



Epping Forest Local Plan

Examination Hearing Statement

Matter 4 – The Spatial Strategy/Distribution of Development

Prepared by Strutt & Parker on behalf of City & Country (Stakeholder ID 19LAD0020)

January 2019

Context

1. Strutt & Parker have made representations on behalf of City & Country (Stakeholder ID 19LAD0020) throughout the preparation of the Epping Forest Local Plan, in respect of two sites:
 - Land at Bowes Field, Ongar (site reference SR-0120)
 - Land at Sheering Lower Road, Lower Sheering (site reference SR-0121)
2. Participation in the plan-making process included representations on the Local Plan Submission Version (LPSV) (Regulation 19) consultation: representations ID 19LAD0020-1 (in respect of Bowes Field, Ongar); and 19LAD0020-2 (Sheering Lower Road, Lower Sheering).
3. Land at Bowes Field, Ongar is proposed to be allocated for development through the LPSV (allocation ONG.R2) as part of the West Ongar Concept Framework Plan Area.
4. Land at Sheering Lower Road, Lower Sheering (SR-0121) has been rejected for allocation through the plan-making process, albeit – in our view – based on erroneous assessment of the site, and without justification.
5. This Hearing Statement is made in respect of the Epping Forest Local Plan Examination Matter 4 - The Spatial Strategy/Distribution of Development, and seeks to avoid repeating matters already raised within our representations on the Regulation 19 iteration of the Local Plan.
6. The LPSV was submitted for examination before 24 January 2019 – the deadline in the 2018 National Planning Policy Framework (NPPF) transitional arrangements for Local Plans to be examined under the 2012 NPPF. As such, these representations are made within the context of the 2012 NPPF; and references to the NPPF refer to the 2012 version, unless stated otherwise.

7. One appendix accompanies this Hearing Statement:

- Appendix A: Welwyn Hatfield Local Plan Examination – Inspector’s Note on Green Belt Review

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?

Question 3

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?

8. Our LPSV representations concerned growth in Ongar and Lower Sheering, and these are addressed in turn, below, in relation to the above question.

Ongar

9. Given the characteristics of Ongar, and its position with the settlement hierarchy (a first tier settlement, a 'town') it is imperative that the Local Plan direct growth to the settlement over the plan period, to sustain this existing community, and ensure its vitality. We set out a number of reasons why we consider the LPSV is justified in proposing growth in Ongar, at paragraphs 5.1 to 5.8 of our LPSV representations (19LAD0020-1).
10. The Local Plan is required to be effective and, as such, proposals must be deliverable. We are given to understand that through the plan-making process, the Council has not been able to identify additional, sustainable and deliverable sites in and around Ongar other than those proposed through the LPSV which would further support the vitality of the town. This has resulted in fewer dwellings being proposed for Ongar than one might expect, given its position in the settlement hierarchy.

11. This further demonstrates the importance of bringing forward those sites which have been confirmed as deliverable in and around Ongar, in order to support the vitality of this town.

Lower Sheering

12. As per our LPSV representations (ref 19LAD0020-2, paragraphs 6.3 to 6.6) we have significant concerns as to whether the delivery of a mere 14 homes for the settlement of Lower Sheering over the entirety of the plan period will support this settlement's vitality.
13. Lower Sheering is an established community with a population of 2,014 (Census, 2011) which not only benefits from services, facilities and employment opportunities itself, but also accessibility to the range of service and facilities available in the adjacent town of Sawbridgeworth.
14. Within our LPSV representations (ref, paragraph 6.6) we noted the lack of evidence to support so few homes being capable of supporting the vitality of Lower Sheering. In addition, we noted that the previous iteration of the LPSV (EB106) had proposed more than double the number of homes be provided in Lower Sheering (30), but there was no evidence of how the subsequent proposed reduction would compare to the approach previously proposed. The proposal to provide 30 dwellings is at the very least a reasonable alternative meriting consideration, given its support at an earlier stage in the plan-making process. We are not aware of EFDC having subsequently produced any evidence which addresses this issue.
15. We are mindful that the LPSV will not meet housing needs in full. It is not the case that the quantum of development proposed for Harlow needs be reduced to justify additional growth in Lower Sheering. Rather, additional growth in Lower Sheering can take place alongside the proposed growth for Harlow.

Issue 2

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

Question 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?

16. As in our response to Issue 1, we address the settlements of Ongar and Lower Sheering in turn in response to Issue 2.

Ongar

17. Ongar is identified as a primary tier settlement in the settlement hierarchy, which has been informed by an objective analysis of the town's characteristics Settlement Hierarchy Technical Papers 2015 (EB1007).
18. Beyond simply its position within the settlement hierarchy, Ongar is clearly a sustainable location for growth. We set out the characteristics we consider demonstrate its sustainability as a growth location within our LPSV representations (19LAD0020-1 paragraphs 5.3 – 5.8).

Lower Sheering

19. As set out within our LPSV representations (19LAD0020-2 paragraph 6.7) we are of the view that the LPSV has failed to properly consider the characteristics of Lower Sheering, and the low number of homes proposed to be provided to this settlement over the plan period is not justified.

20. The LPSV identifies Lower Sheering as a 'small village' in the settlement hierarchy.

21. As set out within our response to Issue 1, Question 3, we do not feel that the LPSV directs a sufficient number of homes to the village to sustain its vitality. Furthermore, and again as noted within our representations (19LAD0020-2 paragraph 6.9 – 6.13) the LPSV's proposed housing distribution should not simply follow the settlement hierarchy, but must consider other factors. In respect of Lower Sheering, its relationship with Sawbridgeworth – a town with a range of facilities, services and employment opportunities – which, whilst outside of the District, is in close proximity to Lower Sheering, is particularly relevant. In particular, it should be recognised that Sawbridgeworth Railway Station is immediately adjacent to the northern part of Lower Sheering.

