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MM Consultation 2021
Planning Policy
Epping Forest District Council Civic Offices
323 High Street
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16 September 2021

JS – 17/349
BY EMAIL

Dear Sir or Madam,

REPRESENTATION TO THE 2021 MAIN MODIFICATIONS TO THE EPPING LOCAL PLAN

These representations are made on behalf of Tele Lands Improvement Limited (Lands Improvement) who hold a significant interest in a land holding known as Copped Hall Estate, to the northwest of Epping Town. We have made representations to previous stages of the plan and appeared at the Examination in Public.

These representations focus solely on the proposed Main Modifications and the key points we wish to make are:

- The assumptions made about the delivery of allocations are not realistic or reasonable and suggest that the housing target is not achievable within the Plan period. This will also cause issues with delivering a robust five-year housing land supply on adoption of the Plan.
- The evidence for the Local Plan is not up-to-date (e.g. Strategic Housing Market Assessment five years old on adoption).
- The Clean Air Zone fallback position is not politically feasible and cannot be relied upon to deliver air pollution improvements, alternative allocations which can deliver this, should be brought forward (e.g. a relief road for Epping, provided by bringing forward Copped Hall Estate).
- The reduction of housing provision in Epping, one of the most sustainable settlements in the District, is inappropriate and will lead to an unsustainable pattern of development.
- An immediate review of the Local Plan is required upon adoption.

These are expanded upon in more detail in our representations below.

a. Introduction

Land Improvement's landholding at Copped Hall Estate covers approximately 486ha and is located to the north, north-west and west of the town of Epping. The majority of the site is undeveloped. It is allocated as Green Belt and is located outside the settlement boundary of Epping. Uses on the site include 7 farms, 19 houses, a sports club (Epping Sports Club), 4 allotments and ancillary uses such as highway verges and amenity land. While the site lies outside the settlement boundary, it adjoins large sections of it.

A Promotional Planning Brochure (contained at Appendix A1) was submitted to Epping Forest District Council in May 2016 on behalf of the previous landowner, as part of the Preferred Options Local Plan

Regulation 18 Consultation. The document promoted four different land parcels, including the two land parcels either side of Bury Lane. Prior to this submission, the entire landholding was assessed through the 2012 SLAA as being suitable (outside of current Green Belt policy) and deliverable. Significantly, the SLAA summary noted that whilst the site was exceptionally large, with a range of constraints identifying individual parts of the site, including wildlife sites, areas of Flood Risk, Listed Buildings and Green Belt, smaller parcels of site could be suitable or a more substantial masterplanned development.

As part of our previous representations we argued that, inter alia:

- Further work was required on the evidence base, particularly in relation to demonstrating that the Local Plan Strategy did not give rise to harm to the Epping Forest Special Area of Conservation (SAC).
- The spatial strategy was inappropriate and an alternative innovative, infrastructure-led approach was required to make the Plan sound.
- The Council should seek to allocate the Copped Hall Estate site which could improve air quality by providing a new by-pass and significantly improve the sports and leisure infrastructure for the town by relocating and expanding the facilities of Epping Sports Club.

While it is acknowledged that the Main Modifications are not an opportunity to promote individual sites, we provide this for context for the Inspector when reviewing our comments in relation to the Main Modifications.

b. Main Modifications

Introduction Section of the Local Plan

MM5 – Table 1.2 - Need for Affordable Homes in Epping Forest District 2011-2033

We welcome the clarity offered by this new table, setting out the level of need for affordable homes over the plan period (2,851 additional dwellings between 2016 and 2033). However, it should be noted that this is based on the July 2017 Update to the Strategic Housing Market Assessment and we consider that the document will now be out-of-date.

The document will be nearly five years old by adoption of the Local Plan in 2022. Traditionally, Strategic Housing Market Assessments have a three-year shelf life, but this issue is exacerbated by the impacts of the pandemic which have seen significant changes to demand in more rural locations within commuting distance from London (such as Epping Forest) and an 11% increase in sold prices in District since 2018 in the intervening period, according to Rightmove. This will have led to significant changes in the housing market and need for affordable housing which will not be reflected in the policies of the Local Plan.

We therefore consider that the Local Plan is not based on a proportionate and up-to-date evidence base and should be considered unsound in this regard.

