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Hearing Statement

Epping Forest Local Plan: Examination in Public

Matter 5, 6 and 16

Iceni Projects Limited on behalf of
Tele Lands Improvement Limited

February 2019

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Hearing Statement
EPPING FOREST LOCAL PLAN: EXAMINATION IN
PUBLIC

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1. INTRODUCTION

1.1 This Hearing Statement has been prepared on behalf of Tele Lands Improvement Limited (Lands Improvement or LI) who submitted representations to the Epping Forest Local Plan Regulation 19 Consultation and the Site Select Report Consultation.

1.2 This Hearing Statement responds to the following matters:

- Matter 5;
- Matter 6; and
- Matter 16.

2. MATTER 5: SITE SELECTION METHODOLOGY AND THE VIABILITY OF SITE ALLOCATIONS

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

Question 1: How was the initial pool of sites for assessment identified? How was the Site Selection Methodology (SSM) utilised in the Site Selection Report 2018 (EB805) established and is it robust? What is the relationship between the SSM and the sequential approach to site selection set out in SP2(A)? Was any other evidence taken into account in the site selection process?

- 2.1 Lands Improvement considers that the Site Selection Methodology (SSM) and the sequential approach identified in the SVLP is not robust given the poor spatial strategy proposed, the amount of missing information and evidence base documentation, and conflicts between the SSM and the sequential approach. Each component is outlined below.

Spatial strategy

- 2.2 The SSM does not assist in delivering a sustainable spatial pattern for the District as required by Policy SP2 (Spatial Development) and SP3 (Place Shaping) which identify that the Council's intention was for growth to be located at the most sustainable locations. Figure 1.1 of the Submission Local Plan is a diagram that denotes the transport infrastructure and key settlements in the District, which provides a good starting point for locating growth. In comparison, Map 2.5 of the Local Plan shows the areas that have been proposed for Green Belt release to accommodate significant development. It is apparent from these two diagrams that there is an extremely weak level of synergy and spatial alignment between the key infrastructure/settlements and land being removed from the Green Belt to accommodate significant levels of growth. This reveals that sustainability and sound plan making was absent in key decision taking and spatial choices at the heart of the spatial strategy presented in the SVLP Plan.
- 2.3 Furthermore, when considering the spatial strategy for Epping Town itself, the Site Selection Report (EB805) identifies that amendments were made from Regulation 18 to Regulation 19 version of the Local Plan for the following reason:

"Focus on non-urban brownfield sites to the south of the settlement ensured greater alignment with the emerging Neighbourhood Plan and provided greater critical mass and potential for new and improved infrastructure."

2.4 As we have previously identified in our Regulation 19 Representations and Hearing Statements for Matter 1, this approach is unlawful and unsound, as it is not appropriate to have a Local Plan led by a Neighbourhood Plan, given the evidence base for a Neighbourhood Plan has not been derived through evidence of environmental performance and sustainable development. It is unlawful for a Local Plan to seek conformity with a lower order plan that is legally required¹ to be in general conformity with the Local Plan which has a significantly higher examination threshold.

2.5 Furthermore, the Draft Epping Town Neighbourhood Plan was not publicly available at the time the Site Selection Report was published (in March 2018) and therefore the spatial strategy for Epping Town at that time had not been defined or published.

Missing Supporting Documentation and Evidence Base

2.6 Whilst the SSM correctly identifies that the site selection process must be informed by a Sustainability Appraisal (SA) and Habitat Regulations Assessment (HRA), it is noted that at the time of preparing the Site Selection Report, the only evidence with respect to the Habitat Regulation Assessment was a Scoping Document, not a full HRA. The full HRA wasn't prepared until February 2019. As identified in our Matter 1 Hearing Statement, we have significant concerns regarding the Sustainability Appraisal and HRA. Therefore, we have significant concerns regarding the ability for the Site Selection Report to rely on the findings of these documents and to appropriately assess potential sites on this basis.

Availability/Deliverability

2.7 The Site Selection Report (**EB805**) relies heavily on the 2016 Land Promotion Survey and the 2016 representations to the Regulation 18 Draft Local Plan to assess the availability and deliverability of sites but makes no allowance for any change of ownership.

2.8 It is noted that the Site Selection Report was published in March 2018. In mid 2017, when Lands Improvement acquired a significant portion of land to the west of Epping Town, they approached the Council to advise them of the change of ownership and also advised them of their intention to deliver the relocation and redevelopment of the Epping Sports Club on Land to the East and West of Bury Lane, SR-0132Ci. This information has not been included in the site selection process, nor has any of their consultant team engaged with Lands Improvement or their agents to determine the potential viability of the proposal. Therefore, the Site Selection Report relies on out-of-date information with respect to deliverability, particularly in respect to site SR-0132Ci.

¹ Under Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990

2.9 Conflict between SSM and sequential approach

2.10 It is noted that Criteria 4.3 and 3.1 of the SSM (identified in **EB805K**) only allows a site to score positively if it improves access to open space and if it doesn't involve the loss of public open space. According to the SSM criteria, sites which result in the loss of public open space should be scored poorly and should not be allocated for housing. This is directly at odds with the proposed sequential approach which will consider the allocation of new homes on open space that would not "adversely affect open space provision within a settlement". This is a clear conflict with the SSM criteria.

2.11 It is also unclear how the Jessel Green Masterplan Area (Allocation LOU.R5) has demonstrated that the allocation would not "adversely affect open space provision" given the significant community objection to the loss of this green space.

Q2: How were the conclusions reached about individual sites checked for accuracy and consistency? Were sites visited or they assessed through a desk-top 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)

Q3: As raised in Matter 1, Issue 2, some sites which were proposed for allocation in the Regulation 18 version of the Plan are not proposed in the Regulation 19/submitted version and vice versa. Is this due to changes in the site selection process, or something else? Are the different conclusions reached about the relevant sites fully explained and justified?

2.12 I do not consider that the conclusions reached about individual sites were checked for accuracy and consistency, particularly with respect to site SR-0132Ci, Land to the East and West of Bury Lane (Epping Sports Club), nor are they fully explained and justified.

