

## EXAMINATION OF THE EPPING FOREST DISTRICT LOCAL PLAN – 2011 – 2033

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### EXAMINATION STATEMENT ON BEHALF OF THE EPPING FOREST HOUSING FORUM

*Matter 6 – Housing Supply, including Sources of Supply; the Housing Trajectory; and the Five Year Supply*

*Prepared by:*

*David Neame BSc (Hons) MSc MRTPI  
Director – Neame Sutton Limited*

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Matter 6 – Housing Supply/Trajectory

17 February 2019

### CONTENTS

<u>Section:</u>		<u>Page:</u>
1.0	<b>Introduction</b>	4
2.0	<b>Matter 6 – Housing Supply, including Sources of Supply; the Housing Trajectory; and the Five year Supply</b>	4
	<u>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?</u>	
	(i) Table 2.3 on Page 29 sets out the different components of the housing land supply for the period 2011-2033. Is data on housing completions and extant planning permissions now available up to 31 March 2018? if so, should the table be updated to reflect this? Should the table indicate how much housing is expected to be provided through allocations outside the Garden Communities? Should it be made clear whether the total housing supply for the Plan period will be above or below the requirement?	4
	(ii) Policy SP2(c) indicates that additional housing could be delivered through Neighbourhood Plans and on rural exception sites in accordance with Policy H3. Is it possible to quantify this contribution and should it be reflected in Table 2.3?	5
	(iii) Is the expected windfall allowance of 35 dwellings per annum for 11 years (385 in total) justified? Representations suggest that the figure might be higher or lower?	5
	(iv) 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 over-estimated?	5
	<u>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?</u>	6
	(i) 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 2011-33, the annualised housing requirement would be 518 dpa. 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?	7
	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?	7

(ii) *On the basis of the answer to Question 1, will there be a five-year housing land supply upon adoption of the Plan? What evidence is there to support this? Can the Council produce a spreadsheet to show how individual sites are expected to contribute to delivery in each year? 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?* 9
- 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?* 9

### **3.0 Changes Sought 14**

#### **Appendices:**

- Appendix 1** Council's Housing Trajectory – Data extracted from EB410A
- Appendix 2** Forum Trajectory – Adjusted Supply
- Appendix 3** Forum adjustments to Council's Supply from Allocations
- Appendix 4** Forum Trajectory – Adjusted Supply and Forum Housing Requirement
- Appendix 5** Start to Finish: How Quickly to Large Scale Housing Sites Deliver (November 2016 – Lichfields)
- Appendix 6** Forum calculation of 5-year HLS as at 01 April 2019
- Based on Framework 2012
  - Based on Framework 2018
- Appendix 7** Forum calculation of Housing Delivery Test ("HDT") – February 2019
- Appendix 8** Inspector Bore's interim conclusions in relation to Guildford Local Plan (ID/006) July 2018
- Appendix 9** APP/R3650/W/16/3165974 – Longdene House, Haslemere – 5-Year Land Supply case based on 2018 Framework

## EXAMINATION STATEMENT ON BEHALF OF EPPING FOREST HOUSING FORUM

*Matter 6 – Housing Supply/Trajectory*

17 February 2019

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### 1.0 **Introduction**

- 1.1 This Examination Statement provides a response on behalf of the Epping Forest Housing Forum ("the Forum"), to those Questions raised by the Inspector (dated November 2018), relating to the Housing Supply and Trajectory matters of the Epping Forest District Local Plan 2011 – 2033 ("the Plan") and its supporting evidence base.
- 1.2 This Statement has been prepared by Neame Sutton on behalf of the Forum.

### 2.0 **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?***

***Question 1) Table 2.3 on Page 29 sets out the different components of the housing Land supply for the period 2011-2033. Is data on housing completions and extant planning permissions now available up to 31 March 2018? If so, should the table be updated to reflect this? Should the table indicate how much housing is expected to be provided through allocations outside the Garden Communities? Should it be made clear whether the total housing supply for the Plan period will be above or below the requirement?***

- 2.1 The Council would appear, in January 2019, to have published an update to its Housing Implementation Strategy (EB410A). That document contains data on completions and commitments up to 31 March 2018.
- 2.2 In the Forum's view the Plan should be updated to reflect this data and in this respect Table 2.3 needs to be updated. The Forum has based its analysis (set out below and in the appendices) of the Council's Housing Trajectory and 5-year housing land supply on the data contained in EB410A.

