

Representation form for Submission Version of the Epping Forest District Local Plan 2011-2033 (Regulation 19 publication)

This form should be used to make representations on the Submission Version of the Epping Forest District Local Plan which has been published. Please complete and return by 29 January 2018 at 5pm. An electronic version of the form is available at <http://www.efdclocalplan.org/>

Please refer to the guidance notes available before completing this form.

Please return any representations to: Planning Policy, Epping Forest District Council, Civic Offices, 323 High Street, Epping, Essex, CM16 4BZ

Or email them to: LDFconsult@eppingforestdc.gov.uk

BY 5pm on 29 January 2018

This form has two parts –

Part A – Personal Details

Part B – Your representation(s). Please fill in a separate sheet for each representation you wish to make.

Please attach any documents you wish to submit with your representation

Part A

1. Are you making this representation as? (Please tick as appropriate)

a) Resident or Member of the General Public ☐ or

b) Statutory Consultee, Local Authority or Town and Parish Council ☐ or

c) Landowner ☐ or

d) Agent ☒

Other organisation (please specify)

| 2. Personal Details | | 3. Agent's Details (if applicable) | |
|----------------------------------|---|---|--|
| Title | <input type="text"/> | <input type="text" value="Mr"/> | |
| First Name | <input type="text"/> | <input type="text" value="Richard"/> | |
| Last Name | <input type="text"/> | <input type="text" value="Seamark"/> | |
| Job Title (where relevant) | <input type="text"/> | <input type="text" value="Partner"/> | |
| Organisation (where relevant) | <input type="text" value="Pigeon Investment Management Ltd"/> | <input type="text" value="Carter Jonas LLP"/> | |
| Address Line 1 | <input type="text" value="c/o Agent"/> | <input type="text" value="One Station Square"/> | |
| Line 2 | <input type="text"/> | <input type="text" value="Cambridge"/> | |
| Line 3 | <input type="text"/> | <input type="text"/> | |
| Line 4 | <input type="text"/> | <input type="text"/> | |
| Post Code | <input type="text"/> | <input type="text" value="CB1 2GA"/> | |
| Telephone Number | <input type="text"/> | <input type="text" value="01223 346634"/> | |
| E-mail Address | <input type="text"/> | <input type="text" value="Richard.seamark@carterjonas.co. uk"/> | |

Part B – If necessary please complete a separate Part B form for each representation

4. To which part of the Submission Version of the Local Plan does this representation relate?
(Please specify where appropriate)

Paragraph Policy Policies Map

Site Reference Settlement

5. Do you consider this part of the Submission Version of the Local Plan:

*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

c) Complies with the duty to co-operate Yes No

6. Please give details of why you consider the Submission Version of the Local Plan is not legally compliant, is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. 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

The following representations submitted on behalf of Pigeon Investment Management Ltd are made under protest given that important parts of the evidence base supporting the Epping Forest District Local Plan (EFDLP) have not been published to date and remain unavailable. This includes, in particular, the Site Selection Report which is incomplete for this consultation. In this regard Pigeon Investment Management Ltd simply has had no explanation or rationale as to why the site that it is promoting has been removed from the latest version of the EFDLP and is therefore entirely unable to fully engage with this consultation as a result. Pigeon Investment Management Ltd's ability to engage with this consultation has been severely prejudiced by these missing or incomplete documents. These representations are therefore made on the basis of the (incomplete) information that is available and we therefore reserve the right to make further comment and/or amend these representations once all supporting information to the EFDLP has been made available.

Paragraphs 1.5 and 1.6 identify the requirements of plan-making, and refers to the legislation, regulations and national guidance that has informed the preparation of the EFDLP, and highlights the range of topics where evidence has been gathered to inform the content of EFDLP.

However, the full evidence base, and the Site Selection Report in particular, has not been published as part of the EFDLP consultation. As a result, EFDLP has not been prepared in accordance with the requirements of the Planning & Compulsory Purchase Act 2004 (2004 Act) or the Town and Country Planning (Local Planning) (England) Regulations 2012 (2012 Regulations), in that firstly consultation on the document does not comply with Epping Forest District Council's Statement of Community Involvement and secondly a supporting document that seeks to justify the site selection policies is not available during the consultation period.

Section 18 of the 2004 Act requires a local planning authority to prepare a statement of community involvement which sets out how those with an interest in development matters in an area will be involved in the plan-making process. Section 19(3) of the 2004 Act requires a local planning authority to comply with the statement of community involvement when preparing a development plan document. Epping Forest District Council has prepared a Statement of Community Involvement (latest version dated February 2013), which includes a number of references to the availability of studies prepared to support the EFDLP as follows. Paragraph 7 states: *"The local plan is a document which outlines the policies which will influence development in the District up until 2033. Both the Local Plan and the supporting studies will be available to view on the Council's website"*. Paragraph 8 is within a section on supporting documents, and states: *"There are a number of studies which are used as background evidence to the main Local Plan document. The studies are used to help guide the policies that are going to be in the final document and perhaps identify options that are not feasible. These will be available from the Council offices or on the Council's website when they are finalised"*. Paragraph 14 is within a section that deals with the evidence gathering stages of a local plan, and states: *"This process of gathering evidence including via engagement, will also help to make sure that the information used can be seen as 'robust' by the Inspector towards the latter stage of the processes"*. The updated version of Appendix B of the Site Selection Report, which has informed decisions about the sites to allocate in EFDLP, is not available during the Regulation 19 consultation stage (of the 2012 Regulations). Therefore, the Statement of Community Involvement has not been complied with, and as such the requirements of Section 19(3) of the 2004 Act has not been met, and means that EFDLP is not legally compliant.

Regulation 8(2) of the 2012 Regulations requires a local plan to contain a reasoned justification of the policies contained in it. Regulation 17 defines a number of terms which are relevant to the preparation of local plans, including the term "proposed submission documents" which includes supporting documents relevant to the preparation of the local plan. Regulation 19 relates to the publication stage of a local plan, and requires that before a plan is submitted to the Secretary of State, a local planning authority must make the proposed submission documents, which includes the supporting documents, available for consultation. Therefore, since the updated version of Appendix B of the Site Selection Report is not available during the Regulation 19 consultation, then the reasoned justification for the selection of sites in EFDLP has not been made. The absence of evidence on the outcome of the site selection process makes it impossible for statutory consultees and all those with an interest in development matters within the area to comment on the 'justified' soundness test because it specifically relates to the evidence base.

7. Please set out what change(s) you consider necessary to make the Submission Version of the Local Plan 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 as possible.

The non-availability of a key evidence base document represents a legal compliance failure, which should be rectified before EFDLP is submitted to the Secretary of State. It is very likely that the Inspector appointed to examine EFDLP will raise concerns about the failure to make a proposed submission document available for consultation at Regulation 19 stage during their preliminary review of the document. We request that Appendix B of the Site Selection Report is published and made available for comment in accordance with Epping Forest District Council's Statement of Community Involvement and the requirements of the 2004 Act and 2012 Regulations. The updated Site Selection Report should be available for consultation for at least 6 weeks.

We reserve the right to comment further once the Site Selection Report is available in full.

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

☐ No, I do not wish to participate at the hearings

☒ Yes, I wish to participate at the hearings

9. If you wish to participate at the hearings, please outline why you consider this to be necessary:

It is very likely that the Inspector appointed to examine EFDLP will raise concerns about the failure to make a proposed submission document – the updated Site Selection Report - available for consultation at Regulation 19 stage. If not, then it would be appropriate for those making representations on legal compliance matters to appear at a hearing session, so that the issues can be discussed in public.

Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

10. Please let us know if you wish to be notified when the Epping Forest District Local Plan is submitted for independent examination (Please tick)

☒ Yes ☐ No

11. Have you attached any documents with this representation?

☐ Yes ☒ No

Signature:

Carter Jonas LLP

Date:

29/01/18

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Paragraphs 1.10 and 1.11 refers to the consultation that has been undertaken for the plan-making process of EFDLP. It is claimed that the comments received have been taken into account for EFDLP. We disagree because some of the policies in Submission Version EFDLP are completely different to the versions subject to consultation at Draft Local Plan stage in October 2016; we highlight in particular the changes to Policies SP2: Spatial Development Strategy 2011-2033 and P1: Epping – an extract of the policies and supporting text are attached to these representations.

The proposed sequential approach now contained in Policy SP2 is completely different to the version subject to consultation at Draft Local Plan stage. We doubt whether the changes to Policy SP2 in the Submission Version EFDLP were made as a result of any consultation responses. In any event, as set out in our response to Policy SP2, there is no mention of sustainable development in the policy, the suggested sequential approach is not informed by national guidance, and some matters which are related to the delivery of sustainable development such as accessibility by non-car modes of transport are not identified in the policy. The inclusion of a sequential approach into Policy SP2 was not identified as an alternative at Draft Local Plan stage, and as such it is not clear why this approach is provided at Submission Version EFDLP stage.

The proposed allocations now proposed in Policy P1 have been altered significantly to the version subject to consultation at Draft Local Plan stage. For example, land north of Stewards Green Road in Epping (Ref. SR-0153 for 305 dwellings) has been deleted from EFDLP, and the quantum of development at land to the south of Epping has increased from a total of 625 dwellings across the collection of sites south of Epping to a strategic site of 950 dwellings under Policy P2.

