

**EPPING FOREST DISTRICT COUNCIL
EXAMINATION OF THE DISTRICT LOCAL PLAN, 2011-2033**

MATTER 14: INFRASTRUCTURE AND DELIVERY

**PRE-HEARING STATEMENT ON BEHALF OF
EPPING FOREST DISTRICT COUNCIL**

April 2019

INTRODUCTION

Epping Forest District Council ("the Council") submits this statement in response to the Inspector's Matters, Issues and Questions ("MIQs") (ED5). This statement addresses Matter 14: Infrastructure and Delivery and provides the Council's response to all of the Inspector's questions associated with Issues 1 to 5 (ED5, pp 23-25).

This statement has been prepared with the assistance of Arup (Issue 1).

Where appropriate, the Council's responses in this statement refer to but do not repeat detailed responses within the hearing statements submitted by the Council concerning other Matters.

Key documents informing the preparation of this statement to which the Council may refer at the hearing sessions include:

- [EB1112 Health Impact Assessments \(HIA's\) \(2008\);](#)
- [EB1101A Infrastructure Delivery Plan \(Part A Report\) \(2017\);](#)
- [EB1101B Infrastructure Delivery Schedule \(Part B Report\) \(2017\);](#)
- [EB1101C Infrastructure Delivery Plan Topic Paper \(2018\);](#)
- [EB1101D Aligning Epping Forest District and Harlow IDPs \(2019\);](#)
- [EB1101E Infrastructure Delivery Plan Topic Paper Addendum – Education and Highways \(2019\);](#)
- [EB1416 Harlow and Gilston Garden Town Guidance Note \(2019\);](#)
- [EB1417 Harlow and Gilston Garden Town Strategic Viability Assessment \(2019\);](#)
- [EB1418 Harlow and Gilston Garden Town Infrastructure Delivery Plan \(2019\);](#)
- [EB1508 Epping Forest District Council and Essex County Council Summary Update to Statement of Common Ground \(2019\);](#) and
- [ED10B Draft SoCG between Epping Forest District Council and Essex Country Council - Appendix 2 draft outstanding objections \(2019\)](#)

All documents referred to in this statement are listed in **Appendix A** of this statement together with links to the relevant document included within the Examination Library.

Examination Library document references are used throughout for consistency and convenience.

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

Inspector's Question 1

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

Response to Question 1

1. The Council considers that Policy D 1, taken together with the supporting text (paragraphs 6.4 to 6.17), the Infrastructure Delivery Plans for the District (EB1101A-E) and for the Harlow and Gilston Garden Town (EB1418), is clear in relation to the phasing of infrastructure. The Council does not consider it necessary or desirable for Policy D 1 to explicitly state that infrastructure must be provided up-front or in time to serve the development. Whilst in the majority of cases it will be necessary for this to be the case, there may be exceptions to this particularly for larger sites which will be delivered in phases where the timing of infrastructure provision could have an impact on scheme viability. Rather than explicitly referencing up-front infrastructure, the Council considers that existing references to phasing are more appropriate to provide sufficient flexibility whilst ensuring the timely delivery of infrastructure.
2. There are several references to the timing of infrastructure in Policy D 1 and the supporting text:
 - (a) Part A of Policy D 1 states that applications must be able to demonstrate that infrastructure capacity “will prove to **be sufficient and sustainable over time** both in physical and financial terms”.
 - (b) Paragraph 6.6 of the supporting text recognises the role of the Infrastructure Delivery Plan (IDP) (EB1101A-E and EB1418) in ensuring that “new development is served by the necessary infrastructure, **delivered in a predictable, timely and effective fashion**”.
 - (c) Paragraph 6.9 of the supporting text states that new development will be required, where necessary, to “provide or contribute towards the provision of additional services, facilities and infrastructure **at a rate and scale which meets the needs and requirements** that are expected to arise from that development”
 - (d) Paragraph 6.10 of the supporting text states that proposals will be required to demonstrate that “infrastructure can be **provided and phased** to support the needs of the development”, including “how provision will be brought forward **to ensure development is appropriately phased in relation to planned infrastructure improvements**”.

