



Epping Forest Local Plan

Examination in Public

Hearing Statement

on behalf of

Miller Homes

Week 6

Matter 11 – Housing

April 2019

AM-P Ref: 13001



INTRODUCTION

1. This Hearing Statement has been prepared by Andrew Martin – Planning (AM-P) on behalf of Miller Homes.
2. Miller Homes controls 249.7 hectares (ha) of land, bounded by Gilden Way / Sheering Road, the M11, Church Langley and New Hall Farm, to the east of Harlow. Of this 121 ha of land falls within Epping Forest District to the north of Moor Hall Road and the remaining 128.7 ha within Harlow District to the south of Moor Hall Road.
3. The northern part of the site (allocation ref. SP5.3) is allocated in Policy SP5 of the Epping Forest Local Plan Submission Version (EB114) for approximately 750 homes, other associated uses and the potential relocation of the Princess Alexandra Hospital (PAH). The southern part of the site is allocated in Policy HS3 of the Harlow Local Plan Pre-Submission Document for approximately 2,600 homes and other associated uses.
4. This Hearing Statement supplements our client's formal representations from January 2018 and considers the Inspector's Matters, Issues and Questions in relation to Week 6 Matter 11 of the Epping Forest Local Plan Examination.

MATTER 11 – HOUSING

Issue 1, Question 1 – Is Part A [of Policy H1] sufficiently specific in relation to the mix of housing required such that a potential developer would know how to react to the policy? Should it reflect up to date evidence on the actual mix required?

5. Miller Homes considers that the inclusion of community-led housing in Part A (iv) of Policy H1 is not sufficiently clear or justified.
6. In order to provide greater clarity and certainty to the development industry, Miller Homes believes that the proportion of required community-led housing should be based on evidence and set out in the policy. That approach would be consistent with paragraph 182 of the National Planning Policy Framework (NPPF) (2012), which expects local plans to contain the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence.
7. This issue was set out in AM-P's Matter 8 (Garden Town Communities) hearing statement and was discussed at the 21st March 2019 hearing session in relation to Policy SP4. Miller Homes understands that Epping Forest District Council (EFDC) may, in due course, put forward a definition of community-led housing and provide further information on the appetite locally for such housing. This is vital to justify the inclusion of community-led housing in Policy H1.
8. If reasonable and subject to consultation, the proposed definition could be included in the Glossary at Appendix 1 of the Plan and any information on the appetite for community-led housing could be used to justify the inclusion of a specific proportion or percentage in Part A (iv) of Policy H1. As it stands, Part A (iv) of Policy H1 is not currently based on evidence and therefore not 'justified' in accordance with paragraph 182 of the NPPF (2012).



Issue 1, Question 4 – Does the policy [H1] require all new homes to meet the Optional Technical Standards M4(2) and / or M4(3) of the Building Regulations for accessible & adaptable dwellings and wheelchair user dwellings respectively? If so, is the need for these standards justified by evidence such as that suggested by the PPG? Should the policy allow for consideration of site specific factors which might render such standards unachievable or unviable?

9. The wording in Part A (v) of Policy H1 appears to expect all new homes to be built to Part M4(2) (i.e. accessible and adaptable dwellings) standards, as defined by the Building Regulations.
10. Paragraph 56-007 in the Planning Practice Guidance (PPG) is clear that it is for local authorities to set out how they intend to approach demonstrating the need for M4(2) and M4(3), based on their housing needs assessment and other available datasets.
11. EFDC may point towards the West Essex & East Hertfordshire Strategic Housing Market Assessment (2015) (EB405) as evidence to try to justify Policy H1. Although paragraph 6.33 in the SHMA concludes that all new dwellings should comply with Part M4(2), the evidence in the same paragraph does not support this conclusion. Instead it states that the population in the HMA is likely to increase by 65,000 people over the 22-year plan period and the number of people aged 65 or over is likely to increase by 47,200 (i.e. 73% of the overall growth). This includes 23,300 people aged 85 or over (i.e. 36% of the overall growth).
12. However, not all people over the age of 65 or over the age of 85 will need or want a Part M4(2) compliant home. Some will remain relatively able-bodied and mobile throughout their life and many others who may benefit from an accessible and adaptable dwelling will choose to remain in their existing home for family or sentimental reasons - adapting their existing property as best they can. The SHMA does not seek to interrogate or provide any evidence to demonstrate what proportion of over 65s or over 85s are likely to need and want a new-build accessible and adaptable dwelling.
13. Even if it is assumed that every person who turns 85 years old immediately requires a Part M4(2) dwelling and is willing to move from their existing home, paragraph 6.33 in the SHMA suggests that there is only a need for 36% of new homes (not 100%) to be Part M4(2) compliant.
14. With this in mind, Miller Homes respectfully requests that Part A (v) of Policy H1 is amended to read: *“provides for ~~at~~ 36% of new homes to be accessible and adaptable as defined by the Building Regulations in effect at the time of the application.”* This will still greatly increase the number of accessible and adaptable dwellings in the District during the plan period, without discouraging or placing excessive burdens on new development.
15. Alternatively, the proportion of new homes to be accessible and adaptable could be determined on *“an individual site-by-site basis at the planning application stage.”*

