

## **Epping Forest Local Plan**

### **Examination Hearing Statement**

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### **Main Modifications Consutlation**

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**Prepared by Strutt & Parker on behalf of Scott Properties (Stakeholder ID 19LAD0086)**

**September 2021**

## Context

1. This Hearing Statement is prepared by Strutt & Parker on behalf of Scott Properties (Stakeholder ID 19LAD0086), who have engaged in the preparation of Local Plan throughout the plan-making process.
2. Scott Properties specific interest is in land at Chigwell Nurseries, Chigwell, which is proposed to be allocated in the Local Plan Submission Version (the LPSV) for 65 dwellings.
3. Scott Properties have consistently attended and contributed to the examination process with regards to the site and the policies proposed in the Local Plan. Scott Properties attended and prepared hearing Statements for matters 1, 2, 3, 4, 5, 6, 7, 11 and 15. In summary, our client's contributions raised the following matters:
  - a. Support for the overall strategy but raising concerns on the overall housing supply and phasing, including the necessity or otherwise of a stepped trajectory;
  - b. To support for the allocation of CHIG.R5 (1.66ha) for a residential development of 65 dwellings in Chigwell, replacing the garden centre and removing the site from the Green Belt, and support for the relevant development management policies related to residential development;
  - c. To express concern with the artificial division of the site, which excluded a large area of storage and parking for the garden centre (3.8ha), and the implications of doing so, with that part of the site remaining within the green belt and becoming redundant when the residential development progresses;
  - d. To express concern with the approach to the delivery of older person's accommodation and specifically the approach to new care homes (with a focus on acute care), which are concentrated at the strategic allocations and therefore considered to overlook the immediate needs of older and frail residents;
4. These matters were fully explored at the Examination.
5. Our client is fully aware of the main modifications and provides these comments to assist the Inspector in concluding the examination, with specific regard to CHIG.R5.

6. The Main Modifications that have an influence on CHIG.R5 are contained in the following parts of the Plan:
- a. Places
    - i. Policy P 7 Chigwell
  - b. Strategic Context and Policies:
    - i. Policy SP 2 Spatial Development Strategy 2011-2033
    - ii. Policy SP 3 Place Shaping
  - c. Housing, Economic and Transport Policies
    - i. Policy H 1 Housing mix and accommodation types
    - ii. Policy E2 Centre Hierarchy/Retail Policy
    - iii. Policy T 1 Sustainable transport choices
  - d. Development Management Policies
    - i. Policy DM 1 Habitat Protection and improving biodiversity
    - ii. Policy DM 2 Epping Forest SAV and the Lee Valley SPA
    - iii. Policy DM 5 Green and Blue Infrastructure
    - iv. Policy DM 9 High Quality Design
    - v. Policy DM15 Managing and reducing flood risk
    - vi. Policy DM 22 Air Quality
  - e. Infrastructure & Delivery
    - i. Policy D 2 Essential Facilities and Services 186
7. These comments are focused on the areas of most interest to the successful delivery of CHIG.R5. The majority of Modifications proposed are not considered to significantly affect the delivery of the site and therefore we remain silent on them. In providing these contributions I confirm that we are familiar with the proposed modifications and their implications for the site. In general terms, we are confident that the modifications are reasonable and result in a development that can be delivered but have concerns and recommended changes to a number of specific policies.

## Comments on Main Modifications with regards to CHIG.R5

### MM88 – Supporting Text to Policy P7 - Chigwell

8. We support the inclusion of CHIG.R5 as a suitable site for development and for release from the Green Belt. The site is deliverable, has an existing access, and represents previously developed land in a highly sustainable location.
9. The amended Vision and supporting paragraphs for Chigwell are generally supported and no soundness issues are raised. However, it is disappointing that the opportunity to fully consider the entire site submitted by the promotor, comprising CHIG.R5 and land to the northeast of CHIG.R5, has not been taken up as part of the Main Modifications. In our view this is contrary to paragraph 22 of the Inspector's letter of 2<sup>nd</sup> August 2019 which advised that:

*'...the evidence which I've read and heard indicates that certain types/categories of sites could be revisited if necessary [including] ... those which have been allocated in part but sub-divided for technical reasons; and similarly, those which fall low in the "land preference hierarchy" for technical reasons but which might be perceived by a layman as derelict previously developed land'* (emphasis added).

10. We are not aware of any other sites that were *subdivided for technical reasons*, or which were also found to be of lower value to the Green Belt, and therefore *low in the land preference hierarchy*. We therefore considered the Inspector's advice to relate directly to the Chigwell Site and the artificial exclusion of part of the garden centre site. Requests were made to the LPA to consider the site again following this instruction by the Inspector but no discussions were entertained by the LPA. As part of the Council's 'Homework 29' a response was provided, but this was heavily weighted in favour of not amending the allocation and contained a number of errors that were raised with the Council. While we do not consider this to be a soundness issue for the Plan, had the site been assessed as advised by the Inspector, we consider it likely that the Council would have been able to identify the additional land for development, making up for some of the reduction in development in Chigwell identified at para 5.102 and 5.104 of the Main Modifications. A plan for the site and images of the areas that will remain in the Green Belt is provided at Appendix A of this submission.
11. While we do not consider this to be a Soundness matter that would lead to the failure of the Plan, the opportunity to consider this site fully and the implications of the partial allocation

of the site have not been fully explored by the LPA, under the requirement to positively prepare the Main Modifications. We would seek a final recommendation that this is reconsidered. In allocating the larger area, the site would also be more capable of providing the benefits associated with other Modifications such as those to DM2, DM5 and DM9.

