



Lifestyle Care and Community Ltd

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Planning Policy
Epping Forest District Council
Civic Offices
323 High Street
Epping
Essex CM16
4BZ

5 December 2022

Dear Sirs,

Re: Epping Forest District Council Local Plan (2017) Main Modifications – Consultation Response

1. Introduction and Background

These representations have been prepared by Lifestyle Care & Community Ltd in response to the Epping Forest District Council Local Plan (2017) further Main Modifications Consultation October 2022 .

Lifestyle Care & Community Ltd is a company set up to develop a former commercial site called “Chimes Garden Centre”, located in Nazeing. This site was previously included in one of the earlier versions of the plan but was excluded in later versions as the site had by then already benefitted from a residential planning consent for up to 47 homes.

There is an additional planning application on this site that has recently been submitted (EPF/2601/22) for an Older Persons Assisted Living Retirement Village for 65 Apartments/Cottages, with development proposed on another part of the site for 10 Self-Build Homes and 4 Starter Homes (affordable housing).

As part of this planning submission, we have had to substantiate “unmet need” for this type of specialist housing. In this regard, we commissioned two reports from the Strategic Planning Resource Unit (SPRU) with respect to;-

- Epping Forest Older Persons Housing Need Assessment
- Review of 5 Year Housing Land Evidence In Epping Forest District Council

Both of these Reports are very significant with respect to the Main Modifications Consultation, and are enclosed with this submission.

2. Planning Policy Requirements for Local Plans

The four tests of soundness are set out in paragraph 35 of the NPPF. In considering whether a Local Plan is 'sound', it is necessary for the entirety of a Local Plan to meet each of these requirements – not just elements of it. The Further Main Modifications consultation is limited to those amendments denoted by red text in the consultation document. Hence, these representations have been prepared on that basis.

It is our position that the Plan, as proposed to be amended, is not sound without the changes requested, for the reasons set out and expanded upon below.

3. Main Modifications MM11, MM15, MM27

All of these comments reply to each of the above, and after this explanation has been made, suggestions to the revised wording required for each Main Modification will be given.

3.1 Brownfield Register – MM15

The Inspector might wonder why this matter has been raised, and I will explain why. In the MM 15, it sets out that the “sequential approach” is removed from Policy SP2. Whilst this is welcomed, EFDC are using this clause to determine whether sites might be eligible to be included on the Brownfield Register.

This has been an ongoing matter of dispute with EFDC for the Chimes site. As the site is Previously Developed Land, it should be eligible to be put on to the Brownfield Register. EFDC have refused to include the site on the Brownfield Register as it is located in Flood Zone 2, and cited SP2 as justification for its exclusion based on the “sequential approach”.

However, this “sequential approach” in Policy SP2 relates to *new* site allocations in the plan, and should not be applied to additional planning applications or windfall sites. These planning applications should be considered with respect to Policy H1. As this “sequential approach” wording has now been removed in the MM's, some clarity should be applied in this respect.

In the next section I will be talking about EFDC's 5 year housing supply, and their appalling record with respect to the Housing Delivery Test. One would have thought that EFDC would use all available tools at their disposal to generate additional housing to improve their housing delivery under-provision in previous years. Yet it appears to be the case that numerous and suitable Brownfield Sites are being excluded from consideration by EFDC for spurious reasons. The Inspector has the opportunity to considerably boost the supply of housing by a small amendment put forward below.

It is suggested that Part A be revised as follows;-

A - Within the period 2011 – 2033 the Local Plan will provide for a minimum of 11,400 new homes on allocated sites, including a minimum of 2,851 new affordable homes between 2016 – 2033. Windfall Sites shall be assessed in accordance with Housing Policy H1.

3.2 Older Persons Housing and Mooring of Houseboats - MM 27

Houseboats - There are sections of the River Lea where 14 day short-stay moorings are allowed, and even this restriction causes problems in some areas due to the proximity of established leisure water-sports areas. This is mainly by Broxbourne Station and the River Lea in this location as this is a major water sports area as it has a Pleasure Boat hire facility and Broxbourne Rowing Club is based here. There has been numerous collisions with canal boats, rowers, and pleasure boaters. If there were permanent moorings in this area, this health and safety issue will be exacerbated. A small change to the wording in Part C would suffice in this regard.

Older Persons Housing - Whilst Policy H1, Part A(i) has been amended to include the provision for "housing for older people", Part C should be amended as well for clarity.

It is suggested that Part C be revised as follows;-

C – Proposals for new homes comprising;

- Specialist accommodation
- **Housing for Older People**
- Self-build/custom housebuilding
- Community-led schemes
- Sites upon which caravans could be stationed
- Sites upon which caravans can be stationed; or
- Locations for mooring houseboats

will be supported where

(i) The location is appropriate in terms of access to facilities, services and public transport, and ensures that the users of water sports facilities in the proposed mooring area are not prejudiced in any way.

