



Epping Forest District Local Plan – Main Modifications

Representations on Behalf of Quinn Estates Ltd and Redrow PLC

September 2021

Introduction

Quinn Estates and Redrow has closely followed the Local Plan preparation process and has made representations at each possible stage.

Summary of Concerns, Including New Issues

There are a number of significant concerns regarding both the proposed spatial strategy, the draft plan's ability to meet the objectively-assessed needs of the area, and the process that was followed to prepare the Plan. They mean that the plan should not be found to be 'sound' or 'legally compliant'.

These issues include concerns which have only arisen recently and which, therefore, have not previously been placed before the Inspector or tested at the Examination in Public, some of which have fundamental implications for the draft local plan and for housing delivery more generally:

- the **inability of the Council to demonstrate a five year housing land supply** on adoption of the Plan;
- the failure of the Council to neither secure a robust strategy for avoiding **harm to the SAC**, nor to provide certainty over how mitigation could be achieved;
- the **lack of a robust air quality mitigation strategy** because the creation of a Clean Air Zone (CAZ) needs to be underpinned by legislation yet to be brought into effect. Furthermore, a CAZ has not been costed nor is its funding secured by the Local Plan and the Council has previously openly stated that they have no intention to implement a CAZ despite the Local Plan requirements to do so¹;
- proposed **site allocations are reliant on this mitigation** being secured, which means that the Council cannot rely on any completions on such sites until at least 2025; and
- **Harlow Council's opposition to the spatial strategy** which was first publicly announced in September 2021. Harlow Council now objects to major allocations in EFDC which adjoin the Harlow urban area. The withdrawal of Harlow Council's co-operation will, at best, delay developments but at worst will result in very serious delays that will need to be reflected in the Council's trajectory. Ultimately, in itself this could also require a new spatial strategy to be formulated.

Issues Fundamental to Spatial Strategy Must be Tested

These points have wide-ranging implications, not least for the Council's current spatial strategy which is no longer a realistic proposition.

The spatial strategy has not been formulated based on an objective analysis of development sites in the District in terms of their capacity or ability to facilitate growth in a sustainable manner. This renders the emerging Local Plan undeliverable and in turn fails to set a positive framework to address the Borough's objectively-assessed needs.

¹ <https://www.guardian-series.co.uk/news/19105800.mixed-messages-tories-epping-forest-clean-air-zone/>



This concern has been a consistent theme that we have raised on a number of occasions, through our previous representations that were made in relation to the Regulation 18 and Regulation 19 Local Plan consultations, as well as our Hearing Statements and oral evidence provided at the Local Plan Examination which closed in June 2019. Our concerns over the capacity of sites to deliver housing in the Plan period were dismissed by Officers at the EiP but now have been proven to be correct as is plain from the reduction in the number of dwellings that can be accommodated on the sites that have been identified by the Council for possible allocation – or even from the deletion of some sites.

In fact the issues are so fundamental to the draft plan that unless the Inspector concludes at this stage that there are issues of soundness or legal compliance such that the plan process should not proceed, the Examination in Public should be resumed to enable interested parties to make further representation and to enable the Council's position to be properly tested.

The Inspector directed changes to the Local Plan in her post-hearing advice (ED98) having concluded there were fundamental issues of soundness that needed to be addressed through Main Modifications to the Plan. We note the Council's response to the Inspector's actions outlined in the Inspector's post-hearing advice (ED133), which these representations seek to respond to.

Habitats Mitigation and Housing Delivery

Failure to Explore Opportunities to Avoid Harm

Many of the issues with this draft Plan stem from the Council's flawed approach to Sustainability Appraisal which has resulted in a Plan being put forward that fails to consider reasonable alternatives.

The Inspector has raised concerns about the ability for the Council's preferred strategic growth options in the draft Plan to meet the housing requirement of 11,400 homes. Action 9 of ED133 responds to the Inspector's suggestion that the Council seek alternative sites or, if necessary, amendments to the proposed spatial strategy through the Sustainability Appraisal process in order to meet the housing requirement.

The Council identifies no additional sites for allocation and instead has reduced the capacity of several sites or deleted several sites from the Submission Version Local Plan (SVLP) altogether. We will return to the implications in terms of housing delivery later in these representations.