3. Given that the IDP comprises the Epping Forest District Council Local Plan IDP, Topic Paper, Topic Paper Addendum (see EB1101A - E) and the Harlow and Gilston Garden Town IDP (EB1418), and that these are 'live documents' it is considered that a proposed amendment to paragraph 6.12 of the LPSV would be helpful for the sake of clarity as follows:

"6.12 The Schedule set out in the most up-to-date Infrastructure Delivery Plans (which comprises documentation covering the District as well as the Harlow and Gilston Garden Town Communities) identifies the Infrastructure Delivery stakeholder(s) responsible for delivery and funding of each item of infrastructure and where developer funding is likely to be required and the likely timescale of provision. "

Inspector's Question 2

- 2. 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).**

Response to Question 2

4. The Council does not consider that it is necessary to include any reference to Neighbourhood Plans in Part A of Policy D 1 or the supporting text. The IDP sets out the infrastructure required to support growth over the Plan period and draws information from a number of sources, including emerging Neighbourhood Plans. The IDP is a 'live document' which will be updated periodically to reflect updated funding estimates and infrastructure requirements. As Neighbourhood Plans in the District continue to progress and are made, relevant infrastructure requirements arising from them will be incorporated into the IDP.

Inspector's Question 3

- 3. 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?**

Response to Question 3

5. Potential developers will consult both the LPSV, in particular the place-specific policies contained in Chapter 5 and Appendix 6 of the LPSV which set out the key infrastructure

requirements for each settlement, and the IDPs to find out which items of infrastructure might be required as part of their scheme. Specific requirements will then be established through discussion at the pre-application stage with the Council, and where appropriate infrastructure providers. The Council considers that Part B of Policy D 1 already makes this sufficiently clear.

6. The Infrastructure Delivery Plan Part B Report (Infrastructure Delivery Schedule) (EB1101B) is structured by settlement and the Harlow and Gilston Garden Town Communities, as well as including a section for District-wide infrastructure which supports growth across a number of settlements.
7. The Topic Paper on infrastructure delivery (EB1101C) together with the Addendum (EB1101E) supplements the IDP and Schedule, providing additional information on infrastructure delivery including a high-level framework for apportionment and pooling arrangements to be taken forward. The Addendum provides further site-specific details on delivery and funding apportionment for the key infrastructure types. For sites within the Harlow and Gilston Garden Town, the Garden Town Infrastructure Delivery Plan (EB1418) provides further up to date details of infrastructure requirements.
8. For sites within Masterplan Areas or Concept Framework Areas, the production of Strategic Masterplans and Concept Frameworks will further refine infrastructure requirements and the need for developer contributions.

Inspector's Question 4

4. 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?

Response to Question 4

9. Part C of Policy D 1 provides a framework for determining whether a development constitutes an exception to the earlier parts of Policy D 1. All clauses must apply for an exception to be met, as is evidenced by the use of the word 'and' at the end of clause (iii), and each clause forms an important element of the decision.
10. Clause (i) ensures the planning benefits and impacts are considered as part of determination. If Clause (i) of Part C did not apply, it would risk development proceeding without being supported by infrastructure where the benefits of such development do not outweigh the harm caused by the lack of infrastructure. The Council therefore believes that this is a necessary clause and that Part C in its entirety is justified.
11. In order to improve the clarity and effectiveness of Part C of the Policy, the Council proposes amendments to insert the word "and" after the semi-colon at the end of each clause. The Council also proposes an amendment to reorder the clauses so that

clause (i) appears last in the list. This will ensure that this clause is considered as the final stage of the assessment when applying Part C of the policy. Proposed amendments to Part C of Policy D 1 are as follows:

“C. Exceptions to this policy will only be considered if:

(ii) a financial and viability appraisal (with supporting evidence), which is transparent and complies with any relevant national or local guidance applicable at the time, demonstrates that full mitigation is not viable to allow the development to proceed; and

(iii) it can be demonstrated that a full and thorough investigation has been undertaken to find innovative solutions to make the necessary provision and all possible steps have been taken to minimise the residual level of unmitigated impacts; and

~~(iiiiv)~~ Obligations are entered into by the developer that provide for appropriate additional mitigation in the event that viability improves prior to completion of the development; and

(iv) it can be demonstrated that the benefit of the development proceeding without full mitigation outweighs the harm.”

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

Inspector's Question 1

- 1. 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?**

Response to Question 1

12. The Council acknowledges that the current policy wording and the supporting text in the LPSV may be strengthened to make it clearer that the purpose of HIA concerns wider health and well-being matters beyond health infrastructure. To address this, the Council proposes amendments to the supporting text and Part D of Policy D 2 (as set out within the Draft Statement of Common Ground between Epping Forest District Council and Essex County Council (ED10B) as follows:

Paragraph 6.30

~~"For large development proposals housing applications, the extent of potential health impacts should be assessed through a Health Impact Assessment (HIA) to ensure that the development will help to encourage healthy living, and adequate levels of healthcare services continue to be provided for the new development and community as a whole. The HIA should consider the demands that are placed upon the capacity of health services and facilities arising from the development. The assessment should also consider wider impacts and any unintended consequences on health and wellbeing for both current and future residents, including the ability to access healthcare infrastructure. Where significant impacts are identified, planning permission will be refused unless infrastructure provision and/or funding to meet the health requirements of the development are provided. Health Impact Assessments should be prepared in accordance with advice and best practice as published by the Department of Health and other agencies such as NHS North Essex, and the Essex Planning Officers' Association. Health Impact Assessment should also be prepared~~ and in line with the Council's Local List of Validation Requirements."