(ii) It can be demonstrated, where relevant, that the development is designed and managed to provide the most appropriate types and levels of support to the proposed occupier and adequately caters for the need of support staff,

3.3 5 Year Housing Supply and the provision of Specialist Accommodation – MM11 and MM15

The Inspector is urged to look at the enclosed Reports submitted by SPRU earlier in this letter set out in Section 1.

It is suggested to the Inspector that these two sections MM's section be rejected, and replaced with a new section as the writer of these Reports concludes;-

The “stepped approach” as proposed is simply a mathematical device to try and shore up a poorly prepared plan so that it does not fail the five year land supply test within a year of its adoption. Although ED144 does not actually set out a five year land supply calculation.

For these reasons, I cannot see how the Inspector will be satisfied that his queries and questions that were set out in his letter dated 16^h June 2022, has been satisfied.

Background

It is accepted by the Council that the emerging plan as submitted will not deliver a five year land supply on the date of adoption, this is why the Council is now proposing a “stepped” approach to the housing requirement.

The latest information provided by the Council does not provide a five year land supply calculation but the information provided in ED144.1A has been used in the next section to calculate the 5 year land supply in different scenarios.

In response the Council have produced two further documents ED144 and ED144.1A.

ED144 sets out how the “stepped trajectory” proposed in p.15 of EB410A maybe applied to the five year land supply calculation. The proposed stepped trajectory is as follows:

- a) 2011 to 2021/22 = 275 dpa
- b) 2022/23 to 2026/27 = 500 dpa
- c) 2027/28 to 2032/33 = 980 dpa

What is not reported was SPRU's objections to the stepped approach in that it was introduced without engaging the Duty to Cooperate to ascertain if the delayed unmet need could be met in neighbouring authorities or indeed be addressed by alternative or additional allocations. The SPRU comment is as follows;-

The “stepped approach” as proposed is simply a mathematical device to try and shore up a poorly prepared plan so that it does not fail the five year land supply test within a year of its adoption. Although ED144 does not actually set out a five year land supply calculation.

SPRU Report - Table 1 sets out the deductions from “Deliverable sites” of only 1836

SPRU Report - Table 3 is copied below to include this figure.

Table 3. The current land supply position

	Councils Supply ED144.1A	SPRU Supply
Standard Method	973	973
Buffer	20%	20%
Housing Requirement	1,168	1,168
Supply		
Commitments (sites with PP)	1,594	1,543
Strategic Sites (Harlow)	300	0
Other SVLP Allocations	1,509	139
10% Slippage	159	154.3
Windfall	0	0
Total 5 Year Supply	3,562	1,836
5 year Requirement	5,839	5,839
5 year Supply	3.1	1.6
Surplus/Shortfall	-2,276	-4,003

The above demonstrates that even on the Council's own estimation of future delivery in the next five years the Council do not at present have a five year supply of housing land. At 3.1 years there is a significant shortfall.

If the supply is tested/judged against the need for clear evidence of delivery as required in the up-to-date NPPF then the supply is even less at just **1.6 years supply**.

5 Year Land Supply in relation to the Emerging Plan

The submitted plan has no stepped housing requirement and so the first column in table below sets out the supply as per the Councils ED144.1A against the submitted plans annualised housing requirement. The following columns set out the Council's and our estimates of supply against the proposed “stepped” requirement. As explained earlier the difference between these last two columns is Council's approach to the definition of the supply which for the purposes of the local plan examination is under the 2012 NPPF approach and SPRU's definition of supply under the 2021 NPPF definition of deliverable. The important point to note is that once the plan is adopted then the five year housing land supply calculation will be undertaken against the 2021 NPPF definition not the 2012 NPPF definition.

Estimates of 5 year land supply upon the adoption of the local plan

	Local Plan (submitted)	Local Plan (stepped)	SPRU Supply Local Plan (stepped)
Net completions 2011/12 to 2021/22	3,023	3,032	3032
Housing Requirement 2011/12 to 2032/33	11,400		
Requirement to date (11400/20x11)	5,700	3,025	3,025
Shortfall to date (11400/20x11)	-2,677	7	7
Future LP requirement	762		
Future LP requirement plus 20% buffer	914		
Future LP requirement Stepped (500 dpa to 2027)	0	500	500
Future LP requirement Stepped (500 dpa to 2027) plus 20% buffer	0	600	600
Supply (ED144.1A)			
Commitments (sites with PP)	1,594	1,594	1,543
Strategic Sites (Harlow)	300	300	0
Other SVLP Allocations	1,509	1,509	139
10% Slippage	-159	-159	-154.3
Windfall	0	0	0
Total 5 Year Supply	3,244	3,244	1,528
5 year Requirement	4,569	3,000	3,000
5 year Supply	3.5	5.4	2.5
Surplus/Shortfall	-1,325	244	-1,472

The above table demonstrates that there is only one scenario for the Council in which they might be able to demonstrate a five year land supply at the time of adoption and this relies upon the adoption of the **mathematical fix** to the housing requirement by way of a stepped approach which was **specifically designed** to secure this outcome. Even in this case however the assessment of the supply against the up-to-date definition of delivery as set in the 2021 NPPF would suggest a significant shortfall in supply with only a **2.5 year supply being identified**.

