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For and on Behalf of
Farmers Club Charitable Trust

**Epping Forest Local Plan Examination
Response to MIQ's Matter 4: The Spatial Strategy/Distribution of
Development**

Land at Paternoster Hill, Waltham Abbey

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MATTER 4: THE SPATIAL STRATEGY/DISTRIBUTION OF DEVELOPMENT

Issue 1: Does the distribution of development in the Plan place too much reliance upon the Garden Community Sites around Harlow at the expense of testing the capacity of the other settlements in the District?

1. How was the amount of housing proposed in the three Garden Town sites allocated in Policy SP5 determined (3,900 dwellings in total)?

1.1 This appears to be determined by the physical capacity of the sites.

2. Could a higher level have been accommodated and would this have reduced the impact of growth proposed elsewhere in the district?

1.2 Increasing residential densities might have a detrimental impact on the rate of delivery of these sites and the range of housing mix. It also does not meet an appropriate distributional need within the District having regard to our comments in respect of Matter 3.

3. Conversely, will the level of growth proposed elsewhere in the district be sufficient to support the vitality and viability of individual settlements over the Plan period?

1.3 As noted in the discussion of Q3 below (para 4.30) the proportion of growth assigned to Waltham Abbey is significantly lower than that accorded to a number of other, smaller and comparatively less sustainable settlements. This raises a question for which there is no evidential analysis, as to the scope for settlements such as Waltham Abbey to accommodate a greater level of growth – a level that would be more commensurate with the likely level of local need over the Plan period and also, having regard to the location of the village, to meeting an element of the unmet need arising from London.

Issue 2: Beyond the Harlow area, is the distribution of development in the Plan justified having regard to the defined settlement hierarchy?

1. What are the key factors which informed the distribution of development in the Plan beyond the Harlow area?

2.1 The distribution appears overly focuses on a small number of locations related to Harlow. Whilst we do not dispute this element of the strategy, it ignores the scope to deliver greater numbers of houses in other locations, specifically Waltham Abbey which demonstrably have the capacity in social and community infrastructure to accommodate greater scale of development.

2.2 The Plan does not adequately explain its distributional strategy as this is not recognisably based on a rational assessment of Green Belt opportunities, consideration of local needs within the district or the capacity of settlements to grow in terms of their sustainability. Therefore, it is unclear what rational documented evidence has informed the distribution of development beyond the Harlow area and in absence of this it is not possible rationally to test the assumptions on which the distribution is founded.

2. How was the settlement hierarchy set out in Table 5.1 page 114 defined, and is it justified? Has the settlement hierarchy informed the distribution of development and if not, what is its purpose?

2.3 Settlement Hierarchy Technical Paper (EB1007 table 2) explains that the hierarchy is determined by the number of facilities recorded in a settlement (table 3). The results are not contested insofar as it recognises the status and role of Waltham Abbey. However, we would

make the following points:

- a. Simply counting facilities places the same weight on a public car park as, for example, a school. This is plainly a failure to objectively weigh up the services, facilities, amenities and infrastructure capacity within the individual settlements;
- b. Accessibility to key services is not recorded – this has some importance in relation to Waltham Abbey where the town centre is located towards the south western fringe of the overall built up area;
- c. Settlement population or size does not appear to have been a consideration;
- d. The overall location in relation to likely demand does not appear to be a consideration – location in relation to transport services, employment opportunities within and adjoining the District and in relation to demand emanating from London.

2.4 The failure of the Council to follow their own approach to site selection, the lack of assessment of reasonable alternatives in the SA and the undocumented decision making process, which has led to broad strategic decisions without supporting evidence, means that it is very difficult to determine the influence any of the evidence base has had on the final selection of sites including the evidence on settlement hierarchy.

3. **Is the settlement hierarchy justified in respect of how employment opportunities were taken into account e.g. in Nazeing?**
4. **Is it justified for North Weald Bassett (NWB) as a Large Village to be allocated more development than the Towns of Loughton, Waltham Abbey and Ongar? More generally, would the proposed growth of NWB be disproportionate, particularly when development at nearby Thornwood and Hastingwood is taken into account?**
5. **Is the relatively limited growth at Buckhurst Hill and Theydon Bois as Large Villages justified by comparison to that proposed at Nazeing and Thornwood as Small Villages?**

Issue 3: Is the distribution of employment land in the Plan justified in light of the distribution of housing?

