



Theydon Bois Parish Council

Parish Office, Village Hall, Coppice Row, Theydon Bois, Essex CM16 7ER

Hearing Statement in relation to Matter 16: Development Management Policies (Day 9: Tuesday 26th March 2019)

21st February 2019

Dear Mrs Louise St John Howe,

Thank you for your email of 20th January 2019, explaining the procedures set out for the Hearing Sessions of the Examination in Public for the 'Epping Forest District Local Plan, 2011-2033'. In our representation made at the time of the Regulation 19 Consultation, the Parish Council made reference to a number of aspects which we hoped would be considered further during the time of the Hearings.

Under the topic of 'Development Management Policies', we raised a number of concerns and understand that we have been given the opportunity to attend, and speak at, the Hearing Session on Tuesday 26th March 2019.

Having read the questions raised by the Planning Inspector in the 'Matters, Issues and Questions', please find below our Hearing Statement, in which we have explained further our concerns with respect to the policies listed.

Thank you again for your time and consideration.

Yours sincerely,

Caroline Carroll, Clerk to the Council

HEARING STATEMENT - MATTER 16 - Development Management Policies:

DM 3 Landscape Character, Ancient Landscapes and Geodiversity

We note the Planning Inspector's reference to Policy DM 3, Question 6:

Our previous comments are further delineated in the text below:

The objectives of this policy are strongly supported by the Parish Council. Whilst Green Belt is a policy designation that seeks to retain the openness of the surrounding countryside, it is the landscape character which defines the setting of many of the settlements within the District. The relationship between the two policies, serves to ensure the preservation, and enhancement, of the natural environment. The text

contained within the 'Approach' is particularly positive in recognising the significance of retaining the intrinsic value of landscapes that, once lost, would be gone forever.

Our concern is that much of the understanding of the importance of these policies is contained within the supporting text, but not called out in more detail in Policy **DM 3** itself.

By comparison, EFDC's Current Combined Local Plan of 1998, with alterations of 2006 (the 'Current Local Plan') includes further detail on the aspects of development that could assist in land management: in particular, Current Plan policy LL3, which recognises the sensitivity of development on the edge of settlement, where the design and/or density of such could adversely affect the landscape setting, and where further mitigation measures may be required to integrate such development, in order to avoid the creation of a 'hard edge' between any new built development and the natural environment.

Not all of the 'allocated sites' within the New Local Plan (2011-2033) will bring forth 'Masterplans' but may be situated at the edge of existing settlements, where the transition from the urban area to the more open countryside could have a greater impact on the visual sensitivity of the site when viewed from the wider landscape.

We have seen a number of Appeals determined with respect to this particular aspect, and, therefore, feel that some further policy provision, recognising the importance of 'edge of settlement locations', should be incorporated (either within this policy, or possibly that of **DM 9, High Quality Design**).

DM 4 Green Belt

We note the Planning Inspector's reference to Policy DM 4: Green Belt, Question 7:

Policy **DM 4** is new to this Submission Version of the Plan.

As the Regulation 19 Consultation was the first occasion on which we were able to view the 'new' policy, we observed that, on an initial reading, most of what is contained within Policy **DM 4** appears to be taken, almost directly, from the National Planning Policy Framework, 2012 ('NPPF'), being paragraphs 80, 89, 90 of that document, together with a re-working of paragraph 87, but excluding the assertion that "inappropriate development is, by definition, harmful to the Green Belt".

(Since the time of that earlier consultation, the NPPF has been revised, but we have retained the allusion to the original Framework, of 2012, and relevant paragraphs, for the sake of consistency).

We understand that the NPPF sets out the parameters under which Local Authorities should construct policies within their own Local Plan (and with which they need to be compliant), so providing "a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the need and priorities of their communities". (Introduction, NPPF, 2012). However, the

currently proposed policy **DM 4** does not appear to address a number of aspects previously contained within the compliant Green Belt policies of the Current Local Plan.