In addition, it should be noted that the Requirement for Strategic Masterplans Report (May 2017) that forms part of the Local Plan Evidence Base and was endorsed by EFDC Members in their Cabinet meeting of 15 June 2017 defines a Strategic Masterplan or linked Masterplans comprising South and East Epping for 930 new homes. The Submission Version of the EFDLP replaces this approach with a single strategic Masterplan for South Epping.

As set out in our representations to Paragraphs 1.5 and 1.6 and to Policy P1, the evidence used to inform the decision to amend the allocations is not available during the consultation i.e. updated Appendix B of the Site Selection Report, and we doubt whether those decisions were based on any consultation responses or robust evidence. The land north of Stewards Green Road in Epping (land East of Epping) has changed from an allocation at the Draft Local Plan stage and subsequent identification as a Strategic Masterplan location, which was supported by evidence, to no site allocation at Submission Version Local Plan stage.

In addition, we note that the amendments to the allocations were not identified as alternatives at the Draft Local Plan stage i.e. the expansion of the allocation at land South of Epping and the deletion of land East of Epping were not identified as alternative options. We comment on the assessment of alternatives in our representations to Paragraph 1.9/Sustainability Appraisal.

We conclude that consultation at Draft Local Plan stage has not informed the Submission Version EFDLP.

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We do not request changes to Paragraphs 1.10 and 1.11, but we do request changes to Policies SP2 and P1 which follow more logical conclusions from previous consultation stages and the assessment of evidence.

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

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10. Please let us know if you wish to be notified when the Epping Forest District Local Plan is submitted for independent examination (Please tick)

☒

Yes

☐

No

11. Have you attached any documents with this representation?

☐

Yes

☒

No

Signature:

Carter Jonas LLP

Date:

29/01/18

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Paragraph 2.3 refers to the requirements of the Duty to Cooperate (DtC). A Duty to Cooperate Statement of Compliance has been published alongside EFDLP, which seeks to explain how the requirements of the DtC have been met. We consider that the requirements of the DtC have not been met, which is related to the decision to not incorporate the findings of the updated West Essex and East Hertfordshire Strategic Housing Market Assessment (July 2017) into EFDLP, and no evidence that this decision was discussed with neighbouring authorities; we note that all relevant neighbouring authorities are meeting the findings of the updated housing assessment through their respective local plans. Housing is one of the strategic priorities where cross boundary discussions should take place through the DtC process. We consider that the requirements of the DtC could be met if the findings of the updated housing assessment were discussed with neighbouring authorities and incorporated into EFDLP.

The duty to co-operate requirement for plan-making is derived from Section 110 of the Localism Act 2011, which inserted Section 33A into the Planning and Compulsory Purchase Act 2004. Section 33A states:

“Duty to co-operate in relation to planning of sustainable development

(1) Each person who is—

- (a) a local planning authority,
- (b) a county council in England that is not a local planning authority, or
- (c) a body, or other person, that is prescribed or of a prescribed description, must co-operate with every other person who is within paragraph (a), (b) or (c) or subsection (9) in maximising the effectiveness with which activities within subsection (3) are undertaken.
- (2) In particular, the duty imposed on a person by subsection (1) requires the person—
 - (a) to engage constructively, actively and on an ongoing basis in any process by means of which activities within subsection (3) are undertaken, and
 - (b) to have regard to activities of a person within subsection (9) so far as they are relevant to activities within subsection (3)....”

We note in particular the duty imposes a requirement to engage “*constructively*”, “*actively*”, and “*on an ongoing basis*”. As set out below, there is no evidence that the findings of the updated SHMA and how they should be incorporated into EFDLP were discussed with neighbouring authorities.

The NPPF provides key guidance on the duty to co-operate requirement. Paragraph 156 identifies the strategic priorities where co-operation may be required, including the delivery of houses and transport infrastructure. Paragraphs 178 to 181 explain how the duty to co-operate should be carried out. It is clear that co-operation must be constructive and effective. Consultation and discussion on its own is insufficient. What is required is a co-ordinated approach towards the delivery of sustainable development and to meet strategic priorities.

Paragraph: 011 Reference ID: 9 of the Planning Practice Guidance (PPG) identifies what actions constitute effective cooperation under the duty to cooperate, and states insofar as relevant:

“...The activities that fall within the duty to cooperate include activities that prepare the way for or support the preparation of Local Plans and can relate to all stages of the plan preparation process. This might involve joint research and evidence gathering to define the scope of the Local Plan, assess policy impacts and assemble the necessary material to support policy choices. These could include assessments of land availability, Strategic Flood Risk Assessments and water cycle studies.

Authorities should submit robust evidence of the efforts they have made to cooperate on strategic cross boundary matters. This could be in the form of a statement submitted to the examination. Evidence should include details about who the authority has cooperated with, the nature and timing of cooperation and how it has influenced the Local Plan.”

We comment in more detail on housing need and the Memorandum of Understanding in our representations to Paragraphs 2.17 and 2.41 to 2.43, and as such we focus on the outcome of the DtC in these representations. Paragraphs 3.7 to 3.12 of the Duty to Cooperate Compliance Statement deals with housing and economic needs. Paragraph 3.9 refers to the outcome of the Memorandum of Understanding on the Distribution of Objectively Assessed Housing Need across the West Essex/East Hertfordshire HMA (MoU March 2017) and the findings of the updated West Essex and East Hertfordshire Strategic Housing Market Assessment (SHMA July 2017). The MoU included an agreement that the EFDLP would accommodate 11,400 dwellings between 2011 and 2033, and the updated SHMA demonstrated that the full objectively assessed housing need for Epping is 12,573 dwellings. We have a number of concerns with the outcome of the approach set out in Paragraph 3.9 of the DtC Compliance Statement in respect of the requirements of the DtC process. Firstly, the SHMA is incorrectly described as an ‘interim’ document when it is actually an update to take into account new household projections; the apparent status of the document is not a reason to justify no discussions or agreement on how to incorporate the findings into EFDLP.

Secondly, it is stated that: *“The Council will continue to work with its partnering authorities in order to refine this work as necessary following adoption of the Local Plan”*, which clearly demonstrates that the requirements of the DtC have not been fully complied with for EFDLP in that discussions on objectively assessed housing needs have not been completed. There is no evidence of discussions that any agreement exists between Epping Forest District Council and neighbouring authorities on how to deal with the findings of the updated SHMA including that the Council can opt out of meeting the identified need or that any ‘refinements’ to that work will be undertaken or are necessary. Thirdly, it is unlikely that the SHMA will be updated in the future, and any discussions on the level of housing need will be limited, because the Government intends to introduce a standard methodology for calculating objectively assessed housing need. As set out in our representations to Policy SP2, the housing target should be increased to meet the objectively assessed housing need figure identified in the updated SHMA.

We consider that the requirements of the DtC could be met if the findings of the updated SHMA were discussed with neighbouring authorities, and the higher level of objectively assessed housing need identified in the updated SHMA incorporated into EFDLP.

We acknowledge that arrangements exist between the Council and neighbouring authorities to meet the requirements of the DtC. However, it is clear that those requirements have not been met in respect of the findings of the updated SHMA on objectively assessed housing need, when they quite clearly should have been.

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We consider that the requirements of the DtC could be met if the findings of the updated SHMA were discussed with neighbouring authorities, and the higher level of objectively assessed housing need identified in the updated SHMA incorporated into EFDLP.

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

☐ **No**, I do not wish to participate at the hearings

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10. Please let us know if you wish to be notified when the Epping Forest District Local Plan is submitted for independent examination (Please tick)

☒

Yes

☐

No

11. Have you attached any documents with this representation?

☐

Yes

☒

No

Signature:

Carter Jonas LLP

Date:

29/01/18

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Paragraph 2.17 refers to the Memorandum of Understanding on the Distribution of Objectively Assessed Housing Need across the West Essex/East Hertfordshire HMA (MoU March 2017). However, the agreements made through the MoU are based on an earlier SHMA from 2015 which has subsequently been updated. In summary, the findings of the updated West Essex and East Hertfordshire Strategic Housing Market Assessment (SHMA July 2017) should be incorporated into a revised MoU and the updated objectively assessed housing need figure for Epping Forest District Council should be inserted into Policy SP2 of EFDLP. There was sufficient time available between the publication of the updated SHMA and consultation on EFDLP for the revised housing target to be discussed and agreed with neighbouring authorities and inserted into policy.

Figure 5 of the updated SHMA sets out the full objectively assessed need between 2011 and 2033 for each of the four authorities in the housing market area. The findings are as follows:

- East Hertfordshire – 18,396 dwellings
- Epping – 12,573 dwellings
- Harlow – 7,409 dwellings

- Uttlesford – 13,332 dwellings

The findings of the updated SHMA are being carried forward by all of the authorities in the housing market area with the exception of Epping Forest District Council.

- East Hertfordshire District Council has proposed amendments to the housing target in an Updated Housing Topic Paper (August 2017) which was submitted to the Local Plan Examination process. The East Hertfordshire Local Plan now seeks to meet the identified full objectively assessed housing need of 18,396 dwellings.
- Harlow Council has proposed a housing target of 9,200 dwellings in the Draft Harlow Development Plan, which is due to be subject to consultation in January/February 2018. The proposed housing target for Harlow exceeds the housing need figure identified in the updated SHMA.
- Uttlesford District Council proposed a housing target of 14,100 dwellings at Regulation 18 Local Plan consultation stage, which was held during August/September 2017. The proposed housing target for Uttlesford exceeds the housing need figure identified in the updated SHMA.

