

**Epping Forest
District Council
Examination**

**Hearing Statement
Matter 7**

**Sworders on Behalf of
The Landowners of ONG.R1
(Eales-White, Johnson, Kerr,
Kerr, and McKinney)**

**Sworders
January 2019**



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1.0 INTRODUCTION

- 1.1 This hearing statement considers Matter 7 – Place-Shaping and General Masterplan Approach, specifically Issue 1, questions 2 and 3, and Issue 2 question 1 c) and d).
- 1.2 This statement is submitted on behalf of the landowners of site ONG.R1 (Eales-White, Johnson, Kerr, Kerr, and McKinney), part of the West Ongar Concept Framework, alongside site ONG.R2. The landowners and their respective consultant teams have been working proactively and collaboratively to engage with the Council regarding joint delivery of a Concept Framework. Both landowners have undertaken background studies to establish the baseline and begin the process for the combined sites.
- 1.3 This Hearing Statement supplements Sworders’ Regulation 19 representations made on behalf of the landowners in January 2018 (19LAD0070) and considers the Inspector’s Matters, Issues and Questions in relation to Week 1 Matter 7 of the Epping Forest Local Plan Examination.
- 1.4 **I confirm I wish to attend the hearing.**

2.0 ISSUE 1: IS THE APPLICATION OF POLICY SP3 TO ALL ALLOCATED SITES JUSTIFIED; AND IS IT OTHERWISE EFFECTIVE AND CONSISTENT WITH NATIONAL POLICY?

- 2.1 In response to **Question 2**; we support the Council’s approach to place shaping but consider Policy SP3, as drafted, to be unclear and inconsistent with paragraph 154 of the National Planning Policy Framework (NPPF).
- 2.2 As drafted, Policy SP3 relates to the preparation of Strategic Masterplans *and* development proposals so will apply to all sites, irrespective of whether they are within or without a Strategic Masterplan area, whether they are allocated or are windfall sites or indeed whether they are for new residential development or any other type of development.
- 2.3 The term ‘*development proposals*’ to which the policy refers, would include applications for other types of use (for example commercial, leisure, town centre, education, community etc), changes of use, domestic extensions and other minor development.



- 2.4 We believe that it is not the Council's intention for this policy to apply to these types of applications so believe this is a matter of clarity; as drafted it is contrary to paragraph 154 of the NPPF. We suggest the policy be amended to make the intended application of this policy clear.
- 2.5 Further, on the assumption that Policy SP3 is not intended to apply to non-residential or minor development, clarity is required regarding which strategic sites/the scale of site to which it applies.
- 2.6 It is also not clear whether this policy is intended to apply to Concept Frameworks. Both policy P4 for Ongar, and paragraph 5.65 of the Plan refer us to Policy SP3 for a definition of Concept Frameworks; however, SP3 remains silent on this matter. The only definition for Concept Frameworks is found in the glossary, and therefore as it stands, Policy SP3 is unclear and inconsistent with the requirements of the NPPF.
- 2.7 A report to Cabinet on 18th October 2018 (and attached guidance notes) considered governance arrangements for the Local Plan implementation and the minimum requirements for the preparation of Strategic Masterplans and Concept Frameworks in the District. This states that Policy SP3 of the Local Plan Submission Version 2017 sets out the place shaping principles against which the Strategic Masterplans **and Concept Frameworks** must conform (my emphasis).
- 2.8 Whilst a "*Strategic Masterplanning Guidance Note*" was taken to this Cabinet meeting, this document states that "*A separate note has been produced which provides guidance for Concept Frameworks.*"
- 2.9 It therefore appears that the intention is for Policy SP3 to apply to the preparation of Concept Frameworks, although no guidance currently exists on the processes and minimum requirements that Concept Frameworks must undertake.
- 2.10 Considering the above, we have concerns regarding the specific drafting which is overly prescriptive and inflexible. We consider that the requirements are disproportionate in the context of the scale of the West Ongar Concept Framework; and the policy should be clear that not all the provisions can be satisfied by all sites.