Failure to Undertake Required Sustainability Appraisal

Following these changes the Council concludes that because no additional sites are identified for allocation there is no requirement to update the Sustainability Appraisal. Whilst we strongly disagree with the Council's decision not to allocate alternative sites (which will undermine the effectiveness of the plan as a whole), it should have revisited its approach to ascertain whether, in the light of the serious issues that have been identified, there are alternatives that would avoid harm or, at the very least, not result in the same magnitude of issues as the current strategy.

The NPPG is clear that SA "should be applied as an iterative process" of informing the development of the plan (Paragraph: 001 Reference ID: 11-001-20190722). It also notes that:

"This process is an opportunity to consider ways by which the plan can contribute to improvements in environmental, social and economic conditions, as well as a means of identifying and mitigating any potential adverse effects that the plan might otherwise have. By doing so, it can help make sure that the proposals in the plan are appropriate given the reasonable alternatives. It can be used to test the evidence underpinning the plan and help to demonstrate how the tests of soundness have been met."



In itself, this is a **serious issue relating to the legal compliance** of the draft plan.

Failure to Satisfy Legal Requirement to Secure Measures to Avoid or Reduce Harm to SAC

The Inspector requested “clear evidence” that the necessary Suitable Alternative Natural Greenspace (SANG) can be delivered over the Plan period (Action 6), but specifically in the first five years of the Plan.

This stems from the clear legal requirement in Regulation 63(5) of the Conservation of Habitats and Species Regulations (2017), which dictates that a competent authority may only agree to the Plan after “*having ascertained that it will not adversely affect the integrity of the European site*”. Regulation 70(2) goes on to stipulate that:

“where the assessment provisions apply, the competent authority may, if it considers that any adverse effects of the plan or project on the integrity of a European site... would be avoided if the planning permission were subject to conditions or limitations, granting planning permission, or, as the case may be, take action which results in planning permission being granted or deemed to be granted, subject to those conditions or limitations”.

Put simply, the legislation requires certainty for mitigation to be secured prior to commencement of development and in place prior to occupation of said development. In this case as the plan does not secure the delivery of mitigation then development sites cannot be brought forward, nor occupied, unless applicants were to come up with additional SANG space or the dwelling capacity of large sites were reduced to make room for on-site SANG.

There is no evidence in the Main Modifications for how this could actually be achieved. Without such certainty, **many of the proposed site allocations cannot be considered to be ‘deliverable’**, a fundamental issue of soundness. We find it strange that the Council has attached such little importance to this issue given that elsewhere (for example in Elmbridge, Surrey) LPAs have undertaken specific search and consultation exercises to ensure that they have sufficient SANG to support their proposed allocations.

Although in ED133, the Council claims that Part 3 of the Green Infrastructure Strategy (GIS) dated April 2021 details how and where SANG will be delivered over the Plan period, it does not provide evidence to demonstrate whether this can be achieved; the GIS recommends a number of measures to adopt, including SANG land including greenspace improvements, and a call for sites for tree planting. Clearly this relies on land being identified, secured and funded in order for this strategy to be effective. The land to be used as SANG would also need to be available from the first occupation of residential development. The GIS fails to demonstrate this and so there is no certainty over the delivery of the SANGs requirement. On this basis the Main Modifications do not address our key concerns that will remain fundamental defects of the Plan.

The obvious implication of this not being achieved is an inevitable need for the Council to impose Grampian-style planning conditions on residential planning applications in the District to ensure that adverse impacts on the SAC are avoided through mitigation being secured. This will inevitably result in yet more delays to the delivery of the proposed site allocations. There is also an obvious concern that Grampian conditions can only be used where the action in question cannot be performed, meaning any such condition would not meet the tests of reasonableness or enforceability as stipulated by Paragraph 56 of the NPPF.



Harm can be Avoided by Alternative Site Allocations

Perhaps of greatest concern the Council is relying on mitigation of the harm to the SAC that will arise from its allocations rather than avoidance, particularly when the Council has clear evidence that other sites are suitable and deliverable in locations where harm can be avoided. Avoidance of harm to an irreplaceable habitat must be the preferred approach unless it cannot be achieved.