Therefore, Epping Forest District Council are the only authority in the housing market area which is not meeting the objectively assessed housing need figure identified in the updated SHMA. We understand that Harlow and Uttlesford plan to provide more housing than identified in the updated SHMA in recognition of the significant need for housing and affordable housing in their respective areas.

Paragraph 159 of the NPPF expects local planning authorities to have a clear understanding of the housing needs in their area, and are required to prepare a Strategic Housing Market Assessment to assess their full housing needs. Paragraph 47 of the NPPF requires local planning authorities to boost significantly the supply of housing, and to use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area. As set out above, an updated SHMA was prepared in July 2017 for the housing market area, but Epping Forest District Council has decided not to include the findings in respect of the objectively assessed housing need into EFDLP. This approach is not sound for the following reasons: it is not positively prepared in that it seeks to avoid meeting identified housing needs; it ignores the evidence in the updated SHMA which is not reasonable or justified; it is not effective in terms of meeting the strategic priority of housing which is a cross boundary matter; and, it is not consistent with national guidance.

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We request that the findings of the updated SHMA (July 2017) are met in respect of the identified objectively assessed housing need for Epping Forest District Council. As set out in representations to Policy SP2, the housing target should be increased to a minimum of 12,573 dwellings between 2011 and 2033.

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Paragraph 2.27 includes the Vision for the District and the Local Plan Objectives. We do not object to the vision or objectives, but consider that they will not be delivered by the proposed development strategy in EFDLP as set out in Policy SP2. In particular, we consider that the following parts of the vision and objectives will not be met:

Vision Criteria

- (ii) new homes of an appropriate mix of sizes, types and tenures to meet local needs have been provided and well integrated communities created;
- (iv) development needs will be met in most sustainable locations;
- (ix) access to places by public transport, walking and cycling will be promoted;

Local Plan Objectives

- B(i) to make provision for objectively assessed market and affordable housing needs within the District, to the extent that this is compatible with national planning policy;
- D(ii) to improve public transport, walking and cycling opportunities with the aim of promoting

healthy lifestyles, reducing the effects of traffic congestion and improving accessibility to services and the countryside without requiring the use of the car;

As set out in our representations to Paragraph 2.17, an updated SHMA was prepared in July 2017 for the housing market area which identified a higher objectively assessed housing need figure for Epping Forest District Council; an increase from 11,400 dwellings to 12,573 dwellings between 2011 and 2033. However, Epping Forest District Council has decided not to include the findings in respect of the objectively assessed housing need into EFDLP. Therefore, in these circumstances those parts of the vision and objectives that relate to meeting housing and affordable housing need will not be met.

As set out in our representations to Policy SP2, which defines the overall development strategy, there is no mention of sustainable development in the site selection process or sequential approach, and no mention of transport related sustainability objectives. Paragraph 7 of the NPPF identifies the three strands of sustainable development. Paragraph 17 identifies the twelve core planning principles. Paragraphs 30 and 34 seek to reduce greenhouse gas emissions, reduce congestion, and minimise the need to travel by directing development to locations which are accessible by sustainable modes of transport. In particular, we consider that the decision not to allocate land East of Epping means that an opportunity has been missed to direct development to a sustainable location on the edge of Epping which is accessible to the facilities within the town centre and the station by walking and cycling.

Land East of Epping provides a unique opportunity to secure development within a highly sustainable location, which, at its closest point is less than 5 minutes' walk from the station with the ability to deliver an enhanced footpath link. The site also benefits from good bus service provision and the town centre is also within acceptable walking and cycling distances, representing a genuine opportunity to achieve a modal shift with transport choices alternative to the private car, in accordance with the Local Plan visions and objectives set out above.

By contrast, the strategic allocation to the South of Epping will not meet the above objectives and will be heavily car reliant. This is reflected in both its distance from the town centre and rail station as well as the topography which requires a more challenging uphill walk into Epping, which will further dissuade more sustainable transport options.

The decision to allocate strategic growth to the South of Epping but not to the East cannot be considered to be the justified approach when East is a far more appropriate location to achieve the visions and objectives of the Local Plan in locating development in the most sustainable locations and improving walking, cycling and public transport opportunities.

7. Please set out what change(s) you consider necessary to make the Submission Version of the Local Plan 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 as possible.

We do not request changes to the Vision for the District or the Local Plan Objectives. However, we do request changes to Policy SP1 in order to ensure that the vision and objectives are delivered through the development strategy.

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

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☒ **Yes**, I wish to participate at the hearings

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10. Please let us know if you wish to be notified when the Epping Forest District Local Plan is submitted for independent examination (Please tick)

☒ Yes

☐ No

11. Have you attached any documents with this representation?

☐ Yes

☒ No

Signature:

Carter Jonas LLP

Date:

29/01/18

Part B – If necessary please complete a separate Part B form for each representation

4. To which part of the Submission Version of the Local Plan does this representation relate?
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Paragraph Policy Policies Map

Site Reference Settlement

5. Do you consider this part of the Submission Version of the Local Plan:

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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

c) Complies with the duty to co-operate Yes No

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We commented on the Memorandum of Understanding on the Distribution of Objectively Assessed Housing Need across the West Essex/East Hertfordshire HMA (MoU March 2017) in detail in Paragraph 2.17, and do not repeat those comments here. In summary, the findings of the updated West Essex and East Hertfordshire Strategic Housing Market Assessment (SHMA July 2017) should be incorporated into a revised MoU and the updated objectively assessed housing need figure for Epping Forest District Council should be inserted into Policy SP2 of EFDLP. Figure 5 of the updated SHMA sets out the full objectively assessed need between 2011 and 2033 for each of the four authorities in the housing market area. The objectively assessed housing need for Epping is 12,573 dwellings. Epping Forest District Council are the only authority in the housing market area, which is not meeting the objectively assessed housing need figure identified in the updated SHMA.

Paragraph 159 of the NPPF expects local planning authorities to have a clear understanding of the housing needs in their area, and are required to prepare a Strategic Housing Market Assessment to assess their full housing needs. Paragraph 47 of the NPPF requires local planning authorities to boost significantly the supply of housing, and to use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area. As set out above, an updated SHMA

was prepared in July 2017 for the housing market area, but Epping Forest District Council has decided not to include the findings in respect of the objectively assessed housing need into EFDLP. This approach is not sound because it is not consistent with national guidance.

Furthermore, the decision to not meet objectively assessed housing needs ignores the forthcoming introduction of a standard methodology for calculating housing need, which for Epping Forest District Council and the majority of local planning authorities will result in a higher housing requirement. The housing need for Epping Forest District Council using the proposed standard methodology for assessing housing need – as contained in the Planning for the Right Homes in the Right Places: Consultation Proposals (September 2017) – is 913 dwellings per year, compared with 570 dwellings per year in EFDLP. In our opinion, the proposed standard methodology should also include other market signals such as rents and overcrowding, and that defined economic indicators are also included in the assessment. It is clear that in the near future the housing requirement for Epping Forest District Council will increase significantly above the levels proposed in EFDLP, and in these circumstances it cannot be justified to not meet the currently identified housing needs from the updated SHMA of 12,573 dwellings between 2011 and 2033.

It should also be noted that the 2017 SHMA sees a reduction of the 20% uplift in the 2015 SHMA to take account of market signals to 14%. This does not reflect the affordability position seen within Epping Forest in particular, across the HMA, and again the significant uplift in numbers that would arise from the above Government consultation. This cannot be seen as a justified approach in reducing numbers in response to market signals in this context.

A final matter is that the Council has chosen to apply the ‘Liverpool’ methodology rather than Sedgefield to its consideration of land supply. This is not consistent with the aspiration by Central Government within the PPG to meet its backlog in housing delivery within the first 5 years of the plan. We would also suggest that the Council should apply a 20% buffer. This buffer, in combination with the application of the Liverpool method would see a marginal land supply on adoption of the Plan and we would recommend the allocation of additional sites for early delivery within the plan period.

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We request that the findings of the updated SHMA (July 2017) are met in respect of the identified objectively assessed housing need for Epping Forest District Council. As set out in representations to Policy SP2, the housing target should be increased to a minimum of 12,573 dwellings between 2011 and 2033. Table 2.1 should be amended to reflect the higher housing requirement, and the housing land supply in Table 2.3 should be amended to reflect the fact that additional sites will need to be identified to meet that higher housing requirement.

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

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☒ Yes

☐ No

11. Have you attached any documents with this representation?

☐ Yes

☒ No

Signature:

Carter Jonas LLP

Date:

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

Positively prepared Effective

Justified Consistent with national policy

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Table 2.2 identifies the sources of the housing land supply in EFDLP for the period 2011 to 2033. As set out in our representations to Paragraph 2.17 and Policy SP2, the housing target should be increased to 12,573 between 2011 and 2033 to meet the findings of the updated SHMA (July 2017). Therefore, Table 2.3 should be amended to reflect the higher housing requirement.

