

MATTER 15: Places and Sites (Policies P1-P15)

Issue 1: Are Policies P1-P15 justified, effective and consistent with national policy in the following general areas:

2. Are all of the “Infrastructure Requirements” included within Policies P1-P15 intended to apply to every allocated site within each policy? Is this justified with reference to the tests in paragraph 204 of the NPPF?

We contend that the infrastructure requirements are not justified with reference to tests in paragraph 204 of the NPPF, which states:

Planning obligations should only be sought where they meet all of the following tests:

1. *necessary to make the development acceptable in planning terms;*
2. *directly related to the development; and*
3. *fairly and reasonably related in scale and kind to the development.*

Taking each infrastructure requirement in turn for policy P7 (Chigwell):

- (i) Secondary School expansion: The LP does not to allocate sites to secondary schools or provide any indication of size, scale or location. The Infrastructure Delivery Plan (EB1101B) only describes “Expansion in Loughton and/or Chigwell” (p39).
 - a. Test 1 fails as the Local Plan’s approach to secondary schools in Chigwell lack substance. Planning obligations should be sought where educational infrastructure has sites identified and allocated on the LP.
 - b. Test 2 fails as some developments will be specifically for individuals who no longer have secondary school-age children or are some years away from having them.
 - c. Test 3 fails as no figures are included in the Local Plan regarding cost per dwelling or dwelling type, and what part of that cost will go to each of the infrastructure requirements.
- (ii) Highways and junction upgrades:
 - a. Test 1 fails as 40% of highway projects for Chigwell are only “desirable”, not “essential” or “critical”.
 - b. Test 2 fails as the “essential” upgrades are far distant from where the majority of housing will be delivered, and not significantly related to the impact of additional development: these are works that should be carried out by a council as a matter of course.
 - c. Test 3 fails as no figures are included in the Local Plan regarding cost per dwelling or dwelling type, and what part of that cost will go to each of the infrastructure requirements.
- (iii) Potential upgrades to existing waste water infrastructure:
 - a. Test 1 fails as upgrades to sewer upgrades are the responsibility of water companies.
 - b. Test 2 fails as upgrades would benefit all residents, hence costs should be borne through Council Tax receipts and national funding. The Infrastructure Development plan places all costs on developers and Thames Water.

- c. Test 3 fails as no figures are included in the Local Plan regarding cost per dwelling or dwelling type, and what part of that cost will go to each of the infrastructure requirements.
- (iv) Improvement of open space throughout the settlement:
- a. Test 1 fails as the Local Plan specifically removes Open Space from the settlement, despite strong community objections. This is deliberate strategy by the Council, and not enough has been done to avoid loss of open space through the pursuit of smaller, brownfield sites or, for example, sites such as that belonging to CK Properties. The cost should not be borne by developers when the loss of the open space of Limes Farm Green (CHIG.R6) could so easily be avoided.
 - b. Test 2 fails where costs are applied to small-scale development where there is no loss of open green space. Costs should only apply to developments that actually cause loss of open green space, and this should be stated explicitly in the Local Plan.
 - c. Test 3 fails as no figures are included in the Local Plan regarding cost per dwelling or dwelling type, and what part of that cost will go to each of the infrastructure requirements.

Paragraph D of Policy P7 expands the list of infrastructure requirements in paragraph C by a significant degree:

“The Council will only permit planning applications that contribute towards the delivery of those infrastructure items set out above and in the Infrastructure Delivery Plan, unless subsequent iterations of the Infrastructure Delivery Plan or discussions with providers determine that these items are no longer required.”

The expansion of requirements is compounded further: it is stated that the Infrastructure Delivery Plan is a “Live Document” (chapter 8), and it is subject to change. Hence the list of requirements could grow extensively, and with it the opportunities for failure of against paragraph 204. A Local Plan that directly links its requirements to a live document enables the circumvention of due process including this Examination Process and its findings. Therefore we request that Paragraph D is removed from Policy P7 and other parts of the Local Plan where similar text has been included.

Remedy:

- 1. Remove infrastructure requirements from Policy P7 as they are not justified with reference to the tests of paragraph 204 of the NPPF.**
- 2. Remove Paragraph D from Policy P7, and other instances of similar text in other parts of the Local Plan.**

Issue 2: Are the Plan's policies for the specific places and sites within the District justified, effective and consistent with national policy; and are the specific site allocations they include justified and deliverable?

Policy P7: Chigwell

General Matters

1. Paragraph 5.104 indicates that the Plan makes twelve residential allocations in Chigwell, but only eleven are included in the Policy. Does this require correction?

