Latton Priory, Harlow

Epping Forest Local Plan Examination
Response to Matter 14

Boyer

MATTER 14: INFRASTRUCTURE AND DELIVERY

MATTER 14: Infrastructure and Delivery Issue 1: Will Policy D1 be effective in securing the infrastructure necessary to support development before it takes place?

Q1: Is Policy D1 clear that any infrastructure necessary to support a development must be provided up-front/in time to serve the development?

1.1   Yes, Policy D1 indicates that infrastructure shall be provided where appropriate and necessary. The Policy is clear that development proposals must demonstrate that there is sufficient existing infrastructure capacity to accommodate the proposals envisaged, or set out what additional infrastructure is required to mitigate impacts that might otherwise arise. To achieve this, it will be beholden on the applicant to support their application with appropriate surveys / technical assessments, as specified in the Local List of Validation Requirements. To accord with Policy D1), these reports will need to establish timescales for provision if they are to be regarded as acceptable by the LPA and relevant statutory consultees.

1.2   Following from the above, it is also important that site-specific viability assessments are provided at the planning application stage, particularly where infrastructure requirements are not fully specified or understood at the Plan-making stage. For the larger allocations proposed, infrastructure should be provided as required for each phase of the development with appropriate triggers and thresholds over the build out period. This will ensure that the frontloading of investments in infrastructure does not create so great a financial burden that delivery is undermined by viability issues. It is very important to recognise that the Plan is being examined under the 'transitional arrangements', such that the approach to viability is required to be consistent with the NPPF 2012 and this Plan cannot invoke paragraph 57 of the NPPF 2019or the related provisions of Planning Practice Guidance.

Q2: Should Part A and the relevant supporting text explain that infrastructure and services for which contributions etc. could be sought might be derived from made Neighbourhood Plans as well as from the Infrastructure Delivery Plan? (Reps Chigwell PC).

1.3   Yes, there is scope to amend the policy in this manner. However, if the policy were to be amended in this way, it may also be appropriate to state (for the avoidance of doubt) that infrastructure contributions may be sought only in accordance with the Sections 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010.

Q3: In Part B, how would a potential developer find out specifically which items of infrastructure might be required as part of their scheme? Is this clear?

1.4   We consider this is clear. Paragraphs 6.3 and 6.5 to 6.6 of the supporting text make clear the role of the Infrastructure Delivery Plan (IDP) in setting out the infrastructure required to

support growth i.e. IDP Part A and B reports EB1101A and EB1101B published in 2017 in support of the Local Plan Submission Version (LPSV). It is to the IDP that developers should be able to look in order to identify potential infrastructure requirements, with site-specific viability assessments also informing the nature and scope of provision and/or contributions. It is also relevant that the IDP is to be regarded as a 'living document', which will continue to be updated as infrastructure needs and associated costs are more fully understood. For this reason, it is essential that revisions to the IDP are subject to substantive consultation.

1.5   The wording of Policy D1 should also be further clarified to note that infrastructure requirements, relating to development proposals, should be derived from appropriate technical information submitted in support of planning applications and guided by other policies set out in the Local Plan. As noted previously, it may be appropriate for the wording of the policy to expressly confirm that developer contributions towards infrastructure must be sought only in accordance with the tests set out in the CIL Regulations.

Q4: In Part C, is it intended that all the clauses (i)-(iv) should apply for an exception to be considered on viability grounds? If Part C(i) did not apply, would this risk development proceeding that could not be supported by infrastructure? Would this be justified?

1.6   It is an established planning principle (as amplified in the NPPF) that development proposals are required to mitigate their impacts to the point that this renders a proposal acceptable, subject to the Tests outlined in the CIL Regulations (2010). Viability (and by extension the deliverability of development) is an equally significant consideration. In this context, Policy D1 Part C provides a useful framework for reconciling these two dimensions and is regarded as justified. Nonetheless, a minor modification to the wording of the policy would clarify that all of clauses, (i)-(iv), shall be expected to apply in order for an exception to be made on the grounds of viability.

Issue 2: Are the requirements of Policy D2 concerning health Impact Assessments (HIA) justified, effective and consistent with national policy?

Q1: Is it clear in the policy wording and the supporting text that the purpose of HIA concerns wider health and well-being matters beyond health infrastructure?

1.7   Yes, the final paragraph of the policy states that HIAs will measure the wider impact upon healthy living as well as demands that are placed upon the capacity of health services and facilities arising from development. However, the policy and/or its supporting text should make reference to Essex County Council's Health and Wellbeing Strategy 2018-2022, as this document provides a key contextual reference for the preparation of a HIA. It is important that the scope of a HIA is proportionate to the scale of the development envisaged, and as such, the wording of policy could be revised such that the scope of a HIA (and the determinants to be assessed) can be established through the pre-application procedure and in consultation with Essex County Council's Public Health Team.

