



## Introduction

These representations are submitted on behalf of Quinn Estates Ltd and Redrow Homes, the promoters of a housing-led mixed-use development at the former North Weald Golf Course.

Whilst this site is in the Green Belt (like a number of other proposed allocations), the vast majority of the site is beyond the Epping Forest Special Area of Conservation ('SAC') 6.2km zone of influence in relation to recreational effects. The scheme includes air quality mitigation measures.

Quinn Estates and its development partner Redrow Homes have engaged with the local planning authority by way of a planning application to demonstrate that there are no technical impediments to the delivery of development on this site and that, in fact, it can be commenced in the early part of the plan period with the full development being completed within the plan period.

In respect of the Quinn Estates / Redrow Homes proposal:

- it will deliver all necessary infrastructure, a substantial number of affordable homes, and wider benefits, for example by way of a new park and ride facility with an emission-free bus link;
- all relevant technical statutory consultees have been consulted on development of the former North Weald Golf Course and none have objected;
- the first phase includes 107 dwellings which can be commenced as soon as the application has been approved, pre-commencement conditions have been discharged and all technical approvals have been granted. If the application was approved in early / mid 2023 occupations of housing and care home / retirement village accommodation could take place from 2025 to 2031;
- MOAT has committed to delivering affordable housing in the first phase.
- the care home and retirement village are 'in legals'; and
- all of the land necessary for this development is in a single ownership, including SANG land (and there would be surplus SANG land to support the delivery of other local plan proposals).

## Documents

We provide the following documents in support of these representations:

- [Appendix 1](#) – Harlow Council's Resolution of September 2021<sup>1</sup>; and
- [Appendix 2](#) – Review of First Ten Entries on Council's List of Committed Developments.

## Our Comments

### 1. Generally – Updated Evidence Base

On the Council's website it is stated that:

*"The following documents have been prepared to support the further Main Modifications to the Plan. Representations concerning their content will be accepted to the extent that they are relevant to inform your comments on the further Main Modifications. However, you should avoid lengthy comments on the evidence / background documents themselves."*

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<sup>1</sup> <https://moderngov.harlow.gov.uk/ielListDocuments.aspx?CId=123&MId=1360&Ver=4>

These documents include a new Habitats Regulation Assessment and an updated Sustainability Appraisal.



We are astonished that the Council is seeking to limit comments on documents which are central to the soundness and legal compliance of the emerging plan and which include comparative and cumulative comparisons of local plan policies whether they are the subject of the further main modifications or not.

As well as there being legal requirements to consult the general public, there is a legitimate expectation of being consulted given that the Council consulted on previous versions of these documents<sup>2</sup>.

In this regard alone, and absent full consultation, we do not consider that the draft plan as altered by the further main modifications can be considered to be sound or legally-compliant – whether in terms of the Town and Country Planning (Local Planning) (England) Regulations 2012 or the Conservation of Habitats and Species Regulations 2017 (as amended).

## 2. Housing Land Supply

The most recent housing land supply information published by the Council appears to be in ED144A.1<sup>3</sup>.

The Council has stated that the ‘flexibility in supply’ amounts to 799 dwellings.

Throughout the *Council’s response to Actions outlined in Inspector’s Note 16 June 2022 (Examination Document reference number ED141), October 2022 (ED144)* the Council expresses “confidence” in its housing delivery assumptions. It also asserts that its delivery assumptions are “accurate and realistic”.

We disagree for the following reasons.

### (a) General Comments

In response to delays in progressing its new local plan, the Council has simply increased projected delivery on sites / broad locations in the early years of the plan period without justification and without regard to the widely-accepted lead-in times for development (which we will discuss below in relation to North Weald Bassett).

There does not appear to be any recognition by the Council of a number of recent significant issues which can have the effect of slowing housing delivery and can even result in developers temporarily halting development. These include:

- the current economic recession;
- rampant build cost inflation;
- workforce shortages; and
- shortages of / supply issues with building materials.

Whilst some developers, including Redrow, will have taken account of such issues, it is not clear from the trajectory whether the Council has ‘stress tested’ delivery to take account of these wider issues, particularly where it has increased delivery in individual monitoring years.