This can only be dealt with by looking at sites outside of the zone of influence of the SAC and to identify land that can deliver SANGs for the inevitable development that is required to meet the housing target. The Council appears to have prioritised the protection of Green Belt over the protection of the internationally designated Epping Forest SAC. This is a fundamental flaw of the Plan.

In this case avoidance can be achieved, for example by way of the proposals promoted by Quinn Estates. Quinn Estates has demonstrated by way of a comprehensive planning application that its proposals are deliverable and, in fact, that the only objection that can be raised from a policy point-of-view is that the site is not currently proposed to be allocated.

It has also prepared detailed evidence (see [Appendix 1](#)) to demonstrate that its proposals are far preferable in the context of the SAC than some of the Council's proposed allocations. This demonstrates that:

- whilst the majority of the site is outside of the Zone of Influence, the effects of the proposed North Weald Golf Course development can readily be mitigated through provision of SANG. Additional SANG capacity would be available to mitigate recreational pressure arising from other development in the District;
- the site would be able to provide a park and ride facility on an existing bus route that could provide for over 1 million low-carbon passenger journeys per year. The park and ride would attract usage as it would involve minimal deviation from the main road network including the M11;
- the site would also result in wider benefits including the discontinuation of longer car journeys in favour of public transport (including journeys through Epping Forest), as well as a bus link to provide an important service for residents and the wider community to promote modal shift, but also improved mobility and access to services for those without public transport; and
- the allocation of the former North Weald Golf Course would result in fewer recreational and lower air quality impacts than proposed allocated sites; and
- the overall package of benefits associated with North Weald is more significant than the proposed allocated sites, particularly in the context of the proposed release of Green Belt land, and in this regard the 'Exceptional Circumstances' case for North Weald is stronger than some of the other sites being promoted for release.

However, it appears that the Council has closed its mind to even considering the release of this site; nowhere since the SAC issue arose has the Council re-examined this site, or indeed any other sites.

Thus, one can confidently conclude that the Council's approach is fundamentally erroneous: **it has not looked at alternatives that would not need to be mitigated**; it has not identified sufficient means to mitigate unavoidable impacts and thus it has not followed a robust SA-based approach to its selection of sites.



No Viability Testing of Air Quality Contributions

A tariff-based system is proposed as part of the Air Pollution Mitigation Strategy (APMS), to collect contributions to offset the impact of the proposed site allocations on air quality. This is concerning as there has been no calculation of whether the tariff is proportionate to the cost or impact on the air quality zone. The limited viability testing completed has also not tested or costed the delivery of the APMS, and nor does the APMS itself as the costs at its heart are fundamentally unknown.

The tariff is to be introduced by 2025 according to the APMS. This again raises fundamental concerns around the ability for the proposed allocations to deliver any completions whilst this is unknown. There is also no evidence that Natural England has supported this approach, namely for sites to come forward in the SAC without robustly demonstrating that the APMS can be delivered.

Concluding Remarks

In addition, and despite these obvious flaws with the spatial strategy that it is currently pursuing, it has not looked at any alternative strategies even though the Inspector specifically suggested this. This, too, is a significant flaw and one which on its own indicates that the draft plan as it currently stands **should not be found to be 'sound' or 'legally-compliant'** and that the Council has approached this task with a closed mind.

Housing Need / Supply

Our comments in this section are made whilst being mindful of the context of the Council's lack of five year housing land supply and housing delivery test performance.

A number of other local planning authorities have been promoting plans with insufficient deliverable sites and / or impediments to delivery that can up-end the whole plan-led delivery of development. This includes Swale Borough Council whose Local Plan was adopted in 2017 on the proviso that a review commenced immediately because of uncertainties around the ability to mitigate transport and air quality issues. The second is Sevenoaks District Council whose now-defunct draft Local Plan lacked any certainty as to the delivery of significant numbers of new homes. The Inspector examining neighbouring Tonbridge and Malling's Local Plan found that the Council was complicit with Sevenoaks for failing to engage on unmet housing needs under the Duty to Cooperate.