Q2: Essex County Council has indicated that the Department of Health does not issue guidance on HIA. Do the references within the policy require updating? Is specific guidance on the matters to be covered required within the Plan itself?

1.8 The policy should be revised to indicate that Health Impact Assessments should be based on the most up-to-date guidance (if and when such guidance is made available in future), with reference to the Local List of Validation Requirements. At this juncture, there is no single set of guidance / best practice, or an accrediting body which governs the approach to HIAs. However, HIAs are an increasingly established aspect of the planning system and their preparation should be guided by widely accepted principles. Accordingly, and as noted in relation to Q1, it may be that the wording of the policy can be revised to indicate that the scope and content of a HIA can be established through the pre-application procedure and in consultation with Essex County Council's Public Health Team.

Q3: What type of information is expected in a HIA and how will developments respond to their recommendations?

1.9 At present there is limited guidance available, however, as stated above, the wording of Policy D2 does set out a general scope of what would be expected;

"…a Health Impact Assessment that will measure the wider impact upon healthy living and the demands that are placed upon the capacity of health services and facilities arising from the development."

1.10 Accordingly, the wording of the policy and/or its supporting text may be revised to indicate that the scope and content of a HIA can be established through the pre-application procedure and in consultation with Essex County Council's Public Health Team.

Q4: Is there value in requiring HIAs for allocated sites, or should the health impacts already have been assessed through the plan-making process?

1.11 Subject to our comments below, there is some value in HIAs for allocated sites at application stage. With reference to our clients' interests at Latton Priory, Policy SP5 'Garden Town Communities' (Part F) already identifies a requirement for the "provision of appropriate community and health facilities" Therefore, this matter has already been given some consideration through the site allocation process.. The health impacts and wider public health considerations for the Garden Town Sites could also be explored through the Masterplanning Process set out in Policies SP3 and SP4, and their associated supporting text.

1.12 Notwithstanding the above, there is scope for health matters to be considered in greater depth at the decision-taking stage, via the framework that a HIA would provide. Indeed, Health Impact Assessments (HIAs) are primarily understood to be an evaluative tool, which is most beneficially applied at the decision-taking stage. The scope of the HIA should be proportionate to the scale of the development envisaged and the degree of impacts that the proposals are likely to induce.

Q5: Is the threshold for the production of an HIA at 50 dwellings proportionate?

1.13 The PPG (Paragraph: 004 Reference ID: 53-004-20140306) acknowledges that Health Impact Assessments (HIAs) may be a useful tool to use where there are expected to be significant impacts. Accordingly, it is considered that the wording of the policy should be revised such that it is clear that the scope of a particular HIA, as submitted in support of a planning application, should be proportionate to the nature and scale of the development proposed. Nonetheless, it is important that proposed 50 unit threshold is justified on the basis of clear and well-reasoned evidence.

Issue 3: Is Policy D3 justified in requiring developers to fund improvements to utilities infrastructure where capacity issues exist?

Q1. Is it correct that utility providers have a duty to provide services to new development? If so, is Part B justified?

1.14 We understand there are certain statutory duties upon utility providers to provide connections to new development often subject to mandatory minimum standards. However, such duties do not extend to the funding of such connections unless pre-programmed to meet needs already established. Part B of the Policy which relates to funding is not therefore affected by the statutory duty.

Issue 4: Is Policy D4 effective?

Q1: For the purpose of Parts B and C, how will a developer know specifically whether and what community infrastructure is required as part of the scheme?

1.15 It is to the IDP that developers should be able to look in order to identify potential infrastructure requirements. It may be appropriate to make minor adjustments to the wording of Policy D4 and/or its supporting text to ensure this is clear.

1.16 Additionally, the requirements for community infrastructure must also be assessed in relation to the circumstances and specific requirements arising from each site and the wording of the policy should be revised to acknowledge and provide greater flexibility. This may be achieved by ensuring that the respective requirement for on and/or off-site infrastructure provision accounts for the circumstances of the site, as well as the location and the nature of the proposals.

1.17 The policy should also expressly confirm that regard should be had to the surveys and assessments that will accompany a planning application, including analyses of available existing facilities. The robustness of the policy could be further enhanced through reference to the statutory tests outlined in the CIL Regulations 2010.

