

Name:

Part B – Your representation on the further Main Modifications and/or supporting documents

If you wish to make more than one representation, please complete a separate [Part B form](#) for each representation and clearly print your name at the top of this form.

4. Which further Main Modification and/or supporting document does your representation relate to? (Representations are only invited on further Main Modifications within the Schedule. These are denoted by red text. The reference number can be found in the first column in red i.e. **MM2**, **MM11** and each Supporting Document has a reference number beginning with ED).

Any representation on a supporting document should clearly state (in question 6) which paragraphs of the document it relates to and, as far as possible, your comments should be linked to specific further Main

MM no.

Supporting document reference

5. Do you consider this further Main Modification and/or supporting document:
(Please refer to the Guidance notes for an explanation of terms)

- a) Is Legally compliant Yes No
- b) Sound Yes No

If no, then which of the soundness test(s) does it fail

Positively prepared Effective

Justified Consistent with national policy

6. Please give details of why you consider the further Main Modification and/or supporting document is not legally compliant or is unsound. Please be as precise and concise as possible. If your response exceeds 300 words please also provide an executive summary of no more than 300 words. If you wish to support the legal compliance, soundness of the Local Plan or compliance with the duty to co-operate, please also use this box to set out your comments.

Please See Separate Sheet attached (and accompanying Documents 1, 2 and 3).

In summary CEG and HLM consider that the trajectory and resultant delivery projections as published in MM11, MM15 and MM115 broadly accord with the position of the promoters (the first 50 units to be delivered in 2025/26, increasing to 100 units in 2026/27 and then delivery of 150 units every year between 2027 and 2033 (1050 within the Plan period)).

However, the attached sheet draws attention to the updated IDP which is under preparation and sets out the concerns of CEG and HLM that should the Council retain the latest position proposed in the updated IDP regarding the delivery mechanism(s) for the STC connections then there would be a significant prospect of a delay to the expected delivery trajectory of Latton Priory and therefore, potential implications to the Council's overall housing delivery trajectory within the plan period.

7. Please set out what change(s) you consider necessary to make the **further Main Modification and/or supporting document** legally compliant or sound, having regard to the test you have identified in the question above (Positively prepared/Justified/Effective/Consistent with national policy) where this relates to soundness. You will need to say why this change will make the Submission Version of the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise and concise as possible. If your response exceeds 300 words please also provide an executive summary of no more than 300 words.

(Continue on a separate sheet if necessary)

8. Have you attached any documents with this representation which specifically relate to a further MM or supporting document?

Yes

No

Signature:

Date

09/12/2022

Epping Forest District Local Plan - Further Main Modifications Consultation

Representations on Behalf of CEG Ltd and Hallam Land Management Ltd

Introduction

This document sets out the representations made in response to the consultation on the Further Main Modifications (28 Oct – 9 Dec 2022) to the Epping Forest District Local Plan 2011-2033 (Submission Version December 2017) The representations are submitted by David Lock Associates (DLA) on behalf of the land promoters, Hallam Land Management (HLM) and CEG, who are the promoters and prospective developers of Latton Priory garden community.

Housing Delivery Trajectory and Housing Land Supply – MM11, MM15 and MM115

HLM and CEG welcome the revision made to document ED144A, now labelled ED144A.1 (published 11 November 2022) which now includes the additional correspondence from engagement with HLM and CEG and which now publishes the 'Note on Delivery Trajectory for Latton Priory' prepared by HLM and CEG and dated 2 August 2022 along with the covering email dated 18 October 2022 submitted to EFDC and previously not published.

The trajectory and resultant delivery projections as published in MM11, MM15 and MM115 broadly accord with the position of the promoters (the first 50 units to be delivered in 2025/26, increasing to 100 units in 2026/27 and then delivery of 150 units every year between 2027 and 2033 (1050 within the Plan period)). However, we would like to draw you to the attention of specific wording included within the covering email we submitted as part of the engagement with EFDC which confirms that;

"this is on the basis of the programme and explanatory notes provided to the Council which presume that the route of the STC is safeguarded in the Latton Priory proposals and forthcoming application for the Latton Priory Local Plan Allocation, and that the Latton Priory allocation, with others in the Local Plan, will make commensurate financial contributions towards the delivery of the STC. This position equally presumes that the STC is not required to be delivered prior to the occupation of development. Equally, the programme does not provide for submission and/or approval of details of the STC between Latton Priory and Harlow Town Centre (or part thereof) prior to the granting of consent for the Latton Priory allocation or its subsequent implementation according to a phased development programme".

The Council's apparent approach emerged in an informal Planning Strategy Note issued to developers on 24th August 2022 which set out that; *"the HGGT partners consider it necessary to demonstrate that an acceptable high quality active and sustainable access to the site is achievable. A Full Application shall therefore be required to be submitted to Harlow District Council and be approved prior to determination of any application for the Allocation with details of phasing of delivery to support occupation"*. The Planning Strategy note is not part of the Local Plan evidence base nor an examination document. A Copy of the Note prepared by EFDC (Document 1) is attached for the Inspectors information, along with the response that HLM and CEG has prepared and submitted to the Council (Document 2).

The Councils' approach to the delivery of infrastructure for the garden communities – including the STC – is consistent with the evolution of the HGGT IDP. The Local Plan relies upon the 2019 IDP. The planned update to the HGGT IDP was shared at HGGT Developer Forum held

Thursday 10th November 2022 and the accompanying Fact Checking Schedules are proposing the following wording under STC-LP:

"Southern STC continuation into and through the Latton Priory new garden community, including:

- *High Quality Walking, Cycling and Public Transport routes to connect to Southern STC at Latton Bush Centre/Commonside Road;*
- *Continuation of the STC on-site to serve the new neighbourhood(s) with on-site Hubs;*
- *Continuation of STC to connect with the B1393/M11 Junction 7.*

The IDP schedules further, newly, advise that 'Delivery of STC connection between Latton Priory new garden community and Southern STC currently expected to be required between 2024-26 to support occupation of development. Phasing of on-site works currently unknown'.