With some 92% of the District said to remain within the policy designation of the Green Belt, during the Plan period to 2033, this is clearly an area of Planning Policy that is likely to be raised on many occasions with respect to planning applications proposed outside the urban environment, and on the rural fringes at the edge of settlements, especially where 'inappropriate development' could result in encroachment into the countryside.

Whilst it is accepted that the Local Plan is a strategic document, we feel it still needs to be able to provide certainty and understanding, in order to be accessible to developers, residents, community groups, and elected bodies, such as Parish/Town Councils, through the inclusion of more detailed Development Management Policies. We believe that such policies should also delineate how, in this instance, Green Belt policy will be applied at the Local Plan level, with clear guidance on the relevant assessment criteria to be used, especially by the decision maker when weighing the respective merits of each application during the determination process.

Changing some of the wording of the NPPF and annotating it as a 'Local Plan Policy' would not appear to fulfil this purpose, although we perceive that it may be useful to set out the main criteria within some form of supporting text, in order to avoid the need for continual cross-reference to the NPPF. Also, given the primacy of the Local Plan, would Planning Inspectors not be more likely to determine the outcome of any appeal on the basis of specifically numbered 'Local Plan policies', rather than by allusion to the relevant paragraphs of the NPPF ?

In terms of drafting, and with respect to **DM 4 D**, paragraph 90 of the NPPF, 2012 uses the preferred syntax "Certain other forms of development are also *not inappropriate* in the Green Belt provided that ..." and we cannot see why this should be changed.

With respect to the reasoning, under 4.34, for the District Council not including any definitions as to what may be deemed "disproportionate" or "materially larger", it is not anticipated that these would require specific measurements as such, but some indication of the assessment criteria would be helpful.

Notably, the Current Local Plan alludes to the calculation of volume, but it is also recognised that other physical dimensions could have a bearing on the quantum and extent of development. Consideration of any significant increase in volume, however, does allow for assessment of an additional basement floor, when proposed as part of an application. On occasions where such additions are extensive, we have seen Planning Inspectors factor these into their evaluation, with respect to the terms mentioned above.

Clear indication of the assessment criteria to be taken into account when determining whether an extension would be "disproportionate" in relation to size, or a new building "materially larger" than the one it replaces, would also facilitate a better understanding when decisions are made at a local level.

The addition of a definition for 'limited infilling', however, is welcomed, as is the recognition that such development should also not adversely impact on the character of the countryside or the local environment. We believe this to be consistent with a number of other Local Plans, which have already undergone Examination in Public.

Which raises another, and perhaps, fundamental aspect, with respect to what might reasonably, and justifiably, be included within policies that seek to effectively preserve the openness of the Green Belt ?

EFDC's Current Local Plan goes further in the application of policy to include reference to other forms of 'development' that are also likely to be deemed harmful to openness. Whilst the wording of these policies was clearly going to require updating after the introduction of the NPPF, in 2012, the majority were found to be compliant with the NPPF, as detailed in a report to the Local Plan Cabinet Committee in March 2013. Some of the basic understanding contained within those policies could have been incorporated into any revised Local Plan policies.

The element felt by ourselves to be particularly important, relates to the understanding of the concept of 'openness' which, as called out in a number of recent Court Decisions, has both a spatial, or physical, aspect as well as a visual aspect.

To this end, the earlier policies in the Current Local Plan included those which addressed a number of associated factors, expanding on 'inappropriate' development by the consideration of such elements as 'conspicuous development', and 'extensions to residential curtilages', whilst the change of use of a building also took into account whether that use, or any intensification of it, would have an adverse impact.

Each of these aspects draws on considerations that we, as a Parish Council, have needed to address when applications on the Green Belt have been put before us for consideration. We may only be interested parties in this process, but we do endeavour to be consistent in our appraisals and draw on Local Plan policies to support our argument.