- 2.11 For example, the West Ongar Concept Framework could not satisfy requirement (iv) since it is a residential led allocation with employment being allocated elsewhere. Nor could it satisfy requirement (ix) as no social, cultural or shopping facilities are included in the allocation.
- 2.12 If the intention is for Policy SP3 to also apply to Concept Frameworks then it is suggested that the policy wording be amended to acknowledge that the detail of the Concept Framework will vary depending on context and constraints (as per the supporting text for Strategic Masterplans at paragraph 2.92).
- 2.13 Further, the requirement in Policy SP3 to *“reflect and demonstrate that the following place shaping principles have been adhered to”* lacks flexibility. Whilst the inclusion of the words *“with respect to the scale of development”* are welcomed, we consider the wording of the policy should be amended to replace the words *“must reflect and demonstrate”* with *“should, where possible, reflect the following place shaping principles...”*
- 2.14 Finally, we have concerns over the use of the phrase *‘required to be in accordance with’* in Policy P4, as it is deemed to be overly prescriptive. As a matter of principle, non-statutory planning documents such as Concept Frameworks, which have not been tested through the Examination process, should not be used to set policies or determine development proposals in the way that Part I of the policy requires.
- 2.15 In response to **Question 3**; we support the Council’s approach to density set out in Policy SP3.
- 2.16 Part I of the policy states that the Council *‘will normally expect’* higher densities (above 50 dwellings per hectare in towns/larger villages/along main transport routes/close to transport nodes), and lower densities (30-50 dwellings per hectare outside towns and larger villages). This is in accordance with paragraph 47 of the NPPF which states that Local Authorities should *“set out their own approach to housing density to reflect local circumstances”*, and paragraph 59 of the NPPF which states that design policies should concentrate on guiding density (among other issues) in relation to neighbouring buildings and the local area more generally.
- 2.17 Policy SP3 also allows for some flexibility in density, and the use of the phrase *‘would normally expect’* is welcomed. Paragraph 2.88 also makes it clear that density ranges should not be applied mechanistically but should take *“account of relevant factors to optimise potential.”*



2.18 In respect of ONG.R1, the site is located on the edge of a town, defined in the LPSV as a Small District Centre, and therefore a lower density of 30-50 dwellings per hectare is deemed to be appropriate. Based on the site area of 2.48 hectares, the proposed allocation of 99 dwellings equates to approximately 39 dwellings per hectare, which sits comfortably within the above range.

2.19 Whilst regard must of course be had to the developable area of the site and retention of landscape features, the proposed density is deemed to be deliverable and appropriate, having regard to the context of the site and surrounding area which comprises a mix of densities to the north, east, and south.

3.0 ISSUE 2: ARE THE PLAN'S REQUIREMENTS FOR MASTER-PLANNING (AS EXPLAINED IN PARAGRAPHS 2.89-2.102 AND SET OUT IN POLICIES SP4, SP5 AND CERTAIN PLACE POLICIES) JUSTIFIED; AND WILL THEY BE EFFECTIVE IN SECURING THE TIMELY DELIVERY OF COMPREHENSIVELY PLANNED SCHEMES?

3.1 In response to **Question 1**; whilst we support the approach to place shaping through the Concept Framework process, we consider the specific process and policy requirements to be disproportionate and could be a barrier to timely delivery of allocated sites.

3.2 The requirement for a Concept Framework is defined in the glossary to *“set out how development and infrastructure can be delivered in a coordinated way for two or more adjacent allocation sites.”* This is to ensure that a *“comprehensive and cohesive approach is taken to the planning and delivery of development and infrastructure”* on sites where there are multiple landowners. The concept only applies to West Ongar and South Nazeing.

3.3 The principle of this approach to place shaping is fully supported, and the Inspector should be reassured that we have already been working pro-actively and collaboratively with the adjoining landowners of ONG.R2, and the Council, to undertake relevant background studies and technical work to begin this process and ensure timely delivery of the allocation.

3.4 However, although clearly achievable, we do not consider the detail of the Concept Framework requirement, as set out in Policy P4 (and potentially Policy SP3) to be necessary;



the same place shaping aims could be achieved with a less prescriptive process.

