

Epping Forest District Council

Chigwell Neighbourhood Plan

Regulation 16 Publication response form



GERALDEVE

This form may be photocopied or downloaded from the website. Further printed copies can also be obtained from the Council. **Please return by 4pm on Tuesday, 26 June 2018.**

72 Welbeck Street London W1G 0AY
Tel. 020 7493 3338

This form can be returned by e-mail to LDFconsult@eppingforestdc.gov.uk by post to **Planning Policy, Civic Offices, High Street, Epping CM16 4BZ**. Email is the Council's preferred method of receiving comments, as it will help us to handle your representation quickly and efficiently.

www.geraldve.com

Comments are invited, regarding whether the draft Chigwell Neighbourhood Plan and supporting documentation fulfil the "basic conditions", as required by paragraph 8 (1) (a) (2) of Schedule 4B to the Town and Country Planning Act 1990 (inserted by the Localism Act 2011).

If you wish to make comments about the draft Neighbourhood Plan, please specify which of the seven "basic conditions" you are commenting on. Comments should set out a justification as to why you consider that the basic condition has **NOT** been met, or why you consider that the basic condition has satisfactorily been met. You can also suggest improvements or modification to the draft Neighbourhood Plan.

All comments will be forwarded on to the appointed examiner for the Chigwell Neighbourhood Plan. You should not assume that there will be an opportunity to add further information, although the examiner may request additional information from you, based on the matters he/ she identifies for examination.

The regulations require that any representations made during the consultation period for the Chigwell Neighbourhood Plan must be submitted to the examiner together with a summary of the main issues raised. Therefore, comments cannot be treated as confidential, although personal addresses will not be made publicly available.

Epping Forest District Council will consider all representations made if returned by the deadline. However, please note that late representations will not normally be accepted.

Personal Details		Agents Details (if applicable)	
<i>Organisation Name:</i>	Sisters of the Sacred Hearts of Jesus and Mary	<i>Organisation Name:</i>	Gerald Eve
<i>Contact Name:</i>		<i>Contact Name:</i>	Peter Dines
<i>Address:</i>		<i>Address:</i>	72 Welbeck Street London
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Part 1

Seven “basic conditions” form the statutory requirements for the draft Neighbourhood Plan. These require that the Neighbourhood Plan:

Please tick the relevant basic condition / supporting documents and submit a separate Part 2 form for each of the basic conditions / supporting documents you are commenting on

a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).	<u>Object</u>
b. having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders.	<u>Object</u>
c. having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders.	
d. the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development.	<u>Object</u>
e. the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).	<u>Object</u>
f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with EU obligations.	
g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).	<u>object</u>

<p>Other supporting submission document and supporting documents. Please specific which document you wish to comment on:</p> <p>Site assessment report Rolls Park Chigwell March 2018 Strategic Environmental Assessment Report March 2018</p> <hr/>	
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Part 2

Question 1

Why do you consider that the draft Chigwell Neighbourhood Plan and/ or supporting documents do/ do not meet the specified “basic condition”? Please provide a brief summary of your comments.

It does not.

It incorrectly seeks to designate Land at Chigwell Convent High, Road Woodford bridge as a Local Green Space (CHG10)

Detailed comments in the attached letter

Detailed explanation and proposed modifications. Please give further details of your opinion and the reasons for it, as well as any proposed improvements or modifications to the Plan (continue on a separate sheet as necessary).

Delete CHG10 (i)

Question 2

The appointed examiner will consider all representations received by the deadline (**4pm, Tuesday 26 June 2018**). Normally, the examiner will seek to consider all responses through written representations. However, occasionally an examiner may consider it necessary to hold hearing sessions to discuss particular issues.

Please indicate whether you would like to request to be heard before the examiner at the Neighbourhood Plan Examination Hearing: Yes

If you have indicated that you wish to attend the Examination, please explain why you consider this to be necessary. Please note that this is entirely at the discretion of the examiner:

To assist the Examiner with any details questions in respect of the site

Question 3



Please indicate whether you wish to be notified of either or both of the following:

The publication of the recommendations of the Neighbourhood Plan Examiner

YES

Final “making” (adoption) of the Neighbourhood Plan by Epping Forest District Council

YES

Signature: 	Date: 12 July 2018 GERALDEVE 
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Thank you for taking the time to respond.