We are familiar with Chapter 9 of the NPPF, 2012 (now Chapter 13, of the NPPF, 2018) but have looked to Epping Forest District Council to provide clearer, more detailed, Green Belt policies within the Local Plan that are compliant with it. We are concerned that, without some guidance, inconsistencies could arise when decisions are made at District level. Could this, perhaps, be provided by way of a Supplementary Planning Document ('SPD'), an approach successfully incorporated into Local Development Plans by some other Local Authorities ?

In conclusion, we see no justification for making minor alterations to the wording of the NPPF, in the way presently shown under **DM 4**, nor, presently, for the exclusion of all other policies, and relevant criteria, that would assist in determining how the objective of preserving the openness of the Green Belt will be achieved within this District.

DM 5 Green and Blue Infrastructure

The Parish Council is strongly supportive of the new policies relating to Green and Blue Infrastructure, which are an important component within the natural landscape setting of Theydon Bois. However, the open access to the countryside, which this policy promotes, is not entirely unrelated to the following policy, **DM 6**, to which we wish to make further cross-reference.

We note the change of wording from the Draft Local Plan, under **DM 6 B** (from “total loss” to “net loss”) but access to “alternative open space within a settlement” may not recognise the importance of the essential character or visual amenity of a specific area, or how it is actually utilised, and by whom.

The ‘Open Space Strategy’ (4Global), which is new to the Evidence Base of this Submission Local Plan, has been deduced from a high level quantitative and qualitative assessment, which does not entirely reflect how such open spaces are, in fact, used by residents. Within Theydon Bois, the ‘open spaces’ most often frequented include the natural green environs at the edge of the settlement, accessed by public footpaths and permissive rights of way, in addition to the ‘amenity greenspace’ of the Village Green, and the ‘natural greenspace’ of Epping Forest.

Notably, under the ‘Quantitative Analysis of Natural and Semi-Natural Green Space, by Settlement’, the statistical data records the entire acreage of Epping Forest, where it falls within the Parish boundary, together with the land planted by the Woodland Trust, adjacent to the M11. However, the latter is some distance from the built settlement of Theydon Bois itself, and well beyond that which most residents choose to walk. Open space provision invariably needs to be sited closer to the residential environment to sustain a good level of amenity use.

Parish councillors noted, therefore, that both the Policy, and the Strategy, do not fully assess the importance of how a particular ‘open space’ is used by the community, or how it is directly accessed.

DM 7 Heritage Assets

We note the Planning Inspector’s reference under Policy DM 7: Heritage Assets, Question 17:

Our main concern relates primarily to the supporting text which, under 4.59, refers to ‘designated assets’ and ‘non designated assets’, but does not appear to include, or make provision for, Protected Lanes – to which there are no less than nine references in the Evidence Base document ‘Epping Forest District Historic Characterisation Study (Essex County Council, 2015)’.

The Coopersale Lane, which lies in the rural landscape to the east beyond the settlement boundary, is one such example; these lanes being primarily heritage assets of the natural

environment. We believe this conservation policy has been in place in Essex since the 1970s.

The Current Local Plan specifically includes reference under Policy HC4 (Heritage Conservation), where EFDC has previously sought to discourage development that could be detrimental to the historic or landscape character of these lanes.

Although a minor amendment, we would wish to see that 'Protected Lanes' are also referenced under paragraph 4.59 of the supporting text, to ensure that these are acknowledged and afforded the appropriate level of conservation.

DM 9 High Quality Design

This policy replaces those in the Current Local Plan, which were included under the section: 'Design in the Built Environment'.

However, it is not as detailed and some of the key elements have been lost, including reference to design within the Green Belt (DBE4), which was required to respect the wider landscape setting of the site and the more vernacular character of buildings traditionally associated with rural locations. Dwellings of a singularly urban design can adversely impact upon the visual openness to an intrusive degree.