MM8 – Local Plan Objectives

We support the inclusion of new objectives on delivering healthy communities. As highlighted in subsequent sections, we do not consider that the Local Plan contains appropriate policies to deliver on this. For example, the Council has overlooked allocating the redevelopment of Epping Sports Club to provide new and improvement facilities on an adjoining site.

Strategic Policies

MM13 – Table 2.5 Employment Land Requirements

This policy uses out-of-date references to Class B Use Class. The Use Class Order has been amended over a year ago and this policy approach commits the Council to using outdated references for the foreseeable future. This will cause significant issues for developers as they have to grapple with an updated Use Class Order and a policy which makes reference to a Use Class which no longer exists.

We consider that the local authority will have significant difficulties operating this approach as the new flexibility between use classes means that the targets for the delivery for Use Class B land will be difficult to deliver. A new up-to-date approach is required to ensure that the Local Plan is sound, with regards to being positively prepared and able to meet emerging development requirements.

MM14 – Policy SP 2

The policy states that housing will be delivered in accordance with a stepped trajectory in Appendix 5 of the MMs. This assumes that an average of 550 dwellings per annum (dpa) will be delivered up until 2025/26 when housing delivery will increase up to an average of 769 dpa. Within these assumptions is that delivery will stay at around just under 300 dpa for 2020/2021 and 2021/22, before rebounding up to 619 dpa in 2022/23 and above 1,000 dpa for 2023/24 and 2024/25. It then levels out to around 800-700 dpa for the rest of the plan period.

There is no supporting evidence base document to support this trajectory and so we are unclear how these predictions have been arrived at.

Notably the trajectory shows no completions from any of the allocations in any of the parishes for 2020/21 and 2021/22 and the Council is totally reliant on existing commitments from sites with planning permissions for this period. This is due to the Council not having approved any planning applications for several years due to the moratorium arising from the issues related to the impact Epping Forest SAC. The only supply of housing is applications which were approved several years ago.

The Council needs to provide the assumptions for the delivery of the various commitments from schemes with planning permission and allocations which do not have permission. This has previously been provided for the 2019 Housing Implementation Study which reviews the same information, but is not included to support these new assumptions in the MMs.

This information is important for two reasons. First the commitments with planning permission has not been publicly updated for nearly two years, during that time, no planning permissions have been granted and the industry has gone through unprecedented uncertainty and disruption caused by the pandemic. It needs to be understood how the Council has factored this in to their trajectory.

Second, the trajectory shows delivery coming from the various allocations on a parish level, meaning it is unclear which allocation is delivering during that period, where there is more than one allocation in a parish. The other issue here is that they presume that these allocations will start delivering units in 2022/23 (within six months).

We are very sceptical about these assumptions, given that the Council's moratorium on granting permission is only just being lifted and the first schemes very slowly receiving a resolution to grant planning permission. Even once these schemes have received a resolution, they need to negotiate and sign legal agreements, discharge planning conditions (likely to be 12-18 months to discharge on average) and finalise detailed design before they can start on site. The bottleneck caused by the ongoing moratorium means that progress on these post-permission matters is already slow.

The trajectory also assumes that the East of Harlow and Gilston urban extensions can begin delivery in 2023 through to 2025 on the three sites. Given that we understand that no outline applications have been submitted for sites within Epping Forest, we do not consider it reasonable that construction can start within 18 months. Not only is this application process much longer for a scheme of this size (it requires; production of Concept Masterplans; outline/reserved matters applications; and more

complicated conditions to be discharged), it also requires more infrastructure to be brought forward before the first homes can be constructed.

In the absence of detailed information supporting the assumptions of the trajectory, we have concluded that this policy is unsound on the basis that the trajectory is not justified or based on a proportionate evidence base.

Assuming that the trajectory is not accurate, then the five year housing land supply can not be delivered either, meaning that the Plan is also not sound on the basis that it is inconsistent with national policy requiring Local Plans to be able to demonstrate a deliverable five year supply of housing.

If we are correct and the trajectory is unrealistic, then this will require changes to the Plan beyond changes to the text and a return to potential allocations will be required.

MM15 - Policy SP 2

As set out above (comments in relation to MM14), we do not consider that the Council's housing trajectory is accurate and thus the Local Plan cannot claim to enable a five year supply of deliverable housing. This means the Local Plan is unsound on the basis of it being inconsistent with national policy and not based on proportionate evidence.