CEG and HLM submitted representations to the HGGT regarding the IDP under separate cover (a copy of which is appended to this representation – Document 3). As set out in the note to the Council(s) on the IDP Update, CEG and HLM need to reiterate that if the Council retain their position as referred to above in relation to requiring the developers to secure the delivery of the STC (including sections off site), there would be a significant prospect of a delay to the expected delivery trajectory of Latton Priory and therefore, potential implications to the Council's overall housing delivery trajectory within the Plan period.

Document 1

HGGT Latton Priory Planning Strategy Note August 2022

Latton Priory Strategic Site: Planning Strategy Note

Prepared by:

Nick Finney, EFDC Implementation Team Manager
Ione Braddick, HGGT EFDC Lead Officer

Date: 24th August 2022

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1. Introduction

1.1. The Latton Priory Strategic Site is progressing with a number of different workstreams/ planning aspects live and requiring resource simultaneously. These include the developer-led Strategic Masterplan Framework (SMF), the EFDC authority-led Latton Priory Design Code Pathfinders project - funded by DLUHC, the HGGT STC Connections Route Study Project - funded by Homes England, and the planning pre-application technical work, scoping and evidence.

2. Key project leads/ contacts

- EFDC Implementation Team Manager: Nick Finney
- EFDC Garden Town Lead Officer: Ione Braddick
- EFDC Latton Priory Planning Officer: Richard Schunemann
- HDC Planning input: John Hoad
- ECC Planning input: Tai Tsui
- ECC Highways input: Paul Wilkinson
- Design Code Pathfinders Lead: Krishma Shah (EFDC)
- STC Connector Route Study Project Manager: Adam Halford (HDC)

3. Latton Priory Strategic Site Planning Strategy

3.1. Set out below is a proposed planning strategy for the planning and delivery of the Latton Priory Masterplan Area, supported by the LPA and across Garden Town partners.

3.2. **Masterplan:** The determination of a planning application within the Latton Priory site Allocation should not precede the approval of a site wide Masterplan. This is the approach as set out in Epping Forest Council's Local Plan Submission Version paras 2.89-2.97 (as amended by the MMs and AMs) and Figure 2.1 (as amended by the MMs), Strategic Policy Place Shaping, and in the endorsed Strategic Masterplanning Briefing Note (October 2018). If a planning application is submitted in advance of the approval of a site wide masterplan it may be refused or remain undetermined until a masterplan has been approved. It will be

incumbent on the applicant to ensure that any planning application comes forward in accordance with the masterplan as endorsed.

- I.1. **Applications:** It is anticipated that an Hybrid Outline Application will be made and this should encompass the entirety of the Masterplan Allocation site and all associated land and works within the EFDC area. If an applicant seeks to obtain planning permission for a lesser area, for example just land in their own control, the LPA will be required to accept and determine the application, however, it will be incumbent on the developer to demonstrate that that approach will not undermine the full delivery of the masterplan and associated infrastructure otherwise it may be refused.
- I.1.1. **Suitable Alternative Natural Greenspace (SANG):** the area of land proposed to form a SANG should be included within the Allocation application to ensure that the overall scheme is properly assessed and certainty of delivery is secured.
- I.1.2. **Sustainable Transport Corridor (STC) Connection to Commonsie Road:** the principal sustainable transport route for public transport between the Allocation and the wider HGGT is via the STC Connection from the allocation site boundary to an appropriate connection onto Commonsie Road as indicatively shown on the Harlow Local Development Plan Policy Map.
- I.1.3. The HGGT partners consider it necessary to demonstrate that an acceptable high quality active and sustainable access to the site is achievable. A Full Application shall therefore be required to be submitted to Harlow District Council and be approved prior to determination of any application for the Allocation with details of phasing of delivery to support occupation.
- I.1.4. Subsequently any planning approval for an Application on the Allocation site shall include appropriate triggers and mechanisms to ensure that the STC Connection works are carried out and public transport services made available. Certainty on the form and timing of delivery of the STC connection will provide additional confidence to the HGGT partners in the active and sustainable travel assumptions within any transport modelling.
- I.1.5. HGGT will support the site promoter in developing a feasible and deliverable STC alignment and design that can be progressed to a planning application.
- I.1.6. **Primary Highway Access to B1393 London Road:** the primary private vehicle access from the Allocation to the strategic and Garden Town highway network is via a new link road to the B1393 London Road which will also provide priority onward public transport connections to Epping and the wider EFDC area.
- I.1.7. The HGGT partners consider it necessary to demonstrate that an acceptable highway access to the site is achievable. The highway access and link road should be included with any application for the Allocation, with preference that this be included with full details including early delivery to support construction and occupation. Certainty on

the form and timing of delivery of the primary highway access will provide additional confidence to the HGGT partners in the construction and occupation stage access strategy and impacts within any transport modelling.