We consider that paragraph 5.104 should be corrected as a twelfth site has never been disclosed.

2. What is the significance of the "Community Hub" referred to by Chigwell Parish Council? Should Part C refer to this, or is it to be delivered in some other way? Should reference to the Hub be made in the vision on page 147?

Whilst improved community facilities would be a welcome addition to the parish, we suggest that Chigwell Parish Council scales back its ambitions to ensure a more fitting development that respects Green Belt Land and preserves and enhances the rural and historic nature of the current community facilities.

An application to build a Community Hub was rejected on 29th March 2018 by Epping Forest District Council (EPF/2662/17, Matter 15 Hearing Statement Appendix 4), on the following two grounds:

1: The site is located within land designated as Metropolitan Green Belt where there is presumption against inappropriate development. A Community Right to Build Order was not obtained prior to the submission of this application. The proposal also falls outside of all other exceptions to inappropriate development listed within paragraphs 89 and 90 of the NPPF. It is therefore inappropriate development in the Green Belt. In addition the proposal would result in a significant reduction in the openness of the Green Belt and would undermine the purpose of including land within it. No very special circumstances or other considerations have been advanced that would outweigh the harm caused by the inappropriateness and other harm identified. The development would therefore conflict with Chapter 9 of the National Planning Policy Framework and policy GB2A of the Combined Policies of Epping Forest District Local Plan and Alterations and policies SP6 and DM4 of the Submission Version.

2: Notwithstanding the lack of information submitted in relation to the height, scale, layout and appearance of the proposed development, given the number of uses proposed and their location it is likely to be an incongruous and dominant feature which will be visible from a number of long views of the site. It will therefore seriously undermine the distinctive natural landscape character of this edge of settlement location and is incompatible with the character and low density of development in close proximity to the site. It will therefore have a serious detrimental impact on the character and amenity of the surrounding area and as such is contrary to chapter 11 of the NPPF along with LL1, LL12 and CP2 of the Combined Policies of Epping Forest District Local Plan and Alterations and DM3 of the Submission Version.

Given the sound planning reasons for refusal, it would not be appropriate to allow development of such a hub on Metropolitan Green Belt. Furthermore, a Community Right to Build Order should be obtained following independent testing and a community referendum.

In the event that CHIG.R6 is not removed from the Local Plan, we would support inclusion of new hub facilities as part of that development.

Site Specific Matters

3. CHIG.R6 (Limes Farm Masterplan Area): Do the requirements of Parts G-J adequately reflect the aims of the Chigwell Neighbourhood Plan in preparation? Is this allocation justified in respect of its impact on open space provision in the locality? Were smaller scale alternatives which might have avoided the loss of open space considered, and why were they rejected?

The allocation is not justified in respect of its impact on open space provision in the locality, and the evidence-base of the Local Plan demonstrates that its impact is detrimental.

Specifically, from EB805N “Results of Capacity and Deliverability Assessment”, a number of sites close to R6 (SR-0557) were scored negatively for “cumulative loss of open space in settlement”. This included all of the following sites:

- SR-0916: The Maypole, 171 Lambourne Road, Chigwell, Essex, IG7 6EF
- SR-0478B: Part of Chigwell Nurseries, 245 High Road, Chigwell, Essex, IG7 5BL
- SR-0557: The Limes Estate
- SR-0588: Land at Chigwell Convent and The Gate Lodge, 801 and 803 Chigwell Road, Woodford Bridge, IG8 8AU
- SR-0895: 105 Manor Road / 281 Fencepiece Road, Chigwell, Essex, IG7 5PN
- SR-0898: Grange Court, 72 High Road, Chigwell, Essex, IG7 6PT
- SR-1010: Amar Nivas, 146 Hainault Road, Chigwell, Essex, IG7 5DL

The R6 Master Plan Area was specifically set out as the cause for the negative score, where for each site above, the assessment concludes:

*There is a current deficiency in the quantum of open space within this settlement. The cumulative impact of the proposed allocations would result in a reduction in land for open space. **Proposed allocation SR-0557 will be subject to a comprehensive masterplan which may result in a short term reduction in amenity greenspace.** However, the overall masterplan will seek to re-provide existing provision through reconfiguration.*

Furthermore, strong local feedback against the loss of open space was not considered in the site selection process. This is evident from EB805Fi (p50), where no Community Feedback has been incorporated for the assessment of CHIG.R6.

While smaller scale sites may have been considered, multiple parties have submitted detailed evidence throughout the examination process that shows that the application of the Site Selection Methodology has been inconsistent, and based on inaccurate information and/or out-of-date evidence. (Submissions for Matters 5 and 6 provide clear examples).

