



## **Epping Forest Local Plan**

### **Examination Hearing Statement**

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### **Matter 5 – Site Selection and Viability of Site Allocations**

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**Prepared by Strutt & Parker on behalf of Scott Properties (Stakeholder ID 19LAD0086)**

**February 2019**

## Context

1. This Hearing Statement is prepared by Strutt & Parker on behalf of M Scott Properties Ltd (Stakeholder ID 19LAD0086) hereon referred to as 'Scott Properties', who have engaged in the preparation of the Emerging Local Plan (eLP) throughout the plan-making process.
2. Scott Properties' specific interest is in land at Chigwell Garden Centre, Chigwell, which is proposed to be allocated (CHIG.R5) in the Local Plan Submission Version (Regulation 19) (LPSV) for 65 homes.
3. The site has been assessed by Epping Forest District Council (EFDC) in the plan-making process as site references:
  1. SR-0478B (1.66ha – the current CHIG.R5 allocation);
  2. SR-0478A (7.49ha not submitted for consideration);
  3. SR-0586 (5.46ha - the area submitted by Scott Properties, which includes all of the built form and proposed open space in line with the Landscape Plan found at Appendix 2).
4. CHIG.R5 (Policy P7) is part of the area submitted to EFDC as a suitable site for development. As per our representations on the LPSV (reference 19LAD0086-1 – 6), the principle of the allocation of land for development at this location is sound; but the extent of the site boundary is not. The LPSV has artificially divided the built form found on the site and applied different criteria to parts of the site that are functionally and factually identical. By taking this approach the Local Authority has failed in its sequential approach to prioritise the release of land that is of lesser value, prior to releasing green field Green Belt sites.
5. A modification to CHIG.R5 on this basis has been the subject of discussions with EFDC (see correspondence in Appendix 1). The proposed modification is supported by a Landscape and Green Belt Assessment and Strategy, included at Appendix 2. A planning application for a high-quality 100 bed care home is currently under consideration by EFDC that is identical to the modifications suggested in our client's submissions, and contains a

number of reports that support the redevelopment of the built form excluded from CHIG.R5.<sup>1</sup>

6. The requested modification to the LPSV, apart from being strongly supported by a robust set of technical reports and assessments, is based on the application of common sense. As mentioned previously, the allocation of part of the Garden Centre (CHIG.R5) has artificially divided the site, which would cause the remaining area (containing commercial buildings, hardstanding and storage) to fall into disrepair as a result of future development. This modification maximises the use of existing built form, which will inevitably be redundant if the LPSV is adopted in its current form – Appendix 1 details the current land areas.
7. A plan produced by Lockhart Garratt, which accompanies the Landscape and Green Belt Assessment has been provided at Appendix 2 - these documents were submitted to the Local Authority as part of the correspondence attached as Appendix 1. The plan demonstrates that the area containing the built form can be successfully developed, while the area that is currently undeveloped could be opened up to the public as Public Open Space or used to improve biodiversity.
8. Separate from the above site-specific matters, our principle concern is that the LPSV fails to ensure the District's specialist accommodation needs are met, given the acute unmet need in the District. This is demonstrated in the attached Needs Assessment (Appendix 3). Accordingly, the LPSV should be amended to effectively meet the current and future demand for specialist accommodation. As expressed in our LPSV representations, we consider that modifications can be made to the LPSV to ensure a sound Local Plan is presented.
9. This Hearing Statement addresses Matter 5 – Site Selection and Viability. We have sought to avoid repeating points made in our LPSV representation, but do expand upon these here where relevant.
10. Four appendices accompany this Hearing Statement:
  - Appendix 1: Letter and Site Division Plan to EFDC 21 January 2019 regarding CHIG.R5 Site Assessment
  - Appendix 2: Landscape Note and Landscape Strategy Plan

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<sup>1</sup> Application reference No. EPF/3195/18

- Appendix 3: Specialist Accommodation Housing Needs Assessment by Carterwood
- Appendix 4: Appeal Ref: APP/H2265/W/18/3202040 (Land to the rear of 237 London Road, West Malling, Kent, ME19 5AD)

11. The LPSV was submitted for examination before 24 January 2019. As such, these representations are made in the context of the 2012 NPPF and all references to the NPPF refer to the 2012 version, unless stated otherwise.