- 1.1.8. Secondary Highway Access to Rye Hill Road:** the secondary private vehicle access from Allocation northwards to the adjacent neighbourhood highway network is via a connection to Rye Hill Road to support local permeability only, southward vehicle movement is to be prohibited resulting in an enhanced environment for walking and cycling.
- 1.1.9. The HGGT partners consider it necessary to demonstrate that an acceptable highway and junction design and traffic management scheme to Rye Hill Road is achievable that ensures the route is not used inappropriately such as for construction traffic or journeys other than between the Allocation and adjacent neighbourhoods. Such use should be unfavourable so as to incentivise active and sustainable modes and preferred private vehicle use of the primary vehicle access.
- 1.1.10. The highway scheme should be included with any application for the Allocation, with preference that this be included with full details including completion of works before any connection is made. Certainty on the form and timing of delivery of works to the Rye Hill Road will provide confidence to the HGGT partners that inappropriate use or unacceptable impacts will be prevented through physical limitation as considered in any transport modelling.
- 1.1.11. **Latton Priory Site Capacity:** The draft EFDC Local Plan policy position is the provision of a minimum of 1,050 homes across the masterplan area, with local policy and guidance around placeshaping, modal shift, sustainability and densities.
- 1.1.12. It is accepted that there may be opportunities for higher densities within parts of the Latton Priory site, particularly to enable modal shift and local centre placeshaping, and this could enable a higher site capacity than currently proposed for allocation.
- 1.1.13. In order to agree to a higher capacity and higher densities proposed, the design work should be provided and tested, showing the proposed net density assumptions and a land use budget. This should include showing the upper limit of the density and height ranges, including through elevational plans/cross-sections, to demonstrate that high capacities could be achieved without detrimental impact to the character and appearance of the area, including in views towards the site. This would also be picked up and tested through a Landscape/ Townscape Visual Impact Assessment.
- 1.1.14. The masterplanning/ design work should also set out evidence to support the need for higher densities to enable economical use of land, modal shift and vibrant placeshaping, with case studies or examples which state specific densities and design methods wherever possible.

- 1.1.15. Any increase in the site capacity at the Latton Priory site will also need to be fully assessed in terms of i) traffic impacts (both as a result of this site and when considered in combination with the quantum of development proposed across the entire Garden Town), and ii) by an appropriate assessment with regards to the potential impact on air quality and the Epping Forest SAC.
- 1.1.16. The infrastructure requirements and asks that result from an increased number of homes will also need to be fully understood and reflected in discussions on phasing of provision, planning obligations and increased contributions, and delivery of infrastructure.
- 1.1.17. The above information on requirements and evidence needed to approve higher site capacity must be contained within the Strategic Masterplan Framework document.
- 1.1.18. **Environmental Impact Assessment (EIA):** In accordance with the EIA Regulations and relevant case law 'the project' subject to the EIA should be considered holistically including all works set out above and consideration given to the cumulative impact of relevant other planned developments. It is anticipated that this scope will be established and agreed via a formal EIA Scoping process. A single Environmental Statement can be provided in support of multiple planning applications if submitted concurrently or within such time that its findings remain valid.
- 1.1.19. **Section 106 Draft Heads of Terms and Statement of Delivery:** Section 106 Draft Heads of Terms should be prepared for the Allocation as a whole setting out how the development will meet the infrastructure needs as set out in the HGGT IDP and within other evidence and how other necessary actions will be secured through planning obligations in order to make the development acceptable in planning terms. A Statement of Delivery should also be provided to confirm the applicants position on viability and deliverability in accordance with the HGGT How To Guide to Planning Obligations, Land Value Capture and Development Viability.
- 1.2. The above sets out the expected approach of the HGGT Partners based upon the Local Plan policies and other considerations associated with the Latton Priory Masterplan Area Allocation. The approach set out has been developed with officers working on the project across the HGGT partnership (EFDC, HDC, ECC).

Document 2

CEG Ltd and HLM LTD Latton Priory Planning Strategy Note Response

POSITION NOTE

LATTON PRIORY: PLANNING STRATEGY AND DESIGN AND DELIVERY OF THE STC CONNECTOR

CEG LTD and HALLAM LAND MANAGEMENT LTD (HLM)

13 OCTOBER 2022

Introduction

- 1 CEG/HLM welcome the opportunity to work in partnership with EFDC and HGGT and, in that vein, the opportunity to respond of the specific point of the Design and Delivery of the STC in relation to Latton Priory.
- 2 EFDC officers issued a Planning Strategy Note on 24th August 2022. Under the heading 'STC Connection to Commonsides Road', officers set out that the principal sustainable transport route between the Allocation and the wider HGGT is via the STC Connection from the allocation site boundary to an appropriate connection onto Commonsides Road, as indicatively shown on the Harlow Local Development Plan Policy Map. The Note then added HGGT partners view of the necessity for a Full Planning Application to be submitted to Harlow District Council AND be approved prior to the determination of an application for Latton Priory itself.
- 3 This has been the subject of conversation since receipt of that note and this letter sets out a summary of CEG/HLMs concerns. It has been produced by invitation and is prompted by HGGT / EFDC meetings scheduled for this week. A fuller and more detailed note may be appropriate in due course.
- 4 CEG/HLMs concerns fall into a number of categories which are addressed below:
 - Policy Justification
 - Commerciality
 - Transport Issues
 - Delivery and Implementation of Latton Priory

Policy Justification

- 5 NPPF 2021 and Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. It also advises that decisions should be made as quickly as possible and to approve applications for sustainable development where possible.
- 6 It is understood that the key ambition for the HGGT is to deliver 60% modal shift in the new Garden Communities but there does not appear to be any evidence that policy (either in the Epping Forest Local Plan or the Harlow District Local Plan) dictates that the delivery of the STC is the only way of achieving this objective or that specially the STC is to be secured prior to consent being granted for Latton Priory. Moreover the HGGT Transport Strategy, which sets out the target of 60%, accepts (page 8) that the targets will only be achieved incrementally over time rather than on day one.