Furthermore, our response to question 6 below provides at least 4 additional sites with potential for 10 homes or more each. A new call for smaller brownfield sites would very likely result in enough capacity to allow the open green space of Limes Farm (R6) to be saved for the local community.

Remedy:

1. Perform a new, independent assessment of sites SR-1009, SR-0869, SR-0897, SR-0998 for inclusion in the Local Plan.
2. Make a call for 5-10 brownfield larger house plots, from areas where there is a precedent for flat development, for independent assessment and inclusion in the Local Plan.
3. Remove CHIG.R6 from the Local Plan.

4. CHIG.R7 (Chigwell Convent): Is this allocation justified in light of the proposal to designate it as a Local Green Space in the emerging Chigwell Neighbourhood Plan (NP)? How has the Council worked positively and proactively with the NP body to seek to address this potential conflict between the Plan and the NP as set out in the Planning Practice Guidance (Paragraph: 009 Reference ID: 41-009-20160211)? Is this allocation justified in respect of its effect upon the setting of heritage assets? (Reps Chigwell PC).

We consider this site a better choice for allocation to housing than R6. R6 is widely used as open green space and is widely accessible to people of all social backgrounds. R7 does not perform such a role in Chigwell and has not for the 25 years I have been in the area.

5. CHIG.R8 (Fencepiece Rd) and R11 (Hainault Rd): Are the development requirements in Appendix 6 concerning access accurate? Do they reflect the conclusions of previous appeal decisions and the Highway Authority? (Reps 19LAD0046)?

None of the on-site constraints presented in Appendix 6 are accurate:

Site	Appendix 6 Erroneous Constraint Text	Evidence
R8	On-site Constraints The site has potential access constraints. As a result of the proximity of the site to the Manor Road/Fencepiece Road/Hainault Road crossroads, vehicular access to the site should be limited to Manor Road. Development proposals should consider the potential for the existing driveway onto Manor Road to be upgraded/widened as part of the development in order to ensure a safe access point which has	The Highways Authority raised no objection to access onto Fencepiece Road at the time a development application was made (Matter 15 Hearing Statement Appendix 1): <i>“The Highway Authority (HA) has assessed the submitted information and visited the site and is satisfied that the proposal is not contrary to National/ Local policies or current safety criteria. The proximity of the access to the signalised junction has been carefully considered and it is concluded that, with the provision of Keep Clear markings, it will not be detrimental to highway safety. The flatted development will not generate a significant amount of movements in the peak hours and will not cause any capacity or efficiency</i>