2.13 Appendix B1.6.6 (**EB805P**) notes that the SR-0132Ci was removed from the SVLP for the following reasons:

"This site was proposed for allocation in the Draft Local Plan (2016). However, responses received through the Regulation 18 Draft Local Plan consultation indicated that the site is less preferred by the community. It was considered that other sites in Epping were more preferable in terms of their overall deliverability, noting the timescales for the availability of this site and its more marginal viability. If the alternative sites in Epping were allocated they would cumulatively provide the desired growth in the settlement and better support the Epping Neighbourhood Plan. The site is not proposed for allocation."

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- 2.14 There are clear inaccuracies with this statement, as identified below, which were never raised with the land owner or their agents.

Community Preference

- 2.15 Appendix B1.4.3 (**EB805G**) of the Site Selection Report provides the summary of community feedback of broad groupings of sites from the Issues and Options Consultation, it does not consider the individual sites identified in the Regulation 18 Consultation, but is seemingly relied upon to make decisions about community preference for individual sites. This is clearly not a robust assessment of community preference for individual sites.
- 2.16 With respect to site SR-0132Ci, it is noted that the Regulation 18 Draft Local Plan did not mention the relocation of the Epping Sports Club to Land to the West of Bury Lane and appeared to the public as the complete loss of this facility. LI contend that the community were not appropriately informed of the proposed development option (ie. relocation of the Epping Sports Club) such that a majority of the objections against the proposed allocation from Regulation 18 related to the loss of the sports facilities entirely and therefore, that the weight of these objections has been unfairly applied to the Site Selection Report/site selection process.
- 2.17 The Council received 3,387 responses from 3,072 respondents on the Regulation 18 Consultation for the Draft Local Plan in 2016. Of the total submissions received, 86 relate to the subject site (SR-0132Ci). An assessment of these submissions showed that three (3) respondents supported the draft allocation on the basis that the sports facilities were rebuilt. Whilst 83 objected to the allocation, sixty (60) of these objected to the complete loss of the Epping Sports Club questioning where sports facilities for Epping would be located. Clearly, this demonstrates that the majority of respondents were not aware of the proposal to relocate the Epping Sports Club to the Land to the West of Bury Lane, or that this re-provision would provide brand new facilities and enable expansion of the sports clubs currently using the Epping Sports Club. The remaining 23 objections predominantly related to traffic and development in the Green Belt. These 23 objections represent only 0.7% of the submissions received for the Draft Local Plan.
- 2.18 This evidence shows that the loss of sports facilities is less than preferable to residents of Epping, not that the site itself is less preferable for development when compared to other allocations in Epping that are also in the Green Belt, with similar constraints such as access. Therefore, the removal of this allocation is not justified on the basis of community objection.

Viability and Availability

- 2.19 Stage 6.4 Deliverability of SSM it identifies the following considerations were taken into account when identifying sites for allocation:

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- *“The findings of the availability and achievability assessment including the likely timescales for sites coming forward in accordance with those matters identified in Paragraph 4.42 and the need to provide flexibility in supply in accordance with paragraph 47 of the NPPF.*
 - *The Council’s existing housing trajectory including five year land supply and the scale of residual land demand.*
 - *The size of the sites taken forward including whether there are sufficient small sites identified to comply with the emerging policy requirement set out in DCLG’s Housing White Paper where at least 10% of sites allocated for residential development should be sites of half a hectare or less.*
 - *Those sites in each settlement which are considered most appropriate to achieve settlement visions.*
 - *The findings of any transport, infrastructure or HRA sensitivity testing.”*

2.20 As we identified in our Regulation 19 Representations a significant amount of transport and air quality work was not available to support the Local Plan during the completion of the Site Selection Report (March 2018). Indeed, an updated Highways Report and HRA was only made available in January/February 2019. Despite significant reservations and objections regarding this recently released documentation, these could not have been used to inform the site selection process in accordance with the stated methodology.

2.21 With respect to site SR-0132Ci, it is noted that this wasn’t removed for any of the reasons identified in Paragraph 4.86 of EB805AK. It appears that the availability, marketability and viability assessment of the proposal/draft allocation within the Site Selection Report (and associated appendices) was taken from the 2016 Landowner Survey and from the previous landowner/site promoter’s Regulation 18 Representations to the Council, which states:

“Our client supports the allocation of site SR-0132Ci in Policy P1. This will enable the redevelopment of the existing Epping Sports Club site for residential purposes and in turn, the development of new modern sports pitches and facilities for the Club on the opposite side of Bury Lane. This has clear planning and sporting benefits for the town as a whole. However, as the former will be used to fund or cross substitute the latter, it will be necessary to agree a lower or no affordable contribution to ensure that the development of site SR-0132Ci remains viable.”²

² Stakeholder ID: 4884, Oliver Spencer (on behalf of ADT Fletcher & The Red Trust)

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- 2.22 This wording is reflected in Appendix B1.6.4 Results of the Capacity and Stage 4/6.4 Deliverability Assessments of the Site Selection Report, but there is no assessment of the viability by the Council using their own evidence base.
- 2.23 Furthermore, LI acquired the site in 2017 and therefore did not have the opportunity to participate in the 2016 Land Promotion Survey or provide representations to the Regulation 18 Draft Local Plan. However, in October 2017, wrote to the Council confirming their intention to develop the site, including the relocation of the existing sports club. This correspondence was not acknowledged by the Council, nor did the Council contact LI, or their agent, to confirm the viability of the proposal.
- 2.24 Given the change in ownership, it is unreasonable for the 2018 Site Selection Report to rely on the 2016 Land Promotion Survey and previous representations to the 2016 Draft Local Plan to assess the availability and marketability of this site. LI advised the Council of their intention to progress with the redevelopment of this site, it is available and was actively being marketed for redevelopment, as evidenced by the correspondence with the Epping Sports Club, Essex Cricket Board and Sports England. LI have considered the viability of the proposal and confirm that it is viable. The site is therefore available and viable and should have passed the tests of Stage 4/6.4 to enable allocation within the Local Plan.