Deliverability and the Housing Delivery Test

The SPRU Report highlights the fact that EFDC have a shocking record for the under-delivery of housing resulting in the 2021 Housing Delivery Test that puts them in the bottom 3 local authorities in England.

No Housing Delivery Test Action Plan has been published for the 2021 results by EFDC, and it is now some 6 months overdue.

The 2020 Housing Delivery Test Action Plan merely stated that EFDC wanted the early adoption of the New Plan to deliver those sites in the plan. However, EFDC made no provision in this Action Plan as to how they would accelerate the build-out of homes during the plan period without the need to allocate additional sites to make up this under-delivery and to allow for the 20% buffer.

EFDC have offered **no evidence** as to how they will ensure that the accelerated trajectory, after the first 5 years, will be delivered.

It appears to the writer of this letter, and many, many others, that EFDC have not complied with their statutory duty to provide a “sound” Local Plan, and that their responses to the inspector to his legitimate questions, have been covered in a “smokescreen” to conceal the true situation.

Self-build housing

The writer of this Report submitted a Freedom of Information Act Request to the Council seeking information regarding the Council’s Self Build Housing Register. On 24 May 2022 a response was received as follows:

“I refer to your recent request for information about self build plots. The information you requested is as follows:

Due to GDPR and Data Protection restrictions, we can’t provide the register as it has customers personal details on there, but we can confirm how many people are on the register.

- *EFDC has a 2 Part Register adopted in July 2020.*
- *There are 30 applicants on the Register for base years 2 – 6.*
- *There are 19 applicants on Part 1 of the register and 11 applicants on Part 2 of the register.”*

The Applicant sought clarification regarding whether any of those registered at yet received planning permission and received a response on 16 June 2022 advising:

*“.....according to most recent records, **no individual on the Register has yet received a planning consent for a self-build home.**”*

The Council has also acknowledged that no self build consents have been granted since 2015. This clearly establishes a need for self build housing in the district which has yet to be met.

Once again, this highlights the fact that the MM’s show a significant unmet need for self-build housing. The MM’s proposed do not address this issue.

Affordable Housing

It is already highlighted in the MM's that there is a significant unmet need for affordable housing. The MM's proposed do not address this issue.

Specialist Housing - Older Persons Assisted Living

It is highly recommended that the Inspector reads the SPRU Report as it highlights the fact that whilst the EFDC's Plan submission (EB411 - Housing LIN Report – December 2021) shows some 110 Assisted Living Accommodation Units being required, this is a complete underestimate of the actual unmet need of some 1,300 Assisted Living housing units required, a 14-fold under provision!

The SPRU Report does not deal with the matter of Older Person's housing needs generally, but it is concluded that there is also a substantial under-provision for this specialist housing in the New Plan.

4. Conclusion for Main Modifications MM11 and MM15

It seems to be the case that a number of Inspector's are agreeing to accept New Plans as being "sound" even though they consider them to be deficient in some way.

In other words, it appears to be the case that a "flawed" New Plan is better than no plan at all.

The submission of the writer of this letter suggests that the Inspector should not accept the MM's with respect to MM11 and MM15 as they are misleading and inaccurate.

How can an Inspector allow a "mathematical fix" to provide on paper a 5 year housing supply in place upon the adoption of the New Plan? The stepped trajectory detailed over the remaining years of the plan period cannot be achieved over the last few years of the plan and neither have EFDC supplied **any evidence** at all that this could be achievable.

Recommendations

That the Inspector reject all of the MM's proposed by EFDC with respect to MM11 and MM15, and instruct EFDC to provide both accurate and deliverable figures for them to be re-drafted and submitted to the Inspector for further scrutiny and consultation.

Notwithstanding the above, if the Inspector decides that he can approve the New Plan as "sound", any such approval must be provided with the Caveat Declaration from the Inspector that;-

1. **It is declared that EFDC cannot provide a 5 Year Housing Supply upon the adoption of the New Plan, and**
2. **Upon the adoption of the Plan a review of the plan is immediately undertaken, and**
3. **EFDC immediately seek to allocate New Sites for residential development in accordance with Policy H1 with priority given in the site selection to;-**
 - **Previously Developed Land in Flood Zone 1**
 - **Previously Developed Land in Flood Zone 2 (with suitable Flood Risk Assessment).**

It is hoped that you can consider the contents of this letter and enclosed documents.

Kind Regards

Pauline Chernin
Lifestyle Care and Community Ltd