1. **In light of the housing growth proposed around Harlow, does the Plan's proposal to locate the majority of employment land at North Weald Bassett and Waltham Abbey risk creating unsustainable travel to work patterns? How will this be avoided? (Reps Harlow DC).**

Issue 4: Is the distribution of development justified in respect of the need for, and approach to, Green Belt release?

1. **Paragraph 14 of the NPPF generally requires that a Local Plan should meet the objectively assessed development needs of the area. However, it also confirms (via footnote 9) that Green Belt is one of the constraints which indicates that development should be restricted. How has this tension been resolved in favour of the conclusion that there are exceptional circumstances to justify the alteration of Green Belt boundaries? In particular:**
 - a. **How do the specific development needs of the District weigh against the importance given to Green Belt protection?**

4.1 Two recent High Court judgments set out the process LPAs should take in releasing land

from the Green Belt; firstly, IM Properties Development Ltd v Lichfield DC [2014] EWHC 2440 (Admin), Patterson J and secondly Calverton Parish Council v Nottingham City Council, Broxtowe Borough Council and Gedling Borough Council [2015] EWHC 1078 (Admin), Jay J.

- 4.2 In summary these set out that Green Belt release should happen in a two-part process. It is necessary for the 'strategic' level exceptional circumstances for Green Belt release to be justified and secondly it is necessary for the site-specific exceptional circumstances to be justified also.
- 4.3 The attention of the Examination will be drawn to a letter from the Inspector examining the Welwyn and Hatfield Local Plan (MiQ submission by DLP SPRU on behalf of Peer Group plc) which succinctly summarises the approach taken by other local planning authorities when considering Green Belt release, an approach which aligns with the aforementioned High Court judgements.
- 4.4 In the submitted LP the fact exceptional circumstances have not been identified and furthermore, the Council's objective of protecting the high valued Green Belt areas has not been achieved; sites which are of high value have been allocated in preference to sites of lower value. This approach is not consistent with the High Court judgments referred to above.
- 4.5 Paragraph 2.142 of the Plan sets out that the Council has sought to protect the high value Green Belt land wherever possible. This same sentence also states that the final choice of sites has been informed by suitability and availability. It is not clear;
- a. how or when these issues were considered by the Council;
 - b. what evidence informed these decisions; or
 - c. if exceptional circumstances were considered for the release of Green Belt land on a site by site basis.
- 4.6 Paragraph 2.135 correctly references the Framework's requirement concerning Green Belt, stating that exceptional circumstances must be demonstrated. However, the Plan has not addressed any consideration of the exceptional circumstances for specific sites that it proposes for allocation – or indeed the reasons why any otherwise reasonable alternatives or additions would not meet such consideration.
- 4.7 Considering the Plan's objective to protect high value Green Belt land wherever possible, it is surprising that several sites which are deemed to be high value (and best and most versatile agricultural land) have been chosen in preference to sites which have a lower Green Belt (and agricultural) value. In this regard the Plan cannot be considered sound because it is not justified, and it is not consistent with National Policy.
- 4.8 It is our view that, notwithstanding the Council's failures in the preparation of the Submission Local Plan, there are exceptional circumstances that, in principle, justify Green Belt release at a strategic scale in accordance with the Framework 2012:
- a. alteration of Green Belt may be brought about through a local plan review (paragraph 83); and
 - b. alterations may reflect sustainable patterns of development channelling development to urban areas within the Green Belt (paragraph 84) – it should be noted that sustainable development include meeting the housing needs of the population and the development needs of the economy (Paragraph 7).
- 4.9 The Background Paper on Green Belt and District Open Land for the Draft Plan Consultation

2016 (updated 2018) (EB1608) states (paragraph 3.4):

- a. That housing need of itself does not represent an exceptional circumstance;
- b. The Council has sought to maximise development in non-Green Belt locations and that this will not meet the chosen level of development; and that there is
- c. public support for concentration of development at Harlow.

4.10 The latter is not an exceptional circumstance; the former may be exceptional circumstances which will arise from the examination of the specific circumstances that pertain.

b. What would be the consequences of not releasing Green Belt land to help meet development needs?

4.11 Given that it is not at issue that existing urban and previously developed sites are not of themselves sufficient in capacity, the consequences of not releasing any Green Belt land would be that both the economic and housing needs of the area will not be met in full. Accordingly, there would be a failure to comply with national planning policy. While Framework 2012 footnote 9 suggest that Green Belt policy is one which may militate against meeting housing needs in full, paragraphs 178 – 181 make it clear that where needs are not being met in full LPA's should engage in the Duty to Cooperate to ensure that those needs are met by neighbouring authorities.

