

## Epping Forest District Council

### Consultation on Epping Forest District Local Plan

#### Development South of Ivy Chimneys, Epping

##### Introduction

- 1) These submissions are made on behalf of Mr and Mrs J. Padfield, a freeholder of land within the allocation EPR.R1 Land South of Epping West – approximately 450 homes. The principle of the housing application is **supported**. Nevertheless it is considered that the provisions of the Local Plan are not sufficiently consistent with national planning policy, to satisfy the test of soundness, without Modification.
- 2) These submissions explain these concerns, and put forward a recommendations for Modification. The Representors seek attendance at the Examination to discuss the issues of soundness for this allocation.

##### Infrastructure requirements:

- 3) The submission Version of the Local Plan states:

*‘Proposals for development on allocated sites should accord with the site specific requirements set out in Appendix 6’.*

- 4) Appendix 6 is not bound in with the submitted version of the Plan, but has been sourced from the Council’s web site. Appendix 6 provides no assistance as to the ‘site specific ‘requirements of the allocation for EPP.R1 and EPP.R2. The Appendix merely states when bringing forward development proposals regard should be had to the Local Plan as a whole. This statement fails to properly respond to national planning policy as to the role of development plans.
- 5) The Framework states (154) ‘Local Plans should set out the opportunities for development and clear policies on what will or will not be permitted and where’. At Paragraph 157 it is stated:

*‘Crucially Local Plans should provide detail on form, scale, access and quantum of development where appropriate’.*

- 6) The preparation of an ‘Appendix 6’ schedule that accord with the Framework (154) is ‘crucial’ as such a schedule enables those parties with an interest in the allocation to bring forward the land for development more promptly. The ‘site specific requirements’ enable matters of viability and deliverability (Framework 173) to be considered within the plan-led planning process. Fundamentally site specific requirements enable the wider public to understand the form of development for which the land is allocated; the expected provision of new services and facilities required by the development. Key features such as the provision of open space can be understood.

- 7) The only policy guidance contained within Policy P1 Epping relating to Infrastructure Requirements is under category D – which states:

*‘Specifically development proposals in Epping will be expected to contribute **proportionately** towards the following items’. (Thereafter a list is identified).*

- 8) It is submitted that seeking contributions on a proportionate basis does not satisfy the tests for the validity of a planning obligation (Framework 204). The reader of the Plan is not assisted in knowing the expectations for the delivery of infrastructure from any of the sites allocated under Policy P1. Indeed if each site is expected to contribute ‘proportionately’ to the items of infrastructure referred to at Criterion D, then such an arrangement would appear to be in conflict with the CIL pooling restrictions (Regulation 123). In summary form 11 sites are being required to provide a proportionate financial contribution to, say, ‘the upgrades to Lindsey Street electricity substation. Criterion D is denied any degree of flexibility by Criterion E, stating:

*‘Development proposals **must** (emphasis added) contribute proportionately towards the delivery of these infrastructure set out above and in the Infrastructure Delivery Plan’.*

- 9) Criterion D is similarly in conflict with the pooling arrangements of CIL. The Infrastructure Delivery Schedule refers to ‘Pooling Restrictions at Section 6.1. Criterion D and E are in conflict with this statutory limitation.

- 10) Table 8.11 from the IDP, titled Infrastructure Delivery Schedule: Epping identifies:

- 2 utilities infrastructure
- 30 Transport-Highways Infrastructure
- 5 Education Infrastructure
- 2 Health Infrastructure
- 7 Open Space Infrastructure
- 2 Communities Facilities
- 2 Sports and leisure facilities

- 11) The table identifies delivery partners as including Developers. No attempt is made to identify which items of infrastructure are required as being necessary for individual allocations at Epping (II allocations). Issues that may arise as to the viability in the delivery of an individual allocation cannot be considered with any degree of robustness in the absence of knowledge as to which items of infrastructure are required to be funded (part or all) for each allocation.

- 12) The IDP states at Section 6.2 CIL charging Schedule and Regulation 123 List indicates that the Council intends to progress the introduction of CIL as soon as possible after the Local Plan Examination and states:

*It is therefore important to have a ‘Clear approach’ (emphasis added) as to what will be funded through S.106 to inform the development of the Regulation 123 list. Thereafter it is stated:*

*‘It is envisaged that the majority of strategic infrastructure requirements requiring developer contributions will be funded through existing S.106/S.78 mechanisms and that this presents a more realistic and logical approach **this stage for requirements linked to specific sites** (emphasis added) pending further announcements from the Government in relation to changes to the CIL Regulations and pooling restrictions’.*

- 13) The IDP fails to perform this task. It does not identify which infrastructure requirements are linked to specific sites in Epping, and indeed whether further contributions will be sought to:

- Infrastructure Delivery Schedule: District Wide
- Infrastructure Delivery: Combined

- 14) The Framework (173) states that ‘pursuing sustainable development requires careful to attention to viability and costs in plan-making and decision-taking’. With respect it is submitted the Plan presently fails national planning policy in this context of soundness (Framework 182) and denies the opportunity for all parties to examine whether infrastructure requirements are justified, and if so that the development for each Local Plan allocation remains viable.

- 15) The evidence base justifying the allocation of the sites identified under Policy P1 is the Site Selection Report 2017. The Report has been published without any of the appendices. It is understood that the appendices may provide some of the evidence base which underpins each allocation. Upon publication of the Appendices the Representors may wish to make further submissions and invite the Examining Inspector to receive such representations. The ‘sunlight of transparency acts’ as an important check and balance. The absence of publication of these technical appendices is a matter of substance to the Representors, and similarly to the wider public.

