

1. INTRODUCTION

- 1.1 This Statement is submitted by Meridian Hill (Chigwell) Ltd (Participant Ref 19LAD0102) and relates to Matter 1: Legal Compliance.
- 1.2 Meridian Hill (Chigwell) Ltd have an interest in the former landfill site at Hill House Farm, Chigwell. The site abuts the existing built up area and it is in close proximity to existing local facilities, services and public transport. This site is promoted for residential development of c100 dwellings, provision of a Care Home and public open space. The site is available, and is deliverable in the short term.

2. MATTER 1: LEGAL COMPLIANCE

Issue 1

2. Are there any “made” NPs in the District? If so, has regard been had to them in preparing the Plan? Is there any specific conflict between any policies of the submitted Plan and any made NP?

- 2.1 There are no “made” Neighbourhood Plans (NP) in the District, however references in the evidence base suggest that regard has been given to the Neighbourhood Plans in preparing the Local Plan, despite conflicts and the NP not meeting basic conditions. However, there is concern how much weight has been afforded to the draft NP in such cases.
- 2.2 Chigwell Neighbourhood Plan (CNP) was submitted for Examination and the Examiner’s Report was published in November 2018. There were a number of conflicts with the submitted Plan, and the Inspector found the Neighbourhood Plan did not meet basic conditions for a number of reasons. This included that the CNP’s overall policies which allowed for inappropriate development in the Green Belt, followed an approach inconsistent with the strategic local plan policies for development in the Green Belt, and therefore the NP policies did not accord with the NPPF (2012).
- 2.3 The Examiner also found that a number of the CNP policies failed to meet the Secretary of State’s advice that neighbourhood plan policies should be clear and precise, and are supported by appropriate evidence and could not be used by decision makers in confidence.
- 2.4 The Local Plan Sustainability Appraisal (2017) sets out paragraph 7.46 that the Plan has sought to recognise and reflect the emerging work of the Neighbourhood Plan in Chigwell. However it does not expand on this this, and therefore it is not clear to what extent. Given the significant shortcomings of the CNP, we are concerned that the NP has been taken into regard as part of the preparation of the Local Plan, limiting the growth of Chigwell, and allocating small sites in unsustainable locations.

Issue 2

2. Has the Plan been prepared in accordance with the adopted SCI, 2013, particularly in respect of the following:

d. Was it reasonable for the Regulation 19 comment period to be held over the Christmas holidays?

- 2.5 It was considered unreasonable for the Regulation 19 comment period to be held over the Christmas period without any extension to the deadline for such a major consultation.

- 2.6 This is considered best practice and we note the Council has previously recognised this approach. For example, the Statement of Community Involvement consultation ran for 8 weeks July-September 2012, as this was taking place over summer holidays. Similarly, with the Community Choices Consultation in 2012, the foreword of the consultation document states “*we realise that holding a significant consultation period during this summer, whilst so many other events are being held, is not ideal. We are therefore allowing a longer consultation period, from 6 weeks which is the statutory minimum, to just over 11 weeks*”.
- 2.7 It is therefore not clear why a similar approach was not afforded to the Local Plan Submission Version 2017 consultation, particularly at such an important stage in the plan making process. This concern was raised with EFDC at the time, who responded that the documents were published on the Council’s website in advance and agreed at the Council Meeting on 14 December 2017.
- 2.8 There appears to be no consideration by Officers or Members as part of the Council meeting about the potential impact in terms of engagement. Whilst the Submission Version was available as an appendix to the Council Meeting agenda, this did not include the full published version of the evidence base. It is clear from the report to Council that the consultation was brought forward, to avoid having to meet an increased housing requirement. Prior to this, previous updates on the Local Plan indicated that the Submission Version would not be published for consultation until early 2018.
- 2.9 In the interest of fairness, additional time should have been considered to ensure sufficient time to review the Local Plan and the evidence base. This was further compounded by the fact that the entire evidence base was not available for consideration during the consultation period over the Christmas period.
- 2.10 Such an approach is also recommended by the Government as part of their own Code of Practice on Consultation which sets out ‘*if a consultation exercise is to take place over a period when consultees are less able to respond, e.g. over the summer or Christmas break, ... consideration should be given to the feasibility of allowing a longer period for the consultation.*’
- 2.11 Overall, as this significant Local Plan consultation was taking place over the Christmas break, and evidence base was not available in its entirety until April 2018, the consultation should have been extended, or postponed until the full evidence base was available.
- f. Does the absence of Appendix B of the Site Selection Report (and potentially other documents) at the Regulation 19 stage contravene the requirements of the SCI? If so, what are the implications of this for the test of legal compliance?*
- 2.12 Regulations require that the Plan must be published in full in order for meaningful representations to be made and this should include other supporting documents.

