



Epping Forest Local Plan

Examination Hearing Statement

Matter 5 - Site Selection Methodology and the Viability of Site Allocations

Prepared by Strutt & Parker on behalf of City & Country

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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 (reference 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). Supplementary representations were also made in respect of both sites.
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 seeks to avoid repeating matters already raised within our representations on the Regulation 19 iteration of the Local Plan; and in respect of other Hearing Statements already submitted in respect of other Matters.
6. This Hearing Statement addresses Matter 5 - Site Selection Methodology and the Viability of Site Allocations.
7. This Hearing Statement also follows the Council's acknowledgement at Day 3 of the Local Plan Examination Hearing Sessions, the Council confirmed that the submitted Local Plan will not provide enough homes in the early years of the plan period to meet needs. This alone means that, clearly, modifications to the Local

Plan are required to ensure it is sound. We consider that whilst flaws in the current submitted plan render it unsound, the Local Plan can still be made sound through modifications.

8. 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.

Issue 1: Have the Plan's housing allocations been chosen on the basis of a robust assessment process?

Question 1: The Council should provide a summary of the process by which the Plan's housing allocations were selected. In particular:

- a. How was the initial pool of sites for assessment identified?*
- b. How was the Site Selection Methodology (SSM) utilised in the Site Selection Report 2018 (EB805) established and is it robust?*
- c. What is the relationship between the SSM and the sequential approach to site selection set out in Policy SP2(A)?*
- d. What was the role of the Sustainability Appraisal in selecting between the various sites?*
- e. Was any other evidence taken into account in the site selection process? In particular, how has the historic environment been taken into account? Have Historic Impact Assessments been undertaken as recommended by Historic England and, if not, is this necessary?*

9. Whilst we are conscious that the above question has been directed at the Council, we do have the following brief comments to make in respect of points b), d) and e).

b) How was the Site Selection Methodology (SSM) utilised in the Site Selection Report 2018 (EB805) established and is it robust?

10. As we have set out in our Hearing Statement in respect of Matter 1, we consider that the Site Selection Report (EB805) has provided robust assessment of sites that are proposed to be allocated. Where we consider it to be deficient is in its approach to sites which have been rejected, resulting in a Local Plan which fails the requirement to be justified, as per paragraph 182 of the NPPF. As set out within our Hearing Statement on Matter 1, we consider such deficiencies can be addressed through modifications to the submitted Local Plan.

11. The methodology considers assessment against a number of appropriate criteria to help determine the suitability, achievability and availability of potential sites.
12. However, as set out within our Regulation 19 representations and our Regulation 19 supplementary representations (reference 19LAD0020-2 (supplementary)) made in response to the publication of Appendix B to the Site Selection Report, there are a number of deficiencies in respect of the approach taken in respect of rejected sites. These can be summarised as:
 - Errors in respect of the assessment of sites proposed to be rejected (as set out within paragraph 2.5 of our supplementary representations (reference 19LAD0020-2 (supplementary))).
 - Failure to update the previous iteration of the Site Selection Report (EB801), in response to matters raised at the Regulation 18 consultation (as noted within paragraphs 2.5 and 2.6 of our supplementary representations (reference 19LAD0020-2 (supplementary))).
 - Wholly unjustified rejection of sites (e.g. in the case of SR-0121, the site has been rejected on the basis it was considered not to have capacity to deliver 6 dwellings).
13. As per our representations (19LAD0020-2 and 19LAD0020-2 (supplementary)) site SR-0121 is suitable, available and achievable for residential development within five-years. The Council has been provided evidence through the plan-making process which demonstrates that 7 dwellings can be accommodated on the site. The site is currently allocated as Green Belt, but does not contribute to the purposes of including land within the Green Belt, particularly when one considers how such land will function in Green Belt terms once the proposed allocation LSHR.R1 on land to the east has been developed.
14. Whilst the unjustified rejection of sites itself is considered to render the Local Plan unsound, concerns are compounded by the fact the Council now acknowledges the LPSV will not provide sufficient homes to meet needs in the early years of the plan period.