Issue 2, Question 1 – Paragraph 3.9 states that 2,851 affordable homes are required over the period 2016 to 2033. How many is the Plan aiming to provide as a result of Policy H2? If the requirement for 2,851 would not be met, has consideration been given to increasing the total housing requirement to help deliver more? Should the number of affordable homes expected to be delivered over the Plan period be specified in the policy for monitoring purposes?

16. The need for 2,851 affordable homes, between 2016 and 2033, is set out at Figure 21 of the SHMA Affordable Housing Update (2017) (EB408) and replicated in paragraph 3.9 of the Plan.



17. However, Part B of Policy SP2 allocates sites for a total of 9,816 new homes, of which: 148 new homes are to be delivered on sites^A of 10 or fewer dwellings; and, 9,668 new homes are to be delivered on sites of 11 or more dwellings – i.e. where 40% affordable housing will be sought in accordance with Policy H2. Therefore the provision of 40% affordable housing in Policy H2 is likely to result in 3,867 affordable homes being delivered in the District by 2033 (i.e. $9,668 * 0.4$), which equates to an excess supply of 1,016 affordable homes (i.e. $3,867 - 2,851$).
18. Paragraph 3.15 of the Plan suggests that an overprovision of affordable housing is justified on the basis that smaller sites and office to residential conversions will not contribute to affordable housing supply. However, the figures presented at the end of the preceding paragraph do not include small sites (of 10 or fewer dwellings) or any office to residential conversion sites.
19. Paragraph 182 of the NPPF (2012) is clear that to be “sound” and “justified”, a local plan must be the most appropriate strategy when considered against the reasonable alternatives and based on proportionate evidence.
20. In this case the relevant evidence is contained in Figure 21 of the SHMA Affordable Housing Update (2017) (EB408)) and this directs that there is a need for 2,851 affordable homes in the District between 2016 and 2033. In order to address that need, only 30% affordable housing (not 40%) is required from the 9,668 new homes to be delivered on allocated sites of 11 or more dwellings. Even a figure of 30% would result in 2,900 affordable homes coming forward during the plan period – which would be 49 affordable homes (i.e. $2,900 - 2,851$) more than the identified need. It is also noteworthy that this figure does not include any allowance for rural exception sites or windfall sites, which in reality are likely to lead to an even higher number of affordable homes being delivered across the District.
21. Furthermore, the final Harlow & Gilston Garden Town Strategic Viability Assessment (SVA) (released on 17th April 2019) demonstrates, at Tables 12.12 to 12.14, that ‘East of Harlow – North’ (i.e. within Epping Forest District) is likely to be at the margins of viability (i.e. scoring yellow / amber under the traffic light scoring system) in a full ‘policy on’ scenario. Miller Homes expected ‘East of Harlow – North’ to be fully viable (i.e. green) based on previous engagement with EFDC on an earlier iteration of the document – but it appears that increased infrastructure costs have resulted in a lower scoring now.
22. However, Table 10.10 in the SVA confirms that when the affordable housing requirement is reduced from 40% to 30% and assuming an 80:20 affordable rent to shared ownership split (which accords with the need referenced at paragraph 3.16 of the Plan), the viability of ‘East of Harlow – North’ switches from marginally viable (i.e. yellow / amber) to fully viable (i.e. green).
23. In summary, Miller Homes objects to Part A of Policy H2 on the basis that it requires too many (not too few) affordable homes over the plan period. In order to be “justified”, i.e. the most appropriate strategy when considered against the reasonable alternatives and based on evidence, Part A of Policy H2 should be modified to state:

*“On development sites which provide 11 or more homes, or residential floorspace of more than 1,000 sq m (combined gross internal area), the Council will require a **minimum of 30%** ~~40%~~ of those homes to be for affordable housing provided on site...”*

^A Comprising sites EPP.R10, LOU.R3, LOU.R6, LOU.R11, LOU.R12, LOU.R13, LOU.R15, LOU.R18, WAL.R7, ONG.R8, HONG.R1, CHIG.R8, CHIG.R9, CHIG.R11, THYB.R3, COOP.R1, STAP.R2, STAP.R3 and SHR.R1.