Cumulative Growth for Epping

- 2.25 The final justification for the removal of the allocation, was that other allocations could cumulatively provide the desired growth for Epping Town. However, it is apparent from the updated Housing Implementation Strategy (**EB410A**) that the Council cannot demonstrate a 5YHLS and is only proposing to deliver 183 homes in Epping Town in the next 5 years. This cannot constitute sustainable development, nor cumulatively delivers an appropriate growth strategy for Epping Town.
- 2.26 On this basis, we do not consider that the conclusions reached about this site were accurate, nor justified.

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

Q1: 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?

- 2.27 We have serious reservations about the viability of the SVLP allocations, given the following:
- Transport and highways - The full extent of the highways works are unknown, nor is there any certainty regarding the proposed sustainable travel works required to deliver the proposed modal

shift. Therefore, the Infrastructure Delivery Plan (IDP) does not account for all the highways mitigation works or potential sustainable transport works required to support the Local Plan.

- Air quality – The impact of the proposed allocations on air quality and existing AQMA’s has not been assessed and the IDP does not account for mitigation measures in the AQMA (as identified in Matter 16 below).
- Mitigation of recreational impacts on Epping Forest SAC - The Interim Mitigation Strategy only comprises SAMMs measures, with limited discussion of requirements for Suitable Alternative Natural Greenspace (SANGs). As this was produced after the IDP, these specific measures aren’t accounted for in the IDP. Furthermore, it is noted from The Conservators Matter 1 Hearing Statement, that the proposed SAMMs need further development and costings and therefore there is no certainty that the costs identified in the Interim Mitigation Strategy are correct or final. Furthermore, the Interim Mitigation Strategy does not consider the most effective off-site avoidance measure, Suitable Alternative Natural Greenspace (SANGs), beyond being required on the 4 x strategic allocations. It should be noted that the Interim Mitigation Strategy for Epping Forest SAC does not, at this stage, require SANG for developments outside of the Garden Town Communities and Epping South Masterplan Area. However, Table 2.1 (below) identifies the likely SANG requirements from the Strategic Masterplan sites and other allocations within the c6.2km Zone of Influence (Zol) likely to be required³. The figure for the remaining allocations is given to provide an indication of what may be required for a strategic SANG for the purpose of the SVLP, should the Full Mitigation Strategy identify the need for one. At present, in the absence of an appropriate Visitor Survey (undertaken during the summer months) and a Green Infrastructure Strategy for Epping, the Council do not have the evidence to understand the likely contributions towards SANGs required from the proposed allocations, and therefore this can’t be factored into the IDP, nor the viability for proposed allocations.

Table 2.1 Likely SANG Requirements within current Zol

Development Area	No. of New Houses	No. of New Residents	Minimum Required SANG Area
Latton Priory	1,050	2,522.1	20.18 Ha (individual on-site SANG, as identified by the Epping Forest SAC Interim Strategy)

³ Assuming the current approach to SANG within Epping is to be in line with that established as suitable for the Thames Basin Heaths SPA Avoidance Strategy (requiring 8 Ha per 1000 residents).

Water Lane Area	2,100	5,044.2	40.35 Ha (individual on-site SANG, as identified by the Epping Forest SAC Interim Strategy)
East of Harlow	750	1,801.5	14.41 Ha (individual on-site SANG, as identified by the Epping Forest SAC Interim Strategy)
South Epping	950	2,281.9	18.26 Ha (individual on-site SANG, as identified by the Epping Forest SAC Interim Strategy)
Remaining Allocations	3,080	7,398.16	59.19 Ha (likely off-site strategic SANG to serve these allocations as a whole if required)

For the purpose of the remaining allocations outside of the four Strategic Masterplan Areas, a figure of **3,080** other homes has been utilised. This has been calculated using the EB410B Housing Implementation Strategy Update 2019 and discounting the approximate quantum of residential development that falls beyond the 6.2km Zol for Epping Forest, and any Garden Town Communities areas that fall within the 6.2km Zol but are to provide SANG. Calculated as follows:

- Allocation sub-total (based on LP Capacity Figures): 5,916
- Total housing number within Garden Town Communities to be discounted (North Weald Bassett and South Epping): 2,100
- Smaller allocations noted as falling beyond 6.2km from Epping Forest SAC (approximate; includes Roydon, Ongar and Sheering): 736
- Therefore, $5,916 - (2,100 + 736) = 3,080$

If there are updates to the Zol as a result of the Summer Visitor Survey, then the above figures may require updating.

2.28 In the absence of the information identified above, we do not consider that there is sufficient information to determine that at a strategic level the SVLP allocations are broadly viable.

3. MATTER 6: HOUSING SUPPLY, INCLUDING SOURCES OF SUPPLY; THE HOUSING TRAJECTORY; AND THE FIVE YEAR SUPPLY

Issue 1: Will the Plan provide a land supply sufficient to deliver the housing requirement of at least 11,400 dwellings over the Plan period?

Q4: In determining the contribution of allocated sites to the housing land supply, how have site densities been worked out? Is there any general risk that the capacity of sites has been overestimated?

- 3.1 Whilst there is a detailed methodology set out in the Site Selection Report (Appendix B1.5.3, **EB805J**) for how site capacity has been calculated, it is noted that the Site Selection Report (**EB805**), and associated appendices, were finalised in March 2018, prior to the development and release of the Interim Mitigation Strategy for Epping Forest SAC (October 2018) and it is unclear whether **EB805** considered the land required for the provision of Suitable Alternative Natural Greenspace (SANGs) within the Garden Town Communities of Latton Priory, Water Lane and East Harlow, or within the South Epping Strategic Masterplan Area.
- 3.2 Whilst Policy SP5 (Garden Town Communities) of the SVLP identifies that Latton Priory, Water Lane and East Harlow allocations are required to deliver “strategic green infrastructure”, there is no policy or evidence base which determines what quantum of SANG is required. Furthermore, it is noted that Policy P1 in relation to the South Epping Masterplan Area makes no such provision for strategic green infrastructure in this location.
- 3.3 Assuming the current approach to SANG within Epping is to be in line with that established as suitable for the Thames Basin Heaths SPA Avoidance Strategy (requiring 8 Ha per 1000 residents), the approximate SANGs area required for each of the Garden Town Communities (Latton Priory, Water Lane Area, East of Harlow) and for the South Epping Masterplan Area are provided in Table 3.1, based on the number of estimated new residents as a result of proposed site allocations.