15. Small sites are generally far more capable of contributing to meeting housing needs in the early years of the plan period, taking less time to deliver than large, strategic allocations. The unjustified rejection of such sites, including the arbitrary automatic rejection of sites considered incapable of delivering at least 6 dwellings, is a flaw in the plan-making process which will clearly have harmed the ability of the plan to meet needs within the early years of the plan period.
16. This flaw can, however, be rectified by revisiting rejected sites in the Site Selection Report (2018) (EB805) and, following this, allocating additional land to meet housing needs. Whilst the allocation of SR-0121 will, alone, only make a small contribution to meeting the recognised shortfall in housing in the early years of the plan period, it will still be a contribution. Furthermore, the approach of revisiting other sites rejected through the Site Selection process is likely to, cumulatively, make a significant contribution.
17. It should also be noted that the allocation of additional non-strategic growth site cannot be said to harm the overarching strategic approach to development that the LPSV proposes. Rather it will simply compliment this strategy, and ensure that it is sound.

Requested Modification

18. Further to the above, we respectfully request a modification to the LPSV entailing:
 - Allocation of SR-0121 for residential development; and
 - Text added to Policy P12 confirming site SR-0121 will deliver approximately 7 dwellings.

d) What was the role of the Sustainability Appraisal in selecting between the various sites?

19. As we had previously inferred from the SA (EB204), and as confirmed by the Council at the afternoon session of Day 1 (12 February 2019) of the examination

hearings, the Site Selection Report (EB805) forms part of the Sustainability Appraisal.

20. Accordingly, preparation of the Site Selection Report is required to comply with the Environmental Assessment of Plans and Programmes Regulations 2004 (Statutory Instrument 2004 No.1633) (SEA Regulations), as well as guidance pertaining to Sustainability Appraisal.

21. Such requirements include:

- The need to assess reasonable alternatives (Regulation 12), and to the same level of detail as those selected (as established through case law).¹
- The need to bring to consult those affected or likely to be affected by the decisions involved in the assessment and adoption of the plan (Regulation 13 of the SEA Regulations).
- The need to provide the reasons for the selection of options, and the reasons for the rejections of others (Regulation 16).

22. In respect of the above it is clear that:

- The Site Selection Report (EB805) contained errors in respect of the assessment of rejected sites – it cannot be said that alternatives have been properly assessed, and therefore the requirement in relation to Regulation 12 has not been met.
- As confirmed by the Council (paragraph 4.21 of EB115), only 71 respondents were invited to comment on the Site Selection Report Appendix B – this cannot be said to have encompassed all those who are affected or may be affected by its findings.
- The reasoning applied to the rejection of sites (e.g. cannot accommodate an arbitrary number of dwellings) is specious to the extent that it cannot be said to have met the requirements of Regulation 16.

¹ Heard v Broadland District Council and others [2012] EWHC 344 (Admin)

23. Whilst the above are matters of legal compliance, they are also relevant to the soundness of the Local Plan: in particular, such deficiencies confirm that the rejection of sites is not justified.
24. In addition, the NPPF (paragraph 165) requires a sustainability appraisal which meets the requirements of the European Directive on strategic environmental assessment to be an integral part of the plan preparation process.
25. Accordingly, deficiencies in respect of the Site Selection Report (EB805) raise issues of consistency with national policy.

e) Was any other evidence taken into account in the site selection process? In particular, how has the historic environment been taken into account? Have Historic Impact Assessments been undertaken as recommended by Historic England and, if not, is this necessary?

26. As noted in our response to Question 1 b), we are concerned that the Site Selection Report has not accounted for evidence submitted in response to the previous iteration of the Site Selection Report (EB801). By way of example, we note that, as set out at paragraph 2.5 (final bullet point) of our Regulation 19 supplementary representations, there is no evidence that the site-specific Preliminary Ecological Appraisal undertaken in respect of SR-0121 (provided to the Council following publication of EB801) has been accounted for in any way in the final assessment of the site within EB805.

Question 2: How were the conclusions reached about individual sites checked for accuracy and consistency? Were sites visited or were they assessed through a desktop process? What has been done to check the assessments in specific cases where their accuracy has been challenged e.g. Site SR-0596? (Reps 19LAD0012).

27. Concerns raised in respect of inaccuracies and inconsistencies in the assessment of site SR-0121, raised within our Regulation 19 supplementary representations (reference 19LAD0020-2 (supplementary))) do not appear to have been considered, let alone addressed.

Issue 4 At the broad strategic level, are the Plan's allocations financially viable?

Question 1: Having regard to paragraph 173 of the NPPF, are the Plan's allocations for housing (including for Travellers) and employment financially viable, having regard to the normal cost of development and mitigation; and all relevant policy costs, including for affordable housing, space standards, building requirements, design and potential infrastructure contributions.

28. City & Country control land proposed to be allocated as ONG.R2, and consider its delivery to be financially viable.