The consequence of such a situation in Epping Forest would be serious because there are large areas where the tilted balance would not apply due to NPPF footnote 7 being engaged. The obvious consequence is that the Council will continue to accumulate a bigger backlog that it might never resolve. Where similar situations have come to pass elsewhere, suspicions have been expressed that the failure to progress a plan is a politically-expedient way to address local people's opposition to large-scale development in the knowledge that footnote 7 could be used in any event as a reason to oppose development because the 'presumption' would not apply. This could result in the emerging Plan being subject to challenge and ultimately failure unless these matters are satisfactorily addressed.

The Main Modifications update the housing requirement and supply figures up to 31 March 2020. Main Modification 11 sets out the components of housing land supply over the period 2011 – 2033 as per [Table 1](#) below.



Table 1: EFDC Housing Land Supply Overview

The components of housing land supply over the period 2011 – 2033	
Minimum number of homes required to be built 2011 / 2033: 518 x 22 years	11,400
Homes Built (Completions) 2011 – 2020 up to 31 March 2020	2,497
What is available in the future (supply)	
Sites with planning permission up to 31 March 2020	1,118
Windfalls 35 x 9 years	280
Requirement met through Garden Communities around Harlow within the District	3,900
Requirement met through allocations outside the Garden Communities within the District	4,463
Total supply	12,258

The distribution of homes continue to be allocated in accordance with EFDC's chosen spatial approach. The table below sets out how the Council intend to distribute these new homes across the District under [Policy SP2](#).

Table 2: EFDC Housing Distribution by Settlement

Settlement	Allocated Housing
Sites around Harlow	~ 3,900
Epping	~ 709
Loughton	~ 455
Waltham Abbey	~ 836
Ongar	~ 590
Buckhurst Hill	~ 87
North Weald Bassett	~ 1,050
Chigwell	~ 206
Theydon Bois	~ 57
Roydon	~ 48
Nazeing	~ 118
Thornwood	~ 172
Coopersdale, Fyfield, High Ongar, Lower Sheering, Sheering and Stapleford Abbots	~ 161
Rural East	~ 11
Total	8,400

The above table suggests the Council can meet the housing requirement when implementing the Inspector's recommendations for deletion of site allocations and in some cases a reduction in the capacity of sites across the Plan period to 2033.

However, the Council presents a revised (and stepped) trajectory for how the minimum housing requirement of 11,400 homes is to be met. This suggests that delivery would be as set out by [Table 3](#).



Table 3: EFDC Projected Housing Trajectory

Period	Projected housing requirement
2011/12 – 2019/20	2,497 (277 per annum)
2020/21 – 2024/25	2,750 (550 per annum)
2025/26 – 3032-33	6,153 (769 per annum)
Total	11,400 (518 per annum)

In our previous representations we have expressed concerns about the Council's intention for a stepped trajectory, not least based on historic delivery rates; according to Housing Delivery Test (HDT) data (reproduced below), only 43% of the Council's target has been delivered in the most recent five years for which data are available and never has delivery come anywhere close to reaching the levels projected for the period from 2025.

Table 4: EFDC Housing Delivery Performance

	2015-16	2016-17	2017-18	2018-19	2019-20	Total
Target	654	661	667	937	864	3,783
Actual	267	149	564	436	223	1,639
Difference	-387	-512	-103	-501	-641	-2,144

Source – Housing Delivery Test

The Plan Period for the new local plan covers the period from 2017/18 and, based on the HDT figures, **there already has been a shortfall amounting to 1,245.**

We note that the above data are generally pre-pandemic (the UK's first 'lockdown' commenced in March 2020) and therefore this should not be accepted as an explanation for poor delivery in the District – there must be other reasons.

The significant under-delivery to date does not bode well for future delivery and suggests that delivery assumptions that have been made thus far have been optimistic, not least given that planning permission has not been granted for the majority of large sites that were originally programmed to come forward from 2020/21. The draft Plan makes clear that the strategic site allocations would also require the preparation of strategic masterplans. The Council's own evidence base outlines the inputs to the masterplan process needing to allow for land assembly, coordination of infrastructure and design². There is no evidence that this has been achieved, which again reinforces that the delivery assumptions made in the trajectory are not realistic.