	<p>sufficient capacity for the development it serves.</p>	<p>issues.”</p> <p>The Planning Inspector on appeal (APP/J1535/W/16/3162357, 27 March 2017) rejected the Council’s ground for refusal regarding access (Matter 15 Hearing Statement Appendix 2):</p> <p><i>“I understand that the junction is sometimes busy and that there is a level change on approach. Nevertheless, I have not been provided with any qualification that the scheme would lead to the ‘substantial intensification’ the Council assert. Therefore with the provision of the marking the LHA recommend and appropriate conditions, I have no reason to suppose that vehicles could not safely enter the site or leave and join the traffic on Fencepiece Road.”</i></p>		
<p>R11</p>	<p>On-site Constraints</p> <p>The site has access constraints. Development proposals should assess whether the current access to the residential property would provide a safe access point which has sufficient capacity to serve the proposed residential development. This includes ensuring that appropriate visibility splays can be accommodated within any exiting or proposed access point.</p>	<p>SVLP Evidence Base</p> <p>The evidence base of the Local Plan refutes these claims. EB805Fi “Results of Stage 2 and Stage 6.2 Assessment Part I” shows no site constraints (p71):</p> <p>Site Suitability Assessment</p> <p>Site Reference: SR-1010 Parish: Chigwell Size (ha): 0.17 Address: Amar Nivas, 146 Hainault Road, Chigwell, Essex, IG7 5DL</p> <p>Primary use: Residential Site notes: Single detached dwelling</p> <p>Baseline yield: 12 dwellings</p> <p>Source for baseline yield: Indicated in pre-application request</p> <p>Site constraints: No constraints identified.</p> <p>Site selection adjustment: None</p> <p>Community feedback: The Council did not consult on a growth location which covers or is near to this site. Dwellings: 12</p> <p>Furthermore, from EB805Fi (p71), Criterion 6.4 for site access gains a positive score:</p> <table border="1" data-bbox="730 1794 1401 1888"> <tr> <td data-bbox="730 1794 1273 1888">6.4 Access to site</td> <td data-bbox="1273 1794 1401 1888" style="background-color: #90EE90; text-align: center;">(+)</td> </tr> </table> <p>From EB805N “Results of Capacity and Deliverability Assessment” (p35), criterion 1.3 scores the site positively for on-site restrictions and states that the</p>	6.4 Access to site	(+)
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		<p>“Site is not subject to any known restrictions. No data is held on on-site restrictions.”</p> <table border="1" data-bbox="730 300 1401 398"> <tr> <td data-bbox="730 300 1273 398">1.3 On-site restrictions</td> <td data-bbox="1273 300 1401 398">(+)</td> </tr> </table> <p>Planning Inspectorate</p> <p>The Planning Inspector determined on appeal (APP/J1535/W/17/3190595, Matter 15 Hearing Statement Appendix 3) on 27 July 2018 that development was permitted for demolition and new build of 11 apartments (with housing density of approximately 65dph, versus LP indication of 50dph).</p> <p>The Inspector set out the following in her findings regarding access and capacity impact on highway safety:</p> <p><i>“The plans show both site accesses would be widened to four metres but the Highway Authority (HA) requires a width of 5 metres for the first 6 metres of an access to allow vehicles to pass each other. However, the site would have separate access and egress points, and <u>the HA has accepted that the southern access, which is proposed to be used to exit the site, would have sufficient visibility in both directions.</u> Accordingly a 5 metre width is not necessary to avoid increased risks to highway safety.”</i></p> <p><i>“In relation to LP Policy ST4 (ii), <u>no evidence has been put forward by the Council to demonstrate that the proposal is likely to lead to an excessive degree of traffic congestion,</u> and the traffic survey submitted by the appellant concludes that there would be only a 1% increase in traffic on Hainault Road. <u>This evidence is unchallenged by the HA and the Council.</u> Whilst the development would increase the number of vehicle movements to and from the site there is no compelling evidence before me that this would have an unacceptably adverse effect on the operation of the local highway network, including the use of the nearby bus stop.”</i></p>	1.3 On-site restrictions	(+)
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Remedy:

- 1. Remove On-site Constraints and associated text from Appendix 6 and Policy P7 for CHIG.R8 (Fencepiece Rd) and R11 (Hainault Rd).**

6. What effect would the development of the following sites have on the purposes of the Green Belt: CHIG.R1; R2; R4; and R5? Has the supply of brownfield sites been exhausted, including the potential for conversion of larger dwellings?

The supply of brownfield sites has not been exhausted, including the potential for conversion of larger dwellings. The extracts in table 1 below are from EB805P “Results of Identifying Sites for Allocation” (p7). There are four sites that appear viable except in relation to capacity assessment. The Hearing Meetings and Statements for Matters 5 and 6, and associated submissions, have provided substantial evidence that the application of the site selection methodology, including capacity assessments, has been inconsistent and based on inaccurate information and/or out-of-date evidence (also see table 2 below).

