



Epping Forest Local Plan

Examination in Public

Hearing Statement

on behalf of

Miller Homes

Week 4

Matter 16 – Development Management Policies

February 2019



INTRODUCTION

1. This Hearing Statement has been prepared by Andrew Martin – Planning (AM-P) on behalf of Miller Homes.
2. Miller Homes controls 249.7 hectares (ha) of land, bounded by Gilden Way / Sheering Road, the M11, Church Langley and New Hall Farm, to the east of Harlow. Of this 121 ha of land falls within Epping Forest District to the north of Moor Hall Road and the remaining 128.7 ha within Harlow District to the south of Moor Hall Road.
3. The northern part of the site (allocation ref. SP5.3) is allocated in Policy SP5 of the Epping Forest Local Plan Submission Version (EB114) for approximately 750 homes, other associated uses and the potential relocation of the Princess Alexandra Hospital (PAH). The southern part of the site is allocated in Policy HS3 of the Harlow Local Plan Pre-Submission Document for approximately 2,600 homes and other associated uses.
4. This Hearing Statement supplements our client's formal representations from January 2018 and considers the Inspector's Matters, Issues and Questions in relation to Week 4 Matter 16 of the Epping Forest Local Plan Examination.

MATTER 16 – DEVELOPMENT MANAGEMENT POLICIES

Issue 1, Question 2 –

In Part A [of Policy DM1], is it justified to require all development to seek to deliver net biodiversity gain? Would this be possible for applications concerning minor alterations to existing buildings, or advertisements for example?

5. Although Miller Homes supports the desire in Parts A and H of Policy DM1 to seek a net biodiversity gain in all new development, to be quantified by using the Biodiversity Impact Assessment Calculator (BIAC) where appropriate, it would be advisable to provide more flexibility in the policy wording to ensure that the development is not unnecessarily delayed or prevented.
6. The BIAC tool is relatively new in development management terms and no one knows how the largest sites in the District may perform under this assessment, particularly where major new infrastructure is planned on a site – for example at East of Harlow where M11 J7a, a new link road to Gilden Way and the potential relocation of the Princess Alexandra Hospital (PAH) could all have an adverse impact on the biodiversity scoring of the new Garden Town Community.
7. Accordingly Miller Homes requests that Policy DM1(H) is amended to read "... Development proposals should seek to demonstrate a net gain ecological units" instead of "... Development proposals must demonstrate a net gain ecological units". This added flexibility will ensure that the Plan is effective (i.e. deliverable over its period) in accordance with paragraph 182 of the NPPF (2012).

Issue 1, Question 15 –

In order to accurately reflect the relevant statutory obligations, should Part A of the Policy [DM7] require development proposals to "...conserve or enhance the character or appearance and



function of heritage assets...”? Should the requirements noted in the supporting text for the preparation of heritage statements (para. 4.60) and archaeological evaluations (para. 4.63) be written into the policy itself to ensure effectiveness? Should the Policy be retitled “Historic Environment”?

8. Miller Homes objects to Policy DM7 on the basis that it is not consistent with national policy – particularly paragraphs 132-135 of the NPPF (2012).
9. Policy DM7(B) states that works which would cause harm to the significance of a heritage asset (whether designated or non-designated) or its setting, will not be permitted without clear justification to show that the public benefits of the proposal considerably outweigh any harm to the significance or special interest of the heritage asset in question.
10. This wording is inconsistent with and goes far beyond the three-tiered approach set out in the NPPF (2012). Policy DM7(B) does not currently distinguish between ‘substantial harm to a designated heritage asset’, ‘less than substantial harm to a designated heritage asset’ and ‘effects on a non-designated heritage asset’. Paragraphs 132 to 135 in the NPPF (2012) direct that:
 - **substantial public benefits** are necessary to outweigh **substantial harm or the total loss** of a designated heritage asset;
 - **public benefits** should be weighed against **less than substantial harm** to a designated heritage asset; and
 - **a balanced judgment** is required having regard to **any harm or loss** of a non-designated heritage asset.
11. Policy DM7(B) does not accord with this tiered approach and instead applies a very onerous test to all heritage assets (i.e. the public benefits of the proposal must **considerably** outweigh any harm), regardless of whether they are designated or non-designated assets and regardless of the degree of harm caused. There is also no need in national policy to ‘considerably’ outweigh harm.
12. Miller Homes submits that to be sound, Policy DM7(B) should be amended to adopt the three-tiered approach to considering harm to heritage assets, as set out in paragraphs 132 to 135 of the NPPF (2012).