- 3.5 Further, the process by which the Concept Framework should be submitted and 'endorsed' by the Council is not clear and we would welcome clarification. Policy P4(K) states that Concept Frameworks "*shall be endorsed by the Council prior to the submission of any planning applications*". No planning applications can therefore even be submitted until after endorsement. And there is an additional requirement for the Concept Frameworks to be considered and informed by the Council's Quality Review Panel.
- 3.6 This requirement for compliance is inflexible and places an additional obligation on the developer. Ultimately this could delay delivery of sites where circumstances change, or where a Concept Framework is absent, for whatever reason. We therefore suggest that the wording of policy P4(I) be amended to require development proposals in relation to sites ONG.R1 and ONG.R2 to be in "*general conformity with*" or "*have regard to*" a Concept Framework Plan.
- 3.7 The weight to be attached to any 'endorsed' Concept Framework in determining subsequent planning application is also unclear. Although paragraph 2.96 of the Plan suggests that Strategic Masterplans should be capable of being adopted as Supplementary Planning Documents, no such suggestion is made for Concept Frameworks. The weight to be attached to any 'endorsed' Concept Frameworks in determining any subsequent planning application would therefore benefit from further clarity in the Policy.
- 3.8 The report to Cabinet on 18th October 2018 referred to above, states that the Strategic Masterplans **and** Concept Frameworks will be endorsed as material planning considerations against which future planning applications will be assessed, and **both** potentially adopted as SPDs.
- 3.9 If it is the case that Concept Frameworks are to be adopted as SPDs, then we have concerns. This process is time consuming and onerous, and the NPPF is clear at paragraph 153 that SPDs should only be used where they can help successful applications or aid infrastructure delivery and specifically warns against adding unnecessarily to the financial burdens on development.
- 3.10 Policy P4 is also inflexible in that it does not contain provisions to enable development to come forward in a scenario where landowners do not agree, or the Council do not endorse the Concept Framework. Whilst in the case of the West Ongar Concept Framework Area,



landowners are already working collaboratively, and this process has commenced, this may not be the case in other Masterplan Areas, therefore such a 'fallback' is necessary to ensure that the policy is flexible and deliverable in accordance with the NPPF (paragraphs 153 and 182).

- 3.11 As currently drafted, failure between landowners to agree on a Concept Framework could risk timely delivery of the site; however, this matter could be easily resolved with a policy amendment to allow for such a scenario. We suggest that an amendment to P4 should allow for planning applications to comply with the requirements set out in Appendix 6, and to address the place shaping principles as defined in Policy SP3, as appropriate to the scale of development.
- 3.12 This issue has been experienced at Warwick District Council where their submitted plan contained a Comprehensive Development of Strategic Sites policy which required either a development brief or a Masterplan to be approved by the Council before applications for any of the strategic sites could be approved, and that strategic sites in multiple ownerships must come forward under a single planning application.
- 3.13 However, following concerns raised at Examination, the Inspector removed the requirement for Masterplans, and amended the development brief policy. Whilst significant sites are still expected to comply with a development brief, a provision has been included to cover the eventuality where, for whatever reason, the development brief is absent. In such cases a Layout and Design Statement, providing detailed information that would otherwise be included in a development brief, is required to support any planning application. The amended policy and supporting text also recognises the fact that some sites are in multiple ownerships and may come forward for development separately. It is suggested that a similar approach at Epping Forest would be more proportionate, having regard to resources, and the need to deliver housing allocations in a timely manner.



4.0 SUMMARY

4.1 This hearing statement is made on behalf of the landowners of site ONG.R1, who support the proposed allocation and approach to place shaping, but have some concerns with the detail.

Specifically:

- Whilst the Council's approach to place shaping is supported, the application of Policy SP3, requires greater clarity, and the specific requirements are deemed to be overly prescriptive and inflexible. The wording is not in accordance with national policy;
- The Council's approach to Concept Frameworks is also supported; however, the application of Policy SP3 is unclear, and the specific process and policy requirements are disproportionate. This may have implications for the timely delivery of development.