



Epping Forest Local Plan

Examination Hearing Statement

Matter 4 – The Spatial Strategy/Distribution of Development

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

January 2019

Context

1. This Hearing Statement is prepared by Strutt & Parker on behalf of M Scott Properties Ltd (Stakeholder ID 19LAD0086) hereon referred to as 'Scott Properties', who have engaged in the preparation of the Emerging Local Plan (eLP) throughout the plan-making process.
2. Scott Properties specific interest is in land at Chigwell Garden Centre, Chigwell, which is proposed to be allocated (CHIG.R5) in the Local Plan Submission Version (Regulation 19) (the LPSV) for 65 homes.
3. The site has been assessed by Epping Forest District Council (EFDC) in the plan-making process as site references:
 - a. SR-0478B (the CHIG.R5 allocation comprising 1.66ha);
 - b. SR-0478A (7.49ha);
 - c. SR-0586 (5.46ha)
4. CHIG.R5 forms part of the area proposed for allocation with the LPSV by Scott Properties (SR-0586). As per our representations on the LPSV (reference 19LAD0086-1 – 19LAD0086-6), the principle of the allocation of land for development at this location is sound; but the extent of the site boundary is not. The LPSV has artificially divided the built form found on the site; by taking this approach the Local Authority has failed in its sequential approach to prioritising the redevelopment of previously development land, prior to developing green field sites.
5. An amendment to CHIG.R5 on this basis has been the subject of discussions with EFDC (see correspondence in Appendix 1) and is supported by a Landscape Note and Plan included within Appendix 1. The requested amendment would prevent the part of Chigwell Garden Centre artificially excluded from CHIG.R5 from going into disrepair as a result of development of the remainder of the site. This amendment also seeks to maximise the redevelopment of existing built form.

6. In addition, our principle concern with the LPSV is its failure to ensure the District's specialist accommodation needs are met, given the acute unmet need in the District. This is demonstrated the attached Needs Assessment (Appendix 2).
7. As set out within our LPSV representations, we consider that modifications can be made to the LPSV to ensure a sound Local Plan.
8. This Hearing Statement addresses Matter 4, Issue 1 and Issue 2 of the Local Plan Examination. We have sought not to repeat points made in our LPSV representation, but do expand upon these here where relevant.
9. Eight appendices accompany this Hearing Statement:
 - Appendix 1: Letter and appendices to EFDC 21 January 2019 regarding CHIG.R5 Site Assessment
 - Appendix 2: Needs Assessment - Carterwood
 - Appendix 3: Welwyn Hatfield Local Plan Examination – Inspector's Note on Green Belt Review
 - Appendix 4: Landscape Visual Assessment - PRP
 - Appendix 5: Epping Forest District Council Housing Implementation Strategy Update: Discussion Paper 12 December 2018
 - Appendix 6: Alternative Site Assessment – Carterwood

Issue 4

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

Question 1a; 1b; 1c

10. Green Belt is one of the constraints identified in the NPPF 2012 which suggest development should be restricted. However, the NPPF does not preclude the loss of Green Belt land through the Local Plan process. On the contrary, the NPPF makes clear (paragraph 83) that preparation of a Local Plan is the appropriate (indeed, only) vehicle through which changes to the Green Belt boundary should be made.
11. The NPPF states that Green Belt boundaries should only be altered in exceptional circumstances. It does not define what constitutes 'exceptional circumstances' but the judgment in *Calverton Parish Council v Nottingham City Council & ors.* [2015] EWHC 1078 (Admin) provides a basis on which this can be considered.
12. The judgment in this case suggests the following are key considerations in determining whether exceptional circumstances exist:
 1. Severity of housing need;
 2. Constraints on supply / availability of sites;
 3. Lack of opportunities to deliver sustainable development without loss of Green Belt;
 4. Nature and extent to harm of development;
 5. The extent to which impacts on the Green Belt may be mitigated.
13. The first three of the above points clearly apply to Epping Forest District. We consider that housing need is considerably greater still than the LPSV suggests, specifically the need for specialist accommodation to address the needs of ageing population. This is supported by the needs assessment (Appendix 2), which states:

"The assessment of the provision of elderly care home beds within the catchment area as of 2019, considering all planned schemes, shows a significant unmet need of 829

bedspaces. However, only one of the four planned schemes are currently being developed and a more realistic measure of demand and supply sees this shortfall increase to 962 market standard bedspaces.