24. Alternatively if the Inspector deems this to be too radical a change to make at this stage of the local plan process, then Miller Homes respectfully requests that new wording is added to Part A of Policy H2 to set out that:

“On development sites which provide 11 or more homes, or residential floorspace of more than 1,000 sq m (combined gross internal area), the Council will require 40% of those homes to be for affordable housing provided on site, with the exception of the East of Harlow site (in Epping Forest District) where a minimum of 30% of homes are to be for affordable housing...”

25. Supporting commentary could then be added to the Plan, below paragraph 3.16, to explain that the lower affordable housing requirement for the East of Harlow site (in Epping Forest District) is based on evidence set out in the final Harlow & Gilston Garden Town Strategic Viability Assessment (April 2019).
26. The delivery of the East of Harlow site is of strategic importance to the Harlow & Gilston Garden Town as a whole. Yet by providing 30% affordable homes at ‘East of Harlow – North’ and 40% elsewhere in Epping Forest District, the Plan will still result in 3,792 affordable homes (i.e. $(8,918 * 0.4) + (750 * 0.3)$) being delivered in the District by 2033. This equates to an excess supply of 941 affordable homes (i.e. $3,792 - 2,851$) when compared to the affordable housing need identified at Figure 21 of the SHMA Affordable Housing Update (EB408). It also demonstrates that there will be ample affordable housing supply even with the above proposed change to Part A of Policy H2.

Issue 2, Question 2 – Harlow District Council has expressed concern that the Plan is silent on the matter of addressing unmet need for affordable housing in Harlow? What is the detail of this concern and is it an issue for the Plan?

27. Figure 21 of the SHMA Affordable Housing Update (2017) (EB408) identifies a need for 3,098 affordable homes in Harlow District, between 2016 and 2033.
28. During the course of the Harlow Local Plan hearings, Harlow District Council (HDC) prepared and circulated an up-to-date Housing Land Supply paper (reference EX0035 in the Harlow Local Plan ‘Examination Documents’). This focussed on the merits of adopting a stepped housing trajectory in order to demonstrate an adequate housing land supply during the first five years of the plan period. However, the first row on page 4 of the Housing Land Supply paper also includes HDC’s anticipated year-by-year housing completions. For the period 2016 to 2033 this totals 9,768 new homes.
29. Policy H8 in the Harlow Local Plan Pre-Submission Document (2018) includes a requirement for at least 30% affordable housing. This is largely mirrored in Policy H5 of the adopted Harlow Local Plan (2006) which seeks to negotiate the provision of affordable housing using 30% as a base line. Therefore, the total 9,768 new homes identified for delivery between 2016 and 2033 are likely to include 2,930 affordable homes (i.e. $9,768 * 0.3$).
30. This will address the vast majority (circa 95%) of Harlow District’s affordable housing needs (as identified in Figure 21 of the SHMA Affordable Housing Update (2017) (EB408)) and suggests that there are no significant unmet affordable needs in Harlow that must be addressed in Epping Forest District.
31. Nevertheless if 30% affordable homes are provided at ‘East of Harlow – North’ and 40% elsewhere in Epping Forest District, as proposed in paragraphs 23-25 above, there is likely to be an excess supply of 941 affordable homes in Epping Forest District between 2016 and 2033. In reality this more than makes up for the very modest projected shortfall of 168 affordable homes (i.e. $2,930 - 3,098$) in Harlow District during the same period.



Issue 2, Question 6 – Does the requirement in Part A concerning build standards duplicate the requirements of Policy H1, Part A(v)? If so, should it be deleted?

32. Miller Homes position in respect of accessible and adaptable dwellings and compliance with Part M4(2) of the Building Regulations is set out at paragraphs 9-14 above.
33. The final sentence in Part A of Policy H2 clearly duplicates the requirements set out in Part A (v) of Policy H1 and should be deleted.