Table 3.1 Likely SANG requirement for Strategic Masterplan Areas

Development Area	No. of New Houses (as per SVLP Allocation)	No. of New Residents⁴	Minimum Required SANG Area
Latton Priory	1,050	2,522.1	20.18 Ha (on-site SANG)
Water Lane Area	2,100	5,044.2	40.35 Ha (on-site SANG)
East of Harlow	750	1,801.5	14.41 Ha (on-site SANG)
South Epping	950	2,281.9	18.26 Ha (on-site SANG)

- 3.4 It is unclear whether the capacity assessments in Appendix B1.6.4 (**EB805N**) make allowance for the likely significant land up take required for SANGs and therefore may overstate the land available for residential development and the capacity of these allocations.
- 3.5 Furthermore, research to establish an appropriate Zone of Influence for recreational pressure on Epping Forest SAC has not been undertaken (a Visitor Survey is required to be undertaken in the summer months) and therefore a full Mitigation Strategy to manage the impacts on Epping Forest SAC has not yet been developed. It is therefore possible that other allocated sites may require SANG provision which would not have been addressed within the Site Selection Report (**EB805**) and therefore wasn't tested in the capacity assessments.
- 3.6 It is clear that further work is required to determine the full scope of the impact on Epping Forest SAC and the likely mitigation measures that are required of developments and allocations within the SVLP. Until such time as a Green Infrastructure Strategy is developed for the District, there is a high degree of uncertainty about the land up take for SANGs requirements and therefore a high degree of uncertainty over the capacity assessments (**EB805N**) within the Site Selection Report (**EB805**).
- 3.7 In addition to the above, with respect to the South Epping Masterplan Area, Policy EP 1 requires this allocation to deliver significant additional infrastructure (neighbourhood centre, primary school, early

⁴ To calculate the number of residents, the 2.402 persons per dwelling figure from the Strategic Housing Market Assessment (July 2017) for 2011, has been used.

years childcare and health facilities) however the capacity assessment in Appendix B1.6.4 (EB805N), whilst fragmented over different land parcels, note that the site/s are assumed for residential development only and makes not adjustment for any mixed use. In addition, we note in the Statement of Common Ground, it is noted the Essex County Council also object to the fact that the proposed school area (2.1ha) has not been identified within the mapping for the South Epping Masterplan Area (ED10B). It is therefore unlikely that this proposed school area (2.1ha) has been taken out of the residential land update in the capacity assessments for this allocation (EB805N). Therefore, in combination with the requirement for SANGs outlined above, it appears that the capacity of the South Epping Masterplan is likely to be overstated.

Issue 2: Will the Plan ensure that there is a reasonable prospect of a five-year land supply being achieved upon adoption and throughout the lifetime of the Plan as required by paragraph 47 of the NPPF?

Q1: What is the five-year supply requirement upon adoption of the Plan having particular regard to the following:

- a. With a requirement to provide 11,400 dwellings over the 22 year Plan period 2011-2033, the annualised housing requirement would be 518 dwellings. What is the shortfall in delivery since the start of the Plan period (up to 31 March 2018 if appropriate); and how and over what period is it intended to make up for this? Is it justified not to seek to recover the shortfall within the first five-year period after the Plan is adopted?
 - b. What buffer should be included in the five-year supply requirement (moved forward from later in the Plan period) to ensure choice and competition in the market for land? Is the relevant buffer justified? The Housing Trajectory in Appendix 5 indicates that 5% has been added to the annualised requirement for every remaining year of the Plan period. Why is this?
- 3.8 With an annualised housing requirement of 518 dwellings, the dwelling yield up to 2018 is for 3,626 dwelling. With 1,856 completions over this period, this results in a shortfall of 1,770 dwellings over this period, meeting only half of the Districts housing need during that period.
- 3.9 This shows persistent under-delivery in the District. The updated Housing Implementation Strategy (EB410A) identifies that the 5% buffer has been utilised. However, on the back of seven years of undersupply, we contend that this represents persistent undersupply and we consider that a 20% buffer should be applied.
- 3.10 The updated Housing Implementation Strategy (EB410A) identifies that the Council will be unable to achieve a 5YHLS upon adoption of the plan and they propose a stepped approach suggesting that these numbers will be made up later in the plan period. The proposed stepped approach however

means that the Council will continue to under-deliver against their OAN up until 2023, allowing the delivery shortfall to grow over a total of 12 years. In the next five years, the Council identifies that only 183 homes are going to be delivered in Epping Town, one of the most sustainable locations in the District (**EB410B**).

3.11 We do not consider this approach is sound, given that Paragraph 47 of NPPF 2012 requires LPAs to identify a supply of specific sites to meet housing need. The fact that the Council has chosen not to address their five-year housing land supply, nor boost the short term supply in the most sustainable locations in the District, is puzzling, especially considering that the Council had a spatial strategy within the Regulation 18 Local Plan which was more aligned to improve housing delivery as quickly as possible, through a reliance on smaller more deliverable allocations.

3.12 It is not justified to delay the delivery of housing in this District even further and we consider that the re-allocation of sites removed from Regulation 18 to Regulation 19 versions of the Local Plan would be an appropriate place to start, given these have already been partially assessed by the Council. Failing that, a further call for sites should be undertaken to identify how alternative sites could deliver the required homes in the short term.

Q2: On the basis of the answer to Question 1, will there be a five-year housing land supply on adoption of the Plan? What evidence is there to support this? In particular:

a. **If the Plan is not adopted until mid-late 2019, is it realistic to expect allocated sites to start delivering in 2018/19 and 2019/20?**

b. **Is it realistic to rely upon sites requiring the adoption of a Strategic Masterplan, including the Garden Town Sites, for the five year supply?**

3.13 Given the significant known infrastructure requirements (and unknown in the case of SANG provision), it is not considered realistic to rely on sites requiring the adoption of a Strategic Masterplan to be included within the five year supply.