In the Main Modifications the Council has 'pushed back' the start of most sites by two or even three years but has then compressed the delivery timescale – sometimes significantly. For example in relation to North Weald Bassett it has increased the first year's delivery from 90 to 166 units in 2023/24. That assumes that a start on site can be made in as little as 18 months when planning permission has not yet been granted. This timescale is ambitious when one looks at Lichfields' research³ in relation to the average periods between validation of an application and the completion of the first unit (at least 2 years for sites >500 dwellings).

In short neither past performance, nor new evidence from the Council, supports the significant changes that the Council has made in respect of delivery assumptions. Indeed, we have been unable to locate any evidence that suggests that the Council has robustly explored these revised delivery

² <https://www.efdclocalplan.org/wp-content/uploads/2018/02/EB1106-Requirements-for-Strategic-Masterplans-EFDC-2017.pdf>

³ https://lichfields.uk/media/5779/start-to-finish_what-factors-affect-the-build-out-rates-of-large-scale-housing-sites.pdf



timescales with landowners. In fact, given the particularly pressing need for housing delivery in the District, one must presume that the Council was as optimistic as it felt able to be in the first place and that this revised trajectory is simply unrealistic.

In the absence of an explanation it appears that the Council has simply 'reverse engineered' the delivery estimates to ensure that, on the face of it at least, the delivery of dwellings in the plan period would exceed the plan period's housing requirement.

The Council's Revised Delivery Assumptions

To test the consequences of the Council's approach we have undertaken an analysis of the original delivery assumptions of the proposed allocations in the SVLP, also looking at where planning permission has been granted or not. Using this information we have applied the conclusions of the Lichfields' *Start to Finish* report⁴ relating to the time for large sites to deliver completions, and we have applied our professional judgement / experience in relation to smaller sites. We have continued to apply the same delivery assumptions as set out in the SVLP given that there is currently no sound justification for departing from those assumptions.

Our analysis below in Table 5 shows that of the total of 1,675 homes identified in these years, the vast majority of sites cannot deliver the number of units that were programmed in the SVLP (i.e. before the Council adjusted some of the delivery estimates in the 2021 Main Mods).

Table 5: Effect of Delivery Delays on SVLP Trajectory (pre-Main Mods)

Site Number / Name	No of Dwgs	SVLP Delivery Timescale	Planning Permission	Potential Start on Site	No of years delay	Loss of Units from Trajectory
Latton Priory	1,050	2021/22	No	2024/25	2	50
Water Lane	2,100	2021/22	No	2024/25	2	100
Buckhurst Hill	87	2021/22	No	2022/23	1	72
Ongar	590	2019/20	No	2022/23	1	170
Epping	1,305	2019/20	No	2022/23	1	267
Fyfield	14	2019/20	No	2022/23	1	14
High Ongar	10	2020/21	No	2022/23	1	10
Loughton / Debden	1,021	2018/19	LOU.R4 and LOU.R17 ⁽¹⁾	2022/23	4	249 ⁽²⁾
Lower Sheering	14	2020/21	No	2022/23	2	14
Nazeing	122	2020/21	No	2022/23	2	122
North Weald Bassett	1,050	2020/21	No	2024/25	4	99
Roydon	62	2020/21	No	2022/23	1	62
Sheering	84	2020/21	No	2022/23	2	84
Stapleford Abbots	47	2018/19	STAP.R2 ⁽³⁾	2022/23	4	49 ⁽⁴⁾
Theydon Bois	57	2020/21	No	2022/23	1	28
Thornwood	172	2019/20	No	2023/24	4	94
Waltham Abbey	858	2018/19	No	2024/25	6	81
TOTAL						1,564

(1) allowed at appeal June 2021 for 424 units

(2) 53 units presumed delivered by LOU.R6, LOU.R8 LOU.R17, LOU.R18

(3) 8 units approved

(4) 8 units presumed delivered by STAP.R2

⁴ https://lichfields.uk/media/5779/start-to-finish_what-factors-affect-the-build-out-rates-of-large-scale-housing-sites.pdf



Unless the Council can provide robust evidence to show that sites will come forward per its new programme, it must now be assumed that somewhere in the region of **at least 1,500 new homes will be delivered outside of the plan period**. This means that the supply in the plan period would be **10,750 homes – a significant shortfall** when compared with the 11,400 target. It also highlights that there is no room for manoeuvre if site-specific delivery issues were encountered (we note that this figure does not take account of any other reductions, such as the significant reduction at Epping, which we will discuss below).