Because of this, and whilst all sites might not be affected, we consider that, generally, the Council’s assumptions are likely to be over-optimistic once these factors are taken into account. The Council ought to review its housing trajectory, particularly where it has made assumptions about accelerated delivery in the early years of the trajectory.

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<sup>2</sup> For example see here: <https://www.eppingforestdc.gov.uk/get-ready-for-the-consultation/>

<sup>3</sup> <https://www.efdclocalplan.org/wp-content/uploads/2022/11/ED144A.1-Apps-to-Councils-response-to-ED141.pdf>



## (b) Planning Commitments

The Council has stated that 'sites with planning permission' account for 1,665 homes. The age of a number of the planning permissions on the list is an immediate 'red flag', signaling that further consideration ought to be given to the robustness of the Council's data.

To test the situation we looked at the first ten entries on the list. Amongst those ten entries we found:

- a replacement house being counted as a net gain even though the description of development is clear that the scheme involves demolition of the existing house on the site;
- a permission which has expired and where there are no records of pre-commencement conditions having been discharged; and
- a property where the Officer's Report for a subsequent retrospective application confirms that the approved residential units have not been implemented and that the property is being used as offices.

Sites without an implementable planning permission should not be included in a five-year housing land supply, as this does not meet the definition of 'deliverable' within the NPPF. Ensuring the draft Plan is consistent with national policy is fundamental to soundness (NPPF Paragraph 35d).

Furthermore there are examples where there is clear public information / evidence that contradicts the trajectory. For example, the development by Council-owned company Qualis at St John's Road will be delayed by the desire to provide temporary public car parking on that site until the new Cottis Lane car park has been completed (summer 2023). Nevertheless, the Council's trajectory shows delivery of 92 homes in 2022/3 and 92 in 2023/4. We estimate that if delivery work commences in summer 2023, the first units will only become available in 2024/5.

Returning now to our analysis of the Council's trajectory, by our calculation out of the 35 units listed by EFDC in the first 10 entries, only 25 units should be included (the figure may be higher – we have given the benefit of the doubt to some entries). This is a significant difference and suggests that the list has not been prepared and maintained with the necessary care and rigour.

We consider that the whole of the document cannot be relied upon until it has been thoroughly reviewed. Such a review could reveal a significantly lower figure for planning commitments and therefore is key to any conclusion as to whether EFDC has a five-year housing land supply and as to whether the plan is 'sound'.

## (c) Around Harlow

On page 15 of this document the Council states the following: *"\* Note: The Plan allocates ~3,900 homes in the Garden Communities around Harlow within the District. For the purposes of determining housing land supply it is considered that 3,400 homes will be delivered within the Plan period to 2033."*

We have been unable to find any up-to-date assessment to support this assertion. It is essential that this large-scale delivery is properly tested given that Harlow Council resolved in September 2021 ([Appendix 1](#)) that it does not support any development of Sumners West or any other developments to the south or west of Harlow, and that it will not sell or lease any land or rights of way which it possesses that may assist in the development of Sumners West or any other developments to the south or west of Harlow. We are not aware of Harlow Council having changed its position since that resolution.

Clearly, the developments within EFDC around Harlow will rely on access to facilities in Harlow and will need to be connected to Harlow's road and public transport networks. The assertion that 3,400 homes can be delivered during the plan period must be fully tested to ensure that there are no impediments, such in terms of land or rights of way, which could prevent or delay the progression housing delivery.



#### (d) North Weald Bassett

The former North Weald Golf Course is in the North Weald Bassett spatial area where (according to MM15) approximately 1,050 homes will be delivered over the plan period.

MM86 says that the masterplan for North Weald Bassett will be taken into account as an “*important*” material consideration when planning applications are determined. Whilst a masterplan might be considered as important, weight is a matter for the decision-maker and should not be prejudged by a development plan policy. This wording should be amended.

It is clear that the trajectory for North Weald Bassett is unrealistic. ED130<sup>4</sup> includes a ‘merged’ version of the trajectory which shows how delivery at North Weald Bassett has already been pushed back three years. This change to the trajectory reduced delivery from 13 years to 10 years and included significantly higher annual delivery rates from 2023/24. The new trajectory in the further main modifications pushes delivery back by another two years – to commence in 2025/26 – and reduces the delivery period to eight years – five years less than originally envisaged.

To us this appears to be wholly artificial and as though the delivery numbers are being ‘reversed into’ the local plan target.