- 7 It is acknowledged that, following the change in politics in 2021 (change from Labour to a Conservative Government) post the adoption of the Local Plan in 2020, Harlow Council adopted a motion which stated an objection to development which included South of Harlow. The Council presented written representations seeking an additional policy requirement in the Epping Forest Local Plan that progression of the STCs should be a pre-requisite of occupation. This has not been accepted by the Inspector examining the EFLP.
- 8 Indeed, on the contrary, Inspector Bore in his note to EFDC on 16 June 2022 recommended a new schedule of main modifications is made to emerging Local Plan which included Action 7: to replace any requirement for provision of sustainable transport “to be provided at first occupation” with one which ‘seeks appropriate sustainable transport provision commensurate with the phasing of development. Discussions on the timing of sustainable transport provision should take place at the time of any planning application’. His reasoning for doing so was the absence of clarity in the Plan regarding what provision was being sought at first occupation and, crucially, whether any such expectations/requirements had been “viability tested”.
- 9 CEG/HLM’s clear understanding is that there is no planning policy basis for taking the position to require CEG/HLM to submit the planning application or to be responsible for the direct delivery of the STC. Our review of planning policy includes the following excerpts which aligns with the approach which we had been expecting to be adopted;
- Harlow Local Plan policy HGT1 refers to ‘contributing to the delivery of STCs and to ‘ensuring the costs and benefits are shared by landowners and developers with appropriate measures put in place to equalise and apportion the costs of shared infrastructure and associated land contributions’ and that ‘developers will be expected to make a fair and reasonable contribution to the strategic highway and other infrastructure requirements set out in the IDP’.
 - EFDC emerging Local Plan refers to ‘contributing to the delivery of the STCs and the establishment of an integrated, accessible and safe transport system’. We have already cited the Inspectors revisions to the previous wording regarding timing of the STCs.
 - HGGT IDP includes a summary of transport interventions and identifies those expected from Latton Priory (6.1% of the total costs for the STC) and which was produced concurrently with the Strategic Viability Assessment to consider the deliverability and viability of the HGGT. To move away from this position is in conflict with the endorsed approach and which undermines the viability of the Plan and the deliverability of the Site Allocations.
- 10 The policy position therefore is to safeguard and make contributions towards the STCs. CEG/HLM are supportive of this approach – one that the Inspector is signalling that he intends to find sound (and any alternative construction unsound).
- 11 Therefore, it is not reasonable, and there is no basis, to link the determination of a future application for development at Latton Priory by EFDC with the determination of an application for the STC by Harlow Council.
- 12 To move away from this position is in conflict with the endorsed approach (the approach upon which CEG/HLM had cause to rely upon through the EFLP Examination), and which undermines the viability of the Plan and the deliverability of the Site Allocations (see below) as well as the objective of partnership working.

Commerciality

- 13 There are fundamental commercial concerns arising from the approach set out in the Planning Strategy Note which go to the heart of the deliverability of the proposals. Such concerns relate to cost, to delay, to uncertainty and risk. Each reinforces the other. Foremost is the risk associated with being beholden to third parties.
- 14 The land ownership for route options to the south of Commonsie Road require significant land assembly, including potential use of allotments, which in itself would require Secretary of State approval for their disposal resulting in significant cost and delay, as well as use of land in the ownership of ECC and Harlow Council. In addition to land controlled by the Councils there is a significant area of Unregistered land that would require to be crossed, requiring resolution before any application could be made for the STC. Seeking planning permission for infrastructure on land not in our ownership presents very substantial risks in itself.
- 15 The lack of clarity as to route options has been demonstrated in the range of options having to be considered in the initial work being undertaken by the Council's and HGGT. There is also some lack of clarity regarding some of the landownerships (and the existence of unregistered land).
- 16 It appears that the STC connector from Latton Priory needs to route through either an allotment or will result in the CPO and demolition of a private dwelling. This is likely to be the case even if a significantly downgraded STC is provided along Fern Hill Lane to bypass the allotments (as per one of the options presented by ECC at the meeting a week or two ago). It appears challenging to provide even a significantly downgraded STC along this section that would have no impact on the allotments.
- 17 Risk is also firmly attached to the reliance upon Harlow Council positively determining a planning application for the STC and doing so in a timely manner – risks exacerbated by the Council's current objections to the garden communities.
- 18 No suggestion is made that the seeking of a parallel approval process is intended to lever third party funds or to facilitate an early CPO process by the Council.
- 19 No clear and consistent details on costings are available and no consideration has been given to the impact on viability of this development relative to its scale. This is a relatively modest number of homes when considered in the context of the already considerable infrastructure requirements of the Allocation including a new primary and secondary school (contributions) and local centre. Provision of the STC outside of the site boundary will therefore, have significant implications to the viability of the scheme. It was a risk that the EFLP Inspector was overtly concerned about.
- 20 The circumstances are manifestly different to those in relation to Gilston to the north of the town where the scale of the development presents more limited options in terms of need for transport investment. Moreover the Gilston situation:
 - Has the critical leeway of a 1,500 dwelling trigger prior to need for the Central Stort Crossing to be open
 - Is essentially an existing piece of infrastructure essentially being modified by the crossing with all other infrastructure associated with the CSC being located within the site boundary.

Transport Issues

- 21 The key ambition for the HGGT is to deliver 60% modal shift in the new Garden Communities. This is an aspiration in the HGGT Transport Strategy rather than a Development Plan policy (which has been examined and tested) but is an aspiration that CEG/HLM take seriously and are working to achieve.
- 22 The HGGT Transport Strategy accepts (page 8) that the targets will only be achieved incrementally rather than on day one.
- 23 CEG/HLM has not seen the evidence to suggest that the STC is either the only, or even the best, short term option to progress towards delivering the 60% mode shift.
- 24 CEG/HLMs approach is a holistic one towards maximising modal shift and are concerned that, irrespective of the issues above in relation to commerciality and policy, the STC (especially in isolation) is not immediately necessary in particular in the light of its transport shortcomings:
- Lack of any certainty of any enhanced STC provision north of Commonside Road (seeking to balkanise the STC and commencing with the challenging most southerly section means no certainty as to when/if others will do their part and when the central section will be delivered. Is a route viable/appealing to run before the full integral route is in place);
 - A potentially constrained and limited route to Commonside Road;
 - Lack of connection to the first phases of the Latton Priory development which has to start at an edge (west or east) while the STC is centrally positioned and not easily connected.
- 25 The approach being taken by CEG/HLM, consistent with the HGGT Transport Strategy expectations, to transport is “Vision and Validate”. It relies upon setting out a clear strategy and monitoring the outcomes of that approach. For the reasons set out above in the paragraph above, CEG/HLM have substantial reservations/lack confidence in the outcomes that can be achieved and demonstrated from a standalone STC to Commonside Road, in advance of the wider network. This presents potential concerns when it comes to validation of the transport strategy and adds therefore to the uncertainty and risks of the project – not only for the developers but also local communities.