Other Significant Delivery Issues

We have also analysed the Council's proposed revised housing trajectory set out under MM115, to examine the likelihood of the future housing requirement of 8,903 homes being achievable in the remainder of the Plan period up to 2033. We have factored in the **many delaying factors** for the site allocations that require resolution before housing completions can be achieved.

This looks at potential sources of additional delays such as the need to deliver infrastructure before housing development can take place, or delays arising from a lack of SAC mitigation or provision of a CAZ in 2025 as identified by the Council. As with the LPSV trajectory assessment, we have applied the same delivery assumptions as set out in the Main Modifications Consultation trajectory.

Table 6 shows that once such constraints are taken account of, at least 2,600 units should be removed from the housing land supply for when factoring in a realistic dates for completions for the sites.

We have referred to Green Belt as a constraint as based on the Council's approach to the live planning application for North Weald we assume it would not grant planning permission for any other site in the Green Belt until it has adopted its draft Local Plan that changes the Green Belt boundaries. This means that the supply in the Plan period could be as low as 9,750 which would represent a **great shortfall of approximately 1,650 homes** against the target of 11,400 homes.

Harlow Council's Position

This analysis does not take account the decision of Harlow's Full Council on 16 September 2021 to oppose the proposed allocations at West Sumners, West Katherines (which would total around 2,100 homes) and at Latton Priory (identified for at least 1,050 homes). The motion that was agreed sought to recognise the *"huge concerns"* of many residents in Harlow, particularly relating to transport links in west and south Harlow, the lack of capacity on Southern Way, Water Lane, Broadley Road and the B181 Epping Road, and the potential impact on local medical and education services.

The Council also resolved that it remained against growth to the southern and western boundaries of the town, preferring any growth to be to the north (Gilston Villages) and east of Harlow. It also stated that it will not sell or lease any land or rights of way which it possesses that may assist in the development of Sumners West or any other developments to the south or west of Harlow.

How this will affect the progression of development remains to be seen and therefore we have not reflected the effect of this in **Table 6**, any effect issues will only make this situation even more acute.



Table 6: Analysis of Main Modifications Consultation Trajectory

Site Number / Name	No of Dwgs	EFDC Delivery Timescale	List of Constraints							Loss of Units from Trajectory
			Planning Permission?	Strategic Masterplan?	Clean Air Zone	SANG	Junction 7 Works	Green Belt	Realistic Completions	
Latton Priory	1,050	2023/24	Site does not benefit from planning permission	Yes – not prepared	Yes – not in place until 2025	Yes	Yes – completion expected 2022.	Yes	2028/29 based on Lichfields evidence of 6.9 years from validation of application to first completions.	600
Water Lane	2,100	2021/22	Site does not benefit from planning permission	Yes – not prepared	Yes – not in place until 2025	Yes	Yes – completion expected 2022	Yes	2029/30 – based on Lichfields evidence of 8.4 years from validation of application to first completions.	1,600
East of Harlow	750	2025/26	Site does not benefit from planning permission	Yes – not prepared	Yes – not in place until 2025	Yes	Yes – completion expected 2022	Yes	2025/26 – assumptions in the trajectory appear reasonable	0
Epping	709	2022/23	Proposed site allocations do not benefit from planning permission.	Yes – South Epping and not prepared	Yes – not in place until 2025. No occupations before 2025 as explained by Part L of Policy P1.	Yes	Yes – completion expected 2022	Yes (South Epping)	2025/26	270
Loughton / Debden	437	2022/23	LOU.R4 and LOU.R17 allowed at appeal for 424 units.	Yes – Jessel Green and not prepared	Yes – not in place until 2025	Yes	No	No	2025/26 – despite likely 3 year delay this may not affect the trajectory up to 2033	0
North Weald Bassett	1,050	2023/24	Proposed site allocations do not benefit from planning permission.	Yes – North Weald Airfield	Yes – not in place until 2025	Yes	Yes – completion expected 2022	Yes	2025/26	148
Waltham Abbey	836	2023/24	Proposed site allocations do not benefit from planning permission.	Yes – Waltham Abbey North	Yes – not in place in place until 2025.	Yes	No	Yes (Waltham Abbey North and WAL.R7)	2025/26 – despite likely 2 year delay this may not affect the trajectory up to 2033	0
TOTAL										2,618