In our opinion such increases in delivery rates are overly-optimistic, not justified, and do not reflect the usual more gradual ‘build up’ of delivery on large sites which is a consequence of initial preparatory and infrastructure works. One would normally expect the first delivery years to have a lower rate than later, peak delivery years. Indeed, the first version of the trajectory did just that as can be seen from ED130.

Furthermore, we are not aware of any planning application having been submitted and whether the Council and the eventual applicants are even in a position to address SAC requirements. Even if an application was submitted soon, it is entirely unrealistic to assume that a large site will yield dwellings in 2025/26.

Research undertaken by Nathaniel Lichfield and Partners (‘NLP’) is frequently referred to as an independent and reliable indicator of lead-in times for the delivery of housing. It has also been relied upon by Local Plan Inspectors (for example at Tunbridge Wells in November 2022<sup>5</sup>).

Looking at NLP’s research on delivery rates (summarised in [Figure 1](#) below)<sup>6</sup>, it is more realistic to assume a period of at least four years for planning to delivery, based on the assumption that several planning applications would be made for the 1,050 homes rather than one single application (in which case the lead-in period would be longer). We also note that the NLP data do not reflect the specific EFDC requirement for there to be a masterplan in place, another factor that will add time to the process, nor has EFDC set out whether all five sites can come forward at the same time or whether there are any specific infrastructure pre-requisites. Whichever situation comes to pass, when lead-in times are taken into account, significantly fewer than the assumed number of homes will be built in this spatial policy area during the plan period (even assuming that SAC issues can be overcome).

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<sup>4</sup> [ED130-MM-Schedule-Merged-090721.pdf \(efdclocalplan.org\)](#)

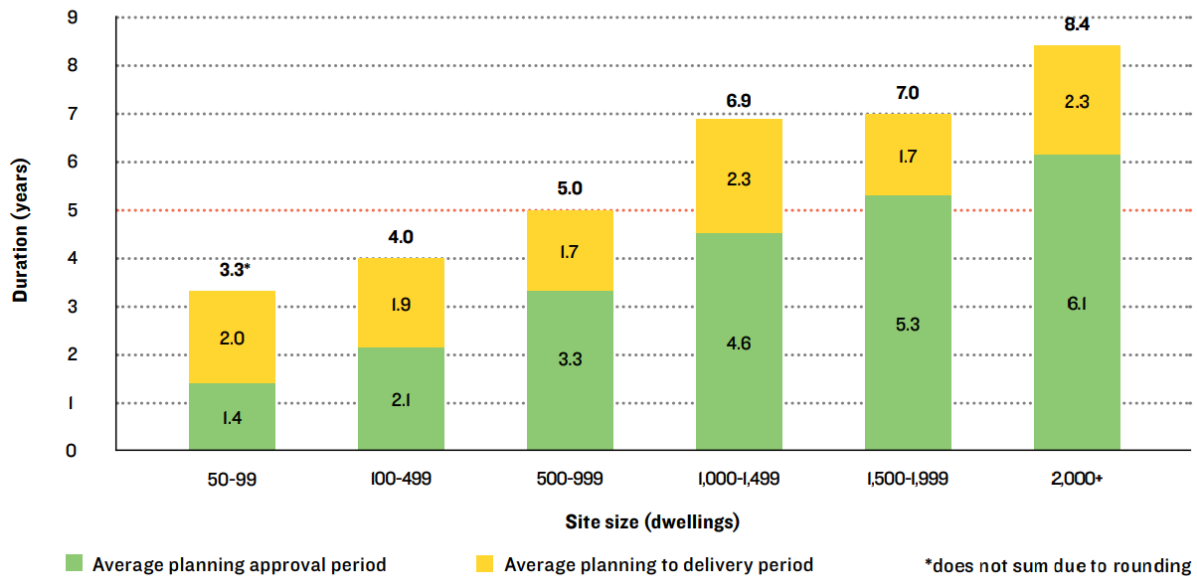
<sup>5</sup> See paragraph 34 [ID-012 Inspector’s Initial Findings .pdf \(tunbridgewells.gov.uk\)](#)

<sup>6</sup> Figure 4, page 6 [https://lichfields.uk/media/5779/start-to-finish\\_what-factors-affect-the-build-out-rates-of-large-scale-housing-sites.pdf](https://lichfields.uk/media/5779/start-to-finish_what-factors-affect-the-build-out-rates-of-large-scale-housing-sites.pdf)



Figure 1 – Extract from NLP’s Research on Delivery Timescales

Figure 4: Average timeframes from validation of first application to completion of the first dwelling



Source – Lichfields

On that basis the plan would be unsound because it would not meet projected development needs. The solution to this would be to identify additional sites, particularly where early delivery is possible because of the absence of constraints and where there is a current application waiting to be determined – such as at the former North Weald Golf Course.