3.14 According to the housing trajectory in the updated Housing Implementation Strategy (**EB410B**) there are a total of 286 dwellings from Masterplan sites identified within the 5YHLS. Removing these from the total dwellings proposed within the 5YHLS, this leaves 1,176 dwellings suggested will be delivered up to 2023.

3.15 Using the annual requirement of 518 dwellings, their 5YHLS target is 2,590 homes. These leaves a shortfall over the next five years of 1,414 homes and only represents a delivery of 45% of the OAN for the five year period. This level of shortfall is clearly unacceptable and measures to rectify this position are recommended, in accordance with our response to Q1 above.

3.16 Therefore, the Plan isn't positively prepared as it does not meet the short-term housing requirements of the District

4. MATTER 16: DEVELOPMENT MANAGEMENT POLICIES

Issue 1: Are the Development Management Policies in the Plan justified, effective and consistent with national policy in respect of the specific matters set out below? Are there any other issues concerning their soundness?

Policy DM2: Epping Forest SAC and the Lee Valley SPA

Q3: Will Policy DM1 and DM2 taken together provide adequate protection for the whole of Epping Forest, including the Parts outside the SAC? In seeking to protect the Forest via two separate policies, is there a risk that the approach could become disjointed?

- 4.1 It should be made clear in Policy DM1, that although the overarching principles outlined within the policy are applicable to the protection of the Epping Forest SAC, Policy DM2 should be considered the pre-dominant 'go-to' policy when considering Epping Forest SAC in the context of development. In line with Natural England's comments on Policy DM1 (**234430 Epping Forest LP Pre-sub**, 26th January), Policy DM1 should set out the hierarchy of designated sites to make sure protection is commensurate with their status. This is of relevance to sites such as the Lower Forest SSSI, for which a level of protection is not currently clearly defined.
- 4.2 Furthermore, to ensure that Epping Forest SAC is adequately protected in line with emerging research and associated proposed mitigation, the interim and/or full mitigation strategy and associated prescriptive mitigation requirements for Epping Forest SAC should be referenced within Local Plan Policy DM2, to avoid current ambiguity from terminology such as 'a meaningful proportion of greenspace' identified in Policy DM2. If a standalone SPD for Epping Forest SAC or Green Infrastructure Strategy is produced, this should also be clearly signposted in policy DM2.
- 4.3 At present there is no evidence or strategy to understand what quantum of greenspace constitutes a "meaningful provision". Indeed, correspondence with Epping Forest Planning Officers (**Appendix A**) show that the Council has no clear local guidance on what constitutes "meaningful provision". There is currently no local design guide and therefore there is no certainty regarding the provision of SANG in the District. The Corporation consider that a mitigation strategy should be in operation before the Local Plan is adopted and we endorse this approach. This would provide clarity and certainty to developers in the District, as well as provide the framework for the Council to mitigate the potential impacts on Epping Forest SAC.

Q4: Is it sufficiently clear, either in the Policy or supporting text, which/where developments are likely to have a significant effect?

- a. **In Part E, is the 400m radius for requiring developments to mitigate the effects of urbanisation justified in terms of the specific likely effect upon this particular designated site?**
- b. **Is it necessary in Part C to be more specific about the Zone of Influence for recreational pressure?**
- c. **Are any specific provisions required in respect of the effects caused by air pollution?**
- d. **Is it necessary to set any exclusion zone within which no development can occur?**

4.4 At present it is not clear within either the supporting text or policy wording where a development is considered to potentially have an effect on the Epping Forest SAC or the Lee Valley SPA.

- With respect to Epping Forest SAC, specific reference should be made to the Zone of Influence (Zol) (6.2km at present in the Habitat Regulations Assessment, but may be revised after a Summer Visitor Survey of Epping Forest SAC). For robustness, reference to the Zol should be included within the Policy wording for the avoidance of doubt regarding the location in which financial contributions or mitigation requirements are required.
- With respect to Lee Valley SPA, it should be made clear if an established mitigation strategy exists, and if one does not, reference should be made to how the likelihood of an impact should be considered (i.e. through consultation with relevant consultees, namely EFDC and Natural England).

4.5 From experience, the 400m radius identified in the policy would appear to be in line with that employed to mitigate impacts that otherwise cannot be avoided on a SAC such as Epping Forest. Namely, a similar 400m buffer is included in planning policy in Wealden District to protect the Ashdown Forest from otherwise unmitigable urbanisation impacts associated with development. Part E of Policy DM2 states that all planning applications within 400m of the SAC will be required to submit a site-level HRA to identify and mitigate likely significant effects. However, this should be extended to include developments within the entire Zol, and a caveat that the competent authority (ie. the LPA) is likely to undertake an Appropriate Assessment to determine that mitigation will be effective such that the proposal will not adversely impact the integrity of the SAC.

4.6 At this stage a clear mitigation strategy for air pollution, and therefore clear provisions, is not available. The SVLP is dependent on the Interim Mitigation Strategy which cannot be finalised until all the outstanding surveys (including traffic, air quality and visitor data) have been completed. Consequently, the effectiveness of proposed mitigation cannot be determined until the supporting evidence base is complete. Therefore, this work should be undertaken to inform the Local Plan and

to ensure that the measures to protect the integrity of European sites are effective and embedded in the Local Plan.

- 4.7 We are aware of an exclusion zone policy in Wealden District restricting development within 400m of Ashdown Forest SPA and SAC, to protect the Ashdown Forest from urbanisation impacts that cannot otherwise be mitigated. In the case of Epping, as stated in Policy DM2, it may be suitable to allow development within 400m of Epping Forest SAC provided a project-level HRA considering urbanisation impact pathways and how these can be effectively mitigated, is prepared. However, this matter ultimately falls to the discretion of the relevant statutory consultee, namely Natural England. As stated above, the site-level HRA must demonstrate, through completion of an Appropriate Assessment, that the mitigation proposed will be effective such that the HRA concludes that no adverse impacts on the integrity of the European designated site will occur as a result of the development proposals.
- 4.8 We consider that significant additional work is likely required to understand and deliver the appropriate mitigation for Epping Forest SAC and until such time as this work is completed, it raises questions as whether Policy DM2 is justified, effective or consistent with national policy. It is therefore recommended that further evidence base work is undertaken by the Council to understand the Zol and prepare a Green Infrastructure Strategy for Epping.