Delivery and Implementation of Latton Priory

- 26 The EFLP Inspectors recent note highlights significant concerns regarding the delivery of housing in the Local Plan. He specifically refers to needing to be satisfied that a 5 year housing land supply will be available upon adoption of the plan and can be maintained thereafter, and required the Council to produce a detailed calculation including new site capacities and up to date completions based on an anticipated plan adoption date of Autumn 2022.
- 27 To this end HLM and CEG produced a note on the housing trajectory on 2nd August 2022 and which, we understand, was submitted to the Inspector by EFDC which outlined the anticipated and agreed programme. This demonstrated that a start on site could be achieved in spring/summer 2024 delivering supporting infrastructure and undertaking groundworks and that a commencement in housebuilding could take place in the first quarter of 2025. First completions were anticipated in spring/early summer 2025 and with delivery of 40-50 new homes each year, contributing to the districts five year supply and significantly towards the housing supply over the Plan period.
- 28 The programme envisaged the following key landmarks:

- Submission of Outline Planning Application Q1, 2023
 - Resolution to Grant Consent Summer 2023
 - Granting of Planning permission, November 2023
- 29 The programme and explanatory note was predicated on:
- Achieving these dates
 - The survey and preparatory work already completed
 - The considerable progression and approval route for the SMF – providing EPDC the confidence to grant permission for Latton Priory
 - The commitment of all parties to meet this timetable
- 30 The Explanatory Note and programme was prepared on 2nd August and predated the HGGT Planning Strategy Note of the 24th August. Therefore the Trajectory put forward to the Inspector, and which the Inspector is seeking confirmation in relation to, took NO account of:
- Needing to prepare an application for the STC between the site and Commonside Road – which in itself has not benefitted from the suite of surveys that have been undertaken for the Latton Priory site itself; and
 - Needing to secure permission for the STC.
- 31 There are considerable unknowns and therefore risks associated with the STC as there is no agreed route or alignment or detailed designs or background surveys which would be required to enable preparation of and approval of an application. Delay in the submission of the Latton Priory application would be considerable – potentially a year.
- 32 Even once submitted, the timescale for approval of any STC application is considerable and extremely uncertain – not least because of the different authorities, the sensitivities over the potential loss of the allotments and the involvement of other third parties.
- 33 As to any obligation to deliver the STC the time and cost associated with land assembly, including of allotments and Harlow land, contains very high risks in terms of timescale and in terms of the delivery of key infrastructure within Latton Priory itself.

A Way Forward

- 34 To emphasise, CEG and HLM are not looking to prejudice the delivery of the STC and are making allowance within the Allocation site boundary for a mobility hub and safeguarded area for the STC. CEG and HLM are also prepared to make contributions towards its delivery as anticipated in the IDP.
- 35 As per policy HGT1 of the Harlow Local Plan, we want to work pro-actively and collaboratively to ensure the timely delivery of on-site and off-site infrastructure required to address the impact of new communities.
- 36 Neither proposition – that the STC to Commonside Road has planning permission prior to the grant of permission for Latton Priory and that the developers of Latton Priory be responsible for its delivery – are considered necessary or fairly related to the allocated development.
- 37 CEG/HLM would like to work together to consider and develop interim solutions to ensure modal shift can be delivered in the new community in line with HGGT overall ambition for 60% modal shift, incrementally achieved, and to help with the establishment of an integrated, accessible and

safe transport system which is the intention of policy. We would also like to understand trigger points for infrastructure and delivery of the STC more generally.

- 38 This position accords with planning policy as set out in the Harlow Development Plan 2020 and the emerging EFDC Local Plan and HGGT IDP and also ensures a scheme remains deliverable at the Allocation site in a timely manner and to align with the anticipated housing trajectory contributing towards the much needed housing supply in the district.

CB/HLM075

Document 3

HGGT IDP UPDATE - CEG Ltd and HLM LTD Response 29 11 2022

NOTE

HGGT IDP 2022

Written Response on behalf of CEG Ltd and Hallam Land Management Ltd, promoters of Latton Priory

November 2022

Introduction

This Note is prepared on behalf of Hallam Land Management Ltd (HLM) and CEG Ltd following the HGGT Developer Forum held Thursday 10th November and the item on the HGGT IDP 2022: Introduction to Fact Checking and at the invite of written comments.

A Briefing Note, updated IDP and Fact Checking Schedules on topics of Transport, Education, Healthcare, Emergency Services, Community Facilities, Open Space and Flood Defences have been issued.

The IDP Update reiterates the purpose of the IDP is setting out the infrastructure that will be required to deliver the planned level of housing and employment growth at the Garden Town.

As noted in the Updated IDP, it is important that where developers are asked to provide contributions for infrastructure, this is in accordance with CIL Regulations and ensuring that requirements do not undermine or threaten the deliverability of sites or the Local Plan. It is under this context, that these comments are provided.

CEG/HLM concerns regarding the IDP fall into 4 categories which are addressed below:

- Status of the Updated IDP
- Absence of evidence and costs available
- Requirements in relation to the delivery and timing of the STC network
- Impact on viability and deliverability of the development

By way of summary, CEG and HLM's concern is the fundamental change in approach proposed in the IDP Update regarding the delivery of the STC network and, in particular, the assignment of responsibility for the delivery of parts of the STC network to the developers of Latton Priory (and of other garden communities). This impacts the delivery of Latton Priory.