This issue is not unique to North Weald Bassett, other major sites will be affected too. These include sites around Harlow not least given the indication that applications for these sites will not be determined until the local plan is adopted. Therefore, it is entirely unrealistic to assume that delivery of these sites will commence in 2025/26 as stated by EFDC.

When all of such delays are taken into account, the ‘flexibility in supply’ that the Council says exists will turn into a significant deficit.

### 3. SAC Mitigation

MM46 (pages 73 and 74 of the further main modifications) reads as follows:

*“New Paragraphs following split Paragraph 4.20:*

*“x.xx Planning applications need to be supported by sufficient information to enable the Council to conclude that the proposals would not result in an adverse effect on the integrity of either the Epping Forest SAC or the Lee Valley SPA/Ramsar sites. Such information may include the identification of specific avoidance or mitigation measures and how they would be secured and delivered. To help applicants identify such measures, the Council has developed and adopted a number of strategies. Each provides an overview of what impacts the strategy is seeking to address together with guidance as to what measures are likely to be the most effective and the ways that they will be delivered. These strategies are:*

*“x.xx Air Pollution Mitigation Strategy (APMS) for the Epping Forest – The APMS includes a number of specific measures and how they would be delivered to ensure that there would be*



no adverse effect on the integrity of the Epping Forest SAC in relation to atmospheric pollution. This reflects the findings of the HRA 2022 that new development within the District has the potential to increase pollutants of concern within the Epping Forest SAC, primarily arising from emissions of nitrogen dioxide and ammonia from additional vehicles using roads in close proximity to it. The APMS has taken account of the need for development proposals to be assessed both alone and in combination with other plans and projects and therefore provides a strategic approach to the identification and delivery of mitigation and monitoring measures. These measures range from those which will help to limit the increase in the level of traffic using roads through the Epping Forest SAC and significantly increase the uptake of electric vehicles, through to the implementation of a 'Clean Air Zone' should the future monitoring demonstrate that it is required [INSERT FOOTNOTE 1 AS BELOW]. The APMS also includes targets against which progress will be assessed together with a Monitoring Framework, which includes for future on-site monitoring. This Monitoring Framework is necessary to ensure that progress towards the achievement of these targets is assessed and informs any necessary changes that may need to be made to the targets and measures and identified in the APMS.

"Footnote 1 to read: "1 The HRA 2022 concludes that a Clean Air Zone will be required, but it is possible that improvements in air quality may proceed more quickly than has been assumed in the modelling underlying the HRA and in that eventuality the need for a Clean Air Zone can be reviewed in response to air quality monitoring data." (underlining is our emphasis)

As we have noted above, the Council has published a new HRA dated October 2022 (ED149). This states that:

*"6.72 Significantly, given the Local Plan assessment year of 2033, UK government policy is for 100% of new cars and vans registered in the UK to be a ULEV (i.e. electric vehicle or similar e.g. hydrogen) by 2030, although it is not currently included in the EFT projections. This is to be achieved by a total ban on the sale of new petrol and diesel cars and vans from that year. Therefore, a rapid acceleration in uptake in ULEVs can be expected over the plan period (particularly in the last 5-year period), and it is thus entirely possible that something approaching a 30% shift from petrol cars to ULEVs by 2033 could be achieved even without specific steps being taken by EFDC."*

We agree that such a shift is entirely possible, but we also note that the above statement is merely speculation. It is also entirely possible, not least given the significant cost of new electric cars and the current cost of living crisis, that people will seek to extend the life of the vehicles that they already own and may even plan to buy a new fossil fuel vehicle shortly before the projected 'ban' is due to come into force. Therefore, this speculation cannot be relied upon without any evidence to support it.