**Question 2) Policy SP2(c) indicates that additional housing could be delivered through Neighbourhood Plans and on rural exception sites in accordance with Policy H3. Is it possible to quantify this contribution and should it be reflected in Table 2.3?**

- 2.3 In the Forum's view clarity in the plan making process is key. In this respect the extent of the contribution to be made by Neighbourhood Plans should be identified in the Plan. In the event that this Plan was being examined in the context of the Framework 2018 and corresponding NPPG then the Council would be required to quantify the contribution to be made by Neighbourhood Plans.

**Question 3) Is the expected windfall allowance of 35 dwellings per annum for 11 years (385 in total) justified? Representations suggest that the figure might be Higher or lower?**

- 2.4 The Forum shares the concerns of those parties that have questioned the Council's delivery assumption on windfalls. The evidence the Council appears to be relying upon is contained in a single paragraph in EB410A (Paragraph 3.22). This states that the Council considers all sites since 2006 'could be viewed' as windfalls. This does not amount to reliable evidence. The Council itself cannot quantify the extent of windfall provision historically. It cannot therefore hope to provide a case that meets the requirements of either the Framework 2012 or 2018 for a windfall allowance to be included within the housing trajectory.
- 2.5 Both Paragraph 48 of the Framework 2012 and Paragraph 70 of the Framework 2018 are broadly consistent in requiring Council's to have 'compelling evidence' that such sites have consistently become available and will provide a reliable source of supply.
- 2.6 Paragraph 3.22 of EB410A does not amount to compelling evidence.
- 2.7 In this respect either the Council should provide the compelling evidence and allow it to be scrutinised through the examination process or the windfall allowance within its trajectory should be deleted. At the present point in time the Council has not presented compelling evidence and therefore the windfall allowance should be deleted.

**Question 4) 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 over-estimated?**

- 2.8 The Forum cannot see any evidence as to how the site densities have been arrived at by the Council. In fact the latest evidence from the Council set out in EB410A does not mention site capacities.
- 2.9 Therefore there is a risk that the Council's density figures are too high.

- 2.10 Of additional concern is the delivery trajectory for some of the allocation sites that the Council relies upon in its trajectory. The Forum deals with this in the context of Issue 2, Question 2 below. The Forum's position on the delivery trajectory for the allocation sites together with the windfall point above has a direct impact on the Plan's overall housing trajectory, which is explained in the context of the interlinked 5-year housing land supply position below.

***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?***

- 2.11 Before proceeding to answer the questions identified under this Issue it is important to highlight that under the transitional provision<sup>1</sup> this Plan is to be examined in the context of the policies contained in the Framework 2012 and the corresponding NPPG. However, when considering whether the test of effectiveness in the third bullet of paragraph 182 of the Framework 2012 is met, in particular the requirement that "the plan should be deliverable over its period", it is relevant to note that the delivery of the plan over its period will be in the context of the 2018 Framework and will be reliant upon development control decisions to which the 2018 Framework applies. If, in the context of such decision-making, the Council is unlikely to be able to demonstrate a 5-year housing land supply applying the 2018 Framework test of 'deliverable' (in Annex 2), that is highly relevant to considering whether (in the context of Framework 2012 paragraph 182) the Plan is "deliverable over its period" since what will in fact happen is that in the absence of a 5-year housing land supply decision-making would be governed by the default provisions of Framework 2018 paragraph 11(d) rather than by the Plan itself.
- 2.12 However, immediately upon adoption and the expiry of the 'immunity period' afforded by the footnote to Paragraph 74 of the Framework 2018 the Council's 5-year supply position will be tested against the requirements of the Framework 2018 and corresponding NPPG. It is therefore important as part of this Examination to consider the impact of applying the new deliverability test set out in Annex 2 of the Framework 2018 to the Council's supply in order to gauge the robustness of the Plan's stated supply. The consequences of not taking this approach are already filtering through the planning appeal system, for example, in Waverley Borough where two Inspectors have concluded in December 2018 and January 2019 that the Council does not have a 5-year housing land supply only 11 months after the adoption of the Plan in February 2018<sup>2</sup>.
- 2.13 The analysis in this Statement therefore explores the Council's land supply in the context of the Framework 2012 but then provides a comparison against the Framework 2018 to enable the Inspector to determine the impact of the new deliverability test on the robustness of the Plan supply.