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Planning Policy,
Civic Offices,
High Street,
Epping
CM16 4BZ

72 Welbeck Street London W1G 0AY
Tel. 020 7493 3338
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12 July 2018

Our ref: PGWD/J7541

Your ref:

Dear Sir/Madam,

**Chigwell Neighbourhood Plan 2018-2033 Submission Consultation
Land at Chigwell Convent and The Gate Lodge, 801 & 803 Chigwell Road, Woodford Bridge,
IG8 8AU**

We write on behalf of our client, the Trustees of the Sisters of the Sacred Hearts of Jesus and Mary, in order to submit a strong objection to the proposed Local Green Space designation at the above land as set out within draft Policy CHG10 (i) of the Chigwell Neighbourhood Plan 2018-2033 Pre-submission Plan.

It is a flaw of the process that we have not been directly consulted on this plan notwithstanding our previous objections and the fact that we are also involved in the Local Plan process. I have also personally contacted the Parish Council by email on the 16 February 2018 seeking confirmation of matters to do with the Neighbourhood plan to which I have had no reply. Whilst this representation is made outside the 26 June 2018 we confirm in the strongest terms that is considered by the examiner. To do otherwise could be considered contrary to the plan making process.

Executive Summary

It is considered that draft Chigwell Neighbourhood Plan, particularly policy CHG10 (i) and the associated designation of our clients site as a Local Green Space is contrary to the National Planning Policy Framework (NPPF) and the 'basic conditions' set out in the consultation documents.

The policy and associated designation is contrary to Paragraphs 77 and 184 of the NPPF as it is seeking to resist sustainable development and does not achieve the requirement of general conformity with the strategic policy of the development plan for the area.

On this basis the draft plan and policy is considered to be fundamentally flawed.

Notwithstanding this, on a technical note, the evidence base which has led to the draft policy and designation is flawed as a result the foundations of policy formulation are unclear and the consultation is considered to be ill-informed.

The Site

Our client is the landowner of land surrounding Chigwell Convent and the Gate Lodge, 801 and 803 Chigwell Road, Woodford Bridge. The site comprises mainly open land and is within a

predominantly residential suburban location, bordered by High Road to the north-west, Turpins Lane to the south-west, the (Grade II) listed Chigwell Convent to the South and residential development to the North East. The site extends to 1.72ha (4.24 acres) and is primarily access via the Chigwell High Road. There is a single residential dwelling 'The Gate Lodge' at the North-West corner of the site, accessed directly off High Road, via a narrow tree-lined drive, which provides a secondary access to the convent (the secondary access to the convent being directly off Turpins Lane). All open land on the site is enclosed by a dwarf wall and metal railings and is not accessible to the public. The land is subject to a proposed Local Green Space designation under draft Policy CHG10 (i) of the Neighbourhood Plan.

The existing Epping Forest Local Plan 1998 with 2006 Alterations acknowledges the site is located within the urban boundary and is not subject to policy which constrains development of the land.

The emerging Epping Forest Local Plan (2017) designates this Site for residential development a point which is discussed in detail below.

Neighbourhood Planning Process

It is understood that in accordance with the Localism Act 2011 and the Neighbourhood Planning (General) Regulations 2012, Epping Forest District Council has in March 2014 designated the Chigwell Parish Neighbourhood Area, leading to the production of the Chigwell Neighbourhood Plan 2018-2033 pre-submission plan to which this letter responds.

Further to review of the pre-submission plan, it is duly noted that our clients landholding is proposed to be designated as a Local Green Space as illustrated in Inset Map 3 and noted in draft Policy CHG10(i) which seeks to resist its development, unless exceptional circumstances can be demonstrated. This forms the subject of the assessment which is to follow.

Paragraph 76 of the NPPF states that "identifying land as Local Green Space should therefore be consistent with the **local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services**".

Paragraph 77 states that "Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:

- a) Where the green space is in reasonably close proximity to the community it serves;
- b) Where the green area is **demonstrably special** to a local community and holds a particular local significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- c) Where the green area concerned is local in character and is not an extensive tract of land."

Paragraph 78 states that "local policy for managing development within a Local Green Space should be consistent with policy for Green Belts".

The legal position: meeting the 'basic conditions'

A key requirement of a draft Neighbourhood Plan is that it meets the basic conditions set out at paragraph 8 (1)(a)(2) of Schedule 4B of the Town and Country Planning Act 1990 (as inserted by the Localism Act 2011). These basic conditions are as follows:

1. Has regard to national policy and guidance from the Secretary of State
2. Contributes to sustainable development

3. General conformity with the strategic policy of the development plan for the area or any part of that area
4. Doesn't breach or is otherwise compatible with EU obligations – this includes the SEA Directive of 2001/42/EC

In addition, paragraph 184 of the NPPF sets out the following:

“Neighbourhood plans must be in **general conformity with the strategic policies of the Local Plan**. To facilitate this, local planning authorities should set out clearly their strategic priorities for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should **plan positively to support them**. Neighbourhood plans and orders **should not promote less development** than set out in the Local Plan or **undermine its strategic policies**”.