Q5: In practice, how will the mitigation sought by Part D be secured? If financial contributions are required, is this clear in the policy?

- 4.9 Without a Green Infrastructure Strategy for Epping, it is unclear what constitutes a “meaningful proportion of Natural Green Space” or how it will be secured. As a result, this is not identified in the Infrastructure Delivery Plan or Open Space Assessments which accompany the SVLP. As identified at Appendix A, Council Officers are also not aware of what constitutes a “meaningful proportion of Natural Green Space” and we therefore question the deliverability of this on a site by site basis. As currently written, this policy will not be effective in delivering the significant benefits to the Epping Forest SAC that SANGs can deliver. Further work is required as identified above.

Policy DM3: Landscape Character, Ancient Landscapes and Geodiversity

Q6: Is the wording of the policy itself sufficiently detailed to be effective in protecting the landscape from significant harm? Should it, for example, incorporate some of the requirements of the supporting text (such as that of paragraph 4.31); and is it clear about what will be expected of developments on the edge of settlements? (reps TBPC)

- 4.10 Policy DM3 includes a requirement to take ‘existing landscape features’ into account but does not include for any specific analysis and assessment of those landscape features. Landscape features can detract from landscape character or can be integral to defining it. Confirming what the Policy defines as ‘landscape features’ will provide greater detail to be effective to protecting or enhancing such features, and what is acceptable to remove. Furthermore, text such as ‘careful landscaping of

the site' and 'landscapes of interest' is ambiguous and also needs further definition. Including text from Paragraph 4.31 to reference specific published SPD will ensure an evidence-based design steer.

- 4.11 Regarding settlement edge locations, Policy DM3 does not set out the requirements for townscape character assessment and is not clear what will be expected of developments on the edge of settlements.

Policy DM5: Green and Blue Infrastructure

Q9: Should Part A (i) require designs to have regard to improving the connectivity of habitats? (EA Reps)

- 4.12 Yes, this policy should require designs to have regard to improving the connectivity of habitats, with reference back to Policy DM1 (A) and (B). This will also bring policy DM5 in line with Paragraph 117 of NPPF 2012 to promote the preservation, restoration and re-creation of ecological networks and Paragraph 109 to provide net gains in biodiversity.

Policy DM6: Designated and Undesignated Open Spaces

Q10: Having regard to paragraph 73 of the NPPF, has a robust assessment of the need for open space, sports and recreational facilities been carried out? Is it justified to base the requirements upon nationally adopted standards rather than local ones and should the appropriate standards be set out in Policy?

- 4.13 We understand from the Epping Sports Forum that a number of sports clubs in the District were not approached by 4Global during the development of the open space, playing pitch and built facilities reports and therefore these documents do not reflect the realities and difficulties associated with sporting provision in Epping on the ground. We understand that a number of sports clubs have significant issues with accommodation and are severely constrained by the lack of up-to-date sporting infrastructure, signalling a clear need for new sports and recreation provision in the District.
- 4.14 Local standards should be used as a baseline to understand the provision ratios for existing residents at present and to determine how the proposed allocations will contribute to or reduce local supply. We therefore consider it appropriate to include local standards in the assessment of open space, sport and recreation needs.
- 4.15 Part A of Policy DM6 states that "where appropriate development proposals will be required to provide open space..." This is ambiguous and provides no certainty as to the likely requirements for open space and sport/recreation infrastructure. We consider that appropriate standards should be set out in the policy to provide certainty and clarity for future developments.

Q11: Which policy in the Plan deals with needs for built facilities for sport and recreation, rather than open space?

- 4.16 There is no policy in the SVLP which deals with built facilities for sport and recreation and it is unclear how this is expected to be delivered in the District without policy support for this infrastructure. This infrastructure is crucial to maintaining healthy lives and therefore should be included within the SVLP.

Q12: In Part A, is it intended that financial contributions could be sought towards open space provision? If so, is this clear?

- 4.17 The SVLP is very unclear with respect to the quantum of open space and recreational infrastructure that is likely to be required by a proposed development, nor how the District's requirement for this infrastructure will be achieved if it is not delivered on allocated sites. Further policy is required to clarify this position.

Q13: In Part B, is it justified for either B(i) or B(ii) to apply rather than both? By what standard would it be decided that an open space was surplus to requirements?

- 4.18 It is not justified for either B(i) or B(ii) to apply rather than both, as hypothetically whilst an area may have surplus open space (under B(i)), it may be highly accessible, and its loss could result in portions of the population not being able to readily access open space. In this regard, it is recommended that B(i) and B(ii) are combined. Furthermore, it is not clear how an open space is decided to be 'surplus to requirement'. In this regard, we note that the Jessel Green Masterplan area has attracted significant community objection, with The Conservators noting the likely recreational impact to Epping Forest SAC that will likely result due to this loss of open space. Therefore, we cannot see how this open space could currently be considered surplus to requirement.

DM22: Air Quality

Q44: Are any specific provisions required for proposals within the Bell Common Air Quality Management Area (AQMA)?