Table 1

SR-0869	46 Stradbroke Drive, Chigwell, Essex, IG7 5QZ	Chigwell	0.20	4	No on-site restrictions or constraints were identified and it was considered that identified deficiencies in primary and secondary school places or GP surgeries would not be an insurmountable constraint that would adversely affect the achievability of the site; consideration of infrastructure requirements has been dealt with through the Infrastructure Delivery Plan (2017).	Not proposed for allocation	The site is in sole ownership but it is not known when existing on-site uses would cease. The indicative capacity assessment suggests that it would not support the minimum six units necessary for allocation. The site could proceed as windfall development but is not proposed for allocation.
SR-0895	105 Manor Road / 281 Fencepiece Road, Chigwell, Essex, IG7 5PN	Chigwell	0.07	6	No on-site restrictions or constraints were identified and it was considered that identified deficiencies in secondary school places would not adversely affect the achievability of the site; consideration of infrastructure requirements has been dealt with through the Infrastructure Delivery Plan (2017).	Proposed for allocation	This site was identified as available within five years. There is uncertainty over when on-site uses would cease, but there are no other identified constraints or restrictions which would prevent it coming forward for development. It is proposed for allocation.
SR-0897	15 Stradbroke Drive, Chigwell, Essex, IG7 5QU	Chigwell	0.69	0	No on-site restrictions or constraints were identified and it was considered that identified deficiencies in primary and secondary school places or GP surgeries would not be an insurmountable constraint that would adversely affect the achievability of the site; consideration of infrastructure requirements has been dealt with through the Infrastructure Delivery Plan (2017).	Not proposed for allocation	This site was identified as available within the first five years of the Plan period. However, the indicative capacity assessment suggests that it would not support the minimum six units necessary for allocation. It is not proposed for allocation.
SR-0998	Cornerways, Turpins Lane, Chigwell, Essex, IG8 8BA	Chigwell	0.08	1	On-site restrictions were identified, but it was considered that these could be overcome, and that identified deficiencies in primary and secondary school places or GP surgeries would not adversely affect the achievability of the site; consideration of infrastructure requirements has been dealt with through the Infrastructure Delivery Plan (2017).	Not proposed for allocation	The site was identified as available within the first five years of the Plan period but the indicative capacity assessment suggests that it would not support the minimum six units necessary for allocation. The site could proceed as windfall development but is not proposed for allocation.
SR-1009	130 Hainault Road, Chigwell, Essex, IG7 5DL	Chigwell	0.16	1	No on-site restrictions or constraints were identified and it was considered that identified deficiencies in secondary school places would not be an insurmountable constraint that would adversely affect the achievability of the site; consideration of infrastructure requirements has been dealt with through the Infrastructure Delivery Plan (2017).	Not proposed for allocation	Although the site was identified as available within the first five years of the Plan period, the indicative capacity assessment suggests that it would not support the minimum six units necessary for allocation. The site could proceed as windfall development but is not proposed for allocation.
SR-1010	Amar Nivas, 146 Hainault Road, Chigwell, Essex, IG7 5DL	Chigwell	0.17	7	On-site restrictions were identified, but it was considered that these could be overcome, and that identified deficiencies in secondary school places would not adversely affect the achievability of the site; consideration of infrastructure requirements has been dealt with through the Infrastructure Delivery Plan (2017).	Proposed for allocation	This site was identified as available within five years. There is uncertainty over when on-site uses would cease, but there are no other identified constraints or restrictions which would prevent it coming forward for development. It is proposed for allocation.

Using CHIG.R11 as a benchmark, the Planning Inspector has determined that this site can support at least 65dph. Applied to the four properties listed above, there is potential for an additional 73 homes. Taking a more conservative approach of 10 dwellings per house, this provides for up to 40 more houses. Local estate agents have indicated developer interest in 144 Hainault Road (neighbour to CHIG.R11), which could provide an additional 10 units, taking total potential additional dwellings from smaller brownfield sites to 50. Furthermore, a call for sites of this nature would likely lead to a number of new submissions in the area: currently 49 large detached houses are available for sale in Chigwell (source: Rightmove, 24/04/2019, filtered by detached houses with 5 or more bedrooms).

By supporting the use of these sites and making a call for just 5 more similar sites, there is genuine scope to remove the highly contentious site R6 from the Local Plan.

Table 2

Capacity has been under-estimated in cases and restricted to less than efficient use of land. Two examples:

SR-1009	130 Hainault Road, Chigwell	This is a detached house in an area characterised by flatted developments, houses and commercial developments. Neighbouring houses have been classified as Urban Brownfield (and qualitatively assessed as 100% brownfield) with no impact on settlement character. This site has been classified as urban open space and detrimental to settlement character, with no supporting evidence. As a result, density has been artificially capped below efficient use of land, based on unjustified and inconsistent site assessment.
SR-1010	146 Hainault Road, Chigwell	This is a detached house in an area characterised by flatted developments, houses and commercial developments. Neighbouring houses have been classified as Urban Brownfield (and qualitatively assessed as 100% brownfield) with no impact on settlement character. This site has been classified as urban open space and detrimental to settlement character, with no supporting evidence. As a result, density has been artificially capped below efficient use of land, and there has been an incorrect and unfair site assessment.

In document EB805N, Settlement Character was a key driver to reduce density for SR-1009 and SR-1010. This ignores all findings by the Planning Inspector regarding the character of the area, and ignores the densities of nearby existing developments, ranging from 70-100dph.

As a result, SR-1009 was removed from the Local Plan. Based on 65 dwellings per hectare, this site could in fact contribute ten flats to the housing supply.

Remedy:

- 1. Increase capacity of CHIG.R11 to minimum 11 flats, in accordance with the decision of the Planning Inspector.**
- 2. Perform a new, independent assessment of sites SR-1009, SR-0869, SR-0897, SR-0998 for inclusion in the Local Plan.**
- 3. Make a call for 5-10 brownfield larger house plots, from areas where there is a precedent for flat development, for independent assessment and inclusion in the Local Plan.**
- 4. Remove CHIG.R6 from the Local Plan.**