Updated IDP – Consultation, Status, General Approach

Consultation

HLM and CEG welcome the opportunity to be informed regarding the authorities proposals to update the 2019 HGGT IDP through the Developer Forum held on 10th November.

Equally HLM and CEG welcome the opportunity afforded to comment on the Updated IDP by HGGT.

However, HLM and CEG are concerned that the nature of the consultation process falls short of that which might reasonably be expected. For instance:

- The period for responses to the Forum documents and consultation event is effectively just two weeks – until 25th November (as set out in the Briefing Note, albeit HLM and CEG are grateful for the assurances that submissions after that date will be fully considered);

- The ability to influence the contents of the IDP appears to be extremely limited “when responding with new information please note that changes to the identified IDP infrastructure requirements may only be possible where suitable evidence is demonstrated” noting in addition of course consultees are afforded just two weeks to assemble such evidence;
- Important costing information being absent such as the costings of sections of the Sustainable Transport Corridor (STC) network being absent or unjustified; and
- The limited time available for commentary is exacerbated by the substantial changes or “moving of the goalposts” in certain areas of the IDP since 2019 – for instance in the passing of responsibility for the delivery of offsite elements of the STC network to the developers of each of the proposed garden communities.

Notwithstanding such concerns, CEG and HLM have set out such comments as they have been able to make in the time available focusing primarily on transport matters. CEG and HLM are yet to review the amended provisions in relation to education, health, emergency services and open space and sports and leisure.

CEG and HLM are grateful for the assurance made at the Forum meeting that responses received after 25 November will also be taken into account. CEG/HLM will seek to augment the representations made at this stage as appropriate and necessary.

Likewise, CEG and HLM affirm their commitment to work with the partners to seek to find ways to address the concerns raised.

Status of the IDP and General Approach

The Briefing Note to the HGGT Forum held on 10th November 2022 advises that “the IDP represents a ‘point in time’ picture of the likely infrastructure needs and plan for its delivery. The IDP does not seek to be definitive”. The document itself acknowledges that by their very nature, IDPs are a ‘snapshot in time’. It notes that IDPs are ‘live documents’ updated regularly to ensure they reflect current infrastructure requirements.

In contrast to the Local Plan documents, IDPs are not subject to rigorous testing or scrutiny or consultation in their preparation but are therefore not part of the Plan. HGGT appear therefore to take the view that the IDP and the costs and requirements contained therein are indicative and not requiring more considered and considerate consultation.

CEG and HLM are concerned however that this position – the treatment of the IDP as a live document that in effect can be updated as required - takes no account of the key role that the IDP plays in identifying the development, infrastructure and section 106 costs that have been fed into the viability assessment work that the Council has had to undertake to support the Local Plan. Local Plan viability evidence is based on the 2019 IDP. Substantial changes to the IDP – as proposed in the Update – may directly affect the viability assessment of the Local Plan and of individual proposals.

CEG and HLM are equally concerned that the treatment of the IDP as a live document is also inconsistent with the approach being pursued in relation to the Local Plan. This can be seen in the Main Modifications and Further Main Modifications to the Local Plan. The wording of the MMs and FMMs appear to intrinsically link the IDP with the Local Plan significantly raising the level of concern generated by the substantive change in the IDP Update to the delivery of the STC network.

The Main Modifications (July 2021) (MM18) included a new paragraph, following 2.118, which referenced the HGGT IDP and that it identifies how developer contributions from the Garden Communities are expected to be apportioned, and what collection mechanisms can be utilised by the Councils to assist in funding the infrastructure items which serve more than one Garden Community. Rightly that main modification referred factually to the IDP and that it was a live document to be

regularly updated. That element of MM18 appears to have been removed by the MMs published in October 2022.

Now MM21 proposes to amend section C of Policy SP5 in relation to Latton Priory such that a new provision is to be added into the policy requiring that “new development should deliver and/or contribute towards the delivery of infrastructure where this is necessary and fairly and reasonably related to the development **having full regard** to the Infrastructure Delivery Plan schedules and the wider infrastructure objectives”. [Bold italics for emphasis]

Moreover, MM106 proposes to add to Policy D1 ‘Delivery of Infrastructure’ part A of a new similar reference as follows; *‘New development must be served and supported by appropriate on and off-site infrastructure and services as identified through the Infrastructure Delivery Plan’ and the further Main Mods amends the word ‘Plan’ to ‘Schedules’*. New text is then added in FMM106 that; *‘In assessing the need for particular kinds of infrastructure, **full regard will be had to the Infrastructure Delivery Plan Schedules’***. It is noted that this FMM has been added in relation to Action 44 of the Inspector’s note, however, his suggested wording did not include the word ‘full’. This was deliberate as his comments set out that ‘whilst regard should be had to the infrastructure delivery schedule, the issues arising from any particular site might in practice require deviation from it’.

The concern of CEG/HLM is that the suggested wording and inclusion of the word ‘full’ gives undue policy weight to the content of the IDP Schedules in determining planning applications. This is contrary to the advice of the Inspector who clearly highlighted that *‘as with a number of policies, this [policy D1] treats the infrastructure delivery schedule as if it were part of the development plan, with contributions towards the items on the schedule “expected”. But the schedule is not part of the plan. Infrastructure delivery and contributions should relate to the particular development proposed in accordance with the CIL regulations’*.

This additional wording unreasonably attempts to elevate the status of the IDP and enshrines what it says into policy. This brings a lack of clarity and transparency into the requirements which can be stipulated and then changed through updates. It therefore places an additional and unreasonable burden and level of uncertainty to developers.

This is particular emphasised by the very limited opportunity for engagement and, even more so, lack of rigorous scrutiny of the IDP.