- 16) Furthermore it is understood that the Council intends to undertake further work on the delivery of the allocations in the period leading to the Examination. The Representors seek the right to respond to this report when it is published in full in order to give weight to effective consultation within the plan making process.

- 17) While these submission are made in respect of the allocated site EPP.R1, they are pertinent to all sites allocated in the Plan.

## Modification

- 18) An Appendix 6 should be prepared to identify the 'site specific requirements' that are required for each allocation so that all parties have knowledge of the infrastructure which is expected in order to enable development to encourage development to proceed promptly and to ensure that in the infrastructure requirements satisfy the tests of Regulation 122 (CIL). Consideration may then be given as to whether individual sites are viable and the provisions of the Local Plan are deliverable (Framework 173). It is not consistent with national planning policy to seek to delegate the identification of key infrastructure requirements to the development management process.
- 19) Criteria D and E should be re-worded to ensure compliance with Regulations 122 and 123 of the CIL Regulations

#### **Criterion J**

- 20) The wording of criterion J implies that development proposals can only come forward following a Strategic Masterplan being 'formally endorsed by the Council'. Such an approach is likely to delay the implementation of development, and the provision of new homes. It is considered to be consistent with national planning policy for criterion J to be re-worded as follows:

#### **Modification**

- 21) Development proposals in relation to sites EPP.R1 and EPP.R2 must demonstrate that they represent a comprehensive development scheme for the South Epping Masterplan Area. There will be a requirement to demonstrate this by the submission of a Strategic Masterplan for approval by the Local Planning Authority. All development proposals should demonstrate how individual schemes respond to place making principles for the South Epping development area.

#### **Criterion K**

- 22) The Local Plan refers to the South Epping Master Plan Area which comprises two land releases, EPP.R1 and EPP.2. Criterion K states in addition to the requirements set out above, the Strategic Master Plan should make provision for ..... This list includes (criterion IV) 'appropriate provision for health facilities'. The Policy creates internal confusion for developers. At Criterion D a 'proportionate contribution' is sought, whereas Criterion K states that in addition to a 'proportionate contribution' – 'appropriate provision is to be made for health facilities' In that Criterion K makes clear that the provisions are 'in addition to the requirements set out above', it should not be assumed that a 'proportionate contribution for the purposes of Criterion D equates with the 'appropriate provision' for Criterion K.

#### **Modification**

- 23) Criterion K needs to be re-written to establish consistency with Criterion D as to the requirement for infrastructure from these allocations.
- 24) Criterion VI makes reference to the provision of a new bridge of the railway. In the absence of publication of the Site Selection Report Appendices the Representors are denied the opportunity

to consider the need for and expediency of this item of infrastructure. The Representatives seek to reserve an opportunity to comment on the need for and reasonableness of this infrastructure provision when the Appendices (as part of a full report is published).

- 25) It is submitted that criterion VIII (heritage environment) is not consistent with national planning policy in seeking to minimise impact. The Criterion should more appropriately require the development to address the impact on the significance of the Grade II listed buildings for the following reasons:
1. Setting in itself is not a heritage asset
  2. A planning balance may have to be taken within the context of the national planning policy (Framework 134).

#### **Modification**

- 26) It is recommended that Criterion VIII is re-worded to require the development to address the impact of development upon the significance of the Grade II listed Gardner's Farm and Grade II listed Farm buildings.
- 27) The LPA has advanced 'exceptional circumstances' for the release of land south of Epping from the Green Belt (2.136). Criterion XIII) of the South Epping Master Plan Area states that the development

*'Should make provision for:*

*'The strengthening and/or creation of new Green Belt boundaries to the east and west'.*

- 28) It is submitted that this Criterion is not consistent with national planning policy (Framework 9) for the following reasons:
1. A development cannot 'create' a new Green Belt boundary. Green Belt boundaries are defined within the development plan process (Framework 83).
  2. Green Belt is not a landscape policy and is a policy of restraining urban growth to maintain the essential characteristic of openness. As such land that remains within the Green Belt to the east and west 'of the South Epping Master Plan Area' does not need to be strengthened.

#### **Modification**

- 29) It is recommended that the wording of Criterion XIII is deleted and replaced with a requirement to establish a landscape structure at the periphery of the development with land retained in the Green Belt.
- 30) In urban extension of this scale it is not unexpected that there are multiple land interests. There have been proactive discussions between different land interests in the context of a strategic

master plan. The Representors are confident that the allocation can be brought forward promptly subject to clarification- as sought above- as to the requirements for infrastructure. The Representors site is considered suitable, available and deliverable as part of the wider allocation. The site has opportunities for alternative forms of access onto Ivy Chimneys Road which will promote the early delivery of this landholding- and in so doing an early contribution to housing delivery. The release of land from the Green Belt to the south of Epping is considered justified by exceptional circumstances in order to meet the development needs of the District in a sustainable pattern of development (Framework 84)

- 31) The allocation for the South Epping Masterplan Area ‘naturally’ falls within two areas east and west of the railway. While development should be in general accordance with a Strategic Masterplan for the South Epping Area, it is submitted that the Plan should expediently acknowledge that development may proceed pursuant to different planning permissions, (providing the delivery of the EPP.R1 and EPP.R2 is planned in the context of an appropriate and comprehensive development scheme). It is submitted that an additional Criterion should be added to Policy P1 Epping South Epping Masterplan Area, namely:

#### **Modification**

*‘Where development proposals come forward separately the developer will be required to demonstrate how the individual proposal contribute to delivery of the Strategy Masterplan, in the provision of accesses, services and facilities, and in the disposition of land uses’.*