4.12 The MoU between EFDC and adjoining authorities states that each area is to meet its own needs.

4.13 In these circumstances not releasing Green Belt to meet the full housing requirement would render the Plan both unsound and not legally compliant with the DtC.

4.14 On a wider basis, failure to accommodate needs within the district will encourage people to seek accommodation in areas likely to be beyond those constrained by Green Belt. This will lead to longer and less sustainable patterns of travel to work (especially those who might work in London). This redistribution of demand might still have impact on the District particularly in respect of commuting trips through the district (specifically toward London) by road with consequent congestion and air quality issues.

c. Have alternatives to Green Belt release been fully considered:

I. Has full use been made of previously developed land? Has a Brownfield Land Register been published and how has it been taken into account?

4.15 A review of the Plan allocations within settlements suggest that the Council has fully considered previously developed land beyond the Green Belt and we do not dispute the Plan so far as it's starting point has, and should be, to identify such sites first before turning to consider the most appropriate means to meet the balance of requirement from sites in the most sustainable locations.

II. Has the density of development been maximised, on brownfield and greenfield allocations?

4.16 Given the land values and demand pressures it is considered that the density of development is realistic and appropriate and so there is little scope to delivery any significantly greater number of dwellings from the sites so far allocated.

III. Could vacant homes be brought back into use? Have approximately 1000 properties in the Epping Area been empty for more than 6 months?

4.17 There are a number of reasons why dwellings might be recorded as empty or vacant. Some

may be just built; other maybe for sale so between vendor leaving and buyers moving in; some may be in probate as the last householder has died; there are also periods of vacancy between rented tenants moving out and new ones moving in; and lastly there are second homes and holiday homes.

4.18 Both the homeownership and rental markets require a level of vacancy in order to operate efficiently.

4.19 The table below shows that:

- a. Both the number and percentage of vacant homes has decreased since 2004
- b. The percentage of long-term vacant has reduced to just 1.15% (426 dwellings)
- c. That vacant LA stock has increased to 152 dwellings

Table 1. Epping Forest analysis of vacancy rates

Local Authority Name	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Dwelling Stock	34,230	34,370	34,760	34,960	35,140	35,430	35,580	35,720	36,100	36,260	36,370	36,580	36,800	37,140
All Vacant	1,775	1,837	1,704	1,445	1,500	1,501	1,575	1,626	1,562	1,476	1,391	1,365	1,440	1,425
Long Term Vacant	821	934	753	558	611	607	680	708	647	451	431	374	429	426
LA stock	76	82	79	114	81	90	98	98	92	87	112	69	94	152
PRP general needs vacant	9	13	21	6	6	5	6	9	5	2	5	7	5	4
PRP general Long term vacant	..	4	12	1	1	2	2	0	1	1	3	1	3	2
Other public sector Vacant	3	5	4	10	9	7	8	9	10	11
Percentage of total stock vacant	5.19%	5.34%	4.90%	4.13%	4.27%	4.24%	4.43%	4.55%	4.33%	4.07%	3.82%	3.73%	3.91%	3.84%
Percentage of total stock long term vacant	2.40%	2.72%	2.17%	1.60%	1.74%	1.71%	1.91%	1.98%	1.79%	1.24%	1.19%	1.02%	1.17%	1.15%
Percentage of total vacant which are LA	4.28%	4.46%	4.64%	7.89%	5.40%	6.00%	6.22%	6.03%	5.89%	5.89%	8.05%	5.05%	6.53%	10.67%

Source: DCLG Tables 125 & 615

IV. Has the potential for windfall development during the Plan period been underestimated?

- 4.20 Table 2.3 of the Submission Local Plan calculates windfalls at 35 dpa for the last 11 years of the Plan - 2022 to 2033 – thereby providing for a total of 385 dwellings.
- 4.21 The Housing Implementation Strategy (EB410 Appendix 3) highlights that there are 716 dwellings on sites under 6 units (334 + 706 + 563 + 182 + 16 – 1085 on sites over 5 units).
- 4.22 Paragraph 3.6 (EB410) states that to avoid double counting between windfall sites and these existing commitments the Council has not made any windfall allowance in the first five years following the adoption of the Local Plan. This approach is supported.
- 4.23 The 35 dpa is based upon the SHLAA 2012 Table 10.1 of Past Trends in Delivery of Windfall Housing in Epping Forest District and relates to small non-garden sites of 5 dwellings or less.
- 4.24 The exclusion of larger sites is correct as the Council has, in our opinion, made a realistic attempt to identify these; but the impact of an up to date Local Plan will be to lessen the opportunity for changing the use of sites or for other forms of windfall residential redevelopment.

