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**PRE-HEARING STATEMENT  
ON BEHALF OF THE MARDEN ASH ACTION GROUP  
FOR WEEK 5**

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1. This statement has been prepared on behalf of the members of the Marden Ash Residents Group ("MAAG") (both individually and collectively) in connection with Matter 15 Policy P4 Ongar. MAAG has been invited to participate in the session scheduled for Wednesday 15 May 2019 at 9.30 am.
2. It is an important background fact that sites ONG.R6 and R7 were NOT included in the draft local plan that was put out for consultation under Regulation 18 and were only included, without any prior notification, in the Submitted Plan when released for the more limited consultation process under Regulation 19. No explanation has been forthcoming for this significant change in EFDCs position with regard to these two sites. This statement therefore adopts, without repeating, the points made previous in the representations of MAAG in its statements for Weeks 1 and 2 dated 18 January and Week 3 dated 20 February 2019 and should be read in this light.
3. As a matter of evidence, the September 2016 Appendix B1.5.2 Results of Stage 3 for Residential Sites in Chipping Ongar (EB801J), notes in relation to the individual sites SR-0053, SR-0391 and SR-0457 that: "This site is part of a strategic option which was judged to be a less favourable growth direction. This option would **significantly harm the Green Belt compromising the setting of Ongar, and is also more sensitive in landscape terms.**" (MAAG emphasis) This assessment was therefore unequivocal and, as a consequence, these sites were not progressed and were not included in the Regulation 18 consultation draft Local Plan (October 2016). It is also a matter of fact that the Green Belt in

the vicinity of, and including, sites ONG.R6 and 7) is long-established. Moreover, it is noted that EB805 B1.2.1 also confirms that the three sites (formerly SR 0053, SR 0457 and SR 0391) were also recorded as discounted for further assessment.

4. As the Plan was submitted for examination before 24 January 2019, and in accordance with paragraph 214 of the NPPF (July 2018), the policies in the March 2012 version of the NPPF apply. Paragraph 83 of the March 2012 makes clear that Green Belt boundaries should only be altered “in exceptional circumstances”. In the light of the very clear observations in EB801 that the onus is firmly on EFDC to (a) identify the existence of “exceptional circumstances” and (b) demonstrate that those circumstances are of sufficient magnitude as to overcome the previously identified concerns regarding these sites and the fact that releasing them would “significantly harm the Green Belt compromising the setting of Ongar” and, “are also more sensitive in landscape terms”. In the absence of convincing reasons for this about turn, MAAG submits that it would be unlawful to release these sites from the Green Belt. To date, EFDC have manifestly failed to provide any evidence that “exceptional circumstances” now exist in relation to these two sites, to identify what those “exceptional circumstances” are and how these circumstances have changed or come about since September 2016 when these two sites were rejected comprehensively from further consideration. Furthermore, they have not shown that any “exceptional circumstances” that may now exist are of such a magnitude that they outweigh the previously identified substantial planning objections to releasing these two sites.
5. Moreover, application of the March 2012 version of the NPPF must be contextual. It is therefore relevant that on 17 January 2014 the then Parliamentary Under-Secretary of State for Communities and Local Government (Brandon Lewis MP) made a written Parliamentary Statement (referring to an earlier such statement made by him of 1 July 2013 in which he noted the Government’s intentions with regard to the importance of the protection of the Green Belt) in which he said:

“The Government’s planning policy is clear that both temporary and permanent traveller sites are inappropriate development in the green belt and that planning decisions should protect green-belt land from such inappropriate development. **I also noted the Secretary of State’s policy position that unmet need, whether for traveller sites or for conventional housing, is unlikely to outweigh harm to the green belt and other harm to constitute the “very special circumstances”<sup>1</sup> justifying inappropriate development in the green belt.**

The Secretary of State wishes to re-emphasise this policy point to both local planning authorities and planning inspectors as a material consideration in their planning decisions.”

6. In addition to the above matters, there have been identified, in the MIQs, certain site-specific issues (Matter 15, Issue 1, Policy P4 paragraphs 7 & 8). These issues are:

(a) **ONG.R6 (Stanford Rivers Rd/Brentwood Rd):** Can vehicular access to this site be achieved without risk to highway safety? (Reps Ongar PC);

(b) Can development conserve the significance of Grade II listed Dyers & Marden Ash House as buildings marking the entrance to Ongar from the south? And

(c) What effect would the development of the following sites have on the purposes of the Green Belt: **ONG.R1 – R7?**

7. In response to these MAAG (with detailed specific knowledge of these sites) submits:

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<sup>1</sup> In *Calverton Parish Council v Nottingham City Council, Broxstowe Borough Council and Gedling Borough Council* [2015] EWHC 1078 (Admin) Mr Justice Jay held at paragraph 39 that the consideration as to whether “very special circumstances” existed also applied to a case involving a local Plan. He also held at paragraph 50 that “it would be illogical, and circular, to conclude that the existence of an objectively assessed need could, without more, be sufficient to amount to ‘exceptional circumstances’ within the meaning of paragraph 83 of the NPPF. No recourse to what I called during oral argument the ‘mantra’ of planning judgment could save a decision from a successful section 113 challenge in such circumstances.”

(a) In terms of vehicular access to ONGR.6: it is wholly unclear how vehicular access would or could be achieved, particularly as the only entrance to this site would be onto a very sharp, dangerous bend which has always been known as a 'accident black spot'. In fact, in the recent past, the council installed white concrete posts along this stretch of road (marking the bend) in an effort to control speed and reduce accidents. Although there is a 30mph speed limit, this is clearly not adhered to or monitored (i.e. there are no speed cameras). Safe and effective vehicular access is therefore a highly material consideration and highway safety must be a very key concern for ONGR6, as it is for ONGR 7 - where access to the site could only be achieved either through the driveway of Orchard House (which clearly the owners will not permit) or onto a very sharp bend. EFDC has produced no evidence (such as road surveys) to suggest that the issue of access and highway safety has been addressed or that satisfactory access can be provided.

(b) With regard to Grade II listed buildings, the significance of both Dyers and Marden Ash House cannot be conserved by developing either or both of these sites. Both Grade II listed properties are significant - in size and stature - and have been painstakingly and lovingly restored in recent years by their respective owners, under the auspices of English Heritage. It is for EFDC to demonstrate how a development (at a high density) of new homes - immediately next and adjacent to - these listed properties could be satisfactorily undertaken in a way that respects these designated heritage assets and their settings - as required by Part 12 of the NPPF (March 2012) (with particular reference to footnote 29 and paragraphs 129 and 141) and section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in relation to any subsequent planning application. In short, any development of these two sites will not conserve the significance of these two designated heritage assets;

(c) With regard to the impact on the green belt, MAAG has already covered this in previous submissions. However, it is important to repeat that these two

sites were rejected in 2016 by EFDC. In addition, both sites are (more than) the required 1000m from local schools, town centre shops, health centre etc. Thus, these sites are both environmentally and socially unsustainable and their inclusion in the Plan renders it unsound.

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On behalf of MAAG

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