There is currently a 46% shortage of dedicated dementia beds within the CNPA catchment area, which represents 699 beds.”

14. Points four and five will be dependent on specific sites and proposals. As such, it is evident that exceptional circumstances do apply at the District-level, and the key issue is the impact on the Green Belt (accounting for potential mitigation) that would arise as a result of specific development proposals. In respect of this, we wish to highlight the findings of the Inspector in the Welwyn Hatfield Local Plan Examination, which we consider helpful in the consideration of the LSPV.
15. Following Stage 1 and 2 hearing sessions at Welwyn Hatfield, the Inspector provided a note to the Council in December 2017 on its approach to review of the Green Belt (EX39 of the Welywn Hatfield Local Plan Examination, provided here as Appendix 3). Within this note, the Inspector stated:

“The Council has suggested that it is unable to meet its housing need because of Green Belt restrictions among other concerns. In my concluding remarks ... I pointed out that I did not consider the development strategy put forward in the plan to be sound, in part because there was insufficient justification for the failure to identify sufficient developable sites within the Green Belt. That is largely because the phase 1 Green Belt Review was at such a strategic level as to render its findings on the extent of the potential harm to the purposes of the Green Belt, caused by development within the large parcels considered as a whole, debatable when applied to smaller individual potential development sites adjacent to the urban areas.”

“Additionally, the phase 2 Green Belt Review, which did look at a finer grain of sites, does not appear to have examined all of the potential development sites adjacent to the urban areas...”

“The actual development strategy finally arrived at is a matter for the Council... However, if that strategy fails to meet the FOAHN and assuming that all realistic development opportunities outside of the Green Belt have been put forward in the plan, then it is

effectively saying that there are no exceptional circumstances justifying a further release of additional land from the Green Belt and that presumably means for as long as current national green belt policy and its interpretation prevails. That may be the case but unless all of the Green Belt has been forensically analysed in some detail then it is difficult to prove." [emphasis added].

16. Having regard to all of the above, key issues to consider include:
 - Whether all potential sites' impact on the Green Belt has been assessed;
 - Whether such assessment was undertaken at a sufficiently fine grain to properly consider individual sites' impact on the Green Belt.
17. In respect of the LPSV, it is clear that not all potential development sites were subject to a sufficiently detailed analysis which could enable EFDC to justifiably conclude it could not meet its housing needs, including specialist accommodation needs. At the very least, there was one site that was not properly assessed: Land at Chigwell Garden Centre, Chigwell.
18. As noted within our LPSV representations (19LAD0086 paragraph 46) and our supplemental representations (doc. 19LAD0086, paragraphs 5; 8-11; 17; 19-22; 24-28), the approach to screening Green Belt sites through the Site Selection Report (SSR) was flawed, and was critical to the SA/SEA and the spatial distribution proposed in the LPSV. While this remains the case, we take this opportunity to clarify that the site proposals have evolved slightly following consultation on the EFDC LPSV back in late 2017/early 2018. Appendix 1(a) to this Hearing Statement sets out the modifications sought. This corresponds to the earlier representations but provides detail on the delivery of a 100-bed care home, reducing the footprint of buildings on the site, alongside the 65 dwellings allocation (CHIG.R5) and clarity on the landscape and green belt improvements proposed (Appendix 1(b)-(c)).
19. The EFDC Green Belt Review Stage 2 (EB705A) places the site within Parcel 036.2. This site extends from High Road to the M11 and exceeds the area of land submitted for consideration, being a distinct parcel in use as the Chigwell Garden Centre.
20. The EFDC Green Belt Topic Paper (EB1608) para.3.09 expresses the sequential approach to identifying land, mimicking the Staged approach set out in Policy SP2. However, in applying this approach, the Council has, in the case of CHIG.R5, erroneously retained part of the site within the Green Belt which has the same characteristics as the allocated portion,