V. Could any other authority within the HMA have accommodated some of the District's housing need on non-Green Belt land?

- 4.25 Our understanding is that other areas, notably Harlow and Uttlesford, are already accommodating some of EFDC's need as a result of the redistribution of the 6,200 adjustment in the SHMA (EB407).

2. Are the changes proposed to the Green Belt boundary informed by a robust assessment of the contribution made by individual sites to the purposes of the Green Belt (EB74A-B; and EB705A-B)? How were the findings of the Green Belt Review weighed in the balance with other planning considerations in the site selection process?

- 4.26 Our view is that there are serious shortcomings with the site selection process.
- 4.27 The Council's Green Belt assessment appears to have had little influence on the choice of sites to be excluded from the Green Belt. This is notwithstanding the matter of principle in relation to the release of land to the north of Waltham Abbey. In this respect we consider that where finding that land could be released without overriding harm, the precise extent of that release has not had full or appropriate regard to a rational assessment of the factors that properly determine whether the land makes an overriding contribution to the reasons for identifying Green Belt in the first instance.

3. Is the scale of Green Belt release proposed at NWB, Thornwood and Waltham Abbey justified and proportionate to the size of the existing built up areas?

- 4.28 No.
- 4.29 We note that proposal for 1,050 dwellings in NWB will increase the settlement which has 2,014 dwellings at present (EB41007) by 80%. and the proposed release at Thornwood, a minor settlement of 969 persons and 446 dwellings (EB1007 table 3 and page 68) will increase the settlement size by 39%.
- 4.30 The proposed 406 dwellings at Waltham Abbey is an increase in a settlement of 8,435 dwellings (EB41007). This equates to an increase of just 4.8%. This does not reflect the sustainability of the settlement in relation to the established scale of the town, the range of facilities and services it offers and its scope to accommodate additional population growth.

The significant underprovision in Waltham Abbey is merely highlighted by the levels of growth purportedly found to be acceptable in the other locations cited.

4. How have anomalies in the Green Belt boundary been identified and does the need to correct them amount to the exceptional circumstances necessary to alter the boundaries? Should sites with planning permission for residential development in the Green Belt (such as land north of Ivy Chimneys Road, 10 Epping) be removed from the Green Belt? (See Reps 19LAD0022 re. land north of Ivy Chimneys Road, Epping).

4.31 The exclusion of land at Paternoster Hill could be regarded as an anomaly having regard to a rational consideration of the scope to amend the Green Belt to the north of Waltham Abbey.

5. Having regard to paragraph 85 of the NPPF, and to the potential for an increased level of housing need in the District to be identified in the future, how has the Council satisfied itself that Green Belt boundaries will not need to be altered at the end of the Plan period? Is it necessary to identify areas of safeguarded land between the urban area and the Green Belt?

5.1 The plan identifies no safeguarded land.

5.2 The Framework requires that Local Plans, where necessary, identify 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. This is particularly important in the latter years and the expiration of the Local Plan because sites can only be released in the GB through a Local Plan or a review of the Local Plan. Failure to safeguard land now is likely to cause a cessation of housing delivery unless safeguarded sites are available.

5.3 The issue therefore is whether it is necessary to identify safeguarded land to meet long terms needs. In short:

- a. all sites proposed for release from the Green Belt are envisaged to be fully developed by the end of the plan period (2033);
- b. there is no indication that there will be a decrease in longer term needs to a level that could be met by the limited level of urban land in the existing settlements. As such, the only option will be further releases from the Green Belt, which should be planned for now; and
- c. there no evidence of a strategy that would divert demand to locations outside of EFDC

5.4 Epping Forest District is extensively covered by Green Belt and is within an area of high economic growth. Future development needs can only realistically be met through the release of Green Belt land.

5.5 As Green Belt boundaries are required to endure beyond the Plan period (NPPF paragraph 83), it is surprising that the Council has not identified any safeguarded land in the Local Plan. We consider that the Council's approach is unsound. Sufficient land to meet future housing needs beyond the Plan period should be safeguarded. This is particularly emphasised with regard to the shortfalls in housing provision in relation to more up to date assessments of OAN.

