

Epping Forest Local Plan Examination

Statement – Legal Compliance of the Submission Version of the Local Plan (LP)

The LP is not legally compliant as it was conducted in an unfair and procedurally improper manner. Furthermore the rules of natural justice have not been followed and proper consultation has not been allowed. Evidence clearly demonstrates this:

1. Appendices B and C, which provide critical information on site selection, were only published at the end of March 2018. **This post-dated the adoption of the LP by more than three months.** The LP had already been adopted by the Council, which unequivocally prevented the consultation on Appendices B and C from being conscientiously taken into account.
2. The Site Selection Assessment documentation was only published after the adoption of the LP, (also post-dating commencement of application for judicial review of the SVLP, and post-dating closure of consultation on the soundness of the LP).
3. Advertising of consultation for appendices B and C of the LP was minimal. The Council did not directly contact all interested parties who responded to the Regulation 19 consultation (I was not contacted), nor did the council's own website include information on how to comment on the appendices.

Legitimate expectations for procedure have not been met, as the process has not included timely and adequate consultation of all parts of the LP.

Legitimate expectations for substantive matters have not been met, as demonstrated by appendix B's site selection assessment. Individual sites have, at the early stages of site selection, been incorrectly classified both in absolute terms and in comparison to similar sites in similar locations. Incorrect classifications have not been corrected at any stage in the process, and these errors have directly led to inconsistent and unreasonable site selection recommendations. Three examples are provided below for clarity:

Table 1

Site Reference	Address	Classification Errors and Impact
SR-0478B	Part of Chigwell Nursery, 245 High Road Chigwell	This is a garden nursery on green belt land. It is neighboured by listed buildings. If the site selection methodology had been followed correctly, this site would not be proposed for allocation on the LP.
SR-0557	The Limes Farm Estate, Chigwell	This contains a large open green space that the draft neighbourhood plan sought to protect. <ul style="list-style-type: none">- Local objection to the Draft Local Plan to include this site was extremely high.- There is no reference to the high number of objections within the Community Feedback section.- In Appendix B, the site has been classified as Urban Brownfield (and qualitatively assessed as 100% brownfield). Urban Open Space would evidently be more accurate.

		<p>As a result of this site being taken forward, there will be a loss of open green space.</p>
SR-1010	146 Hainault Road, Chigwell	<p>This is a detached house in an area characterised by flatted developments, houses and commercial developments. Immediately neighbouring houses have been classified as Urban Brownfield (and qualitatively assessed as 100% brownfield) with no impact on settlement character. This site has been classified as urban open space and detrimental to settlement character. There is nothing in the evidence base to support such a characterisation and it is inconsistent with equivalent neighbouring properties.</p> <p>As a consequence, housing density appears artificially capped below efficient use of land. The neighbouring development at 126 Manor Road has housing density of 86 dwellings per hectare (dph).</p> <p>Furthermore, criterion 1.3 of the Stage 4/6.4 Capacity and Deliverability Assessment states that the <u>“Site is not subject to any known restrictions. No data is held on on-site restrictions.”</u> However Appendix B1.6.6 notes that <i>“On-site restrictions were identified”</i>. This latter conclusion is unsubstantiated by the evidence-base of the LP, in fact the evidence-base contradicts Appendix B1.6.6.</p> <p>Appendix 6 then claims <i>“The site has access constraints. Development proposals should assess whether the current access to the residential property would provide a safe access point which has sufficient capacity to serve the proposed residential development. This includes ensuring that appropriate visibility splays can be accommodated within any exiting or proposed access point.”</i></p> <p>Appendix 6 contradicts the evidence-base of the LP and is unsubstantiated.</p> <p>Furthermore the Planning Inspector determined on appeal (APP/J1535/W/17/3190595) on 27 July 2018 that development was permitted for demolition and new build of 11 apartments (with housing density of approximately 65dph, versus LP indication of 50dph). The Planning Inspector set out the following in her findings regarding to access and capacity impact on highway safety:</p> <p>“The plans show both site accesses would be widened to four metres but the Highway Authority (HA) requires a width of 5 metres for the first 6 metres of an access to allow vehicles to pass each other. However, the site would have separate access and egress points, and the HA has</p>

		<p><u>accepted that the southern access, which is proposed to be used to exit the site, would have sufficient visibility in both directions.</u> Accordingly a 5 metre width is not necessary to avoid increased risks to highway safety.”</p> <p>“In relation to LP Policy ST4 (ii), no evidence has been put forward by the Council to demonstrate that the proposal is likely to lead to an excessive degree of traffic congestion, and the traffic survey submitted by the appellant concludes that there would be only a 1% increase in traffic on Hainault Road. <u>This evidence is unchallenged by the HA and the Council.</u> Whilst the development would increase the number of vehicle movements to and from the site there is no compelling evidence before me that this would have an unacceptably adverse effect on the operation of the local highway network, including the use of the nearby bus stop.”</p>
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The July 2017 report on Establishing the Full Objectively Assessed Need (OAN) sets out that the OAN for Epping Forest District is 12,573. The Local Plan provides for approximately 11,400, a shortfall of over 1,000 homes, or nearly 10%.

This is not consistent with national policy, which requires local plans to incorporate the most reliable and up-to-date evidence. The LP and all Technical and other associated documents fail to substantiate environmental, policy and infrastructure constraints that would provide legal justification to reduce the OAN.

It is a core requirement for the sound development of a Local Plan that assessments and conclusions are substantiated with evidence, and that the evidence is made available for public examination at the appropriate time. These basic legal requirements have not been met. The entire process was conducted in an unfair and procedurally improper manner, and on that basis, the LP should be invalidated and started anew by an independent party.