursuing a growth agenda which we consider to be demonstrably too low, the site should be allocated to help rectify these issues of soundness, with consideration also given to the allocation of sites 16_Site_02-N-A and 16_Site_02-N-B.

Safeguarded Land

34. Our earlier Regulation 19 Representations identified the need to consider the identification of safeguarded land as part of the EFDLP process, in accordance with paragraphs 83 and 85 of the NPPF (although not a single reference to safeguarded land is made within the EFDLP). It was highlighted that even based on a calculation of OAN that is demonstrably too low, housing needs for this Plan period requires a significant quantum of land to be released from the Green Belt and that paragraph 5.17 of the Council's Green Belt Assessment identified that:

"On the basis of current trends, there are likely to be unmet housing needs beyond the plan period. We therefore recommend that EFDC considers the need for safeguarded land."

35. Indeed, the Government's standardised housing methodology identifies almost a twofold increase in housing needs for Epping Forest against its current OAN figures. Subsequently, and in accordance with paragraph 85 of the NPPF, the EPFLP should identify safeguarded land to meet future development requirements and avoid the need to further Green Belt reviews in the near future. Such an approach would also enable an accelerated delivering of housing

following any Local Plan review and ultimately will help boost the supply of housing, in accordance with paragraph 47 of the NPPF.

36. In the event the Inspector does not accept that housing numbers should increase for any of the reasons identified by St Congar Provincial (or potentially even if the Inspector considers housing numbers should increase), the Council should, for example, identify site ref. 16_Site_02-N-C as safeguarded land as it has not published any evidence as to why this would not be a sound approach. In fact, based upon the Council's own evidence not safeguarding site 16_Site_02-N-C (as a minimum) would be an unsound approach for failing to be the most appropriate strategy. Further, we consider that consideration should be given to the safeguarding of sites 16_Site_02-N-A and 16_Site_02-N-B.

Suggested Change

37. Policy P7 should be amended to increase growth at Chigwell to at least 1,544 dwellings over the EFDLP period (see our earlier Regulation 19 representations to Policy P7). This significant uplift will require further allocations at Chigwell, which based upon the Council's Site Selection Report should firstly comprise a housing allocation at site ref. 16_Site_02-N-C for circa 100 dwellings.
38. Consideration should also be given to the safeguarding of poorly performing Green Belt sites in sustainable locations such as sites 16_Site_02-N-A and 16_Site_02-N-B (and clearly 16_Site_02-N-C if it is not allocated through any modifications to the EFDLP).