5.6 When considering the need to safeguard land for beyond the Plan period, the Council should also take into account of bullet point 2, paragraph 157, of the Framework;

"Local Plans Should;

be drawn up over an appropriate time scale, preferably a 15-year time horizon, take

account of longer term requirements, and be kept up to date;”

- 5.7 Safeguarding land would help to ensure key objectives of Section 9 of the Framework are met:
- a. Paragraph 79;
 - b. Paragraph 83;
 - c. Paragraph 85.
- 5.8 We do not therefore consider the Plan is consistent with national policy and is accordingly unsound. It fails to take into account longer term requirements of the area and given the extent of Green Belt, safeguarded land should have been identified within the Submission Local Plan.

Issue 5: Is the distribution of development justified in respect of the approach to flood risk; and to protecting water quality?

Flood Risk

Notwithstanding that the Plan requires all residential development on allocated sites to take place within Flood Zone 1, has the potential impact of climate change been allowed for in the site allocation process? Should the relevant policies in the Plan require all residential development to take place in Flood Zone 1, allowing for climate change? Should this requirement relate only to the housing and ancillary development itself, and permit associated development such as amenity open space to be provided in higher risk zones?

2. **The following allocations include some land within or adjacent to Flood Zones 2/3: SP5.2 (Water Lane Area); SP5.3 (East of Harlow); NWB.R3 (in North Weald Bassett); NAZE.R1 & R4 (in Nazeing); and LOU.R11 (in Loughton).**
 - a. **Do the above allocations pass the Sequential Test required by paragraph 100 of the NPPF?**
- 5.9 It is unclear how these sites pass the sequential test and other sites, such as the omission site at Land to the North of Paternoster Hill which although having a watercourse running through it is predominantly Flood Zone 1 appears to have been excluded as it shares the same characteristics of the above site i.e. that the majority of the land would be in flood Zone 1 before any mitigation and that mitigation and/or the sequential approach to development on site would provide for a flood risk free development (see appendix 3 of the DLP's Regulation 19 submission on behalf of Farmer's Club Charitable Trust).
- 5.10 The SFRA (EB913) does not include a sequential test for these sites.
- b. **Does the Strategic Flood Risk Assessment (Site Assessments) March 2018 (EB913) constitute a Level 2 Strategic Flood Risk Assessment? Has it considered site specific flood risk characteristics, including climate change?**
- 5.11 No.
- 5.12 It appears to be a Strategic flood Risk Assessment not a Level 2 Flood Risk Assessment.
- c. **Are the above allocations required to pass the Exception test and, if so, do they?**
- 5.13 Two of the sites identified above require an exceptions test these are:
- a. East of Harlow is HAR-E.

b. Water Lane Area is HAR-A.

5.14 These exceptions test have not been undertaken. The SFRA (EB913) states that these will not be undertaken until there is a planning application stage.

3. **Document EB913 identifies several employment allocations in flood risk areas or which have watercourses running through them. Do these sites pass the Sequential Test and, if necessary, the Exception Test required by paragraph 100 of the NPPF?**

Water Quality and Wastewater Treatment

4. **Is the level of growth and the distribution of development in the Plan justified in the absence of a specific strategic assessment to demonstrate that there is sufficient capacity in the water supply network and waste water treatment network to support it without detriment to the water environment? The Environment Agency has suggested that a Water Cycle Study could have been prepared, but that other evidence, including consultation with relevant service providers, could be sufficient. What is the evidence to demonstrate that the Plan is sound in this regard? Is the Council carrying out the three 11 actions suggested by the Environment Agency in its representations on Policy DM18?**
5. **Thames Water has identified that significant infrastructure upgrades will be required to the Abbess Roding Sewage Treatment Works (STW), the Epping STW, the North Weald STW, the Stanford Rivers STW and the Thornwood STW in order to support planned growth. Furthermore, the impact of cumulative development in nearby Council areas upon the Deephams STW and the Rye Meads STW will need to be kept under review. Capacity at the Theydon Bois STW and the Willingdale STW might also need to be reviewed. What work is being undertaken in respect of these matters to ensure that the Plan's allocations are deliverable at the appropriate time?**

Issue 6: Is the distribution of development justified in respect of its effect upon transport and other infrastructure in the District? Will the Plan be effective in securing the infrastructure necessary to support proposed growth?

Transport

1. **Have the transport impacts of the Plan as a whole been tested? Has all necessary mitigation been identified and is there confidence that it can be delivered in time to support the proposed growth? Are there any remaining uncertainties or shortcomings?**

Other Infrastructure

6. **Does the Infrastructure Delivery Plan and Schedule (EB1101A & B) demonstrate that the development in the Plan can be served by adequate infrastructure at the appropriate time? Are there any significant omissions or funding gaps?**



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