Notwithstanding, the HRA also states that (again, underlining is our emphasis):

*"6.75 With that in mind EFDC need to have the following operating to enable a conclusion of no adverse effects on integrity:*

- 1) Minimising the increase in traffic flows through the SAC as much as possible, by strongly limiting parking availability in sustainable locations, encouraging ULEV-only parking spaces where these are enforceable and introducing controlled parking zones to discourage on-street parking.*
- 2) Introducing initiatives to support walking, cycling and increased public transport use and ensuring these are included in planning consents where possible and appropriate.*
- 3) Introducing a series of initiatives that are directly intended to stimulate uptake of ULEVs to maximise the likelihood of achieving the conversion of 30% of petrol cars using the modelled roads to ULEVs by 2033 (beyond those that can be built into the CAZ as discussed above). These essentially involve:*



- a) *Awareness Raising Campaigns to promote the benefits of electric vehicles, the availability of charging infrastructure, and falling electric vehicle prices due to falling battery costs, to residents of Epping Forest District and particularly those who live in settlements surrounding the SAC;*
  - b) *Ensuring that electric vehicle charging infrastructure is universally available in public and private parking spaces and that a significant proportion of new parking spaces have active EV charging provision (particularly rapid charging provision); and*
  - c) *Positively incentivising the uptake of electric vehicles by (for example) introducing schemes to directly assist with ULEV purchase, adjusting the charging framework of any CAZ such that drivers of electric vehicles pay little to no tariff and providing electric vehicle owners with benefits such as free parking.*
- 4) *Introducing a Clean Air Zone covering the SAC from 2025. At its simplest this would involve charging people driving into the zone for doing so, every time they do so, based upon the age and type of their vehicle. The aim would be to encourage motorists to replace older vehicles compliant with outdated emissions standards with newer vehicles compliant with the latest emissions standards, particularly Ultra-Low Emission Vehicles or ULEVs, through a graduated charging system (for example, zero charge for ULEV owners, or an increased charge for petrol car owners). It would potentially also encourage those motorists who were able to utilise other routes to use those instead of the roads through the SAC. As a precaution no dynamic reassignment has actually been assumed in our modelling; however, it could be built into the CAZ as a deliberate objective of the charging strategy.”*

It is clear from the 2022 HRA that a series of measures must be put in place to enable proposals in the draft local plan to be brought forward – the word ‘need’ represents an absolute requirement. These requirements include a Clean Air Zone (‘CAZ’).

However, EFDC’s proposed further main modification – including ‘footnote 1’ – does not provide sufficient certainty that the Council will do this, not least because it is also based on speculation as to what might happen in the future. We do not consider it plausible that take-up of ‘clean’ vehicle technology will be so rapid that over the next two years the need for a CAZ might be avoided as anticipated by footnote 1, not least because the necessary infrastructure is not yet in place to support a shift to electric vehicles.

A CAZ would need to be in place in just over two years’ time to enable the draft plan’s proposals to proceed as planned. However, there is no evidence that EFDC is planning, or even has the intention to introduce, a CAZ.

Unless it can give such a guarantee, the plan cannot be found sound because the sites which, if mitigation is not in place, will give rise to harmful effects on the SAC cannot be considered as deliverable or developable.

This is not an issue which is limited to new housing supply that will be the subject of planning applications in the future, it also applies to reserved matters applications.

Therefore there may be existing permissions which cannot justifiably included in the Council’s current assessment of housing land supply.

Furthermore, and an issue that an Inspector scrutinised at length in the *Tenterden* appeal<sup>7</sup> which was decided in February 2022, there is no indication that the Council has factored in the achievability of and timescales for mitigation when preparing its trajectory. It appears to us that it has not and that such an exercise must be undertaken so that it can be demonstrated that affected sites are ‘deliverable’ or ‘developable’ within the meaning given by the NPPF.

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<sup>7</sup> APP/E2205/W/21/3284479, from paragraph 12



In our opinion, this exercise will inevitably reveal a shortfall in supply, not least given the general over-optimism that is evident in the Council's trajectory as already discussed. In light of this, sites which do not give rise to such issues should be allocated to avoid this soundness issue and to enable the local plan to be adopted without any further delay.