Specific Matters

The general presentational message regarding the IDP update is that the 2022 document is a limited update only of the 2019 document focussed primarily on factual matters only.

HLM and CEG are however concerned that the IDP update has proposed rather more significant changes in the infrastructure elements set out in the 2019 IDP and in the means by which infrastructure is expected to be delivered. A particular example is in respect of the transport infrastructure anticipated within the HGGT and at Latton Prior in particular.

Requirements in relation to Sustainable Transport Corridors (STCs) for Latton Priory

There are some key additions in relation to the delivery of parts of the Sustainable Transport Corridor (STC) network which require particular detailed and further comment.

The previous IDP included row TR28 as ‘essential’ (not critical’ infrastructure) with identified funding sources listed as HIF/Developer Contributions (S106) with no mention of direct developer delivery which for Latton Priory resulted in a cost of £7,875,066.

This provided a transparent and robust basis for developers to understand and factor into their developments and a fair and reasonable approach through apportionment of contributions towards delivering the overall STC network which was to be delivered by the HGGT partners. CEG/HLM were and remain supportive of this approach.

The radically different approach now advocated in the updated IDP now includes an expectation that the developers of Latton Priory (and not the HGGT partners) will deliver on site and offsite STC connection works. In full the IDP Schedules detail the following project under STC-LP:

“Southern STC continuation into and through the Latton Priory new garden community, including:

- High Quality Walking, Cycling and Public Transport routes to connect to Southern STC at Latton Bush Centre/Commonside Road;
- Continuation of the STC on-site to serve the new neighbourhood(s) with on-site Hubs;
- Continuation of STC to connect with the B1393/M11 Junction 7.

The IDP schedules further, newly, advise that ‘Delivery of STC connection between Latton Priory new garden community and Southern STC currently expected to be required between 2024-26 to support occupation of development. Phasing of on-site works currently unknown’.

The schedules now include significantly more reference to the STC network and a recurring column for all the HGGT sites stating;

- ‘STC contribution of £8,226 per dwelling. Reduction for STC works in lieu (£TBC) £8,637,300. Value of contribution illustrative pending confirmation of value of STC works to be delivered in lieu’.

The accompanying note describes this as clarification of developer responsibility for delivery of STC accesses into new garden communities as part of respective site access arrangements as works ‘in lieu’ contribution to delivery of the STC network.

The cost notes for the elements set out for Latton Priory are not at all clear:

- In relation to the off site section of the STC network the schedules – presumably with an error in the site location (but unclear) refers to “cost of provision to east of Harlow [sic?] currently unknown indicative costs of £10m included”
- In relation to the link to the hub on site – this is dismissed as an on site development costs.
- With regard to the continuation of the STC link – this may or may not be addressed by the reference of a £2.9m cost applied to all garden community sites for links to the hospital – albeit it is as likely that there is an additional unspecified cost.

Unhelpfully the costs in the original 2019 IDP for the provision of the link road through Latton Priory to London Road – estimated then as £5million – have now been ignored.

The overall impression – is of a significant increase in costs for infrastructure delivery to facilitate the provision for transport at Latton Priory. The suggestion of in lieu payments for any off site works is welcome notwithstanding that the costs of delivering the link to Common side Road – appears to be being estimated to be £10million – and in excess of the pro rata’d contribution to the STC Network as a whole.

The IDP update states that it has been undertaken through joint working of ARUP and officers of the HGGT partnership. However, until now, there has been little or no developer input. The absence of a clear evidence base that explains the substantially different approach and the absence of information available or provided on costs give rise to the view that the infrastructure requirements required do not appear to be reasonable, proportionate to the development or required to make the development acceptable.

As presented, there is a lack of costs provided and transparency to what represents a complete shift in approach but is a position already being adopted by officers without any evidence or further policy backing. This clearly causes issues for developers in understanding what costs to factor into their development and gives rise to further uncertainty that costs continue to change.

Timing and Delivery of STCs (and relationship with MMs and Further MMs)

The previous IDP was clear in explaining that for the STCs to be effective in achieving the modal split targets for the Garden Town, they will need to work as a network rather than piecemeal interventions. It also explained that 'the network is considered to represent a single strategic item of essential infrastructure, with the cost of the works apportioned to all the strategic sites across the Garden Town (p30). The apportionment was set out as being based upon the number of dwellings that each site is contributing to the Garden Town's growth and that contributions would be pooled and used to deliver the STC network, which will be likely to be delivered in phases for practical reasons of delivery and funding.

In contrast, the updated IDP appears to be breaking down the STC into piecemeal sections and placing the onus on the developers of each respective strategic site for sections of the STC that provide the links to their sites – irrespective of land use controls, deliverability and effectiveness of provision.

The IDP update to STC-S is listed as the southern section from the town centre to Latton Bush Centre/Commonside Road with Essex County Council but also now the Developer (we understand of only a small but off site element of the route) cited under Delivery Partners. A cost of £62,585,429 is listed but with final route still to be defined.

Irrespective of the concerns regarding costs (and notwithstanding in lieu provisions) set out in the section above, there are a number of key issues associated with developer direct delivery. This includes issues already explained in our Planning Strategy Note issued to EFDC dated 13 October 2022 but in summary, relate to:

- Lack of policy justification – this division of delivery and breakdown into piecemeal sections is not explained in the emerging EFDC Local Plan or The HGGT Transport Strategy or the Sustainable Transport Corridor Study;
- Direct developer delivery on the current indicative route would require significant land assembly which involves risk and delay. There is no clear commitment by the Council to use compulsory purchase powers if so required;
- Reliance upon Harlow Council to positively determine a planning application and in a timely manner; and
- No clear and consistent detail on costings are available and no consideration has been given to the impact on viability of this development relative to its scale

The Main Modifications (July 2021) proposed additional new paragraphs to be included in the preamble to policy SP4. This included new paragraph after paragraph 2.117 which included the text; 'in order to maximise the promotion of use of sustainable transport measures, it will be necessary for key elements of sustainable transport provision to be available when Garden Communities are first occupied'.