Issue 1, Question 33 –

What is meant by a “drainage hierarchy”? Are any of the methods in Part A [of Policy DM16] permissible solutions, or is (ii) only permissible if (i) is not possible, and so on? Is this clear? Likewise, are the solutions in Part B only permissible if those in Part A are not possible?

13. Miller Homes objects to Policy DM16(A)(ii) and in particular to the suggestion that the use of porous surfaces (which in predominantly clay areas such as Epping Forest District must be tanked and lined with an outfall) should be prioritised over other sustainable drainage methods.
14. This could be very costly to implement on a strategic-scale site and Essex County Council (ECC) will not normally adopt roads and services that include porous surfacing. In order to avoid harming the viability of development and the potential to adopt highway and service features, the following wording



should be added to the end of Policy DM16(A)(ii): "... where tests results show that infiltration is feasible and viable, and accord with adopting authority requirements."

15. This will ensure that the Plan is "effective" and that its site allocations are deliverable over the plan period, in accordance with paragraph 182 of the NPPF (2012).

Issue 1, Question 42 –

Is Part D [of Policy DM20], which requires Strategic Masterplans to demonstrate how infrastructure for district heating could be incorporated, justified by reference to viability? For example, it has been suggested that a development of 950 dwellings such as proposed at South Epping would be too small to viably deliver a district heating scheme.

16. Policy DM20(D) expects Strategic Masterplans to demonstrate how infrastructure for district heating can be provided, unless it is demonstrated that this would render development unviable or that alternative technologies are available that provide the same or similar benefits.
17. Miller Homes objects to this requirement on the basis that:
- (i) there is no evidence to demonstrate that district heating is appropriate or deliverable on the edge of Harlow or specifically at East of Harlow;
 - (ii) at the time of writing, the Garden Town Strategic Viability Assessment has not been published and therefore it is uncertain whether such provision could harm the viability of strategic development near Harlow; and
 - (iii) this requirement does not appear to be consistent with the Government's wider intention that the Building Regulations should govern building performance criteria (except for water efficiency standards).
18. Accordingly Miller Homes submits that Part D should be deleted from Policy DM20.

SUMMARY

19. Miller Homes controls 249.7 ha of land to the east of Harlow. The northern part of the site is allocated in Policy SP5 of the Epping Forest Local Plan for approximately 750 homes, other associated uses and the potential relocation of the PAH, while the southern part is allocated in Policy HS3 of the Harlow Local Plan for approximately 2,600 homes and other associated uses.
20. Miller Homes made formal representations to the Epping Forest Local Plan in January 2018. This Hearing Statement supplements those representations and in particular:
- It seeks additional flexibility in the wording of Policy DM1 to ensure that the desire to seek net biodiversity gains does not delay or prevent development on strategic sites where major new infrastructure is planned.
 - It objects to the heritage harm test set out in Policy DM7, which is inconsistent with the tiered / degree of harm approach set out in the NPPF and does not have regard to whether assets are designated or non-designated.



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- It seeks additional wording in Policy DM16 to ensure that porous surfacing is not required on development sites where the costs would be prohibitive or where ECC could refuse to adopt roads and services.
 - It objects to Policy DM20 on the basis that there is a lack of evidence to justify the use of district heating at East of Harlow and the requirement to do so is inconsistent with the Government's intention that Building Regulations should govern building performance.
21. Miller Homes also has additional comments to make in respect of the Inspector's other Matters, Issues and Questions, which will be set out in separate hearing statements to be submitted in February and April 2019.

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