<sup>1</sup> See Annex 1 of the Framework 2018 on Page 62

<sup>2</sup> APP/R3650/W/17/3171409 and APP/R3650/W/16/3165974 (see Appendix 9)

**Question 1) 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 2011-33, the annualised housing requirement would be 518 dpa. 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?**

The 5-Year Requirement – The Starting Point:

- 2.14 Working on the basis of the Plan as submitted it is first necessary to establish the relevant 5-year period. Given that the Plan is most likely to be adopted in the monitoring year 2019/20 it is considered that the appropriate starting point is from 01 April 2019. The appropriate 5-year period is therefore 2019 – 2024.

The Baseline Requirement 2019 – 2024:

- 2.15 The baseline requirement (setting aside the Forum's position under Matter 3) will be the annualised housing requirement set out in the Plan:

**Table 1: Calculation of Annualised Requirement**

Plan Requirement	Plan Period	Annualised Requirement
11,400 dwellings	22 years	518 dpa

- 2.16 This generates a 5-year baseline requirement of 2,590 dwellings (2019 – 2024).

The Extent of the Shortfall:

- 2.17 The Council confirms in Table 1 on Page 5 of EB410A the following completion data since the start of the Plan period in 2011:

**Table 2: Completion Date**

Year	Requirement	Completions	Deficit/Surplus	Cumulative
2011/12	518	288	-230	-230
2012/13	518	89	-429	-659
2013/14	518	299	-219	-878
2014/15	518	230	-288	-1166
2015/16	518	267	-251	-1417
2016/17	518	157	-361	-1778
2017/18	518	526	+8	-1770
<b>TOTAL</b>	<b>3,626</b>	<b>1856</b>	<b>-1770</b>	

- 2.18 The cumulative shortfall since the start of the Plan period is therefore **-1770 dwellings**, which is substantial.

2.19 When looking at the 5-year period 2019 – 2024 it is also necessary to include the projected shortfall for the year 2018/19 set out in Appendix 1 of EB410A, which equates to a further -38 dwellings.

The Buffer to be Applied:

2.20 Table 2 above confirms that the Council has failed to meet its own requirement every year (except the last monitoring year) for a period of some 6 consecutive years. This amounts to a record of persistent under delivery such that a 20% buffer should apply to the calculation of 5-year housing land supply.

2.21 Furthermore the Council's delivery trajectory set out in Appendix 1 to EB410A indicates that the Council plans to fail to meet its annual requirement for the monitoring years 2018/19, 2019/20, 2020/21 and 2021,22. Adding that planned failure onto the empirical evidence above leads to a total shortfall of **-2,268 dwellings** over a period of 11 years, which is half of the total Plan period.

2.22 The Council cannot possible argue that it has anything other than a persistent record of failure and as a consequence the only option to pursue is a 20% buffer in accordance with Paragraph 47 of the Framework 2012.

2.23 When considering the position in the context of the Framework 2018 the buffer will be determined by Paragraph 73 in the first instance. In this respect the Housing Delivery Test will apply as per footnote 39 and that will also lead to a 20% buffer (see HDT calculation in Appendix 7).

2.24 There can be no question therefore that a 20% buffer should apply.

The Method of Dealing with the Shortfall:

2.25 The Council states that the Liverpool Method should be applied. The old NPPG made it clear that Council's should look to deal with the past under delivery in the first 5-years of the Plan period where possible<sup>3</sup> (Sedgefield Method).

2.26 The reasons the Council's justification for the use of the Liverpool Method appears to be set out at Paragraph 3.11 on Page 5 of EB410A. This states that the Council cannot meet the required delivery rates until the Plan is adopted and the allocations start to deliver. That may well be the case but the expectation is that the Council seeks to deal with the shortfall in the first five years and the reason the Plan is incapable of doing so is because of the failure in the delivery trajectory caused by an inadequate number of housing allocations and an over reliance upon sites that are slow to deliver. This does not amount to a justification for the Liverpool Method and instead highlights the failings in the Plan as drafted (see points below in relation to Question 2 and the Council's proposed Stepped Trajectory).