Regardless of the effect of Harlow Council's recent decision, there already have been serious delays to the progression of EFDC's strategic sites and, given the constraints noted above, there are likely to even more.

This clearly indicates that the Council must identify additional sites upon which to deliver development and that the Main Modifications as they currently stand will not result in a sound development plan document.

In doing so the Council must bear in mind the significant and chronic under-delivery that is evident from Housing Delivery Test data. There is already a significant backlog (of over one thousand homes) which needs to be addressed in addition to the annualised target of >600 dwellings per annum which, based on delivery to date, significantly increases the challenge that must be addressed.

However, the dual constraints of significant Green Belt coverage and most of the District's larger settlements being located within the SAC Zone of Influence militate against any additional housing delivery unless additional sites are provided for in the emerging Local Plan.

Thus it must identify sites which are deliverable (and, therefore, which can yield dwellings within the next few years rather than later in the plan period) and it should prefer sites that have the least impact on the SAC – with a clear preference for avoiding impacts wherever possible.

Conclusions

The draft Local Plan continues to be inadequate despite the July 2021 proposed Main Modifications.

First, the Council has not undertaken a meaningful review of its site allocations or spatial strategy in light of the SAC issue. Consequently, it has not followed the well-established hierarchy of avoiding harm before looking for ways to mitigate harm.

Furthermore, it has not established a clearly strategy for mitigating the effects of any development that must take place within the SAC Zone of Influence. For example there is not a clear strategy for the provision of SANG and we are not aware of the Council having undertaken any consultation on potentially suitable SANG sites (as other local authorities have done elsewhere).

Second, the failure of the Council, for whatever reason, to grant planning permission for sufficient new homes has already created a backlog, and the delays in bringing forward proposed allocations means that the draft Local Plan does not provide for sufficient land to deliver the homes that are needed.

The only reason why the draft Local Plan apparently provides for sufficient housing land within the plan period is because the Council has re-engineered delivery timescales – without any robust evidence or justification for doing so – whereby the same number of homes would be delivered in a significantly shorter timeframe. Such manipulation of the data should not only be questioned but it must be dismissed out of hand; if it is not, the Local Plan will flounder in no time at all.

This would be the worst of all worlds; when it becomes apparent that the Local Plan is not delivering, the Green Belt and SAC constraints will, in effect, make it virtually impossible for any other housing development of any significance to be approved without a significant struggle and without taking an undue amount of time. Thus, the already-well-ingrained pattern of under-delivery will compound.



The solutions are clear:

1. the Council must revisit its spatial strategy and ensure that it has maximised opportunities to avoid harm to the SAC;
2. it must then clearly set out how it will mitigate any unavoidable impacts, including by consulting on potential SANG sites and providing evidence that sufficient SANG land will be deliverable in tandem with site allocations; and
3. it must acknowledge that simply re-arranging the numbers in the housing trajectory will not promote housing delivery at the rate that it hopes will take place. Instead, it must identify sufficient land, taking account of each site's deliverability, to ensure that it has a realistic trajectory to fully meet the identified needs of the District, and that previous under-delivery will be addressed.

However, without the further work and modifications that we have identified, the draft plan is **neither sound nor legally-compliant**.

The live planning application for North Weald has no significant objections from consultees and can deliver new homes, including 40% affordable housing, within less than 2 years if consented. It is clear to us that North Weald should be allocated within the Plan or granted planning permission without delay to provide the much needed new homes that will not be delivered by the allocations proposed.

Montagu Evans LLP
23 September 2021