Furthermore, the draft policy is not sound. According to MM46 applicants must identify avoidance or mitigation measures and how they would be secured and delivered. The necessary measures, as outlined in the 2022 HRA, are not all within the control of applicants, not least the introduction of a CAZ but also other measures such as the introduction of controlled parking zones. Sites that are within the zone of influence cannot be considered as deliverable or developable in the absence of there being certainty from the Council over the delivery of those measures.

Once again, the solution is to identify sites which do not rely on the measures prescribed in the 2022 HRA.

### Concluding Remarks

The further main modifications do not address fundamental issues with the draft local plan and raise new issues, specifically:

- the absence of proper and full consultation on the Sustainability Appraisal Update and the new Habitats Regulations Assessment;
- clear issues with significant components of the Council's housing land supply, including factual inaccuracies and unrealistic programming of major sites which do not even have planning permission yet;
- the consequential failure to demonstrate that the Council has a robust housing land supply and five-year supply of deliverable sites; and
- dependency on avoidance and mitigation measures which are not yet in place and which, if not implemented, would result in local plan proposals causing avoidable harm to the a European site.

These are serious legal compliance and soundness issues which go to the heart of the draft plan and which means that the draft plan should not be adopted in its current form. The solution would be to identify additional housing land which is deliverable.





## Appendix 2 – Review of First Ten Entries on Council’s List of Committed Developments<sup>8</sup>

EFDC Reference	Approval Date	Description of Development	ME Comments	EFDC’s Position	Actual
EPF/0398/13	13 May 2013; pre-commencement conditions also approved.	Demolition of house and garage and erection of replacement 4 bedroom house with attached garage.	Shown as a net increase yet it is clearly a replacement.	1	0
EPF/2173/16	26 October 2016; pre-commencement conditions also approved.	Demolition of existing buildings and erection of 2 detached houses with detached double garages including formation of new vehicular access.	No comments.	2	2
EPF/0684/18	4 May 2016; pre-commencement conditions also approved.	Demolition of buildings at Willow Park Farm and erection of new detached dwelling.	No comments.	1	1
EPF/0479/17	Allowed at appeal 27 July 2018; pre-commencement conditions approved.	Demolition of existing building and garage and new build three storey residential development comprising of 11 units with on-site car parking, cycle storage and refuse store.	No activity visible on March 2022 Google Streetview; possible that a material operation has been undertaken? Give benefit of doubt.	10	10
EPF/0958/15	18 June 2015.	Extension at first floor level to increase floor space for existing approved flatted scheme plus associated external alterations to provide four flats. (Amended application to EPF/2865/14)	Retrospective planning application for the construction of a first floor rear extension to provide additional office floorspace approved 12 November 2019 EPF/1835/19. Officer report confirms that permission for flats has not been implemented and that the first floor has been let out as offices. Approved scheme now unimplementable ('Pilkington' principle).	6	0
EPF/0450/18	Approved 26 April 2018; no pre-commencement conditions.	New two storey rear extension to provide 1 x 1 bedroom flat and 1 x 2 bedroom flat at first floor (revised application to EPF/0623/16).	No building control applications – unclear as to whether this has been or can still be implemented. No Council tax records. Give benefit of doubt.	2	2?
EPF/2727/17	Approved 30 November 2017; conditions discharged and amendments made to scheme.	Demolition of existing agricultural buildings (with consent to convert into three houses ref: EPF/0615/15) and the erection of three new houses (amended application to EPF/1308/17 in order to increase the height of the proposed dwellings).	No comments.	3	3
EPF/1471/17	Approved 15 August 2017; subsequent approval of conditions and NMAs.	Proposed erection of five 2 bed apartments with A1/A2 unit at ground floor.	No comments.	5	5
EPF/1478/16	Approved 5 October 2016; conditions not discharged.	Conversion of barns into 3 dwellings.	EFDC’s schedule lists only 2 dwellings but we assume that failure to discharge conditions (EPF/0003/20) means that this cannot be included in any event. No evidence on Council Tax records of three dwellings in this location.	3	0
EPF/3214/17	Approved 19 February 2018; conditions discharged.	Change of use of Grade II Listed Buildings to two residential dwellings.	No comments.	2	2
				<b>35</b>	<b>25</b>

<sup>8</sup> See page 5 of [Appendices to Council’s response to Actions outlined in Inspector’s Note to EFDC \(Examination Document reference number ED141\), amended version November 2022 ED144A.1](#)