Housing and Economic Policies

MM28 - Supporting text to Policy H 2

This MM requires developers to contact the Council's Housing Team for the most up-to-date information on affordable housing need. This is not considered to be a reasonable approach to supplying information on housing need and demonstrates how out-of-date the Council's SHMA is. If the SHMA provided robust information, then presumably it could be relied upon to provide information on affordable housing need and could be updated as required. We consider this further emphasises our point that the Local Plan is not based on a robust evidence base and is therefore unsound.

A new SHMA and related policies are required to make the Plan sound.

MM33/MM34 - Policy E1

The policy contains dated references to the B Use Class which no longer exists. As previously stated, this is not sound as they do not represent an appropriate or effective strategy. This is because the operation of these policies are undermined by the ability to change uses outside of the traditional B Use Class without the need for planning permission.

The policy needs to be amended to take account to the changes to the Use Class Order.

Development Management Policies

MM46 – Policy DM 2

This policy contains the strategy for avoiding harm to the Epping Forest SAC and how development within the Borough must seek to mitigate its harm to this ecological asset. This centres around the implementation of Air Pollution Mitigation Strategy (APMS) and provisions to encourage residents to use other areas for the purpose of recreation, other than the Epping Forest SAC.

The mitigations involve a number of different measures, mostly focussed on financial contributions from each new home built, but in the case of air quality include some highly controversial proposals, including a 'Clean Air Zone' (CAZ) which would mean motorists are charged for driving within a certain proximity of the Forest. We understand that this proposal is highly unpopular with members and there is no certainty that it could obtain the necessary political support to implement it.

The CAZ is a necessary fallback position if other methods of reducing air pollution are not successful and certainty over its delivery is required. Given the concerns over the deliverability regarding this ultimate fall back position, we consider that there should also be provision for alternative forms of development within the District.

For example, the Council should re-consider the provision of the Epping by-pass and related development at Copped Hall as a way to deliver development within the District which can also provide sufficient homes while also improving the air pollution situation for the SAC. This would require changes to the spatial strategy and a number of allocations, but would offer more certainty over achieving the stated objectives of the Plan in relation not protecting the Epping Forest SAC.

Without this provision, we consider that the current Local Plan is unsound on the basis that it is not based on an effective and justified strategy.

MM56 – Policy DM 9

As previously stated, we support the inclusion of policies which encourage healthier communities, however we consider that this policy will not deliver on the Local Plan objectives. Merely including a clause within a design policy to 'enable/encourage healthy and active lifestyles' in isolation will have very limited impact.

The Council needs to review its sporting infrastructure and ensure that it is appropriate for current and future residents. As set out by our previous representations (Appendix A2) we have demonstrated that the Council have overlooked opportunities to meet a clear and identified need for improved sporting facilities through the relocation and improvement of Epping Sports Club.

The absence of any policy provision beyond broad platitudes in policy makes the Plan unsound on the basis that it does not represent an effective and appropriate strategy.

MM77 – Supporting text to Policy DM22

The policy seeks to reduce the number of homes delivered in Epping (parish) over the plan period from 1,305 to 709. This is based on the deletion of a number of unsuitable sites. While we support the deletion of inappropriate sites, we do not support the further reduced provision of housing for the settlement.

Epping is one of the Borough's largest town and is correctly identified in the District's settlement hierarchy as a main town. Given its connectivity to public transport and strategic highway infrastructure however, we consider that the town's potential to sustainably accommodate growth has been underplayed, with low levels of growth identified (only 1,305 homes) relative to the wider Plan.

It is our contention that the levels of growth identified for Epping to be insufficient for one of the most sustainable locations in the Borough and that the Council's strategy has skewed large amounts of growth away from one of the most sustainable locations to areas that are far less sustainable, such as the peripheral locations identified for urban extensions on the edges of Harlow.

The Council's identified growth locations around Harlow are presented as a linked Garden Town, but in reality, the extensions have a very weak spatial relationship with one another at best and through three separate and distinct extensions, they fail to deliver the sustainability benefits that a community of circa 4,000 homes could deliver if delivered in one location. Furthermore, the identified locations are remote from the Harlow town centre, remote from the rail network and will likely lead to greater car usage.

The vision for the District outlined in Paragraph 2.27 requires homes to be delivered in the most sustainable locations. The Plan is unsound on the grounds of being not positively prepared, effective or justified because the level of growth in one of the most sustainable settlements is not sufficient.