Has the Chigwell Neighbourhood Plan had regard to national policy? (Basic condition 1)

The Chigwell Neighbourhood Plan Pre-submission Plan has failed to have regard to national planning policy. It should be noted that there are cases where at examination Local Green Space designations have been found to be unsound and deleted from Neighbourhood Plans on this basis.

The Examiner's Report in the case of the Backwell Neighbourhood Plan was an important indication of the threshold that faces a qualifying body in respect of Local Green Space, and the growing recognition of the importance of robust and compelling evidence in neighbourhood plan-making.

The examiner of the Backwell Neighbourhood Plan commented that “it is essential that, when allocating Local Green Space, plan-makers can clearly demonstrate that the requirements for its allocation [set out in Paragraph 77 of the NPPF and stated above] are met in full”. From this it was concluded that there was direct conflict with national policy which meant that the Local Green Space Policies in the Backwell Neighbourhood Plan did not meet the basic conditions under paragraph 8(2) of Schedule 4B and that national policy did not permit a failure to meet policy requirements to be balanced against other considerations when designating Local Green Space.

It is clear that the Local Green Space policies are only appropriate where the green area “is **demonstrably special** to a local community and holds a particular local significance”. It is not considered to have been demonstrated that our clients' land is special and therefore warrants the proposed policy protection and designation. It is considered that none of the NPPF tests for the introduction of a Local Green Space designation have been passed in this instance.

Furthermore, there is an absence of any evidence to suggest that draft Policy CHG10 (i), which effectively removes the right to develop land in this location, is appropriate. On this basis, it is considered that the policy is entirely inappropriate. It should also be noted that, on a technical point, the evidence base for the proposed policy and designation have not been provided within the pre-submission plan which is the subject of consultation.

The proposed policy and associated designation is also contrary to Paragraph 76 of the NPPF in that it is not “consistent with the local planning of sustainable development” and as a result is not seeking “to complement investment in sufficient homes”, which have been identified as required in line with an Objectively Assessed Need (to be discussed later).

From the above it can only be concluded that the proposed Neighbourhood Plan draft policy CHG10 (i) fails to have regard to national policy as set out in the NPPF and the first 'basic

condition' set out at paragraph 8 (1)(a)(2) of Schedule 4B of the Town and Country Planning Act 1990 (as inserted by the Localism Act 2011).

Does the draft Neighbourhood Plan contribute to sustainable development? (Basic condition 2)

For the reasons set out clearly in relation to basic condition 3 below the Neighbourhood Plan is not considered to contribute to sustainable development.

Does the draft Neighbourhood Plan sit in general conformity with the strategic policy of the development plan for the area or any part of that area? (Paragraph 184 of the NPPF and basic condition 3)

Strategic Policies of the Development Plan

The existing Epping Forest Local Plan 1998 with 2006 Alterations acknowledges the site is located within the urban boundary and is not subject to policy which constrains development of the land.

The draft emerging Epping Forest Local Plan (2017) has an extensive evidence base upon which its policies are formulated, which have led to the District Council's draft designation for our clients' site for residential development.

"Policy P 7 Chigwell

Residential Sites

B. In accordance with Policy SP 2 the following sites are allocated for residential development:

...

(vii) CHIG.R7 Land at Chigwell Convent –Approximately 28 homes

..."

The West Essex and East Hertfordshire Strategic Housing Market Assessment concludes that there is an Objectively Assessed Need for 11,300 dwellings in Epping Forest over the 22-year period (2011-2033) which has informed the Districts draft policy SP 2 in aiming for approximately 11,400 new homes across the District, with this minor increase being a result of the release of further population and household projections from the Office for National Statistics and Department for Communities and Local Government in 2016.

Given that 92% of the District is currently Green Belt and there is a desire to continue to protect the Green Belt where possible, outside of distinct areas which are proposed to be released within the draft Plan, the focus of the District Council is upon permitting development proposals within the defined settlement boundaries where they comply with all other relevant policies of the Local Plan. Accordingly, our client's site has been considered as favourable for residential development, making its contribution to the Objectively Assessed Need of Epping Forest.

In considering alternative options within the draft Local Plan, Epping Forest District Council considers that no other option will meet the Objectively Assessed Need figure and recent DCLG projections. Indeed the plan is seeking to significantly boost the supply of housing in accordance with Paragraph 47 of the NPPF.