- 2.13 The Site Selection Report Appendices (2018) forms a key part of the evidence base/supporting documents for people to consider and review as part of the Local Plan. It was not possible to fully comment on the soundness of the Plan without this information being available at the time. Planning Practice Guidance also states that LPA's should publish documents that form part of the evidence base as they are completed, rather than waiting until a Local Plan is published for representations. It is also a requirement of the regulations (Reg 19a) that copies of the proposed submission documents are available.
- 2.14 It is recognised there was an opportunity to submit additional comments once the report appendices became available, this took place in April 2018. However there is considerable concern that given the Site Selection Report (2018) was a key document to inform the plan, and it was not published until a number of months after the Submission Version Plan was published, what form was it completed prior to the consultation to properly inform the Plan.
- 2.15 In the absence of this crucial part of the evidence base, it is not clear how the Council members properly considered the proposed allocations, and the alternatives considered within the SA. There is no reference in the report to Council members (EB114) that the evidence base was not yet fully completed. It is noted that the Legal Compliance Checklist, in response to Reg 8(2), it states that the Council's site selection methodologies explain how the Council arrived at its chosen approach, but the methodology doesn't explain the differences between each site, included in the appendices that were missing, and the reasons why different sites were chosen over others.
- 2.16 Notwithstanding this, it is evident that despite the delay in publishing the Site Selection Report Appendices, it continued to have a number of errors in the consideration of sites, and it did not take into account previous representations. This was particularly the case for land at Hill House, Chigwell. This will be discussed in more detail as part of Matter 5.

3. Did the Council's consultation process prior to inviting representations on the Regulation 19 version of the Plan offer interested parties the opportunity for meaningful engagement? In particular:

g. How have the consultation responses made during the preparation of the Plan informed the submitted version, particularly in relation to the desire to protect open spaces and community facilities, and to increase local job and business growth?

- 2.17 The Legal Compliance Checklist refers to the Local Plan Statement of Consultation (EB115) as outlining how the consultation responses informed the submitted version. However whilst this document provides a summary of the representations received, it is not clear on how the representations were taken into account and how the representations informed the submitted version. The Statement of Consultation refers to a separate report to the Local Plan Cabinet Committee in May 2018 which provides the Council's response to issues raised as part of the Submission Version consultation. However this is generic and summarises the evidence base work undertaken, rather than specifically addressing any issues raised.

- 2.18 A similar report was also reported to the Cabinet committee on 11th July 2017 with regards to the Draft local Plan consultation in 2016. Whilst both documents capture the broad summary of issues raised in relation to housing numbers, distribution, and Green Belt, it does not encapsulate the concerns we raised as part of our representations, specifically for Chigwell. This includes its limited level of planned growth despite being a very sustainable location, and that the nature of the proposed allocations will be unable to deliver a mixed and sustainable community, or make any significant contribution to infrastructure provision.
- 2.19 The report to Committee in May 2018, also makes reference that comments received on the Draft Local Plan were assessed as part of the evidence when identifying sites, and this is set out in the Site Selection Report (2018). However, as mentioned above, it is not considered the consultation responses have been fully taken into account. In particular, a number of errors were identified as part of the Site Selection Report 2016, and these still remain in Site Selection Report (2018).

Issue 3:

1. The strategic cross-boundary issues addressed by the Co-operation for Sustainable Development Board are set out in Section 3 of the Duty to Cooperate Statement, December 2017 (EB119). Has the Duty to Cooperate been met in respect of these matters and are there any significant omissions?

- 2.20 It is not considered the Duty to Cooperate (DtC) has been fully met in respect of the strategic cross boundary issues, in accordance with the NPPF 2012, paragraph 178, and paragraph 156 which identifies housing need as a strategic priority.
- 2.21 It is recognised that housing need has been identified as a strategic cross boundary by the HMA, and this is confirmed within Section 3 of the DtC Statement. However, it is considered that the DtC has not been met in respect of housing need, and the authorities within the Housing Market Area fail to meet the identified OAN from the SHMA 2017.
- 2.22 The SHMA 2017 identifies a minimum requirement of 51,700 new homes across the HMA. The Memorandum of Understanding between the HMA authorities commits all four Councils to meeting their individual housing needs within their own administrative boundaries. However, the EFDC Local Plan does not make provision for the full OAN, with a minimum shortfall of 1,173 dwellings.
- 2.23 Despite EFDC recognising the higher OAHN, there has been no further consideration by EFDC whether this can be met within its administrative boundaries. The Council state (Para 2.6 of the Housing Implementation Strategy) that '*The Council is satisfied that the approach set out within the MoU will ensure that the OAHN within the HMA as a whole will be met over the course of the Plan period*'.