- 4.19 The Council has not published its 2018 Annual Status Report (ASR) on air quality, which is a statutory requirement (the reports are published on the Essex Air website: [http://www.essexair.org.uk/AQinEssex/LA/EppingForest.aspx?View=reports&ReportType=EPPING FOREST](http://www.essexair.org.uk/AQinEssex/LA/EppingForest.aspx?View=reports&ReportType=EPPING_FOREST) and the latest one available is for 2017, which presents 2016 data). The 2018 ASR, if available, would provide up-to-date information on air quality in the AQMA in Epping and on the Action Plan to improve air quality in the AQMA. Without this information, any judgements on the air quality impacts in Epping are based on outdated information.
- 4.20 The out of date 2017 ASR presented data on air quality in the AQMA for the period 2011 to 2016 in Figure A.1 (page 18 of the ASR). This suggests an improving trend in air quality. However, this is entirely misleading, as the Council moved the monitoring site in 2015 to a location away from the sensitive receptor, for which the AQMA was declared, to a more open location with lower concentrations. The reduction seen in 2015 and 2016 is due to this move and not due to improved

-
- air quality. The Council states that *“Monitoring at the original location on the façade of “Bell Vue” was resumed in January 2017.”* (page 4 of the ASR, 1st para). The results for 2017, when they are made available, are likely to be close to those prior to 2015, and would thus show little or no improvement of air quality in the AQMA. Concentrations in the AQMA are thus likely to still be well above the statutory air quality objective.
- 4.21 The Council’s Action Plan for the AQMA was established in 2012, but the Council recognises that it *“requires updating”* (page 4 of the ASR, 3rd para). The Council reviewed progress with its Action Plan in Section 2.2 of the ASR (pages 4 to 7) and it is clear that there has been no progress with the action plan, with the Council recognising *“that further additional measures not yet prescribed will be required in subsequent years to achieve compliance and enable the revocation of AQMA No.2 at Bell Common, Epping.”* (page 6 of the ASR, 2nd para). There is no evidence that the Council has done any further work to address the air quality problem in the AQMA at Bell Common to allow this revocation.
- 4.22 Paragraph 4.161 (page 111) of the SVLP recognises the that air quality is an important consideration in the plan making process, stating: *“Local Plans can affect air quality in a number of ways, including through what development is proposed and where, and the encouragement given to sustainable transport. Therefore, in plan making, it is important to take into account air quality management areas and other areas where there could be specific requirements or limitations on new development because of air quality.”*
- 4.23 The SVLP is currently proposing to allocate 950 residential dwellings, a new neighbourhood centre (including community facilities, employment and retail uses), a new primary school and early years childcare, new health facilities and Suitable Alternative Natural Green Space on land to the South of Epping, EPP.R1 and EPP.R2. These uses will generate significant additional traffic through the AQMA at Bell Common. However, the Council has not addressed the implications on this growth on air quality within the AQMA, which will inevitably worsen. No assessment or evidence has therefore been provided as to the implications of the allocations in the SVLP on the Bell Common AQMA. The air quality monitoring presented in the HRA published in January 2019 (**EB209**) does not cover air quality in Epping and associated AQMAs, it just deals with air quality in the Epping Forest SAC.
- 4.24 In the absence of this evidence, the SVLP and the proposed allocations are not justified or effective, as there is no robust or credible evidence to demonstrate that air quality in the Bell Common AQMA won’t get worse as a result of the proposed allocations. Furthermore, this does not align with the Council’s stated objective of revoking the AQMA at Bell Common identified in the ASR (as identified in Paragraph 4.13 above), which is an obligation on the Council under the Environment Act 1995 (Section 84).

-
- 4.25 It is therefore considered that significant additional work is required to understand the traffic and air quality implications of the allocations within the Bell Common AQMA.

Q45: Is it necessary to designate any further AQMAs in order to protect the health of residents across the whole of the District away from Epping Forest SAC? What would be the trigger and the process for designating further AQMAs?

- 4.26 As noted above, apart from providing air quality monitoring data for Epping Forest SAC, the Council has not provided any information or evidence regarding air quality impacts as a result of the proposed allocations within the SVLP. Therefore, it is unclear if any further AQMAs may need to be identified. It is important for the Council to deliver its Annual Status Report on air quality to inform the Local Plan assessment and for the Council to assess the implications of the additional traffic arising from the Local Plan on air quality within the district.
- 4.27 Air quality impacts have wide reaching implications, beyond AQMAs, with implications on Epping Forest SAC and should have been considered early in the Plan making process. It is considered that significant additional work is required to understand the traffic and air quality implications of the allocations within the SVLP to determine if further AQMAs are required.

A1. EMAIL CORRESPONDENCE WITH EFDC REGARDING OPEN SPACE

From: [Tai W. Tsui](#)
To: [Nathan Jenkinson](#)
Subject: RE: FAO Tai Tsui: Query on Policy DM2 Submission Version Local Plan 2017
Date: 26 June 2018 11:37:54
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

Sorry Nathan for not getting back to you earlier.

The short answer is – there is currently no clear local guidance. I checked with my DM colleagues and the current working practice is that we will look at each planning application on a case by case basis and you will probably be able to get some more detailed advice from us through the pre-app process.

The Council is looking to produce a local design guide which could provide further guidance over this matter but there is no clear timetable for this project as the priority is to get the Local Plan through in the first place.

Regards

Tai Tsui

Planning Policy Projects Officer | Planning Policy | 01992 564547
Epping Forest District Council | Civic Offices | 323 High Street | Epping | Essex | CM16 4BZ

Please note our reception opening times are now: 9:00am - 1:00pm

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[Development Control](#) - Development Planning Applications and Planning Enforcement

[Building Control](#) - Contaminated Land and Dangerous Structures

[Countrycare](#) - Epping Forest District Council's award winning Countryside Management Service.

From: Nathan Jenkinson [mailto:nathan.jenkinson@tylerrange.co.uk]
Sent: 26 June 2018 11:26
To: Tai W. Tsui
Subject: RE: FAO Tai Tsui: Query on Policy DM2 Submission Version Local Plan 2017

Hi Tai,

Please can you let me know your thoughts on the below.

Thanks,

Nathan



Nathan Jenkinson MSc BSc (Hons) ACIEEM

Senior Ecologist

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From: Nathan Jenkinson
Sent: 25 May 2018 16:10
To: Tai W. Tsui <ttsui@eppingforestdc.gov.uk>
Subject: RE: FAO Tai Tsui: Query on Policy DM2 Submission Version Local Plan 2017

Hi Tai,

Thanks for providing clarity on Policy DM2.

I note that you have not addressed my last point, namely:

'Can you please provide me with some recent examples of developments within the district that have been approved and have provided greenspace within the development footprint. As the Submission Version of the plan is not yet adopted, the provision of greenspace is covered by adopted local plan policy **POLICY DBE7- PUBLIC OPEN SPACE**, which states that:

'New residential developments on large sites will be required to provide public open space which is:

- i. *appropriate to the scale of the development; and*
- ii. *of adequate size and suitably located within the public space network.'*

I am aware that this policy may not be directly transposed to new developments that come forward once the Submission Version 2017 of the local plan becomes adopted, but at this stage it would be useful to know what the precedent is for the District's expected greenspace quantum within developments that have been approved recently.'