#### **MM89 – Policy P7 - Chigwell**

12. Part C of Policy P7 concerns the Infrastructure Delivery Plan. We are concerned that the wording allows significant flexibility in the application of the IDP and therefore provides insufficient certainty to developers. As modified, the policy will allow for a departure from the IDP in two circumstances:
  - a. Where there are subsequent iterations of the IDP, and:
  - b. Where *'discussions with providers determine that these requirements have changed'*
13. The first situation is generally acceptable, on the understanding that there would be a process for adopting a revised or updated IDP. At present it is not clear that there is such a process in place and we would seek clarification from the Council on the status of the IDP. It is recognised that MM18 confirms that the IDP is a live document, but where they have potentially significant implications for development proposals, some certainty as to how they will be reflected in planning obligations for specific sites would be beneficial in order to ensure its weight is not questionable in decision making.
14. The second scenario is more problematic as it can be interpreted very broadly and temporally, potentially leading to very different requirements on different, ostensibly similar, schemes. We recommend inserting the words *'...have changed, in agreement with applicants.'*
15. For the **New Part C** – secondary school provision, MM89 expects development to contribute proportionately towards infrastructure. The text should confirm how the proportion will be identified. For example, this could be identified as the total number of units delivered, the number of market units delivered, the floorspace provided, habitable rooms, site area, etc. While there is a process typically utilised by Essex County Council that relates to the pupil product, clarification within the LP would be beneficial.

### **MM173 – Policy Allocation CHIG.R5 and MM56 – Policy DM9**

16. The requirement for proposals to be advised upon via a quality review panel is provided by Policy DM9, which is the subject of MM56. DM9 confirms that proposals will need to be informed by a QRP where development is for 50 homes or 5000 square meters of employment/floorspace, or for other complex or sensitive schemes. We have no concerns with MM56.
17. MM173 adds a new '**Design**' modification to allocation CHIG.R5. It is not clear why this is required in order for the Plan to be Sound. The reason for the change as stated in the MM is to *align with DM9*. However, this is entirely unnecessary as DM9 provides the thresholds for the QRP process to be engaged. This is potentially confusing to an applicant, as it may imply two separate stages, based on different criteria (one to satisfy the CHIG.R5 allocation and one to satisfy the 'greater than 50 dwellings' criteria) and should any amendments to DM9 be made (whether through a future review or further Modifications prior to adoption), this would need to be reflected in various sections of the Plan also, causing repetition and potential conflicts.
18. We are not aware of any hearing sessions that identified any particular sensitivities for the site. Its delivery is straightforward and there were no specific objections to CHIG.R5 that we are aware of which would require specific reference for a quality review panel to consider the scheme (as set out in the second part of DM9).
19. Accordingly, it is recommended that MM173 in relation to the new Design section, is potentially confusing, may cause uncertainty if there are future reviews, and is unnecessary as DM9 will always be a consideration for any planning application submitted to the authority. The Modification should therefore not be made.

### **Other comments**

### **Gas Main – Infrastructure Delivery Plan (IDP)**

20. We are concerned about commentary within the IDP in relation to **4.10** and **CHG2** of the IDP. The items identifies that:

*Potential diversion of gas mains which pass through proposed development site CHIG.R5. Alternative is to retain in position and design the site around an easement along the pipes. The potential easement / diversion will be dependant*

*on the type of main - the options for these sites should be considered on a site-by site basis, in consultation with Cadent Gas.*

21. The promotor (Scott Properties) notified the LPA in 2020 that there are no gas mains passing through site CHIG.R5. The references in the IDP do not appear to have been updated and therefore we are unclear if this has been addressed and corrected, nor the implications for a decision maker if it is not corrected prior to the adoption of the Plan.

## Appendix A – Landscape Strategy and non-Allocated Site Photographs





Landscape Strategy Proposed for the entire site through Examination

**Images of non-allocated built form / area**



Image 1 – Evidence of on-site growing of plants. Plants are brought in and stored in the glasshouses in readiness for sale.





Image 2 – View of non-allocated 'associated fixed surface infrastructure'.





Image 3 – Commercial storage building on the non-allocated land.



Image 4 – View of the structures present on the non-allocated land.





Image 5 – Further evidence of buildings present on-site being used for storage purposes to support the main retail use.





Image 6 – View of the area the Council confirmed as being Previously Developed Land.