## **Matter 5 – Issue 1**

### **Have the Plan's Housing allocations been chosen on the basis of a robust assessment process?**

12. Our client has made representations regarding the LPSV Site Selection Report (SSR) (EB805) through the Regulation 19 Supplemental Consultation response. The main points are listed below and discussed further in this Statement:

- The Site Selection Methodology (SSM) has been inconsistently applied;
- Comments made at Regulation 18 Stage were not taken into consideration for the next stage of Plan making, in relation to inconsistencies, errors, fact checking and density/capacity for CHIG.R5 (representation Para 5; 7-8; 12-28);
- The retention of the area excluded from allocation CHIG.R5 would perform no green belt function (representation para.10);
- The SSR was not available at Regulation 19 Stage which severely limited the ability to comment in detail at that stage (Representation para8-24);
- The Supplemental Consultation provided an opportunity to comment on the SSR but it did not correct the factual errors in the Assessments and made new errors (Supplemental Representations Para 5-28);
- The accuracy and consistency of assessing proposed sites means that some sites should be re-assessed (representation Para 39-47).





### **M5:I1:Q1(b) - Utilisation of the SSM in the SSR 2018 (EB805)**

13. The stated 2018 Site Selection Methodology (SSM; EB805AK) has not been followed through in the 2018 Site Selection Report (SSR; EB805) in specific regard to sites SR-0478A; SR0478B and SR-0586 (Chigwell Garden Centre). These matters were raised at paragraphs 3-7; 43-53 of the representations. There has been a severe failure to apply the methodology consistently and accurately. An example of this is demonstrated in paragraph 19 below.
14. Finally, the SSM has no regard to any specific proposed Use for a site, regardless of the level of any need identified. Again, using a site specific example, the built form associated with Chigwell Garden Centre and excluded from CHIG.R5 is being promoted for C2 Care Home use to meet the acute identified need within the area – this is supported by the needs assessment at Appendix 3.
15. Whilst the recent West Malling appeal judgement refers to a greenfield site unlike my client's, the judgement remains relevant in that the need for specialist accommodation was considered to be a specific justification for the release of Green Belt land.<sup>2</sup> A copy of this decision is provided at Appendix 4.
16. Paragraph 4.26 of the SSM provides a sequential approach to identify the most suitable candidate sites, being:
  1. Flood risk;
  2. PDL within settlements;
  3. Open spaces within settlements;
  4. PDL within the Green Belt;
  5. Greenfield/Greenbelt Sites on edge of settlements of least value;
  6. Greenfield/Greenbelt Sites on edge of greater value to the GB;
  7. Greenfield/Greenbelt Sites on edge of settlements of most value that meets other suitable criteria;

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<sup>2</sup> Appeal Ref: APP/H2265/W/18/3202040 para.65

8. Agricultural land of Grade 4-5;
  9. Agricultural Land of Grade 1-3.
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17. The above approach is excessively protective of Green Belt land of 'least value' (5), while preferring development on open spaces within Settlements (3) and PDL (4), which may conflict with place shaping principles or the achievement of sustainable development. Rearranging the list to reflect these comments is recommended.
  18. However, our principle concern is how the SSM has been applied through the SSR; the scoring of the RAG system; and specifically the approach to removing sites from consideration on the basis of the SSM.
  19. In relation the RAG scoring system, there are specific examples in relation to my client's site (and we are aware of other sites that have the same issue) whereby scores have been applied without considering the facts. An example of which is shown overleaf in relation to built form being present on my client's site, and the distance of this site from the Chigwell Central Line Tube Station. The requested modification to CHIG.R5 is shown at the top, so that accurate information can be used to compare against the other assessments produced by the Local Authority:

Site Name	RAG Scoring System			
	4.1 - Brownfield and Greenfield Land	Score	3.1 - Distance to the nearest rail/tube station	Score
 <p><b>Proposed site for allocation</b></p>	<p>The majority of the site is previously developed land adjacent to a settlement.</p> <p>The development proposed represents a reduction in the footprint of built form.</p>	(++)	The site is located c. 530m from the Chigwell Central Line Tube Station.	(+)
 <p><b>SR-0478A</b></p>	<p>Majority of the site is greenfield adjacent to a settlement. <b>100% greenfield site.</b></p>	(-)	<b>Site is between 1000m and 4000m from nearest rail or tube station</b>	0
 <p><b>SR0478B (current CHIG.R5 allocation with the Emerging Local Plan)</b></p>	<p>Majority of the site is previously developed land within or adjacent to a settlement. 75% Brownfield site.</p>	(++)	Site is less than 1000m from the nearest rail or tube station.	(+)
 <p><b>SR0586 (Site Suitability Assessment)</b></p>	<p><b>Majority of the site is greenfield</b> land adjacent to a settlement.</p>	(-)	<b>Site is between 1000m from nearest rail of tube station</b> [as found in the document]	(+)



20. There are also concerns that some aspects of the RAG system do not have the same scoring as others, such that it is not possible to score ‘++’ for many aspects, artificially reducing the overall rating of any given site.
21. The Workshop referenced in 4.28 of the SSM is considered to be opaque. Contrary to the comments regarding the consultation feedback, it is not evident for site SR-0586 that the consultation responses have been fully considered in determining the allocation of the site.
22. In regards to our client’s allocated site at Chigwell Garden Centre (CHIG.R5), it is agreed with EFDC as being previously developed land (PDL). Accordingly, SR0478A and SR-0586 must also be, at the very least, partially PDL as they contain SR-0478B, and are within the same use entirely. The exclusion of the remaining built form associated with the Garden Centre would be a missed opportunity to deliver homes and a care facility on a highly sustainable site.
23. It is not possible to understand EFDC’s reasons for excluding the remaining built form associated with Chigwell Garden Centre from the CHIG.R5 allocation as the 2017 SSR is not available. However, the merits of the site will be virtually identical to the allocated parcel, CHIG.R5 – this is supported by the reports accompanying the current planning application for the excluded built form.<sup>3</sup>

**M5:I1:Q1(c). Relationship between SSM and sequential approach in SP2(A)?**

24. In response to Matter 1, EFDC have provided clarification on concerns that overlap with Matter 5. The EFDC Hearing Statement considers the lack of ‘Appendix B’ was not a failure of legal compliance as it was not ‘finalised’ at that time, and therefore not published. For Matter 1 EFDC state this is in accordance with the SCI (EFDLP-Matter 1; para.22). Further, that EFDC accounted for Reg.18 consultation comments in the next stage of site selection, citing EBD122 (EFDC – Matter 1; para. 23).
25. The Consultation Report cited above states at para.14.7 (p.69-70) that:

*Of the comments received about the Draft Policy D6 respondents stated support for Chigwell Parish Council’s Neighbourhood Plan and preference for the Town Council’s approach to the distribution of growth within Chigwell, in comparison to the proposed sites in Draft Policy P 7.*

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<sup>3</sup> EPF/3195/18

26. At the time of the above comments, the Draft Chigwell NP identified the entire Chigwell Garden Centre site (equal to SR-586) as being suitable for development.
27. Despite the above, and similar commentary throughout the report, EFDC have not made any amendments to CHIG.R5 to reflect the submission made by our client or the preferences of the public, the Parish Council, or the Resident's Association. The reasons for this are unclear, except for the urgency of preparing the Plan in late 2017.