when it should be identified as suitable under Stage 5 as *previously developed land* (PDL). If it is not considered to be PDL, then the site should be identified at Stage 6(a), as it is of least value to the Green Belt (see Appendix 1(a) & 4). It is therefore troubling that Chigwell Garden Centre has not been allocated in full. This suggests that the sequential approach adopted has not been followed in all cases, rendering the Plan unjustified, being not based on the evidence prepared.

21. Land at High Road, Chigwell (sites SR-0478A; SR-0478B; and SR-0586) are within parcel 036.2. This parcel includes large areas of land that have not been promoted for development.
22. A Landscape and Visual Assessment was prepared and submitted with the LPSV representations (19LAD0086 app.A5). This Assessment should be given weight, as unlike the Epping Forest District Green Belt Assessment: Stage 2, it specifically considers the part of Chigwell Garden Centre excluded from CHIG.R5 (the promoted site).
23. The LVA identifies that the site is: *'located within the Metropolitan Green Belt, however the site itself contains no landscape designations and is considered to have no special landscape value except for the wooded nature of the site's boundaries. The site has extremely good visual containment with a limited number of receptors nearby to the site, and where visible, the proposals would be seen as a replacement for the existing nursery, with the proposals regarded as an area of 'infill' on the settlement edge. ...there would be no material effect on any outlying Green Belt land and the Green Belt around Chigwell would not be notably eroded.'* (Scott Properties EFDC Regulation 18 Submission (2016);App.A5).
24. The above demonstrates that, at the very least, the site is suitable for development on the promoted part of the site without harm to the strategic purposes of the Green Belt. Appendix.4 provides a 2018 LVIA assessment. Accordingly, the Council have not fully recognised and explored the opportunities from land of least value to the green belt.
25. The failures are easily remedied by a more forensic approach to the assessment of Green Belt sites and the allocation of sites in the order that they meet the Staged approach set out in the Green Belt Assessment (EB704B) and Policy SP2. If this were undertaken, we consider the promoted site would be identified for development.
26. Our response to Matter 3 set out the growing need for specialist accommodation and care for the elderly. The appropriate approach to meeting this demand is to provide local

provision to serve existing communities, such as Chigwell. The LPSV fails to provide for the demand and, in identifying sites irrespective of the proposed use of a site, it fails to weigh the need for specialist accommodation in relation to the decision to release Green Belt land (NPPF paragraph 171). The Needs Assessment appended at Appendix 2, along with an Alternative Site Assessment (Appendix 6), demonstrate there are limited available options for specialist accommodation within the District, and therefore sites that look to address the need for this form of accommodation in sustainable locations should be considered in further detail.

27. If the LPSV continues not to provide land to meet specialist accommodation needs in suitable locations, and we consider that certain Green Belt sites provide suitable locations, then the need for this accommodation will continue to go unmet over the Plan Period. This will have a negative impact on the health and well-being of residents.

