



Epping Forest Local Plan

Examination in Public

Supplementary Statement

on behalf of

Miller Homes

Harlow & Gilston Garden Town
Infrastructure Delivery Plan &
Strategic Viability Assessment

June 2019

AM-P Ref: 13001



INTRODUCTION

1. This Supplementary 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 Statement supplements our client's previous hearing statements and considers the Harlow & Gilston Garden Town Infrastructure Delivery Plan (IDP) (ED34 & ED34A) and the Harlow & Gilston Garden Town Strategic Viability Assessment (SVA) (ED35 & ED35A), which were published on 24th April 2019, after the majority of the Epping Forest Local Plan Examination hearings had taken place.

INFRASTRUCTURE DELIVERY PLAN

5. Miller Homes engaged with Epping Forest District Council (EFDC) and Harlow District Council (HDC) during the preparation of the Garden Town IDP and, at the broad strategic level, considers it to be a useful tool that sets out the potential infrastructure requirements associated with the overall development of the Garden Town.
6. However, the Garden Town IDP can only be a guide to infrastructure requirements and can only ever represent a 'snap-shot' in time. It is inevitable that some requirements will change as more detailed technical work is undertaken by site promoters and the local authorities. Therefore, it would be inappropriate for a local plan policy or local authority to apply the list of infrastructure requirements in the IDP rigidly when considering future development proposals in the Garden Town.
7. For example, Appendix A in the Garden Town IDP apportions various transport infrastructure costs to the East of Harlow site. Of these Miller Homes questions the validity of East of Harlow's costs apportionment to TR9 (Velizy / Second Avenue Works), TR20 (Second Stort Crossing), TR28 (Sustainable Transport Corridors & Town Centre Transport Hub) and TR33 (Public & Active Transport Support) which amount to £ 46,496,264 or £ 13,880 per dwelling over the East of Harlow site as a whole. This is questioned on the basis that such apportionment, which is apparently based on 'professional judgement and unit numbers' (paragraph 4.9.1 of the Garden Town IDP), takes no account of the actual transport impact of East of Harlow – a fact also recognised at paragraph 4.9.1.
8. The Garden Town IDP's questionable approach to transport infrastructure cost apportionment manifests itself in the £ 18,094,833 sought for the new Second River Stort Crossing (TR20), when in reality relatively few trips to and from East of Harlow will make use of such a crossing. For example, during a weekday morning peak period initial calculations suggest that only 100 to 200 trips to and from East of Harlow would make use of a Second Stort Crossing.



9. Furthermore, regardless of the content in the Garden Town IDP, all planning obligations sought at the planning application stage will need to comply with the legal tests for a planning obligation – as set out in Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). This includes requirements that all planning obligations must be:
 - (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.
10. The current Garden Town IDP does not contain sufficient evidence to demonstrate that these legal tests have been or will be met – particularly in respect of, but not limited to, the £ 18,094,833 sought from East of Harlow for the new Second River Stort Crossing (TR20). Clearly further work will be required at the planning application stage.
11. That said Miller Homes considers that the Garden Town IDP does provide sufficient evidence for local plan purposes and to demonstrate that the new Garden Town communities are deliverable at the broad strategic level.

