

Our ref: JLN0243

Date: 15 March 2019

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Dear Ms St John Howe

**EPPING FOREST DISTRICT LOCAL PLAN EXAMINATION  
MATTER 5: SITE SELECTION AND VIABILITY  
CK PROPERTIES THEYDON BOIS LIMITED**

You will be aware I am due to appear at the Matter 5 session on Tuesday 19 March. In this connection, RPS have prepared a hearing statement on behalf of CK Properties Theydon Bois Limited, who are the owners of the Land East of Central Line / North of Abridge Road (including the Old Foresters site), Theydon Bois ("representation site").

I am in receipt of your email of 13 March along with the Inspector's agenda for the Matter 5 hearing session.

It is clear from the agenda, especially when coupled with the Inspector's note (dated 12 March), that contrary to our understanding, this Matter 5 session is not considered appropriate for site specific site representations. In light of previous correspondence, this fact is of real concern to my client and prejudices the ability for my client (and indeed others) to fully participate in the examination and prejudice the ability for all the issues to be properly tested in terms of soundness of the Plan.

By way of background, I wish to highlight the following:

- 1) You will be aware of my client's legal challenge and the decision in *CK Properties (Theydon Bois) Limited v Epping Forest District Council* [2018] EWHC 1649 (Admin) ("High Court Decision"). This case focussed on the adequacy of the Council's consideration and assessment of sites, and whether the reasons as to why sites allocated at Regulation 18 stage, but subsequently omitted at the Regulation 19 stage, were communicated to those with an interest in such sites or indeed Full Council at the time they resolved to submit the Local Plan for examination. As part of those proceedings, my client explained why he had no opportunity to address the reasons for removing the representation site, all of which were clearly unfounded. This is because the reasons were published (through Appendix B to the Site Selection Report) **after** the Plan was submitted for examination.
- 2) Mr Justice Supperstone, in response to my client's legal challenge, found that "... (the Claimant's) concerns regarding the soundness and legal compliance of the draft plan will be addressed through the independent examination process" and that "the independent examination of the draft plan will provide the Claimant with an alternative remedy".
- 3) Your email of 20 January 2019 confirmed that: "Representors that are promoting an "Omission" site have not been included in the relevant place Hearing Session, but in Matter 5 Site Selection as this is

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the appropriate hearing session in which to discuss this issue.” This I consider was in full spirit of the High Court Decision.

- 4) The Inspector’s original Matter 5 agenda included the following question (no. 3) under Issue 1: “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?”

This question is not included in the new agenda. This change being highly relevant to my client, as the representation site was one of the sites that was allocated for housing in the Regulation 18 – consultation draft of the Local Plan and then subsequently removed in the submission version of the Local Plan.

For the above reasons, the RPS Matter 5 hearing statement is largely site specific.

It would appear that the matters set out in the new agenda relate primarily to site selection methodology and procedure. However, my client’s representation is not wholly procedure based. Rather, it is focused upon the merits of the representation site and the lack of a legitimate planning reason for the removal of the site’s housing allocation. Accordingly, my client wishes to deal with the question originally posed by the Inspector (Issue 1, Question 3).

You will appreciate that my client has invested considerable time and money into making Local Plan representations and submissions and in proceeding with the High Court challenge. They have acted in complete compliance with both the Local Plan process and the High Court judgement and accordingly require the opportunity to have their representations considered fully by way of the independent examination process, as ruled by the High Court. However, it appears that this opportunity has now been incorrectly and unfairly removed.

In light of the above, I would be grateful if the Inspector, via you, can advise as to when it is appropriate to put forward detailed comments with regard omission sites and make oral submissions on the same. In this case, maybe the Theydon Bois slot under Matter 15 as originally anticipated?

I look forward to hearing from you at your earliest convenience, ideally in advance of Tuesday’s hearing session, in order that we can prepare our submissions for the day.

Yours sincerely,



**Danny Simmonds**

Planning Director

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