Table 2.2 includes an allowance of 385 dwellings for windfall sites, or 35 dwellings per year for the final 11 years of the plan period. Paragraph 48 of the NPPF sets out the approach to including windfall sites in the housing land supply, and states: *“Local planning authorities may make an allowance for windfall sites in the five-year supply if they have compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. Any allowance should be realistic having regard to the Strategic Housing Land Availability Assessment, historic windfall delivery rates and expected future trends, and should not include residential gardens”*. Paragraph 24 (ID: 3) of the Planning Practice Guidance provides a further explanation about the use of a windfall allowance, and states: *“A windfall allowance may be justified in the 5-year supply if a local planning authority has compelling evidence as set out in paragraph 48 of the National Planning Policy Framework. Local planning authorities have the ability to identify broad locations in years 6-15, which could include a windfall allowance based on a geographical*

area (using the same criteria as set out in paragraph 48 of the National Planning Policy Framework)". Paragraphs 3.5 and 3.6 of the Housing Implementation Strategy set out the approach to the windfall allowance in EFDLP. However, the Housing Implementation Strategy contains no evidence to justify the proposed windfall allowance, as required by national guidance, and as such it cannot be justified. We request that robust evidence is provided to justify the proposed windfall allowance or the allowance is deleted.

The overall approach within the EFDLP also needs to be considered in the context of windfall sites. The approach from EFDC (Policy SP2) has been to focus development within existing settlements to limit greenbelt release. The presence of the green belt sees a number of sites allocated within settlements with existing uses, which could be considered windfall sites. Therefore notwithstanding the lack of evidence for the windfall figure, we would question the ability for sites to continue to come forward on the basis of previous trends with land a finite resource.

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We request that the findings of the updated SHMA (July 2017) are met in respect of the identified objectively assessed housing need for Epping Forest District Council. As set out in representations to Policy SP2, the housing target should be increased to a minimum of 12,573 dwellings between 2011 and 2033. Table 2.3 should be amended to reflect the fact that additional sites will need to be identified to meet that higher housing requirement.

We also request that robust evidence is provided to justify the proposed windfall allowance.

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

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No

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Yes

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We commented on the Memorandum of Understanding on the Distribution of Objectively Assessed Housing Need across the West Essex/East Hertfordshire HMA (MoU March 2017) and the updated West Essex and East Hertfordshire Strategic Housing Market Assessment (SHMA July 2017) in detail in Paragraphs 2.17, 2.41 to 2.43 and 2.53 to 2.63, and do not repeat those comments here. In summary, the findings of the updated West Essex and East Hertfordshire Strategic Housing Market Assessment (SHMA July 2017) provide the updated objectively assessed housing need figure for Epping Forest District Council and should be inserted into Policy SP2 of EFDLP. Figure 5 of the updated SHMA sets out the full objectively assessed need between 2011 and 2033 for each of the four authorities in the housing market area, and for Epping Forest District Council this is 12,573 dwellings. We request that this higher housing need figure of 12,573 dwelling is referred to in Policy SP2 as a minimum housing target, and the current figure of 11,400 dwellings is deleted.

A higher housing target will mean that additional housing sites will need to be allocated in the more sustainable locations. As set out in our representations to Policy P1, we request that land East of Epping should be allocated for at least 400 dwellings. The distribution of housing should be amended to reflect the additional allocation, with the quantum of development directed to Epping increased from 1,305 dwellings to circa 1705 dwellings.

In our representations to Paragraphs 1.10 to 1.11 we commented on the emergence of the proposed sequential approach now contained in Policy SP2 through the consultation stages of EFDLP, and in particular that the policy approach is completely different to the version in at Draft Local Plan stage and as such has not been subject to consultation.

In summary, the other main concerns we have with Policy SP2 are that there is no mention of sustainable development in the policy, the suggested sequential approach is not informed by national guidance, and some matters which are related to the delivery of sustainable development such as accessibility by non-car modes of transport are not identified in the policy, inconsistent with their reference elsewhere within the Local Plan.

Paragraph 7 of the NPPF contains the Government's view of the meaning of sustainable development, and explains that there are three dimensions to sustainable development which are as follows:

"An economic role – contributing to building a strong responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure.

A social role – supporting strong, vibrant and healthy communities, by providing the supply of housing to meet the needs of present and future generations; and by creating a good quality built environment, with accessible local services that reflect the community's needs and supports its health and well-being; and

An environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change, including moving to a low carbon economy."

Paragraph 8 goes on to say that: *"These roles should not be undertaken in isolation, because they are mutually dependent. Economic growth can secure higher social and environmental standards and well-designed buildings and places can improve the lives of people and communities. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions"*.

Paragraph 17 sets out twelve core planning principles that should underpin plan making and decision taking. In summary, those planning principles relate to the following: meeting housing need, delivering high quality design, taking account of local character, managing resources, conserving and enhancing the natural environment, reusing previously developed land, conserving heritage assets, and managing patterns of development to make use of sustainable modes of transport.

Paragraphs 30 and 34 deal with the relationship between the location of development and sustainable transport. Paragraph 30 states:

"Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. In preparing Local Plans, local planning authorities should therefore support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport".

Paragraph 34 states:

"Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this

needs to take account of policies set out elsewhere in this Framework, particularly in rural areas”.

A sequential approach can be applied to certain types of development i.e. those located in a high flood risk area or involving town centre uses located outside centres and not allocated. However, the NPPF does not advocate the use of a sequential approach for any other types of development or as a general planning policy. Paragraph 8 expects the three strands of sustainable development to be considered together, with no priority given to one strand over another. Paragraph 17 identifies the core planning principles, and again there is no priority given to one principle over another. As set out above, it is the delivery of sustainable development that should be the guiding principle for planning decisions including through the plan-making process. As set out above, there is no mention of sustainable development in Policy SP2, and we are concerned about this because this policy is intended to provide the overarching development strategy for EFDLP. We are also concerned that Policy SP2 fails to mention access to sustainable modes of transport, which is clearly relevant to sustainable development and should be a key part of any development strategy. Again this is inconsistent with the aspirations elsewhere within the Local Plan to encourage sustainable transport mode and reduce travel by private car.

In any event, the proposed sequential approach in Policy SP2 has not actually informed the selection of sites in EFDLP e.g. some previously developed land is not suitable for redevelopment or residential development and is not allocated, the scale of housing need in Epping Forest District Council means that greenfield and Green Belt sites will need to be allocated for residential development, and it is not uncommon for best and most versatile agricultural land to be released for residential development when considered against other benefits and the planning balance.

The failure to follow the sequential approach set out within Policy SP2 can be seen with regard to the strategic site allocation at South Epping in contrast to East Epping. Policy SP2 states that where Green Belt land is released on the edge of settlements, the sequential approach should see Green Belt land of least value released first. However, the 2016 Green Belt Assessment confirms within its ‘nuanced approach’ that removal of the parcels of land comprising East Epping would have a moderate and very low level of harm. By contrast the parcels at South Epping would see a high level of harm if removed from the Green Belt.

Accordingly the approach in allocating Strategic Growth to South Epping is unsound as it cannot be justified as the most appropriate strategy based on proportionate evidence, and is contrary to the sequential approach (notwithstanding our concerns as to the merit of this approach) contained within the plan.

We request that the sequential approach to development contained in Criteria A of Policy SP2 is deleted.

7. Please set out what change(s) you consider necessary to make the Submission Version of the Local Plan 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 as possible.

We request that this higher housing need figure of 12,573 dwelling is referred to in Policy SP2 as a minimum housing target, and the current figure of 11,400 dwellings is deleted.

We request that Policy SP2 includes references to the delivery of sustainable development, as set out in the

NPPF.

We request that the sequential approach to development contained in Criteria A of Policy SP2 is deleted. If it is to be retained, it should be consistently applied in the site selection approach, with strategic growth allocated at East Epping.

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

☐ **No**, I do not wish to participate at the hearings

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☒ Yes ☐ No

11. Have you attached any documents with this representation?

☐ Yes ☒ No

Signature:

Carter Jonas LLP

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Policy SP3 identifies the place-shaping principles for strategic sites that would be subject to a masterplan. Paragraph 2.91 identifies the areas where a strategic masterplan will be prepared, and includes South Epping. Our client is promoting land East of Epping for a mixed use residential-led development. An East of Epping Delivery Statement has been prepared and together with accompanying representations is included with this submission.

As set out below, we confirm that the proposed development at land East of Epping would comply with the requirements of Policy SP3, and no amendments would be required if this site was allocated in EFDLP.

As set out in our representations to Paragraphs 2.134 to 2.142, the evidence of the Green Belt Assessment has not been used to inform the selection of sites. The overall assessment of Green Belt harm for each of the land South of Epping sites (Parcels 044.2, 045.1 & 045.2) is 'very high', whereas the assessment for the land East of Epping site (Parcel 046.1) is 'high'. There are differences between the sites in terms of landscape impact as set out in the Site Assessment Report (2016), with land South of Epping in an area of medium landscape sensitivity and land East of Epping in an area of high landscape sensitivity. However, as

set out in the East of Epping Promotion Document the proposed development will include strategic landscaping at the site boundary. We note that the findings of the land East of Epping site (Site Ref. SR-0153) on the Green Belt topic states that: *“Almost all of the site is located in a medium sensitivity Green Belt parcel; planted buffers along the eastern edge limit intervisibility with the countryside. If the site was released it would have limited harm to purposes of the wider Green Belt”*. Therefore, we conclude that any landscape impacts would be addressed by strategic landscaping within the proposed development at East of Epping.