The draft Local Plan sets out the approach to the allocation of sites for housing within the emerging Local Plan is as follows; land in Flood Zone 2 and 3 only where need cannot be met in Zone 1; sites located on previously developed land within settlements; **sites located on open space within settlements where such selection would maintain adequate open space**; previously developed

land within the Green Belt; greenfield/Green Belt land on edge of settlements; agricultural land; small sites in smaller rural communities where there is a clear local need.

General Conformity

It is clear that there is a problem in the approach to creating draft Policy CHG10 within the Chigwell Neighbourhood Plan submission plan with regards to conformity with the emerging Local Plan.

Following consultation and the promotion of the land through Epping Forest District Council's Call for Sites in May 2015, the recently released Consultation Draft of the new Epping Forest Local Plan (2017) allocates the site for approximately 28 homes.

The site is considered to be suitable for allocation for residential development, as it is within the existing settlement boundary of Chigwell (which is clear from the Local Plan 1998 with 2006 Alterations). It is within a predominantly residential area and sustainably located within walking distance of shops and services including the Co-operative supermarket (Chigwell Road), Roding Lane Doctor's Surgery, Roding Primary School; West Hatch High School. In addition, Chigwell London Underground Station (Central Line) is less than a mile from the site to the North East. The site itself is relatively flat, has no history of flooding and is not subject to any ecological designations. It does not contain any TPO-protected trees and there is no evidence of any presence of protected species.

In terms of availability and deliverability, the site is entirely within the ownership of the Trustees of the Sisters of the Sacred Hearts of Jesus and Mary and is capable of being brought forward for residential development within the next five years. Based on the suburban character of the area, it is estimated that there is potential to deliver a significant number of new homes. As regards potential alternative use, it is considered that could also accommodate a (Class C2) care home, alongside residential development.

It is evident, given that our clients' site has been allocated for residential development within the emerging Local Plan, that the land is considered by Epping Forest District Council as a sustainable, appropriate and deliverable location for housing whilst allowing for the maintenance of adequate open space within Chigwell.

Accordingly, and as is stated within the accompanying Sustainability Appraisal of the draft Chigwell Neighbourhood Plan (set out above), it is also clear that the pre-submission Chigwell Neighbourhood Plan is seeking to promote **contrary policies to the emerging Epping Forest Local Plan**. The Parish Council feel that "this would seem to be the only chance the local community has to protect those valuable open spaces" and is therefore seeking to thwart the much-needed emerging housing allocation for our clients site.

From the above it can only be concluded that the proposed Neighbourhood Plan draft policy CHG10 (i) fails to have regard to general conformity with the strategic policy of the development plan for the area, in direct contrast to the requirements set out in Paragraph 184 of the NPPF and the third 'basic condition' set out at paragraph 8 (1)(a)(2) of Schedule 4B of the Town and Country Planning Act 1990 (as inserted by the Localism Act 2011).

Other matters

We strongly question the validity of the "strategic environmental assessment report". There is no indication who was responsible for the contents of this document and its drafting indicates that it has not been carried out to an acceptable standard. By way of illustration, assertions are made as

to the effect of residential development on our site. It is falsely stated that development will result in "harm (that) will be serious and there is a major negative heritage effect.". Also that effects on "heritage assets cannot be mitigated as a matter of principle". This is a false statement and to base a restrictive policy on this is wholly wrong.

In principle development can come forward on the site subject to detailed design informed by heritage issues. The site is not exceptional in this respect.

The questionable appropriate professional advice and input into documents is theme which runs through other documents such as the Rolls Park Site assessment Report with its inadequate assessment of "Green Belt Tests and the assessment of alternative sites.

Conclusions

In light of the fact that the site is a sustainable location for housing, reflected in its draft designation for 28 homes in the emerging Epping Forest District Local Plan, it is considered that the qualifying body, Chigwell Parish Council, has developed the draft Chigwell Neighbourhood Plan's designation of our clients' site as a Local Open Space without due consideration for conformity with the 'basic conditions' set out at paragraph 8 (1)(a)(2) of Schedule 4B of the Town and Country Planning Act 1990 (as inserted by the Localism Act 2011). The policy and associated designation is considered to be contrary to national policy, particularly Paragraphs 77 and 184 of the NPPF. It is considered to be seeking to resist sustainable development and does not achieve the requirement of general conformity with the strategic policy of the development plan for the area. On this basis it is considered that the draft policy and designation of the land as Local Open Space is fundamentally flawed.

Should you have any further questions or comments in relation to this written objection submitted in response to the Chigwell Neighbourhood Plan 2018-2033 consultation, please do not hesitate to contact Peter Dines (0207 333 6292) of this office.

Yours faithfully


Gerald Eve LLP

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cc. Forward Planning – Epping Forest District Council