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<sup>3</sup> Paragraph: 035 Reference ID: 3-035-20140306 Revision date: 06 03 2014



2.27 It is also relevant to note that the Council has identified a requirement of circa 2,900 dwellings affordable housing need between 2016 – 2033<sup>4</sup>. The failure to deliver housing over the past 7 years has resulted in an equally low provision of affordable housing (205 dwellings in the last 5 years – 41 dpa)<sup>5</sup>. This adds further weight to the application of the 20% buffer and also to the use of the Sedgefield Method.

2.28 The Sedgefield Method should therefore be applied.

The Housing Requirement for the 5-Year Period:

2.29 On the basis of the above the housing requirement for the 5-year period equates to<sup>6</sup>:

**Table 3: Calculation of 5-year HLS Requirement**

		Dwellings	Annual
A	Plan Requirement 2019 – 2024	2,590	518 dpa
B	Shortfall 2011 – 2019*	1,808	226 dpa
C	Requirement plus shortfall 2019 – 2024 (A+B)	4,398	880 dpa
D	20% Buffer (C*0.2)	880	
<b>E</b>	<b>Total Requirement 2019 – 2024 (C+D)</b>	<b>5,278</b>	<b>1,055.6 dpa</b>

\*Note this includes the further shortfall of 38 dwellings projected by the Council for the year 2018/19 in Appendix 1 to EB410A

2.30 This level of 5-year requirement necessitates a clear step change in terms of delivery that is not currently reflected in the Plan as submitted.

**Question 2) On the basis of the answer to Question 1, will there be a five-year housing land supply upon adoption of the Plan? What evidence is there to support This? Can the Council produce a spreadsheet to show how individual sites are expected to contribute to delivery in each year? 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?**

Does the Council have a 5-Year Supply?

2.31 The short answer to the first part of the question is no. The Council has not included a 5-year supply calculation within the Plan nor the trajectory attached at Appendix 1 of EB410A.

2.32 When one applies the requirement set out in Table 3 to the supply (without any modification) the Council will not be in a position to demonstrate a 5-year supply of deliverable housing land until at least the 2024/25 monitoring year. Thereafter the supply will remain low and fragile. The trajectory attached at Appendix 1 of this Statement confirms the rolling 5-year supply position based on the Council's stated supply<sup>7</sup> based on a uniform 518 dpa and, using Sedgefield and a 20% buffer.

<sup>4</sup> Figure 22 on Page 33 of EB408

<sup>5</sup> Table 3 of 2017/18 AMR – EB1708M

<sup>6</sup> Assuming the Council's case on the housing requirement i.e. 11,400 dwellings

<sup>7</sup> As set out in Appendix 1, 5 and, 6 of EB410A

2.33 Even on the Council's evidence the Plan therefore fails to meet the requirements of Paragraph 47 of the Framework 2012 and is not sound.

Key Sources of Supply – Local Plan Allocations:

2.34 Turning to the contribution that the proposed allocation sites make to the supply position, both over the Plan period and in the 5-year period from 01 April 2019.

2.35 EB410A makes reference to the Lichfields report (from Start to Finish)(see Appendix 5 of this Statement for a full copy of the document) along with the Letwin Review<sup>8</sup> on Page 7 (Paragraphs 3.14 – 3.16). Furthermore the Council sets out an analysis of site delivery within the District based on a total of 19 no. sites ranging from 10-105 dwellings (Paragraph 3.17 on Page 8).

2.36 This appears to be the basis for its delivery trajectories for the larger allocation sites set out within the Plan (as updated in January 2019).

2.37 However, when the Council's proposed delivery rates of the larger allocation sites and particularly the Garden Communities and those sites subject to Strategic Masterplans are considered against the evidence, particularly the empirical evidence produced by Lichfields, it is clear that the Council has overestimated both the commencement of completions and the delivery rates across the life of the Plan.