Part A xiii) of Policy SP3 sets out aspirations for development to *“provide for sustainable movement and access to local and strategic destinations (including rail, bus and pedestrian/cycling)*. Part B states that *“to ensure the best and most efficient use of land as a guide the Council will normally expect..... i) a greater density of development at places with good public transport accessibility.”*

East Epping represents the most appropriate location to provide for sustainable movement and to locate a greater density of development at a location with good public transport accessibility, given that it is less than 5 minutes' walk from Epping Train Station at its closest point with an existing footpath link, as well as within an 800m or 10 minute walk from the town centre. By contrast development at South Epping is at a greater distance from both the station and town centre with both journeys being uphill from the site, which makes it very challenging to provide for sustainable movement.

Accordingly the most appropriate strategy to meet the Strategic Masterplan aspirations of Policy SP3 is to allocate strategic growth to East Epping as opposed to South.

The evidence, and the evidence in the Green Belt Assessment in particular, demonstrates that land East of Epping should be allocated in preference to land South of Epping. As such, we request that in Paragraph 2.91, the requirement for a South Epping Masterplan is deleted and replaced with an East of Epping Masterplan. The Promotion Document could form the basis for the Masterplan.

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We do not request any changes to Policy SP3 because the proposed mixed use residential development at land East of Epping would comply with the policy requirements.

The evidence, and the evidence in the Green Belt Assessment in particular, demonstrates that land East of Epping should be allocated in preference to land South of Epping. We request that the requirement for a South Epping Masterplan is deleted and replaced with an East of Epping Masterplan in Paragraph 2.91.

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

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No, I do not wish to participate

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☒

Yes

☐

No

11. Have you attached any documents with this representation?

☒

Yes

☐

No

Signature:

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Date:

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Paragraphs 2.134 to 2.142 identifies the Green Belt purposes, and the approach to development and the release of land from the Green Belt through EFDLP. In summary, we have three concerns with the approach to Green Belt policy in EFDLP, which are as follows: the revised Green Belt boundaries are insufficient to meet the identified objectively assessed housing needs; the proposed Green Belt boundaries will not be permanent or capable of enduring beyond the plan period; the option of identifying safeguarded land to meet longer term development needs has not been considered; and the findings of the Green Belt Assessment Stage 2 Report (August 2016) have not properly informed the selection of sites for Green Belt release.

Paragraph 83 of the NPPF states that *“Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan”*. As set out in Paragraph 2.136 of EFDLP, exceptional circumstances exist to alter the Green Belt boundaries, which are related to meeting housing needs and the inability of neighbouring authorities to meet that need because they too are constrained by Green Belt policy. Paragraph 83 goes on to states that: *“....authorities should consider the Green Belt boundaries having regard to their intended permanence in the long term, so that they should be capable of*

enduring beyond the plan period". The evidence of the updated SHMA demonstrates a higher level of objectively assessed housing need, which indicates that additional land is required; since the Green Belt boundary in Epping Forest District Council is extensive and surrounds the most sustainable locations for development then releasing additional land from the Green Belt is the only credible option. In addition, the proposed standard methodology for calculating housing need indicates a higher housing requirement for Epping Forest District Council in the future, and as a result it is very likely that further land will need to be released from the Green Belt at the next review of the Local Plan. As a consequence, the currently defined Green Belt boundaries in EFDLP have no permanence and are unlikely to endure for very long. We note that Paragraph 85 of the NPPF states that: *"when defining boundaries, local planning authorities should:...where necessary, identify in their plans areas of 'safeguarded land' between the urban area and the Green Belt, in order to meet longer-term development needs stretching well beyond the plan period;..."*. The need for an early review of the Green Belt boundaries is clearly necessary, but the option of identifying 'safeguarded land' has not been considered in EFDLP. Therefore, we conclude that Paragraphs 2.134 to 2.142 are unsound on the basis that they are not consistent with national guidance in respect of the Green Belt.

The Green Belt Assessment Stage 2 Report & Technical Annex (August 2016) assessed potential development sites against the five purposes for including land within the Green Belt. In these representations we focus on the following assessed sites:

- Parcels 044.2, 045.1 & 045.2 – land South of Epping
- Parcel 046.1 – land East of Epping

Our client is promoting the land East of Epping for a mixed use residential-led development. As set out below, we conclude that the findings of the Green Belt Assessment have not informed the selection of sites. As such, we disagree with the commentary in Paragraph 3.142 which indicates that the Green Belt Assessment and Site Selection Report have informed the selection of sites; as set out in our representations to Paragraphs 1.10 and 1.11, the updated Site Selection Report is not available during the consultation for EFDLP.

Table 4.1 in the Green Belt Assessment Report provides a summary of the assessment for the sites against each of the Green Belt purposes and an overall assessment of harm. The overall assessment of Green Belt harm for each of the land South of Epping sites is 'very high', whereas the assessment for the land East of Epping site is 'high'. We note that Parcels 044.2 and 45.2 (at land South of Epping) score 'strong' for Green Belt Purpose 3 (safeguarding countryside from encroachment) and 'relatively strong' for Purpose 4 (preserve the setting and special character of historic towns). In contrast land East of Epping is assessed as 'relatively strong' for Purpose 3 and 'moderate' for Purpose 4. As set out in the East of Epping Promotion Document submitted with our representations to Policies SP3 and P1, the proposed development will include strategic landscaping at the site boundary to address the impacts on countryside encroachment from the site. It is clear that development at land East of Epping would have less impact on Green Belt purposes when compared with land South of Epping. Furthermore, we note that the findings of the Site Assessment Report (2016) on the Green Belt topic (Site Ref. SR-0153) states that: *"Almost all of the site is located in a medium sensitivity Green Belt parcel; planted buffers along the eastern edge limit intervisibility with the countryside. If the site was released it would have limited harm to purposes of the wider Green Belt"*.

Therefore, we conclude that the evidence in the Green Belt Assessment has not informed the site selection process, which is an unsound outcome because it is not effective.

7. Please set out what change(s) you consider necessary to make the Submission Version of the Local Plan 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 as possible.

We request that the findings of the Green Belt Assessment for Parcels 044.2, 045.1 & 045.2 (land South of Epping) and Parcel 046.1 (land East of Epping) are used to inform the selection of sites in EFDLP. The evidence demonstrates that land East of Epping should be released from the Green Belt, in preference to Epping South.

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

☐

No, I do not wish to participate at the hearings

☒

Yes, I wish to participate at the hearings

9. If you wish to participate at the hearings, please outline why you consider this to be necessary:

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10. Please let us know if you wish to be notified when the Epping Forest District Local Plan is submitted for independent examination (Please tick)

☒

Yes

☐

No

11. Have you attached any documents with this representation?

☐

Yes

☒

No

Signature:

Carter Jonas LLP

Date:

29/01/18

Part B – If necessary please complete a separate Part B form for each representation

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Positively prepared Effective

Justified Consistent with national policy

c) Complies with the duty to co-operate Yes No

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Policy H2, Part B sets out that *“the management of the affordable housing provided will be undertaken by a Registered Provider which is a preferred Partner of the Council unless otherwise agreed by the Council.”*

It is considered that this approach is too prescriptive in the Council having approval of Registered Providers. This does not allow sufficient choice of a wider group of providers as promoted by the Government’s approach.

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We would request that the first line of Part B should be deleted to remove the Council’s approval and allow

a wider choice of providers.

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

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☒

Yes

☐

No

11. Have you attached any documents with this representation?

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Policy H3 sets out the approach to rural exception sites but is focused only on affordable housing schemes. The NPPF does not restrict rural exception sites to only affordable units but also permits market housing as part of a cross-subsidisation approach (paragraph 54). Policy H3 should be updated to ensure consistency with the National Guidance.

7. Please set out what change(s) you consider necessary to make the Submission Version of the Local Plan 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 as possible.

Update Policy H3 to include the ability to bring forward market housing within rural exception sites consistent with the NPPF.

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Policy E1 A (iii) states that *proposals which will result in loss of employment space will be expected to provide mitigation measures in the form of contributions to local employment training and small business growth programmes supported by the Council.*

We do not consider that the above approach is justified. A planning application will need to justify that a site is no longer viable for employment use and we can see no link between the redevelopment of a site which is no longer viable (which may have their own CIL or S106 obligations), and the Council's desire to make employment training and small business contributions.

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Delete part A (iii) from Policy E1.

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☐ No

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Paragraph 3.88 sets out the approach to increase the use of sustainable modes of transport and consequently reduce car use. One of the criteria to deliver the transport approach states that: *“considering existing and future sustainable transport opportunities as part of the criteria when identifying sites for housing and employment”*. Policy T1 includes criteria to encourage the use of public transport, walking and cycling, improve accessibility to services by non-car modes of transport, improve the efficiency of the local highway network, and manage congestion for example. We consider that Policy T1 is generally consistent with Section 4 of the NPPF, and Paragraphs 30 and 34 in particular which seeks to promote sustainable modes of transport.