**M5:I1:Q2 - 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).**

28. Our client has raised concerns with EFDC on several occasions regarding the accuracy of the Site Assessment (e.g. those set out in appendix 1). To date, EFDC has stated that it is unwilling to amend the SSR conclusions.
29. Our most recent correspondence with the LPA on this matter is provided at Appendix 1 – Letter to David Coleman. While not rehearsing those matters in full here, the errors identified indicate that the process is not robust and that defects in the assessments must be addressed. It is our consideration that in regards to Chigwell, rectifying the defects would result in the allocation of the Chigwell Garden Centre site, as proposed, rather than only a part of it being allocated.
30. It is for EFDC to address the errors identified. For Site SR0478A/B and SR0586, the errors are set out in the Appendix 1 pp.4-5 as a table. These relate to both inconsistencies between the scoring of individual criteria for the three assessments and provide a fourth assessment, based on the ARUP methodology, that re-scores the site accurately for these criteria. Each of the scores are evidenced and explained. While each error is important in its own right, taking an example: all three sites are scored (--) for loss of agricultural land (criteria 4.2), when the Garden Centre is entirely unable to be farmed, contains a significant degree of built form and hasn't been farmed since 1981.
31. To date, EFDC have been entirely unwilling to re-assess the site in light of the information provided to the LPA by our client, through the Regulation 18 and 19 Stages, or the Developer Forums/Workshops. Accordingly, the process of consultation with the LPA has been disappointing and ultimately unreceptive to these matters.
32. With specific regard to the site allocation of CHIG.R5, the failure to allocate the remainder of the buildings on the site is a failure on several levels. The condition of the site would place it higher in the SSM than is recognised in the SSR. Part of the site was screened out through the SSR that should never have been separated from CHIG.R5. After notifying the LPA of our concerns, with professional assessments submitted with the representations alongside a clear explanation of the benefits and harms of doing so, the site has not been properly reassessed in light of these.

33. Some discussion has been had with EFDC following the Submission of the Local Plan. Accordingly, the specific arrangement of development within the site has been altered, as it is agreed that part of the site performs well in landscape terms (app.1 pp.4-5 column 5 – Proposed Site). However, to provide the landscape setting for the care home, the whole of SR-586 would need to be allocated, with criteria provided under P7 to manage landscape requirements. To date, any alteration of the Assessments to correctly score the site, or identify the developed part of the site correctly under the SSM or SP2, has not been forthcoming. Accordingly, we consider the SSR to be ineffective and unsound.
34. Not to allocate the small addition of CHIG.R5 would be contrary to the SSM; contrary to SP2; and would result in an unsatisfactory situation of redundant garden centre buildings, a car park, and a dwelling, remaining on land directly adjacent to the allocation and to new homes. There are clearly issues for health and safety, effective place making, and proper planning to consider, which has led to the subsequent submission of the active planning application in order to highlight these points.
35. Had the site been scored correctly, and the representations properly considered by EFDC the site would not have been screened out of the assessment and certainly not prior to other greenfield Green Belt sites that are identified. Given the need to identify a supply of specialist accommodation in Epping, the failure to recognise and support the specific proposal compounds those errors further.
36. Accordingly, the Assessment for SR-0586 in the SSR needs to be reassessed objectively and, if this is done, we consider the site would be found suitable for development. To clarify, our client seeks an alteration to the CHIG.R5 boundary to include the remaining built form associated with the Garden Centre, and to specify within the allocation that a 100-bed care home will be delivered alongside 65 dwellings.

**M5:I1:Q5 - Now that the site selection process is complete for the purpose of making allocations in the Plan, is it necessary to include the sequential approach within Policy SP2(A)?**

37. It is our opinion that Policy SP2(A) should remain in the Plan. It is considered that EFDC will need to identify sites to meet the specialist housing need during the Plan period, unless modifications are made to allocate sites prior to adoption. This is as a result of their proposed housing figure being increased to c. 923 units per annum as a result of the standard methodology, and the significant increase in the over 65 demographic.

## **Matter 5 Issue 4 - Viability**

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

38. Our client has no specific concerns regarding the viability of CHIG.R5 and the delivery of care facility on the excluded parcel. To confirm the viability of the proposal, a full planning application is currently under consideration for a high-quality care home operated by Signature Senior Living. The proposal accords with the modification sought to CHIG.R5 through this examination.