Policy D 2, part D

~~"D. All Use Class C2 developments and Use Class C3 development in excess of 50 units, or commercial development in excess of 1,000 sqm floor space will be required to prepare 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. Where detrimental impact to health and wellbeing is identified, planning permission will~~

be refused unless the impact can be mitigated through infrastructure provision and/or funding to meet the health requirements identified."

Inspector's Question 2

2. 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?

Response to Question 2

13. The Council agrees that the LPSV should be modified to include reference to relevant guidance produce by Department of Health and other organisations including NHS North Essex, and the Essex Planning Officers' Association. The proposed amendments to paragraph 6.30 as set out within the Draft Statement of Common Ground between Epping Forest District Council and Essex County Council (EB10B) seek to address this.

~~"For large development proposals housing applications, the extent of potential health impacts should be assessed through a Health Impact Assessment (HIA) to ensure that the development will help to encourage healthy living, and adequate levels of healthcare services continue to be provided for the new development and community as a whole. The HIA should consider the demands that are placed upon the capacity of health services and facilities arising from the development. The assessment should also consider wider impacts and any unintended consequences on health and wellbeing for both current and future residents, including the ability to access healthcare infrastructure. Where significant impacts are identified, planning permission will be refused unless infrastructure provision and/or funding to meet the health requirements of the development are provided. Health Impact Assessments should be prepared in accordance with advice and best practice as published by the Department of Health and other agencies such as NHS North Essex, and the Essex Planning Officers' Association. Health Impact Assessment should also be prepared and in line with the Council's Local List of Validation Requirements."~~

Inspector's Question 3

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

Response to Question 3

14. The Council proposes to include a reference in the LPSV to the HIA guidance published by the Essex Planning Officers Association (EB1112). This guidance indicates how HIA should be undertaken and the type of information required. The Council also proposes to include additional wording under Part D of Policy D 2 as set out within the Draft Statement of Common Ground between Epping Forest District Council and Essex County Council (EB10B) in order to provide further clarification as follows:

Paragraph 6.30

"For large development proposals housing applications, the extent of potential health impacts should be assessed through a Health Impact Assessment (HIA) to ensure that the development will help to encourage healthy living, and adequate levels of healthcare services continue to be provided for the new development and community as a whole. The HIA should consider the demands that are placed upon the capacity of health services and facilities arising from the development. The assessment should also consider wider impacts and any unintended consequences on health and wellbeing for both current and future residents, including the ability to access healthcare infrastructure. Where significant impacts are identified, planning permission will be refused unless infrastructure provision and/or funding to meet the health requirements of the development are provided. Health Impact Assessments should be prepared in accordance with advice and best practice as published by the Department of Health and other agencies such as NHS North Essex, and the Essex Planning Officers' Association. Health Impact Assessment should also be prepared and in line with the Council's Local List of Validation Requirements."

Policy D 2, part D

"D. All Use Class C2 developments and Use Class C3 development in excess of 50 units, or commercial development in excess of 1,000 sqm floor space will be required to prepare 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. Where detrimental impact to health and wellbeing is identified, planning permission will be refused unless the impact can be mitigated through infrastructure provision and/or funding to meet the health requirements identified."

Inspector's Question 4

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

Response to Question 4

15. The Council considers it appropriate to require HIAs for allocated sites in accordance with Policy D 2. Through the Infrastructure Delivery Plans (EB1101A-E and EB1418), the Council has assessed the need for additional healthcare facilities such as GPs and dentists across the District based on the planned growth set out in the LPSV. This, however, is not equivalent to a full HIA. A full HIA will need to be carried out at the planning application stage in order to assess all aspects of health impacts and identify potential mitigation measures based on detailed development proposals.

Inspector's Question 5

- 5. Is the threshold for the production of an HIA at 50 dwellings proportionate?**

Response to Question 5

16. The threshold of 50 dwellings, or commercial development in excess of 1,000 sqm of floor space, is considered to be both proportionate and reasonable. This threshold is in line with the HIA guidance published by the Essex Planning Officers Association (EB1112). It is also consistent with other adopted/emerging Local Plans in Essex including Policy DC8 of the Chelmsford's adopted Core Strategy and Development Management Policies, and Policy INF3 of Uttlesford's emerging new Local Plan.