However, as set out in our representations to Policy SP2, there is no mention of accessibility by sustainable modes of transport in the overarching development strategy. As set out in our representations to Paragraph 2.27, Policy SP3 and Policy P1, we consider that the decision not to allocate land East of Epping means that an opportunity has been missed to direct development to a sustainable location on the edge of Epping which is accessible to the facilities within the town centre and the station by walking and cycling. As such, the delivery of sustainable transport options has clearly not informed the site selection process, because if it

had then land East of Epping would have been allocated for residential development (as it was at Draft Local Plan stage in October 2016). We conclude that Policy T1 will not be implemented if the site selection process does not allocate sites which are more sustainable in transport terms.

This matter and the much higher sustainability credentials of East over South Epping are considered further in the accompanying Transport Representation prepared by MLM Group. Not only does this reiterate that East Epping is a far more sustainable location than South, but it sets out that selecting East as a strategic masterplan location will reduce traffic impact upon the local highway network.

7. Please set out what change(s) you consider necessary to make the Submission Version of the Local Plan 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 as possible.

We do not request any changes to Paragraph 3.88 and Policy T1. However, Policy T1 will not be implemented if the site selection process does not allocate sites which are more sustainable in transport terms. As such, in our representations to Policy P1, we request that references to land South of Epping are deleted and replaced with a mixed use residential-led development at land East of Epping.

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

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☒ Yes

☐ No

11. Have you attached any documents with this representation?

☒

Yes

☐

No

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Carter Jonas LLP

Date:

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Justified Consistent with national policy

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Part C of the policy requires a financial contribution to access management and monitoring of visitors for new homes within specific settlements. However no specific justification has been provided for the selection of these settlements and the HRA makes reference to surveys still being undertaken, which will presumably inform where visitor pressure is arising from. Therefore, it seems premature and inflexible to have a prescriptive policy in this way. It should also be noted that it is not just new homes that will see recreational pressure but this can also arise from new employment provision. This should also be considered within any policy provision.

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Provide appropriate justification for the contribution and consideration of a more flexible approach to Part C including contributions from commercial and employment provision.

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

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at the hearings

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☒ Yes

☐ No

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☐ Yes

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Part C of the policy sets out the exceptions to inappropriate development within the Green Belt but this does not include any development relating to tourism, or education. We would suggest that the Policy is amended to include tourism provision.

7. Please set out what change(s) you consider necessary to make the Submission Version of the Local Plan 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 as possible.

Amend Part C to include development relating to tourism or education.

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

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☒ Yes ☐ No

11. Have you attached any documents with this representation?

☐ Yes ☒ No

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Part A iii) and iv) of Policy DM9 make reference to sustainable construction and minimising vulnerability to climate change. Care should be taken to ensure that this does not encroach into matters that are covered by Building Regulations, which will continue to be updated over the plan period and will guide sustainable development.

7. Please set out what change(s) you consider necessary to make the Submission Version of the Local Plan 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 as possible.

No change specifically suggested.

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

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We appreciate the aspiration within this Policy for a high quality of design and space standards. However there is no justification provided for looking to exceed the referenced national standards and it should be recognised that increasing such standards has the potential to impact upon the rate and quantum of development.

7. Please set out what change(s) you consider necessary to make the Submission Version of the Local Plan 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 as possible.

The reference in Part A to exceeding standards should be deleted.

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Policy DM11 sets out the standards to be applied for waste recycling in new developments. Whilst we again appreciate the aspiration and intentions within this policy, it should be suitably flexible in its application to certain sites and locations, and also to allow a response to where the Council's approach has changed – for example the introduction of new or additional bins.

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Ensure the policy and its application are sufficiently flexible as set out above.

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Part A of this policy requires that *“all proposals for new development must seek to manage surface water as close to its source as possible”* in accordance with sustainable drainage principles. Whilst recognising the aspirations of the policy, all sites and planning applications will need to be considered on their own merits and there may be occasions where a greater flexibility is required which should be reflected in this policy.

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Recognise a more flexible approach may be required in some circumstances as set out above.

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b) Sound Yes No

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

Positively prepared Effective

Justified Consistent with national policy

c) Complies with the duty to co-operate Yes No

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Part C of the policy requires a financial contribution to access management and monitoring of visitors for new homes within specific settlements. However no specific justification has been provided for the selection of these settlements and the HRA makes reference to surveys still being undertaken, which will presumably inform where visitor pressure is arising from. Therefore, it seems premature and inflexible to have a prescriptive policy in this way. It should also be noted that it is not just new homes that will see recreational pressure but this can also arise from new employment provision. This should also be considered within any policy provision.

7. Please set out what change(s) you consider necessary to make the Submission Version of the Local Plan 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 as possible.

Provide appropriate justification for the contribution and consideration of a more flexible approach to Part C including contributions from commercial and employment provision.

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

☐ No, I do not wish to participate at the hearings

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10. Please let us know if you wish to be notified when the Epping Forest District Local Plan is submitted for independent examination (Please tick)

☒ Yes

☐ No

11. Have you attached any documents with this representation?

☐ Yes

☒ No

Signature:

Carter Jonas LLP

Date:

29/01/18

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The Policy makes reference to ensuring there is sufficient infrastructure for surface and waste water but does not recognise the ability for development to both mitigate and enhance infrastructure. The Policy should be updated to reflect this as a lack of capacity does not prevent development coming forward.

7. Please set out what change(s) you consider necessary to make the Submission Version of the Local Plan 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 as possible.

Update the policy to recognise that development can both mitigate and enhance infrastructure.

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

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Policy DM19 appears to be too prescriptive and inflexible in applying standards for water use. Part C recognises that national standards should be applied if those exceed the figures stated in the policy, which calls into question whether the policy is required and should not just defer to the current national standards. If the policy is looking to exceed current standards, no justification has been made.

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Delete Policy DM19 as it is already covered by other guidance such as Building Regulations.

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Policy DM20 sets out the strategy for low carbon and renewable energy measures and technologies. The aspiration of the policy is welcomed but it is too prescriptive in its approach, particularly with an emphasis on CHP and District Heating, which may not be appropriate in a range of locations.

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Set out a more flexible approach without the above emphasis on CHP and District Heating within Parts C and D of the policy.

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Paragraph 5.7 identifies the evidence documents that have informed the settlement policies, and includes the Site Selection Report (Arup 2017). We commented on the non-availability of the updated Appendix B of the Site Selection Report during the Regulation 19 consultation stage in our representations to Paragraphs 1.5 and 1.6. We concluded that EFDLP has not been prepared in accordance with the requirements of the Planning & Compulsory Purchase Act 2004 (2004 Act) or the Town and Country Planning (Local Planning) (England) Regulations 2012 (2012 Regulations), in that firstly consultation on the document does not comply with Epping Forest District Council's Statement of Community Involvement and secondly a supporting document that seeks to justify the site selection policies is not available during the consultation period.

Our representations to Paragraphs 1.5 and 1.7 are relevant to Paragraph 5.7 and are not repeated here. Since the updated version of Appendix B of the Site Selection Report is not available during the Regulation 19 consultation, then the reasoned justification for the selection of sites in EFDLP has not been made.

7. Please set out what change(s) you consider necessary to make the Submission Version of the Local Plan 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 as possible.

The non-availability of a key evidence base document represents a legal compliance failure, which should be rectified before EFDLP is submitted to the Secretary of State. It is very likely that the Inspector appointed to examine EFDLP will raise concerns about the failure to make a proposed submission document available for consultation at Regulation 19 stage during their preliminary review of the document. We request that Appendix B of the Site Selection Report is published and made available for comment in accordance with Epping Forest District Council's Statement of Community Involvement and the requirements of the 2004 Act and 2012 Regulations. The updated Site Selection Report should be available for consultation for at least 6 weeks.

We reserve the right to comment further once the Site Selection Report is available in full.

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

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☒ Yes, I wish to participate at the hearings

9. If you wish to participate at the hearings, please outline why you consider this to be necessary:

It is very likely that the Inspector appointed to examine EFDLP will raise concerns about the failure to make a proposed submission document – the updated Site Selection Report - available for consultation at Regulation 19 stage. If not, then it would be appropriate for those making representations on legal compliance matters to appear at a hearing session, so that the issues can be discussed in public.

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☒ Yes

☐ No

11. Have you attached any documents with this representation?

☐ Yes

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We are concerned that parts of the Vision for Epping will not be delivered because land South of Epping has been selected as the strategic location for growth, in preference to land East of Epping. The parts of the Vision with which we have particular concerns are as follows:

- Future residential development will make a strong contribution to supporting Epping's existing services.
- A new vibrant community will be delivered at the south of the town. This will integrate fully and complement the existing community.
- Linkages to Epping's surrounding landscape and highly performing Green Belt will be maximised, and housing will be located and designed in a manner that limits the potential for harm to this important asset.

We consider that a mixed use residential-led development at land East of Epping would deliver these parts of the Vision much better than land South of Epping, and this is supported by the findings of the Green Belt Assessment (August 2016) and the Site Selection Report. We commented on the assessment of these two strategic locations in Epping against Green Belt purposes in our representations to Paragraphs 2.134 to

2.142. We commented on the non-availability of the updated Appendix B of the Site Selection Report during the Regulation 19 consultation stage in our representations to Paragraphs 1.5 and 1.6.

The land East of Epping has a much better relationship with Epping Station and the services and facilities located on the High Street/High Road compared to land South of Epping, because it has an existing access from the north west of the site.