In addition, the former policy DBE6 recognised the importance of not allowing car parking for new residential developments (in any environment) to visually dominate the streetscene – a policy which the Parish Council has seen successfully upheld at Appeal.

Of further concern is Policy **DM 9 J**, which sets the standard for the preservation of neighbour amenity at no more than 'adequate'. The NPPF, 2012 sets a more positive aspiration for "the achievement of high quality design" (Paragraph 57) and it would seem reasonable to require 'good' levels of amenity to be secured in all new developments as part of the assessment criteria. We would suggest that the wording is amended accordingly.

We also cannot locate a policy that would set a standard for the provision of 'private amenity space', either to be provided with a new residential development, or retained within one which is subject to extension or the creation of additional dwelling units, as was previously included under DBE8.

Neither is there any specific policy indicated with regard to the Sub-Division of Properties, as previously contained within DBE11, which, importantly, took into account any potential adverse impact from the intensification of use, in terms of the amenity of future occupants and neighbours, whilst former policy CP7 (iv) of the Current Local Plan (which was referenced in an important appeal decision in Theydon Bois in recent years) sought to assess the potential impact of higher density development with respect to the prevailing character of the locality.

We wish to put forward the view that the inclusion of further design criteria within Policy **DM 9** would ensure that a full assessment is carried out before an application is recommended for approval and would serve to facilitate the provision of a high quality of design, as intended within the objective of New Local Plan Policy **DM 9 A**.

Finally, from the Member Workshops held at EFDC, the Parish Council was given to understand that Epping Forest District Council was to consider adopting its own 'Design Guide'. In the light of the above omissions in some of the important criteria, we would be of the view that an illustrated, and comprehensive, Design Guide (SPD), specific to the requirements of Epping Forest District, would be of assistance to all of those involved in the planning process.

As a Parish Council, the first policies that we invariably need to consider when viewing new planning applications are those relating to Design. We cannot emphasise strongly enough the importance of securing public confidence in the quality of the built environment, its integration with the wider landscape setting and its respect for the amenity of all existing, and future, residents.

DM 10 Housing Design and Quality

We note the Planning Inspector's reference under Policy DM 10, Question 24:

We previously mentioned that Policy **DM 10 E** (Residential Extensions), which primarily relates to external design aspects, may be more appropriate for inclusion under **DM 9**, rather than within this section. On a number of occasions, we have noted that Planning Officers, in making decisions under delegated powers, have not included this specific policy in their decisions in addition to that of **DM 9**; an oversight which may be due to its inclusion within the later policy of **DM 10**.

As noted previously, under **DM 10**, this policy affords no guidance on standards for quantitative or qualitative provision of private amenity space. How will standards be applied in this regard ?

DM 12 Subterranean, Basement Development and Lightwells

We note the Planning Inspector's reference under Policy DM 12, Question 25:

Whilst the introduction of new policies, to secure criteria for ascertaining the structural stability of buildings proposed to be extended and the protection of the amenity of neighbouring properties, is viewed by the Parish Council as an important addition to the management of such developments, significant concern is raised with respect to **DM 12 B (ii)**.

Whilst this does not necessarily imply that the full remit of the quoted size will be utilised in a development, the Parish Council feels that 50% of 'each' garden area within the curtilage of the property could result in a basement extending from all sides of a building and, if quantified solely in relation to the 'garden' area, could well multiply the size and volume of that building many times over. We believe this would be excessive. It would seem more appropriate that dimensions should relate to the curtilage of the building itself, rather than to the entire extent of the residential curtilage/private amenity space.

With respect to Policy **DM 12 G**, further consideration should be given to the third and fourth bullet points of Paragraph 89 of the NPPF, 2012 (Green Belt Policy), with respect to “disproportionate additions over and above the size of the original building”, and the replacement of a building “not materially larger than the one it replaces”, since Green Belt policy recognises both the spatial, as well as the visual, aspects of ‘openness’.

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