Following concerns raised by the Inspector in his 16 June 2022 Note where he advised that the main modification was not clear enough as to what elements of sustainable transport will need to be provided at first occupation and that it was unclear whether such a requirement has been viability tested, Action 7 suggested this is replaced by one which seeks appropriate sustainable transport provision commensurate with the phasing of development.

As a consequence, the further Main Modifications (Oct 2022) amended the wording to read 'in order to maximise the promotion and use of active and sustainable transport modes, it will be necessary for

sustainable transport provision, including connection into the Sustainable Transport Corridor network, to be commensurate with the phasing of development of Garden Communities.'

The updated IDP states that '*STCs are required to support the overall mode share and mode shift targets necessary to deliver the HGGT Vision and maintain a safe and functioning highway network, as such, all developments are expected to contribute to delivery of the network*'. It states '*the connections of the STC into the four new garden communities are identified as part of the overall network but the responsibility of the respective new garden community developers due to the need for their early delivery to facilitate sustainable development of each site*'.

CEG and HLM have not seen and do not understand the evidence, or rationale that follows, that means that the developers should deliver off site infrastructure as opposed to the original intention of HGGT partners. HLM and CEG do not understand why delivery should pass to the site developers even if it were accepted that early delivery of the STC was appropriate. Nor does HLM/CEG understand how the delivery of limited sections of the STC network is effective in the absence of the delivery of the wider network by HGGT partners.

As per the original IDP, the STC needs to work as a network rather than piecemeal interventions, however, the central sections of the STC, for example from the town centre to Latton Bush/Commonside Road, under STC-S is described as '*Phasing of the Southern STC currently unknown*' and to be delivered by ECC/Developers. The lack of certainty and timing of the delivery of this section undermines any value in delivering piecemeal sections of the STC network.

The reference to '*early delivery*' of the STCs appears to undermine the intent of the fMM which states that this should be commensurate with the phasing of development and there does not appear to be any benefit, rationale or evidence for the connections into the garden communities to be delivered early when the timing of the central part of the network is unclear and uncertain. In addition, the STC within Latton Priory is centrally positioned and not easily connected to the first phases of the development which clearly has to start at an edge of the site (west or east).

Real benefits to modal split can only be achieved through the creation of the full STC network. Without certainty on the delivery of the other parts of the network, a piecemeal approach would have limited benefits to the objectives of achieving modal shift.

Therefore, it is considered sensible to discuss the possibility of interim solutions to work towards achieving the modal split targets for each of the garden communities ahead of the delivery of the full STC network, which needs to be coordinated and phased to bring about the maximum benefits with sensible trigger points in relation to development and the delivery of the rest of the network discussed. These interim solutions could evolve to adapt to the delivery of the STC.

Costs and Viability

PPG advice states that; "The role for viability assessment is primarily at the plan making stage. Viability assessment should not compromise sustainable development but should be used to ensure that policies are realistic, and that the total cumulative cost of all relevant policies will not undermine deliverability of the plan. It is the responsibility of plan makers in collaboration with the local community, developers and other stakeholder, to create realistic, deliverable policies. Drafting of plan policies should be iterative and informed by engagement with developers, landowners, and infrastructure and affordable housing providers. Policy requirements, particularly for affordable housing, should be set at a level that takes account of affordable housing and infrastructure needs and allows for the planned types of sites and development to be deliverable, without the need for further viability assessment at the decision making stage".

The original IDP (2019) was produced concurrently with the Strategic Viability Assessment, which considered the wider deliverability of the HGGT. The updated IDP states that figures in the updated IDP have been considered against those tested in the Strategic Viability Assessment in the context of changes to development values and construction costs and it concludes that whilst costs have changed they remain similar to those tested in 2019.

This statement is somewhat surprising owing to the well publicised increases in both development construction costs including materials, especially since the pandemic. CEG and HLM consider that HGGT should publish, alongside the IDP, the updated assumptions in relation to full range of costs that have been or potentially would feed into an updated viability assessment – IDP costs and development costs.

Moreover, it states that updated figures have been tested, however, as has already been set out, there are also a number of unknown costs which have been added into the IDP, with no figures against them and therefore, the question would follow as to what figures have been assumed to be tested (if they have at all) and therefore, the extent to which there can be confidence in the viability and deliverability of the strategic sites particularly the untested additions of further costs and requirements including in relation to the timing and means of delivery of infrastructure.

This statement is also made in the context of the findings reported in the original IDP of the Strategic Viability Assessment which showed that 'whilst the Councils can be confident of the deliverability of the Garden Town, there are challenges with the delivery of large scale development associated with both the level of infrastructure required and the timing of delivery and/or contributions (ref to Section 12, paras 12.137-12.139 of the Strategic Viability Assessment), and that some of the sites are more 'marginal' than others'. This text has now been omitted from the updated IDP.

The IDP does refer to the option of considering viability further through the assessment of planning applications. However, this should not be a reason to underplay or set aside costs and viability issues at the plan/IDP stage

If the full burden is placed on developers to deliver whole sections of the STC, this could have fundamental implications on the viability of development.

Conclusion

In conclusion, the new and amended information now presented in the IDP, published without an evidence base, causes significant concerns to CEG and HLM due to significant implications the requirements in the IDP would have on the viability and therefore, deliverability of the strategic site of Latton Priory. The changes in the Transport Schedule in particular fundamentally change the approach to the delivery of STCs. This new approach requiring developers to deliver sections of STC is being adopted by officers as though it is planning policy although it is outside of the Plan making process.

CEG and HLM remain willing to work with the partners and find alternative means to ensure the delivery of the Garden communities.