Question 2

28. As set out above and in our Regulation 18, Regulation 19, and Supplemental Representations, the Green Belt review is flawed in its approach to CHIG.R5 and the extent of the allocation. We have raised concerns regarding inconsistencies in the assessment of three sites in the same location, and errors in the scoring of specific criteria. We also raise concerns in this Statement regarding the failure to assess submitted sites individually, rather than as part of a large parcel, as per the Inspector's findings in respect of the Welwyn Hatfield Local Plan, this is of particular importance where OAN is not being met in full.
29. In addition to those comments already made, there is no attempt in the LPSV to weigh any harm to the Green Belt against a proposed use or development scheme. There is a clear need for specialist accommodation in the District that the LPSV does not meet. The proposal submitted to EFDC includes improvements to the landscape and in meeting the purposes of the Green Belt. However, the LPSV makes no attempt to weigh the need for the specific form of development sought and the benefits of the proposal against any harm to the Green Belt. Accordingly, there was a superficial approach to the findings of the Green Belt review where all sites that were not selected were retained within the Green Belt irrespective of any other planning merits or benefits, such as those evidently achieved at an enlarged CHIG. R5 – in accordance with the Landscape Plan (Appendix 1(a)-(b)).

Issue 6

Question 1

30. Our concerns regarding transport evidence and the Highway Assessment Report 2017 (HAR) (doc. EB502) are set out in our Regulation 19 representations (para.8-9; 29-42) and Supplemental Representations (para.3-4). In summary, all scenarios except one considered growth below 12,000 dwellings (scenario 6b is 12,465). All testing is therefore below the OAHN. Further, contrary to the Council's assertions, the HAR strongly suggests that in terms of transport impact, the network is generally improved by the higher growth scenarios (6.1.11).
31. In addition to those comments, in determining the spatial distribution, the LPSV does not give sufficient weight to sites that are close to tube stations and transport nodes. Indeed, the benefits of transport connections and accessibility are undertaken at Stage 2 of the Site Assessment but at Stage 3 an opaque process of identifying sites within strategic options for each settlement reduced the sites further (EB805 para.2.67-2.68). The *planning judgements* at Stage 3 essentially bypass any benefits noted at Stage 2, including any benefits in relation to transport and access.
32. The Sustainability Appraisal (December 2017) outlined the benefits of focusing development in close proximity of the Central Line Underground Stations:

“Additionally, much of the strategic option is in a sustainable location, located in close proximity to Chigwell Underground station” Page 124.

“However, the settlements in the south of the District have good access to the Underground network and services/facilities. Housing within and around these settlements accompanied with associated improvements to public transport infrastructure could potentially help to reduce use of the private vehicle and therefore traffic by encouraging the use of other, more sustainable modes of transport. As Alternative A proposes the greatest level of growth along the Central Line it is therefore considered to perform better against this topic. It is followed by Alternative C which proposes the next highest level of growth in the south. Alternative B proposes the highest overall level of growth and directs more development away from the Central Line so is therefore less likely to reduce the use of the private vehicle.” Page 169.

33. We note that one of EFDC's key concerns in respect of the impact of development in the District – and one of the reasons given by EFDC as to why it cannot meet its needs in full – is the capacity of the transport network.
34. On 12 December 2018 EFDC produced a Housing Implementation Strategy Update: Discussion Paper for review and consultation with the EFDC Developer Forum. A copy of this is provided as Appendix 5 to this Hearing Statement.
35. This Discussion Paper sought to explain why housing requirements could not be met, and gave reasons why EFDC consider new deliverable sites (in addition to those proposed through the LPSV) cannot be identified (paragraphs 20 – 22).
36. Paragraph 21 of the Discussion Paper sets out the purported justification as to why the District's constraints prohibit identification of additional sites to help meet housing needs:
 1. The availability of land outside of the Green Belt;
 2. The need to ensure the ongoing protection of environmental assets, including the Epping Forest Special Area of Conservation; and
 3. The capacity of the transport network
37. In respect of points 1 and 2 of the above, it is clear that there are sites which have been rejected through the plan-making process, yet would not result in harm to the strategic purposes of the Green Belt or environmental assets (as per our LPSV representations).
38. In respect of point 3, given such concerns we consider it is of particular importance that the Local Plan explores opportunities to provide additional housing in locations which benefit from public transport facilities, including specialist accommodation. This should include exploring opportunities to direct specialist accommodation to Chigwell, given its accessibility.