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

Inspector's Question 1

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

Response to Question 1

17. Yes, it is anticipated that providers will meet the costs of strategic upgrades through their Long-Term Strategy or Development Statements. The Council will work with utility and service providers to ensure that appropriate capacity is available to serve new development. Section 12 of the IDP Part A Report (EB1101A) recognises that utilities providers (for gas, electricity, water, and wastewater) are responsible for building, operating, and maintaining their infrastructure, but that the costs of any local upgrades, such as connections to the existing network, will be borne by developers.
18. In some cases, it is possible that there will be developer contributions required for some local water and gas infrastructure reinforcement works if proposed demand exceeds the capacity of the local distribution mains. These costs would be calculated based on site specific information including location, phasing and demand.
19. The Council considers that Part B of the policy is justified in order to allow for the eventuality where the funding of utility upgrades required to facilitate development falls under the responsibility of the developer. In such an instance, it will be important for the Council to be assured that a solution exists which can be implemented prior to occupation of the development, or the relevant phase of development.

Issue 4: Is Policy D4 effective?

Inspector's Question 1

- 1. 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?**

Response to Question 1

20. Please refer to the response to Issue 1 Question 3 above. In order to establish whether and what community infrastructure is required, a prospective developer will be required to consult both the LPSV, in particular the place-specific policies contained in Chapter 5 and Appendix 6 of the LPSV which set out the key infrastructure requirements for each settlement, and the IDPs to find out which items of infrastructure might be required as part of their scheme. Specific requirements will then be established through discussion at the pre-application stage with the Council, and where appropriate infrastructure providers.

Inspector's Question 2

- 2. In relation to Part C, is it necessary to define strategic, larger and smaller developments, or is this clear elsewhere in the Plan?**

Response to Question 2

21. The Council proposes an amendment to Part C of Policy D 4 to remove explicit reference to development scales in order to enable the policy to be applied flexibly on a site-by-site basis. As a consequence of this proposed amendment it is not considered necessary to define strategic, larger and smaller developments for the purposes of Part C.
22. The proposed amendment to Part C is set out below:
 - "C. Strategic and larger developments will be expected to make on-site provision for community, leisure and cultural facilities where feasible. For smaller developments a financial contribution will be sought where required. Developers will be expected to provide on-site provision where possible, or where appropriate, a financial contribution towards either off-site provision, or the enhancement of existing off-site facilities. This will be determined on a site-by-site basis."

Inspector's Question 3

3. 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?

Response to Question 3

23. Paragraph 6.43 of the supporting text to Policy D 4, sets out the requirements for demonstrating that there is no longer a reasonable prospect of the site's continued use for community purposes. Part G (iv) of the policy replicates this requirement explicitly, including the need to demonstrate, through appropriate evidence, that the existing community use is no longer practical, desirable or viable.
24. Part H of the Policy is not intended to be applied to different types of development to those covered by Part G and therefore represents a duplication of Part G (iv). The Council proposes an amendment to delete Part H and re-word Part G (iv) to make explicit reference to the requirement for evidence, including marketing of the site, to demonstrate there is no longer a reasonable prospect of the site being used for the existing community use. It is also proposed that the numbering of clauses in Part G is amended to ensure consistency in formatting with the rest of the LPSV. Part G clauses will therefore be numbered (i) to (iv).
25. The proposed amendment of Part G (ii) is set out below:
- "(ii) It is demonstrated that it is no longer practical, desirable or viable to retain them; ~~or~~ and the applicant can demonstrate through evidence, including marketing of the site, that there is no longer a reasonable prospect of the site being used for the existing community use; or"

APPENDIX A: Examination documents referred to in this statement

Reference	Name	Author	Date
EB1112	Health Impact Assessments (HIA's)	Essex Planning Officers Association	2008
EB1101A	Infrastructure Delivery Plan (Part A Report)	Arup	2017
EB1101B	Infrastructure Delivery Schedule (Part B Report)	Arup	2017
EB1101C	Infrastructure Delivery Topic Paper	EFDC	October 2018
EB1101D	Aligning Epping Forest District and Harlow IDPs	Arup	June 2017
EB1101E	EFDC IDP Topic Paper Addendum – Education and Highways	EFDC	April 2019
EB1418	Harlow and Gilson Garden Town Infrastructure and Delivery Plan	HDH Planning & Development Ltd and Arup	April 2019
ED10B	Draft SoCG between Epping Forest District Council and Essex Country Council - Appendix 2 draft outstanding objections	EFDC	February 2019