Figure 1.1 of the Submission Local Plan is a diagram that denotes the transport infrastructure and key settlements in the District, which provides a good starting point for locating growth. In comparison, Map 2.5 of the Local Plan shows the areas that have been proposed for Green Belt release to accommodate significant development.

It is apparent from these two diagrams that there is an extremely weak level of synergy and spatial alignment between the key infrastructure/settlements and land being removed from the Green Belt to accommodate significant levels of growth. This reveals that sustainability and sound plan making was absent in key decision taking and spatial choices at the heart of the spatial strategy presented in the draft Plan.

We consider that this further reduction of housing for Epping makes the Local Plan unsound and alternative allocations, such as Copped Hall should be included. This allocation could help to address other deficiencies in the Local Plan including the absence of sufficient sporting infrastructure and air pollution mitigation measures (through the delivery of a relief road). In order to remedy this soundness issue exploration of this allocation needs to be undertaken.

MM78 – Policy DM22

As set out above we do not support the reduction in housing numbers for Epping without their replacement on suitable sites, such as Copped Hall Estate. Furthermore, we do not consider that the South Epping Masterplan provides a suitable evidence base to support delivery of this site. The masterplan refers to air quality issues and describes these as District-wide problems which are not applicable to this site. We do not agree with this statement. We consider that there are alternative sites that can deliver greater air quality benefits through the provision of a relief road, such as Copped Hall, as set out in our Submission reps (Appendix A2).

In addition, the masterplan makes highly questionable assumptions about delivery, including the delivery of 100 homes in 2023/24 and every year until 2030. We consider that the start date is not feasible given that planning permission has not yet been granted for the site. Furthermore the provision of 100 homes a year for a scheme with just one developer is highly ambitious and a figure of 70 homes is usually the upper limit for sites such as this.

We consider that in order to be sound, the Local Plan needs to reconsider potential allocations that could air quality improvements and adjust the assumptions around delivery in this location.

MM112 – Policy D 8

This Policy makes provision for a review of the Local Plan policies to see if they need to be updated, with the first review to take place after five years of the Plan being adopted. The mechanism is entirely policed by the local authority and if they do not consider the production of a new Local Plan is not required, then they do not need to carry one out.

We do not consider that this is appropriate for the following reasons:

- The Local Plan was first submitted to the Secretary of State in 2017 and upon adoption it will be nearly five years old.
- The Local Plan is based on the 2012 NPPF and is already dated in this regard.
- The Plan already contains a number of outdated policies, including the approach to Employment Land.
- The Plan is based on an out-of-date evidence base, including the 2017 SHMA.
- The Local Plan is based on delivering much lower levels of housing need than that expected under the level of objectively assessed need. It should be delivering an increase of 25% to meet the District's needs, but has escaped this by virtue of a loophole in the old NPPF. A new Plan to address current levels of need is urgently needed.
- Para 30 of the 2019 NPPF states that *'Relevant strategic policies will need updating at least once every five years if their applicable local housing need figure has changed significantly; and they are likely to require earlier review if local housing need is expected to change significantly in the near future.'* As the current Local Plan is based on a lower level of housing need, it will automatically require a review after five years, notwithstanding any independent assessment by the Council.

We do not consider that this approach to a review is sound as it is not based on an effective strategy and does not accord with national policy. We recommend that this entire MM is deleted and replaced with the following:

'Upon adoption of the Local Plan, the Council will commence an immediate review to address the higher level of objectively assessed housing need and to produce a development plan based on the current NPPF.'

c. Summary

We do not consider that the MMs remedy the serious soundness issues related to the plan and more work is required to address these, including:

- Revisiting assumptions on delivery to ensure that the Plan can deliver sufficient housing;
- Taking opportunities to deliver air quality improvements.
- Setting out a fall-back position for alternative allocations, if the CAZ cannot be delivered.
- Ensuring an immediate review of the Local Plan takes place on adoption to meet the housing need this Plan fails to.
- Increase the housing provision for Epping back up to its previous position, one of the most sustainable settlements in the District.

We trust that the above comments are clear, but we would welcome the opportunity to discuss these in detail, including at further Examination Sessions, if the Inspector deems this necessary.

Yours faithfully,

Jamie Sullivan
DIRECTOR