Table 4.1 in the Green Belt Assessment Report provides a summary of the assessment for the sites against each of the Green Belt purposes and an overall assessment of harm. The overall assessment of Green Belt harm for each of the land South of Epping sites is 'very high', whereas the assessment for the land East of Epping site is 'high'. We note that Parcels 044.2 and 45.2 (at land South of Epping) score 'strong' for Green Belt Purpose 3 (safeguarding countryside from encroachment) and 'relatively strong' for Purpose 4 (preserve the setting and special character of historic towns). In contrast land East of Epping is assessed as 'relatively strong' for Purpose 3 and 'moderate' for Purpose 4. As set out in the East of Epping Promotion Document submitted with our representations to Policies SP3 and P1, the proposed development will include strategic landscaping at the site boundary to address the impacts on countryside encroachment from the site. It is clear that development at land East of Epping would have less impact on Green Belt purposes when compared with land South of Epping. Furthermore, we note that the findings of the Site Assessment Report (2016) on the Green Belt topic (Site Ref. SR-0153) states that: *"Almost all of the site is located in a medium sensitivity Green Belt parcel; planted buffers along the eastern edge limit intervisibility with the countryside. If the site was released it would have limited harm to purposes of the wider Green Belt"*.

There are differences between the sites in terms of landscape impact as set out in the Site Assessment Report (2016), with land South of Epping in an area of medium landscape sensitivity and land East of Epping in an area of high landscape sensitivity. However, as set out in the East of Epping Delivery Statement the proposed development will include strategic landscaping at the site boundary, and as set out above strategic landscaping would assist with the Green Belt. Therefore, we conclude that development at land South of Epping will not deliver the parts of the Vision relating to access to services and facilities, and will not limit the potential harm to Green Belt and landscape. We consider that a mixed use residential-led development at land East of Epping would deliver these parts of the Vision much better than land South of Epping and would be the justified approach.

7. Please set out what change(s) you consider necessary to make the Submission Version of the Local Plan 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 as possible.

We request that the Vision is amended as follows: A new vibrant community will be delivered at the east of the town.

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

☐ **No**, I do not wish to participate at the hearings

☒ **Yes**, I wish to participate at the hearings

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☒ Yes

☐ No

11. Have you attached any documents with this representation?

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Signature:

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Paragraph 5.13 identifies the two spatial options to accommodate new homes at Epping which are as follows: intensification within the existing settlement; and expansion of the settlement to the south. Policy P1 identifies land South of Epping as a strategic allocation.

The land north of Stewards Green Road in Epping (Ref. SR-0153) – land East of Epping) was allocated at Draft Local Plan stage for 305 dwellings. No evidence has been provided to justify the deletion of this previous allocation at Proposed Submission stage. The need to meet the objectively assessed housing needs in the updated SHMA indicate that additional sites should be allocated rather than deleted. Furthermore, the deletion of land East of Epping was not an alternative option identified at Draft Local Plan stage, and is identified in the Sustainability Appraisal as a more suitable strategic option.

As set out in our representations to Policy SP3, we confirm that the proposed development at land East of Epping would comply with the strategic masterplan requirements.

As set out in our representations to Paragraphs 2.134 to 2.142, the evidence of the Green Belt Assessment

has not been used to inform the selection of sites. The overall assessment of Green Belt harm for each of the land South of Epping sites (Parcels 044.2, 045.1 & 045.2) is 'very high', whereas the assessment for the land East of Epping site (Parcel 046.1) is 'high'. There are differences between the sites in terms of landscape impact as set out in the Site Assessment Report (2016), with land South of Epping in an area of medium landscape sensitivity and land East of Epping in an area of high landscape sensitivity. However, as set out in the East of Epping Promotion Document the proposed development will include strategic landscaping at the site boundary. We note that the findings of the land East of Epping site (Site Ref. SR-0153) on the Green Belt topic states that: *"Almost all of the site is located in a medium sensitivity Green Belt parcel; planted buffers along the eastern edge limit intervisibility with the countryside. If the site was released it would have limited harm to purposes of the wider Green Belt"*. Therefore, we conclude that any landscape impacts would be addressed by strategic landscaping within the proposed development at East of Epping.

The conclusion of Sustainability Appraisal (see pg. 127) for the option of development at the eastern expansion of Epping is as follows:

"Overall, while it is noted that the strategic option is sensitive in landscape and heritage terms, given there is potential for this harm to be mitigated through design, and as the strategic option is less harmful in Green Belt terms and located sustainably on the eastern side of Epping, when compared with other strategic options at the settlement level, it is judged to be a more suitable strategic option."

The evidence, and the evidence in the Green Belt Assessment and Sustainability Appraisal in particular, demonstrates that land East of Epping should be allocated in preference to land South of Epping. As such, we request that expansion of the settlement to the east is identified as one of the strategic options to accommodate new housing in Epping in Paragraph 5.13.

In summary, land at East Epping has the ability to deliver all of the policy requirements under Policy P1 together with a range of additional benefits as set out within the Delivery Statement and supporting information, and in a more sustainable location with less Green Belt harm.

In addition, Policy P1 sets out a range of considerations for development at South Epping that are effectively constraints that are not applicable to East Epping. These can be summarised as follows:-

- Requirement to cross the railways line;
- Minimise impact upon listed buildings;
- Minimise impact upon the BAP habitat within the site and nearby Local Wildlife site;
- Noise and air quality buffer from the M25;
- Buffer from HV transmission cables and Local Wildlife site;
- Careful design to reduce impact on Ancient Woodland; and
- Continued protection of TPO trees

In addition, although not referenced within the Policy, paragraph 5.13 states that *"This strategic option maximises opportunities to focus development in close proximity to Epping London Underground Station"*. This statement is patently untrue and as set out elsewhere in our representations, East Epping is significantly closer to the underground station, less than 5 minutes' walk at its closest point with a footpath link, whereas South Epping is at a significant greater distance, with a more difficult journey uphill from the site. Therefore the justified approach to maximise development close to the station is to allocate Strategic Development at East Epping.

It is important to clarify within these representations that land at East Epping has been promoted on the basis on 2 alternatives. These are detailed further within the Supplementary Information submitted with these representations. In both scenarios we would contend that the justified and sound approach would be to allocate growth at East Epping on the following either/or basis:-

- 1) A scheme consistent with the 2016 draft Local Plan and May 2017 Strategic Masterplan approach with at least 930 homes shared between South and East, but with the frontage onto Stewards Green Road included to provide independent access to East Epping;
- 2) A new sustainable neighbourhood at East Epping based on Garden City principles, replacing the allocation of 950 homes South of Epping.

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We request that Paragraph 5.13 is amended as follows: expansion of the settlement to the east. The supporting text should be amended to reflect the findings of the Green Belt Assessment and requirements for strategic landscaping at the site.

We request that references to land South of Epping is deleted from Policy P1, and replaced with a mixed use residential-led development at land East of Epping. We request that Criteria J and K refer to development at land East of Epping.

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

☐ **No**, I do not wish to participate at the hearings

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☒ Yes

☐ No

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☒ Yes

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Part A defines that development proposals will only be permitted where they provide or improve essential facilities and services. Whilst the aspiration is acknowledged, development proposals are only required to mitigate their impact and there is no basis to include a requirement for improvement.

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Remove the reference “or improve” within the policy.

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Policy D3 seeks to ensure that sufficient utilities infrastructure capacity exists. We do not consider that this policy is required, as the approach set out in the policy is undertaken as standard by builders and developers and is addressed through the planning application process.

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Delete Policy D3 in its entirety.

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☐ Yes ☒ No

Signature:

Carter Jonas LLP

Date:

29/01/18

Part B – If necessary please complete a separate Part B form for each representation

4. To which part of the Submission Version of the Local Plan does this representation relate?
(Please specify where appropriate)

Paragraph Policy Policies Map

Site Reference Settlement

5. Do you consider this part of the Submission Version of the Local Plan:

*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

c) Complies with the duty to co-operate Yes No

6. Please give details of why you consider the Submission Version of the Local Plan is not legally compliant, is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. 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

Part A ii) again references an aspiration to “*improve the quality and capacity of facilities valued by the community*”. As set out against Policy D2, whilst appreciating the aspiration to improve facilities, this cannot be justified as an approach when development is only required to mitigate its impact.

7. Please set out what change(s) you consider necessary to make the Submission Version of the Local Plan 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 as possible.

Remove Part A ii) from the Policy.

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Part A i) of the policy defines how Neighbourhood Plans should be in general conformity with the strategic approach and policies of the Local Plan but does not acknowledge the ability for the local community to take a divergent approach through the Neighbourhood Plan. This should be reflected in Policy D6.

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Ensure there is sufficient flexibility within the Policy to permit a divergent approach to Neighbourhood Plans.

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Paragraph 1.9 refers to the relationship between the policies in EFDLP and sustainable development. That relationship has been assessed through the Sustainability Appraisal. We comment below on some of the findings of the Sustainability Appraisal, as they relate to our representations in respect of land East of Epping. Our main concerns are as follows:

- The outcome of the Sustainability Appraisal has not informed the policies in EFDLP, in that there is no evidence from the appraisal process or change in circumstances to alter previous decisions about the allocation of sites at Draft Local Plan stage e.g. land at the eastern expansion of Epping was identified as a more suitable strategic option in the Sustainability Appraisal but was removed as an allocation at Proposed Submission EFDLP stage.
- The Sustainability Appraisal has not properly assessed the higher objectively assessed housing need figure derived from the SHMA 2017 update, which must provide more positive effects on the housing related sustainability objective compared to the lower housing target in EFDLP.
- The outcome of the transport assessment in the Sustainability Appraisal has not informed the allocation of sites in EFDLP, since the score for the transport related sustainability objectives would have improved if sites which are well-related to the town centres and accessible to public transport

were allocated for strategic development e.g. land East of Epping was allocated at Draft Local Plan stage.