Issue 2, Question 7 – Is there duplication between Part A and Part C of the Policy [H2] in respect of the mix of affordable homes required? Should the policy be more specific about the actual mix expected, or clarify where up to date evidence on this matter can be found? Is Part C justified in generally requiring the mix of affordable homes to reflect the mix of market housing? Would this meet the specific needs of those requiring affordable housing? Would it produce unnecessarily large houses that would not be genuinely affordable?

34. Part C of Policy H2 expects the mix of units in respect of size to be determined on a site by site basis, dependent on the overall needs for the local area and on the specific characteristics of the individual site. However, Part C also expects the mix of the affordable homes to reflect the mix of the market housing, in terms of the ratios of types, sizes and the overall number of habitable rooms.
35. These two policy objectives are highly likely to conflict with one another, as it is commonplace in Essex for market housing to be orientated towards larger family homes for which demand is strong and affordable housing towards smaller flats and houses which are less likely to result in under-occupancy charges for housing association tenants (also known as the bedroom tax).
36. Expecting the types, sizes and number of habitable rooms in market homes to mirror the affordable element will either result in market homes that are too small to be attractive to potential purchasers or affordable homes that are too large to be attractive to housing association tenants or both.
37. Accordingly Miller Homes submits that the second sentence in Part C of Policy H2 should be deleted, leaving the mix and size of housing to be determined on a site by site basis, dependent on the overall needs for the local area and on the specific characteristics of the individual site.

Issue 4, Question 2 – Part C [of Policy H4] cross-refers to Policy SP4. Is this correct?

38. Presumably the reference to Policy SP4 in Part C of Policy H4 should be to Policy SP2 or SP5.
39. Regardless, Miller Homes continues to object to the proposed allocation (in Part D (v) of Policy SP2 and Part H (ii) of Policy SP5) for a 0.5 ha Traveller site for up to 5 pitches at East of Harlow. As explained in our Matter 5 hearing statement, there is no evidence to demonstrate that East of Harlow is a suitable location for new Traveller provision.

SUMMARY

40. Miller Homes controls 249.7 ha of land to the east of Harlow. The northern part of the site is allocated in Policy SP5 of the Epping Forest Local Plan for approximately 750 homes, other associated uses and the potential relocation of the PAH, while the southern part is allocated in Policy HS3 of the Harlow Local Plan for approximately 2,600 homes and other associated uses.



41. Miller Homes made formal representations to the Epping Forest Local Plan in January 2018. This Hearing Statement supplements those representations and in particular:
- It objects to the inclusion of community-led housing in Part A (iv) of Policy H1, which is not based on evidence and therefore is not “justified” in accordance with paragraph 182 of the NPPF (2012).
 - It requests that Part A (v) of Policy H1 is amended to reduce the proportion of new homes that are expected to be accessible and adaptable (as defined by the Building Regulations), from 100% to 36%, to ensure that new development is not discouraged or excessively burdened. Alternatively the proportion of new homes to be accessible and adaptable could be determined on an individual site-by-site basis at the planning application stage.
 - It objects to Part A of Policy H2 on the basis that to be “justified” (i.e. the most appropriate strategy when considered against the reasonable alternatives and based on evidence): (i) a minimum of 30% (rather than 40%) affordable housing should be sought on sites of 11 or more dwellings; or alternatively, (ii) an exception should be made for a minimum of 30% affordable housing on the East of Harlow site (in Epping Forest District) only. The former would result in an excess supply of 49 affordable homes when compared to identified needs and the latter in an excess supply of 941 affordable homes.
 - It suggests that the vast majority (circa 95%) of Harlow’s affordable housing needs will be met within Harlow District and there are no significant unmet affordable needs in Harlow that must be addressed in Epping Forest District. Furthermore, the above ‘alternative’ proposed amendment to Part A of Policy H2 would result in an excess supply of 941 affordable homes in Epping Forest District between 2016 and 2033, which in reality would more than make up for the very modest projected shortfall of 168 affordable homes in Harlow District during the same period.
 - It requests that the second sentence in Part C of Policy H2 should be deleted, leaving the mix and size of housing to be determined on a site by site basis, dependent on the overall needs for the local area and on the specific characteristics of the individual site – rather than expecting market housing and affordable housing mixes and sizes to reflect one another.
 - It maintains an objection to the proposed 0.5 ha Traveller site at East of Harlow, on the basis that there is insufficient evidence to justify this element of the allocation.
42. Miller Homes also has additional comments to make in respect of the Inspector’s other Matters, Issues and Questions, which are set out in separate hearing statements.