STRATEGIC VIABILITY ASSESSMENT

Viability & Affordable Housing

12. Miller Homes noted previously that the emerging Garden Town SVA was expected to demonstrate that the East of Harlow site is financially viable at the broad strategic level. These comments were based on the draft SVA, which was the latest version available when the local plan hearing sessions commenced in February 2019. The draft SVA suggested that both parts of the East of Harlow site would be fully viable (i.e. green, under the traffic light scoring system) in a full ‘policy on’ scenario.
13. However, Tables 12.12 to 12.14 in the final SVA (published on 24th April 2019) now reveal that only the southern part of the East of Harlow site (in Harlow District) is fully viable (i.e. green). The northern part of the site (in Epping Forest District) is at the margins of viability (i.e. yellow / amber). This is due to increased infrastructure costs, particularly greater cost apportionment for the new Second River Stort Crossing (TR20), which has had an adverse impact on the potential viability of the northern part of the site.
14. Accordingly Miller Homes requested a reduction in the affordable housing sought in Policy H2, from 40% to 30% on the northern (i.e. Epping Forest) part of the site, at the Matter 11 hearing session in May 2019. This lower figure is consistent with the proportion of affordable housing being sought by HDC on the southern part of the site and, as demonstrated in our Matter 11 hearing statement, will still enable ample affordable housing delivery in Epping Forest District during the plan period. 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 Local Plan), the viability of the northern part of the East of Harlow site switches from marginally viable (i.e. yellow / amber) to fully viable (i.e. green).
15. Other than highlighting the merit in reducing the affordable housing proportion being sought at ‘East of Harlow – North’ from 40% to 30%, Miller Homes is satisfied that the final Garden Town SVA provides sufficient evidence for local plan purposes and to demonstrate that the new Garden Town communities are broadly deliverable.



2012 vs 2019 NPPF

16. Miller Homes considers that the final Garden Town SVA should not be afforded weight in accordance with paragraph 57 of the 2019 National Planning Policy Framework (NPPF). The Epping Forest Plan is being examined in accordance with the 2012 NPPF and it would be inappropriate (perhaps even unlawful) to cherry pick parts of the old and new NPPFs when considering different aspects of the Plan and its evidence base.
17. This issue was raised at the Harlow Local Plan Examination in April 2019 and the Harlow Inspector appeared, verbally at least, to rule out assessing the Garden Town SVA against the 2019 NPPF. Given the cross boundary nature of much of the Garden Town-related growth (particularly the East of Harlow site which falls in both districts), it is important that both inspectors reach a consistent conclusion on this matter.
18. It is also noteworthy that during the course of the Epping Forest Local Plan Examination, EFDC has tried to argue:
 - (i) that the Garden Town SVA should be assessed against the 2019 NPPF, in order to establish the viability position now and make it more difficult for applicants to raise viability concerns at the planning application stage; and
 - (ii) that viability can be addressed at the planning application stage, when trying to justify its decision to seek 40% (rather than 30%) affordable housing at 'East of Harlow – North', despite the Garden Town SVA indicating that 40% would push this part of the site to the very margins of viability.
19. These two positions contradict one another and EFDC cannot rely on both arguments simultaneously.
20. Miller Homes believes that the correct approach is to consider the Garden Town SVA in the context of the 2012 NPPF only and respectfully requests that the Inspector makes a judgment on this matter in the final Inspector's Report, in order to provide clarity for developers at the planning application stage.

SUMMARY

21. 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.
22. This Statement supplements Miller Homes' previous hearing statements and sets out that:
 - Although the Garden Town IDP provides sufficient evidence for local plan purposes and to demonstrate that the new Garden Town communities are deliverable at the broad strategic level, it can only be a guide to infrastructure requirements and can only ever represent a 'snap-shot' in time. It does not demonstrate that the legal tests for a planning obligation have been or will be met, and contains a questionable approach to transport infrastructure cost apportionment – particularly in respect of, but not limited to, the £ 18,094,833 sought from East of Harlow for the new Second River Stort Crossing (TR20).



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- While the Garden Town SVA provides sufficient evidence for local plan purposes and to demonstrate that the new Garden Town communities are broadly deliverable, it also highlights the merit of reducing the affordable housing requirement on the northern part of the East of Harlow site (i.e. in Epping Forest District) from 40% to 30%, to ensure that this part of the site is fully viable, rather than at the margins of viability.
 - The Garden Town SVA should be considered in the context of the 2012 NPPF, which the Epping Forest Local Plan is being assessed against. It should not be afforded weight in line with paragraph 57 of the 2019 NPPF. To do so would be inconsistent with Harlow Inspector's apparent approach and contradict other submissions that EFDC has made during the Epping Forest Examination.

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