- 2.24 Furthermore, there is conflicting information on whether EFDC requested assistance from the neighbouring authorities for meeting their unmet need. Reference is made in the Housing Implementation Strategy December 2017 (Para 2.11, iii) that the Council is seeking confirmation that none of the neighbouring authorities are able to contribute towards the undersupply.
- 2.25 The Harlow Duty to Co-operate Statement (para 7.11) states that EFDC “*indicated that it would be unable to meet its identified housing needs, and as such, formally asked Harlow Council and other neighbouring authorities for assistance.*” Harlow Council confirmed that it would not be able to provide any additional housing, beyond that identified in the Harlow Local Development Plan, to meet Epping Forest District Councils housing residual need. There is no reference to this in EFDC’s Duty to Co-operate Statement.
- 2.26 Similarly, Uttlesford Council’s Regulation 19 Local Plan consultation document confirms (para 3.64) that no neighbouring authority has requested that Uttlesford accommodate their need. The East Herts Local Plan reiterates that all authorities within the HMA are seeking to meet their individual housing needs within their own administrative boundary.
- 2.27 The NPPF paragraph 181 is clear that cooperation should be a continuous process of engagement resulting in a final position where plans provide the land necessary to support current and projected future levels of development. This has not been completed. As a result it is not considered the Duty to Cooperate is met, it does not result in effective policies on strategic cross boundary matters in relation to housing. EFDC will need to allocate additional sites to meet their OAN in full. Furthermore, prior to requesting assistance from neighbouring authorities to meet their unmet need, every effort should be made by EFDC to meet their commitment of meeting their individual housing needs within their own administrative boundary.
- 3. Does the decision of Epping Forest District Council and/or the other Local Authorities comprising the Housing Market Area (HMA) not to meet the Objectively Assessed Need for housing as found by the Strategic Housing Market Assessment July 2017 (EB407) represent a failure of the Duty to Cooperate? What cooperation took place to seek to meet this need within the HMA?*
- 2.28 Epping Forest appears to be applying an inconsistent approach with regards to the SHMA 2017, in comparison with the other local authorities comprising the HMA. This represents a failure to the Duty to Cooperate, as set out above.
- 2.29 East Herts updated their Plan to reflect the updated SHMA 2017 and sets out the level of housing need of 51,878 for the HMA and 18,458 for East Herts. The Inspector’s report for the East Hert’s Local Plan is clear that the modifications are necessary to ensure that the OAN reflects housing need, is up to date and consistent with national policy.

- 2.30 Both Harlow and Uttlesford are also planning to meet their OAN from the SHMA 2017, and both Councils have also sought to increase the identified housing provision, based on their local requirements. The increased housing requirements for both these authorities are not in order to meet the OAN for the HMA.
- 2.31 EFDC are only authority in the HMA not to meet their identified needs. As set out above whilst there is a MoU in relation to housing, this provides for an overall need of 51,100 across the HMA. No updated MoU has been provided with regards the SHMA Update 2017.

Issue 4:

1. Is the SA comprehensive and satisfactory and has it sufficiently evaluated reasonable alternatives? In particular, I understand that a “dispersed” pattern of development was pursued as a result of the Community Choices consultation. Were alternative distributions considered through SA, such as a more concentrated pattern, or different dispersal patterns?

- 2.32 It is not considered the SA has sufficiently evaluated reasonable alternatives, particularly in relation to the spatial options and distribution for individual settlements. It is considered overly restrictive, and this is particularly evident by the spatial options considered for Chigwell.
- 2.33 The SA does not outline how the figure for each settlement has been considered. As part of this, the SA does not give sufficient consideration to the sustainability benefits of Chigwell. Chigwell, whilst considered a larger village, is more sustainable above other towns, in particular with the fact it has a secondary school, and access to the Central line.
- 2.34 In addition, as identified above, we are concerned the SA process was undertaken prior to the completion of the evidence base, including Site Selection Report and Appendices (2018). If this information was not available until April 2018, and given the identified errors in the site assessments, it is not clear how it was properly taken into account to help inform any alternatives.
- 2.35 Notwithstanding this, it is clear that the SA alternatives spatial options for each settlement have been heavily influenced by the findings of the Green Belt Review. Whilst the Green Belt Review will be discussed as part of Matter 4, an overly restrictive approach has been applied with regards to consideration of the Green Belt, and the distribution of development. The Green Belt Review does not go far enough to consider if additional land can be released from the Green Belt that would result in an overall low harm. This results in sites in less sustainable locations, more sensitive to change being allocated for development.
- 2.36 For example, the Sustainability Appraisal Appendix V considers a number of strategic options for Chigwell, and the Western Expansion Spatial Option for Chigwell was discounted due to harm in Green Belt terms. However, it has been demonstrated as part of our previous representation that additional land can be released from the Green Belt in this location, and there would be overall Low harm to the Green Belt purposes.

2.37 The SA applies a blanket approach to the western side of Chigwell, with specific reference to Green Belt parcels which scored strongly against Purpose 2. This is despite identifying the Western Expansion Spatial Option as less sensitive to change in landscape terms compared to other strategic options. The majority of this western spatial option also lies within Flood Zone 1 and it is identified as a sustainable location, in close proximity to Chigwell Underground Station. Other spatial options considered by the SA within Chigwell and Chigwell Row were found to be more suitable, despite being more sensitive to change in landscape terms, and in less sustainable locations.