- The Sustainability Appraisal does not clearly set out the Spatial Strategy that has been assessed including reasonable alternatives, that has informed the final plan.

We firstly provide some background to the sustainability appraisal process, before dealing with each of these concerns.

The aim of the Sustainability Appraisal process is to make a plan more sustainable. It tests the social, economic and environmental impacts of various plan options, to help choose the most sustainable options; and helps to fine-tune the preferred options. It also seeks to determine the extent to which the principles of sustainable development are integrated into the plan and its policies.

Paragraph 14 of the SEA Directive (2001/42/EC) states

“Where an assessment is required by this Directive, an environmental report should be prepared containing relevant information as set out in this Directive, identifying, describing and evaluating the likely significant environmental effects of implementing the plan or programme, and reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme;....”

Regulation 12(2)(b) of the Environmental Assessment of Plans and Programmes Regulations 2004 deals with the preparation of environmental reports. It states:

*“The report shall identify, describe and evaluate the likely significant effects on the environment of—
(b) reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme....”*

Schedule 2 sets out the information to be included in environmental reports. No.8 states:

“An outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties (such as technical deficiencies or lack of know-how) encountered in compiling the required information.”

The Planning Advisory Service has published two guidance documents to assist local planning authorities prepare development plan documents: the Soundness Self-Assessment Checklist (March 2014), and the Legal Compliance Toolkit (April 2013). The ‘justified’ section in the PAS ‘Soundness Self-Assessment Checklist’ document (p. 13-15) states:

“To be ‘justified’ a DPD needs to be:

- *Founded on a robust and credible evidence base involving: research / fact finding demonstrating how the choices made in the plan are backed up by facts; and evidence of participation of the local community and others having a stake in the area.*
- *The most appropriate strategy when considered against reasonable alternatives.”*

The ‘Alternatives’ requirement (p.14) states:

“Alternatives

Can it be shown that the LPA’s chosen approach is the most appropriate given the reasonable alternatives? Have the reasonable alternatives been considered and is there a clear audit trail showing how and why the preferred approach was arrived at? Where a balance had to be struck in taking decisions between competing alternatives, is it clear how and why the decisions were taken? Does the sustainability appraisal show how the different options perform and is it clear that sustainability

considerations informed the content of the DPD from the start?”

The ‘Stage three: Plan Preparation – Writing the Plan’ section of the Legal Compliance Checklist identifies a range of activities that should be undertaken to demonstrate that the plan is legally compliant.

Activity No.10 asks the question: *“Have you undertaken the sustainability appraisal of alternatives, including consultation on the sustainability appraisal report?”*. Activity No.11 asks the question: *“Are you setting out reasons for any preferences between alternatives?”*.

It is clear that the development and assessment of alternatives, and the reasons for selecting or rejecting alternatives, is a legal requirement under the SEA Directive and SEA Regulations which should be applied to the Sustainability Appraisal for EFDLP. We consider that the Sustainability Appraisal does not properly assess alternatives in respect of objectively assessed housing need and transport outcomes of the site selection process, and does not explain or justify the decisions to reject strategic sites.

The NPPF seeks to explain sustainable development. Paragraph 7 of the NPPF contains the Government’s view of the meaning of sustainable development, and identifies the three dimensions to sustainable development which are the economic, social and environmental roles. Paragraph 8 expects these three roles to be delivered jointly and simultaneously. Paragraph 17 sets out twelve core planning principles that should underpin plan making and decision taking. In summary, those planning principles relate to the following: meeting housing need, delivering high quality design, taking account of local character, managing resources, conserving and enhancing the natural environment, reusing previously developed land, conserving heritage assets, and managing patterns of development to make use of sustainable modes of transport. Paragraphs 30 and 34 deal with the relationship between the location of development and sustainable transport. Paragraph 47 seeks to boost significantly the supply of housing, and the actions that local planning authorities should take to achieve this aim.

Our first concern is that the outcome of the Sustainability Appraisal has not informed the policies in EFDLP, and this is highlighted in the assessment for the eastern expansion of Epping and the decision to remove the allocation of land in this location between draft and proposed submission stages; land north of Stewards Green Road in Epping (Ref. SR-0153 for 305 dwellings) was allocated at Draft Local Plan stage but has been deleted from the Proposed Submission EFDLP. The Interim Sustainability Appraisal Report for the Draft Local Plan (September 2016) did not assess individual policies or site specific allocations within the document, although we note that the summary findings and conclusions at Table 7.1 concludes that the preferred option (as contained in the Draft Local Plan) *“performs broadly well in terms of a range of sustainability objectives”*. We have provided an extract of Policy P1 and the supporting text from the Draft Local Plan, which included an allocation at land East of Epping. At pg124 of the Draft Local Plan potential alternative options for the preferred residential allocations were identified, which in summary were expansion to the south-west, expansion to the north, or expansion to the north-east. The option of increasing the quantum of development to the south or deleting the expansion to the east were not identified as options. The Sustainability Appraisal Report for Proposed Submission EFDLP (December 2017) also does not assess individual policies or site allocations from the Proposed Submission EFDLP in terms of their sustainability credentials, although Appendix V: SA of Strategic Options for Settlements did assess the different options for growth on the edge of Epping identified at Draft Local Plan stage. The conclusion for land at the eastern expansion of Epping (see pg.127) was that the site represented a more suitable strategic option, and stated that: *“Overall, while it is noted that the strategic option is sensitive in landscape and heritage terms, given there is potential for this harm to be mitigated through design, and as the strategic option is less harmful in Green Belt terms and located sustainably on the eastern side of Epping, when compared with other strategic*

options at the settlement level, it is judged to be a more suitable strategic option". Therefore, we conclude that the Sustainability Appraisal indicates that land East of Epping should be allocated for residential development, as it was in the Draft Local Plan, and there is no evidence in the Sustainability Appraisal process that justifies the decision to remove this allocation. We conclude that the Sustainability Appraisal does not comply with the SEA Regulations in terms of assessing and justifying alternatives.

Our second concern is that the Sustainability Appraisal has not properly assessed the higher objectively assessed housing need figure derived from the SHMA 2017 update. The updated West Essex and East Hertfordshire Strategic Housing Market Assessment (SHMA July 2017) demonstrated that the full objectively assessed housing need for Epping is 12,573 dwellings, which is higher than the housing target contained in Policy SP2 of EFDLP. Paragraph 6.12 of the Sustainability Appraisal for EFDLP identifies the three options considered for housing growth (46,100 dwellings, 49,638 dwellings and 57,400 dwellings). However, those different options and the associated housing targets for Epping Forest District Council are not actually assessed in the Sustainability Appraisal against the housing related sustainability objectives. Similarly, the higher level of objectively assessed housing need derived from the updated SHAM has also not been assessed in the Sustainability Appraisal. As such, no alternative housing targets have been assessed and no reason has been given for selecting the proposed housing target, and is a similar point to our first concern above. Paragraphs 9.134 to 9.140 do assess the proposed housing target of 11,400 dwellings between 2011 and 2033, and conclude that it would have a 'significant positive long term effect' on the housing related sustainability topic. We consider that a higher housing target e.g. 12,573 dwellings identified in the SHMA update, would provide more positive benefits when compared with the proposed housing target, and those benefits would be particularly positive for the supply of affordable housing. We conclude that the Sustainability Appraisal does not comply with the SEA Regulations in terms of assessing alternative housing target options.

Our third concern is that the outcome of the transport assessment in the Sustainability Appraisal has not informed the allocation of sites in EFDLP. Paragraphs 9.160 to 9.174 assesses the transport policies against sustainability objectives, and concludes overall that they would lead to 'uncertain positive effects'. We commented on transport matters in our representations to Paragraph 3.88 and Policy T1, and criticised the role that sustainable transport had played in the selection of strategic sites in EFDLP. The Transport Representation prepared by MLM Group, submitted with representations to Paragraph 3.88 and Policy T1, demonstrate the much higher transport sustainability credentials of East over South Epping. Policy T1 includes criteria to encourage the use of public transport, walking and cycling, improve accessibility to services by non-car modes of transport, improve the efficiency of the local highway network, and manage congestion for example. We consider that the decision not to allocate land East of Epping in Policy P1 means that an opportunity has been missed to direct development to a sustainable location on the edge of Epping which is accessible to the facilities within the town centre and the station by walking and cycling. As such, the delivery of sustainable transport options has clearly not informed the site selection process, and the Sustainability Appraisal process does not seek to improve the outcome of the assessment of transport related sustainability objectives. We consider that the reallocation of land East of Epping for a mixed use residential-led development would improve the assessment from 'uncertain positive effects' to 'positive effects' because of the location of the site and close proximity to the town centre and accessibility to public transport. We conclude that the Sustainability Appraisal has not taken the opportunity to improve EFDLP in terms of sustainable transport.

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