Q2: In relation to Part C, is it necessary to define strategic, larger and smaller developments, or is this clear elsewhere in the Plan?
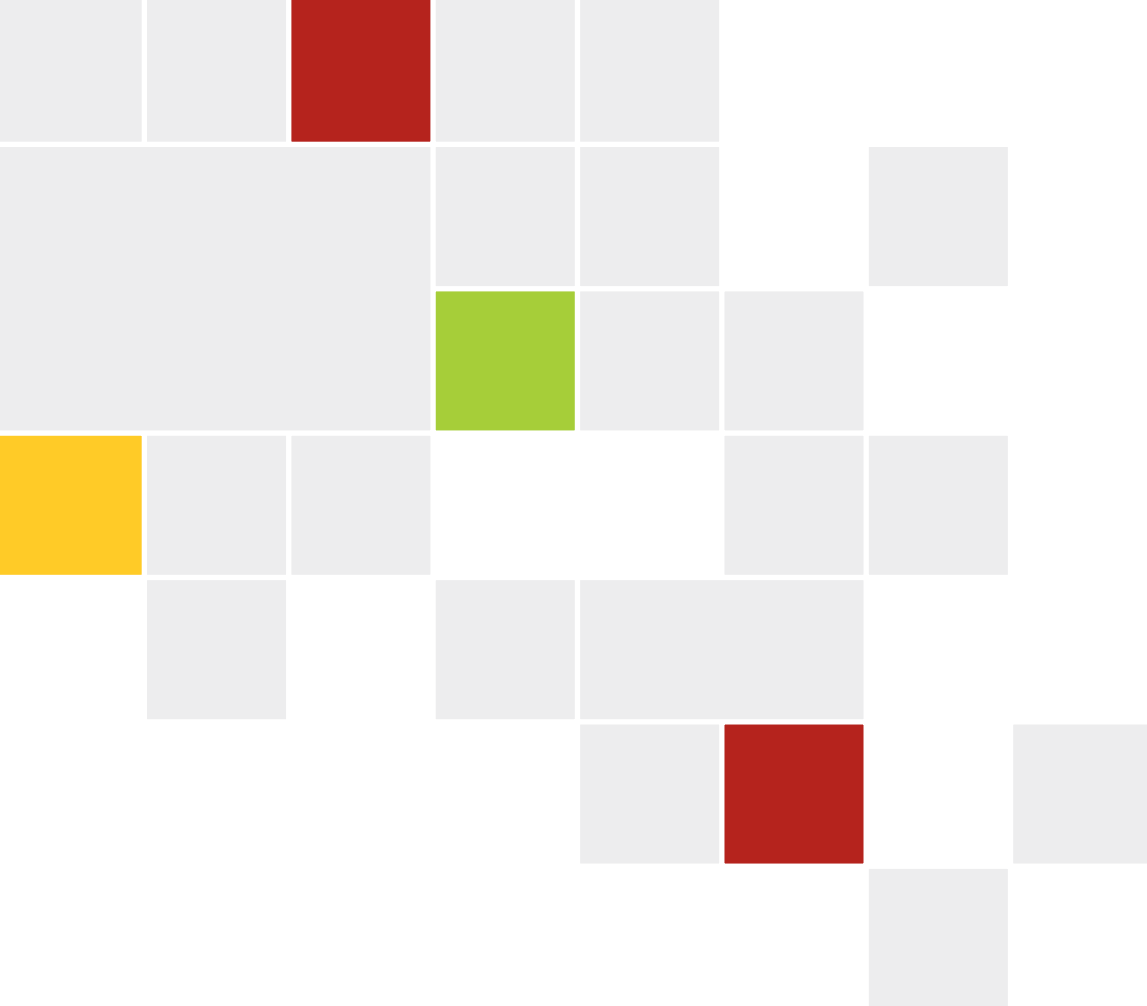
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1.18   Providing such a definition would facilitate clarity at the planning application stage. However, as noted, it may be preferable to pursue an approach which has regard to the specific circumstances of the site in question. This would ensure that the requirement for community infrastructure can be evaluated in detail at the planning application stage, in accordance with the Tests identified in the CIL Regulations.

Q3: What is the purpose of having separate criteria in parts G and H? Are they intended to apply to different types of development? Why is marketing required in Part H but not Part G?

1.19   It is not clear whether the Council proposes to distinguish between 'valued facilities' (noted in Part G) and 'community facilities' (referenced in Part H). If such a typology is proposed, it will be necessary to explain how this approach is grounded in evidence, such that it is demonstrably justified and likely to be effective. Notwithstanding this wider point, Parts G and H, as presently prepared, appear to be inconsistent and should be revised to ensure clarity.

Issue 5: Are Policies D5-D7 justified, effective and consistent with national policy? • No specific questions.

1.20   Policy D5, Part A, is regarded as justified, effective and consistent with national policy. Part B should omit reference to the General Permitted Development Order (GPDO), as the contents of the Order are not a matter for consideration with the scope of the Plan's development management policies.

1.21   Policy D6, is likely not necessary, as it simply reiterates the statutory requirements for the preparation and 'making' of a Neighbourhood Plan. Specifically, Neighbourhood Plans must meet the basic conditions defined at paragraph 8(2) of Schedule 4B to the 'Town and Country Planning Act 1990', as applied by section 38A of the 'Planning and Compulsory Purchase Act 2004'.

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