Issue 4

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

Question 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?

22. 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 (at paragraph 83) that the preparation of a Local Plan is the appropriate (indeed, only) vehicle through which changes to the Green Belt boundary should be made.
23. 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.
24. At paragraph 51 of this judgment, in the consideration of whether exceptional circumstances applied, Mr Justice Jay stated:

“In a case such as the present, it seems to me that, having undertaken the first-stage of the Hunston approach (sc. assessing objectively assessed need), the planning judgments involved in the ascertainment of exceptional circumstances

in the context of both national policy and the positive obligation located in section 39(2) should, at least ideally, identify and then grapple with the following matters:

- (i) the acuteness/intensity of the objectively assessed need (matters of degree may be important);
- (ii) the inherent constraints on supply/availability of land prima facie suitable for sustainable development;
- (iii) (on the facts of this case) the consequent difficulties in achieving sustainable development without impinging on the Green Belt;
- (iv) the nature and extent of the harm to this Green Belt (or those parts of it which would be lost if the boundaries were reviewed); and
- (v) the extent to which the consequent impacts on the purposes of the Green Belt may be ameliorated or reduced to the lowest reasonably practicable extent.”

25. Regarding the first point identified above, there is evidently an acute housing shortage within the District, the severity of which is – in our view – greater than stated in the LPSV (as per our LPSV representations).

26. The Local Plan evidence base has clearly demonstrated that housing needs cannot be met without review of the Green Belt boundary and the allocation for housing development of some land currently allocated as Green Belt in the current, but out-of-date, Development Plan. Therefore, the second and third matters are also considered to apply.

27. In respect of the fourth and fifth matters, this will be dependent on the characteristics of potential sites.

28. The Council’s Local Plan evidence base supports the allocation of the sites proposed, based on their impact on the purposes of the Green Belt, and potential for impacts to be mitigated. In addition, and as set out within our LPSV representations, we consider there to be additional sites which can also be

brought forward without harming the purposes of the Green Belt which the LPSV does not currently propose.

29. Having regard to the above, there clearly are exceptional circumstances that justify amendments to the Green Belt in Epping Forest District through the Local Plan.
30. We consider that, having regard to the above, the key questions become: whether the Local Plan should seek to meet housing needs in full, contrary to the LPSV; and, if not, is the extent of shortfall justified on the basis of the degree of harm this would cause to the purposes of the Green Belt?
31. In respect of these matters, we note the views of the Inspector in the recent examination of the Welwyn Hatfield Local Plan. Following Stage 1 and 2 hearing sessions, the Inspector provided a note to the Council in December 2017 on its approach to review of the Green Belt (EX39 of the Welwyn Hatfield Local Plan Examination, provided here as **Appendix A**). 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...

and

“The actual development strategy finally arrived at is a matter for the Council, providing it is arrived at in a way that is objective and rational. 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].

32. Having regard to the above, to the *Calverton* judgment, and to the LPSV's proposed failure to meet housing needs, we are of the view that the following become key considerations: whether all potential development sites have been assessed to determine their impact on the purposes of the Green Belt; and whether such assessment is robust and undertaken to such a grain that it enables forensic examination of all potential development sites.
33. In respect of the LPSV, it cannot be said that *all* sites have been examined to the requisite level of detail. Whilst sites proposed to be included have been assessed and their removal from the Green Belt justified, this has not been the case in respect of all rejected sites. We note, for example, Site SR-0121 at Lower Sheering has been unjustifiably rejected, and done so based on an erroneous assessment of its characteristics. A robust assessment of the site would have identified it as being deliverable and without harm to the strategic purposes of the Green Belt. It is noted, for example, that the site is within the same parcel assessed through the Green Belt Assessment: Phase 2 (EB705A) as site SR-0032, which the LPSV proposes to allocate – site SR-0121 is within an area where loss of Green Belt has been justified through the Local Plan evidence base already.

Question 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?

34. Proposed allocation ONG.R1 has been informed by assessment of the Green Belt which has robustly appraised the site against the purposes of including land in the Green Belt, and which justifies its removal from the Green Belt (EB705A).

35. Indeed, as per our LPSV representations (19LAD0020-1, paragraphs 6.13 and 6.14) we consider the site actually makes less of a contribution to preserving the setting and special character of historic towns than the Council's assessment identified.
36. We note that the Council has rightly considered issues other than simply potential sites' contribution to the Green Belt. The Site Selection Report 2018 (EB805) confirms a range of criteria were considered in determining whether sites were suitable, available and achievable for residential development. These are set out within Appendix 1.4.2 (EB805F).
37. Site Selection Report Appendix B1.6.6 (EB805P) summarises the reasons for the selection of ONG.R1 (SR-0120) and we note that these are not limited to impact on the Green Belt.
38. In respect of Lower Sheering, we set out within our LPSV representations (19LAD0020-2, paragraph 7.11) the current Green Belt boundary of the north east of the village in the adopted Development Plan is somewhat anomalous. It is recognised that the LPSV proposes allocation of Site SR-0032 (proposed allocation LSHR.R1). We do not object to this allocation, but note that it will result in Site SR-0121 making even less of contribution to the purposes of the Green Belt than it presently does – in addition to there being existing development to the south and west, there will be development to the east. To ensure a robust and defensible Green Belt boundary, and to ensure the integrity of Green Belt as an allocation is not undermined, site SR-0121 should also be removed from the Green Belt.