2.38 Neame Sutton has undertaken a site by site analysis of the Council's proposed allocations, which is set out in the schedule attached at Appendix 3 of this Statement. The key findings from the analysis are summarised below:

- **Firstly** a number of the sites fail the footnote 11 and 12 tests and should not be included within the housing land supply at all. These are marked red on the attached schedule of sites;
- **Secondly** the Council is placing reliance on a number of sites that are currently in an alternative active use, such as car parks, fire stations, community centres and, swimming pools. These sites cannot be regarded as meeting the footnote 11 test in particular and their delivery trajectories have been amended accordingly to remove them from the 5-year period commencing 01 April 2019;
- **Thirdly** the Council is placing reliance, as the Inspector has noted, on a series of large-scale sites that are themselves dependent on Strategic Masterplans being prepared (including the Garden Villages). These sites cannot be considered to meet with the footnote 11 test and their commencement dates have been amended in the delivery trajectory;

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<sup>8</sup> Independent Review of Build Out – Final Report (October 2018)  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/752124/Letwin\\_review\\_web\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752124/Letwin_review_web_version.pdf)

- **Fourthly** the Council's delivery expectations from the Water Lane area in particular i.e. 200 dpa completions are simply unrealistic and unsupported by any credible evidence. The Council appears to attach weight to the Lichfields evidence yet does not apply its findings to the delivery trajectory for this site. The Lichfields report (see Appendix 5) confirms in Figure 7 on Page 14 that the highest rate of delivery recorded equates to 161 dpa from a site of more than 2000 dwellings. For the Council to expect a higher delivery rate (some 24% higher) without any clear and compelling evidence to justify the position is unacceptable and does not amount to a sound delivery trajectory; and,
- **Fifthly** the Council's increase in capacity on the Epping Masterplan sites from the Regulation 18 version of the Plan is unsupported by any credible evidence. The sites relied upon by the Council are in at least 10 separate ownerships, with access constraints due to restrictive covenants. There does not appear to be a signed collaboration agreement in place and there are numerous physical and technical constraints to delivery including the need for a new railway bridge. Delivery from this site will therefore be considerably later than the Council projects.

2.39 The consequence of the amendments made to the Council's supply is that the overall contribution from proposed allocations across the 22 year Plan period is reduced by **1,948 dwellings** (reduction from 9551 dwellings to 7603 dwellings). This reduces the Council's overall housing land supply for the 22 year Plan period to 11,072 dwellings (including windfalls) and 10,757 dwellings (excluding windfalls).

2.40 The impact on the 5-year supply position is a reduction of 1,403 dwellings as summarised in the table below:

**Table 4: Comparison of Supply Sources**

Supply Source	LPA Position	Forum Position	Difference
Commitments 2019 – 2024*	868	868	0
Allocations 2019 – 2024	2597	1194	-1403
Windfalls 2019 – 2024	35	0	-35
TOTAL Supply 2019 - 2024	3500	2062	-1438

\*including 10% lapse rate applied by the Council

2.41 The above supply position results in the following 5-year supply calculation as at 01 April 2019 (based on Sedgfield and 20% Buffer):

**Table 5: Comparison of 5-Year Supply**

	LPA Position	Forum Position
Requirement 2019 – 2024	5278	5278
Supply 2019 – 2024	3500	2062
Surplus/Deficit	-1778	-3216
Supply in Years	<b>3.3 years</b>	<b>1.96 years</b>

2.42 The table below sets out the various alternative scenarios based on Liverpool and Sedgfield and 5% or 20% Buffers:

**Table 6: Comparison of 5-Year Supply – Based on all Scenarios applying Framework 2012**

	Council				Forum			
	5%		20%		5%		20%	
	Liverpool	Sedgefield	Liverpool	Sedgefield	Liverpool	Sedgefield	Liverpool	Sedgefield
Requirement 2019 – 2024	3511	4620	4012	5278	3511	4620	4012	5278
Supply 2019 – 2024	3500	3500	3500	3500	2062	2062	2062	2062
Surplus/Deficit	-11	-1120	-512	-1778	-1449	-2558	-1950	-3126
Years	4.98	3.79	4.36	3.3	2.9	2.2	2.6	1.96

- 2.43 Whichever way the land supply position is presented the Council cannot demonstrate a 5-year supply of deliverable housing sites and therefore fails to meet the requirements of Paragraph 47 of the Framework 2012. As a consequence the Plan is unsound.
- 2.44 In relation to the Framework 2018 the position worsens considerably. The new deliverability test set out in Annex 2 of the Framework 2018 requires the Council to demonstrate 'clear evidence' of deliverability for all major development that is either subject to Outline Consent or an allocation in the Plan.
- 2.45 As a consequence and given that the Council has only sought to meet the 'reasonable prospect of delivery' test for its allocations set out in footnote 12 of the Framework 2012 none of the Council's allocations meet the new Annex 2 definition and they would all need to be removed from the Council's supply. This results in a reduction of 2,597 dwellings from the Council's supply and 1,194 dwellings from the supply as calculated by the Forum, generating the following supply positions.