Kind regards,

Nathan



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From: Tai W. Tsui <tsui@eppingforestdc.gov.uk>
Sent: 25 May 2018 12:55
To: Nathan Jenkinson <nathan.jenkinson@tylerrange.co.uk>
Subject: RE: FAO Tai Tsui: Query on Policy DM2 Submission Version Local Plan 2017

Hi Nathan,

I have checked with my colleague and I am afraid that the situation is the same as I referred to before. In essence, there is no prescribed standard and open space provision will be negotiated for individual application based on their own merit. The Council is looking to produce a design guide but it is unlikely that this will be done any time soon. My DM colleague advised that you may be able to get some more clarity through pre-process where we can have a closer look on any draft proposals.

Regards
Tai

Tai Tsui

Planning Policy Projects Officer | Planning Policy | 01992 564547
Epping Forest District Council | Civic Offices | 323 High Street | Epping | Essex | CM16 4BZ

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From: Nathan Jenkinson [<mailto:nathan.jenkinson@tylerrange.co.uk>]
Sent: 24 May 2018 14:00
To: Tai W. Tsui
Subject: RE: FAO Tai Tsui: Query on Policy DM2 Submission Version Local Plan 2017

Hi Tai,

Thanks for letting me know. Do you know when I can expect an update?

Thanks,

Nathan



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From: Tai W. Tsui <tsui@eppingforestdc.gov.uk>
Sent: 24 May 2018 13:50
To: Nathan Jenkinson <nathan.jenkinson@tylerrange.co.uk>
Subject: FW: FAO Tai Tsui: Query on Policy DM2 Submission Version Local Plan 2017

Hi Nathan,

Just want to say I haven't forget about you. I am current seeking further advice from my colleagues in development management and will get back to you once I have received the necessary information.

Regards
Tai Tsui

Planning Policy Projects Officer | Planning Policy | 01992 564547
Epping Forest District Council | Civic Offices | 323 High Street | Epping | Essex | CM16 4BZ

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[Countrycare](#) - Epping Forest District Council's award winning Countryside Management Service.

From: LDFconsult

Sent: 18 May 2018 16:40
To: Tai W. Tsui
Subject: FW: FAO Tai Tsui: Query on Policy DM2 Submission Version Local Plan 2017

From: Nathan Jenkinson [<mailto:nathan.jenkinson@tylerrange.co.uk>]
Sent: 18 May 2018 12:55
To: LDFconsult
Cc: Aaron Grainger; Jack Jewell
Subject: RE: FAO Tai Tsui: Query on Policy DM2 Submission Version Local Plan 2017

Hi Tai,

Further to my email earlier this week, I would appreciate your thoughts on the below.

Kind regards,

Nathan



Nathan Jenkinson MSc BSc (Hons) ACIEEM

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From: Nathan Jenkinson
Sent: 16 May 2018 15:38
To: ldfconsult@eppingforestdc.gov.uk
Cc: Aaron Grainger <aaron.grainger@tylerrange.co.uk>; Jack Jewell <j.jewell@tylerrange.co.uk>
Subject: FAO Tai Tsui: Query on Policy DM2 Submission Version Local Plan 2017

Hi Tai,

Thanks for taking my call earlier regarding Policy DM2 of the Submission Version 2017 Local Plan for EFDC.

As we discussed, my call was regarding Policy DM2 Part D, namely the requirement for development to 'ensure the provision of a meaningful proportion of Natural Green Space or access to Natural Green Space'. I would like to know:

- what a 'meaningful proportion' of greenspace may be considered to be, as a quantitative measure; and
- whether the greenspace provision for a particular development is expected by the council to be within the development parcel, or whether it can be accommodated on adjoining/nearby greenspace, thereby reducing the loss of development quantum within a parcel.

You mentioned that you could not define 'meaningful' at this time, and that on this point the local plan had not gone into enough detail. I do note that the policy goes on to list the forms this greenspace provision may take, which appears to have been based on the Natural England ANGSt guidance (link here http://webarchive.nationalarchives.gov.uk/20140605111422/http://www.naturalengland.org.uk/regions/east_of_england/ourwork/gi/accessiblenaturalgreenspacestandardangst.aspx). As such, could 'meaningful' be drawing on the greenspace provisions mentioned in the ANGSt guidance, namely that 'everyone, wherever they live, should have accessible natural greenspace':

- of at least 2 hectares in size, no more than 300 metres (5 minutes walk) from home;
- at least one accessible 20 hectare site within two kilometre of home;
- one accessible 100 hectare site within five kilometres of home; and
- one accessible 500 hectare site within ten kilometres of home; plus
- a minimum of one hectare of statutory Local Nature Reserves per thousand population.'

From the above ANGSt guidance, can you provide a minimum greenspace requirement per 1000 residents that will be expected by EFDC within developments in the district?

You also mentioned that the council is in the process of preparing a guidance note on how developers will be expected to mitigate for Epping Forest SAC. Can you please provide more information on whether this guidance note will define the quantum of greenspace provision and when the guidance note is likely to be accessible?

Lastly, can you please provide me with some recent examples of developments within the district that have been approved and have provided greenspace within the development footprint. As the Submission Version of the plan is not yet adopted, the provision of greenspace is covered by adopted local plan policy **POLICY DBE7- PUBLIC OPEN SPACE**, which states that:

'New residential developments on large sites will be required to provide public open space which is:

- i. appropriate to the scale of the development; and
- ii. of adequate size and suitably located within the public space network.'

I am aware that this policy may not be directly transposed to new developments that come forward once the Submission Version 2017 of the local plan becomes adopted, but at this stage it would be useful to know what the precedent is for the District's expected greenspace quantum within developments that have been approved recently.

Thanks for your help on the above and I look forward to hearing from you.

Best,

Nathan



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