**Table 7: Comparison of 5-Year Supply – Based on all Scenarios applying Framework 2018**

	Council				Forum			
	5%		20%		5%		20%	
	Liverpool	Sedgefield	Liverpool	Sedgefield	Liverpool	Sedgefield	Liverpool	Sedgefield
Requirement 2019 – 2024	3511	4620	4012	5278	3511	4620	4012	5278
Supply 2019 – 2024	903	903	903	903	868	868	868	868
Surplus/Deficit	-2608	-3717	-3109	-4375	-2643	-3752	-3144	-4410
Years	1.3	0.98	1.1	0.86	1.2	0.94	1.1	0.82

- 2.46 Finally it is relevant to note that as soon as the Plan is adopted Paragraph 73 of the Framework 2018 will apply requiring the Council to include at least a 10% Buffer if it is to take the benefit of Paragraph 74<sup>9</sup>. This will have a negative effect even on the Council's favoured supply position, namely Liverpool and 5% Buffer and will result in a shortfall of at least **-178 dwellings** equating to **4.75 years** supply. The effect of this would be to lead to planning by appeal, and a loss of the plan-led system.

Should the Council Apply a Stepped Trajectory to its Housing Requirement?

- 2.47 Although this question has not been posed by the Inspector the Council has through EB410A sought to change its position on the matter of a Stepped Trajectory.

<sup>9</sup> Assuming that the HDT has not been published by then

- 2.48 The Forum position is simple. The Plan should not be based on a stepped trajectory.
- 2.49 The Council's justification for seeking a stepped trajectory is set out on Pages 14-15 of EB410A. The justification given by the Council does not get to the root cause of the reason why it considers a stepped trajectory to be required, which is that the housing delivery strategy set out in the Plan is flawed. The trajectory fails for two fundamental reasons:
- 2.49.1 Reason 1: The Plan does not allocate enough sites to meet the step change in delivery that is required; and,
- 2.49.2 Reason 2: The sites that are proposed for allocation are all 'slow burners' that will not deliver completions (even by the Council's own expectations) until the later years of the Plan period.
- 2.50 The consequence of the approach being taken by the Council is that the trajectory fails to deliver enough housing at the right time and does not therefore meet the requirements of the Framework 2012 particularly in terms of planning positively to significantly boost the supply of new homes.
- 2.51 The introduction of a stepped trajectory alongside the use of Liverpool and a 5% Buffer essentially exhausts the use of all tools in the policy box that are available to the Council to delay delivery of housing in the Borough. The problem of under provision and slow deliver will perpetuate if the Plan is amended to apply the stepped trajectory sought in EB410A.
- 2.52 The solution to the Council's problems is a simple one. The Council must review its available sources of supply and allocate more sites that are able to deliver housing in the short term. The evidence base clearly demonstrates that sufficient suitable, available and achievable smaller sites are present in the Borough with active promoters that are ready and able to bring them forward (the Forum is a clear case in point).
- 2.53 The approach suggested above would result in a positively planned housing delivery strategy that has been advocated by Inspectors elsewhere in Greenbelt authorities around London<sup>10</sup>.
- 2.54 The Forum can see no good reason why a stepped trajectory should be applied in the case of Epping and strongly urge the Inspector to reject this proposition from the Council.

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<sup>10</sup> See Inspector Bore's interim recommendations in relation to the Guildford Local Plan ID/006 in July 2018 attached at Appendix 8

### 3.0 Changes Sought

3.1 The Forum seeks the following changes to the Plan:

1. The Council needs to recalculate its 5 year supply position based on the application of Sedgefield and 20% Buffer;
  2. The Council needs to apply a uniform trajectory to its planned delivery throughout the Plan period;
  3. The Council needs to revisit its delivery assumptions in relation to the large-scale housing allocations proposed in the Plan; and,
  4. The Council needs to allocate further sites that are ready and able to deliver completions in the initial 5-years of the Plan period in order to meet the requirements of Paragraph 47 of the Framework 2012 and to future proof the Plan in relation to Paragraphs 73 and 74 and Annex 2 of the Framework 2018.
-