

Home Builders Federation

ID: 19OTH0036

Matters 1, 2, 3 and 4

EPHING FOREST LOCAL PLAN EXAMINATION

Matter 1: Legal Compliance

Issue 3: Has the Duty to Cooperate, as required by S33A of the Planning and Compulsory Purchase Act, been met?

1. The strategic cross-boundary issues addressed by the Co-operation for Sustainable Development Board are set out in Section 3 of the Duty to Cooperate Statement, December 2017 (EB119). Has the Duty to Cooperate been met in respect of these matters and are there any significant omissions?

Whilst we recognise the considerable level of co-operation that has been undertaken across the Housing Market Area (HMA) we are concerned that it has resulted in an agreed housing requirement in the Memorandum of Understanding (MoU) that is lower than its objective assessment of housing needs. As such we question whether co-operation has maximised the effectiveness of plan making in relation to the strategic matter of housing delivery as required by paragraph 33A of the Planning and Compulsory Purchase Act. This is considered further in our response to question 3 below.

2. In respect of the Harlow and Gilston Garden Town, how have the Member and Officer Boards cooperated on matters such as transport, infrastructure and service provision, including education, to ensure that the Duty is met?

No comment

3. Does the decision of Epping Forest District Council and/or the other Local Authorities comprising the Housing Market Area (HMA) not to meet the Objectively Assessed Need for housing as found by the Strategic Housing Market Assessment July 2017 (EB407) represent a failure of the Duty to Cooperate? What cooperation took place to seek to meet this need within the HMA?



In considering whether or not the duty to co-operate has been effectively discharged requires the inspector, as set out in paragraph 9-010-20140306 and 9-018-20140306 of PPG, to assess the outcomes of any co-operation and whether the Council has maximised the effectiveness of the plan making process when planning for strategic cross boundary matters. The Council's Duty to Co-operate Statement (EB119) and the MoU between the authorities in the HMA establishes that meeting housing needs is a strategic matter for the Borough. Paragraph 179 of the National Planning Policy Framework also states that:

“Joint working should enable local planning authorities to work together in order to meet development requirements which cannot be wholly met within their area”.

However, joint working in this instance has produced an MOU that sets a requirement for the HMA that does not meet needs - 51,100 between 2011 and 2033 in response to an OAN of 51,700 homes – a position that is repeated at paragraph 2.56 in the Local Plan. Therefore, whilst there has been a considerable amount of joint working, if the outcome of that co-operation has not led to a housing requirement for the HMA that addresses housing needs in full there must be doubt as whether a Council can be considered to have been effective in its co-operation. This is all the more important for EFDC who have set a housing requirement that relies on other authorities in the HMA to meet some their needs.

In addition to this we also highlight in our representation our concerns regarding the underestimation of need across the HMA and the risk that either Uttlesford or Harlow would be required to meet the level of housing needs established through the standard methodology. Whilst we are pleased to note that Harlow Borough Council (HBC) have submitted their plan for examination and Uttlesford District Council (UDC) are planning to submit prior to the end of the transition period we remain concerned that these plans, in common with EFDC, are underestimating needs. In particular we are concerned that the level of needs in Harlow has been significantly underestimated in the SHMA and that there will be no capacity within Harlow to meet housing needs from elsewhere within the HMA. As such it is important that the outcomes of the examination into either of those plans will be considered at the earliest opportunity by EFDC.

We suggested in our representations that an effective response under the duty to co-operate to this uncertainty would have been to include a clause within the local plan to ensure that it is revised should there be further unmet needs arising within the HMA. We would therefore suggest the following wording is included within policy SP2 to secure an effective commitment in the plan with regard to meeting the needs of the HMA:

“Should there be any unmet needs arising as a result of the examination and adoption of other local plans in neighbouring areas then the Council will immediately seek to revise its Local Plan and allocate additional sites to ensure the needs of the HMA will be addressed.”

Matter 2: Context, Vision & Objectives and Sustainable Development

Issue 2: Is Policy SP1 concerning the presumption in favour of sustainable development necessary and consistent with national policy?

1. Does Policy SP1 add anything to, or seek to depart in any way, from national policy in paragraphs 11-16 of the NPPF? If not, is this policy necessary? If it is necessary, is it consistent with national policy?

It is not necessary to include a policy establishing the Council's commitment to the principles of sustainable development as set out in the NPPF. These principles are firmly established within the NPPF and further commitment is not necessary and can be confusing when worded differently to the national policy.

We would therefore support the deletion of SP1.

Matter 3: The Quantitative Requirements for Development

Issue 1: Is the housing requirement for the plan period 2011-2033 appropriately defined having regard to the composition of the Housing Market Area (HMA); and the Objectively Assessed Need (OAN) for housing within the HMA?

HMA

1. Is the HMA comprising Epping Forest, East Herts, Harlow and Uttlesford Councils justified? Should the HMA include Broxbourne Borough? How has the influence of neighbouring London Boroughs been taken into account?

We do not have any concerns regarding the authorities comprising HMA. There may have been some benefit of including Broxbourne within a wider HMA, but we recognise that there are difficulties for those authorities surrounding London in relation to defining HMAs. The complex migration and commuting patterns between Boroughs and the capital often mean that a variety of HMAs could be legitimately proposed. As such we consider it more important that consideration is given as to how neighbouring authorities outside of the HMA will influence housing needs. In particular it should be expected that Council consider how poor delivery of new housing in London will create growing demand for homes in those area within reasonable commuting distance of the capital which will in turn increase house prices and reduce affordability.

We identified in our representation the difficulties London Boroughs will have in meeting the level of needs identified by the Mayor in his Draft London Plan. In particular this plan will require outer London boroughs to significantly increase delivery to a level which many of those boroughs are suggesting is not possible. It would seem that the failure of London to meet its own needs is set to continue given that the London Plan is some 10,000 home shy of meeting its identified need for housing. A failure to meet needs in London will inevitably place greater pressure on those areas outside London. Households from the capital will increasingly move out in order to find the home they need and can afford.

However, the Council has seemingly ignored this situation. Instead it considers there to be no justification for a 20% uplift in response to market signals on the basis that there is unlikely to be an increase migration to support the levels of household growth resulting from such an uplift. We would suggest otherwise. The historical failure of London Boroughs to meet needs, the growing backlog of housing in the capital and a London Plan which is 1,000 homes short of meeting need and which outer London Boroughs cannot deliver would all play a part in increasing migration to the HMA and justify, at the very least, the 20% uplift in market signals originally proposed for the HMA.

OAN for Housing and the Housing Requirement

2. Does the SHMA July 2017 identify the full OAN for housing for the HMA and for Epping Forest specifically:

a. Was the standard methodology recommended by the Planning Practice Guidance (PPG) followed? Are any departures, particularly in relation to how migration and market signals were taken into account, clearly explained and justified?

b. Has consideration been given to the high level of housing need in the neighbouring London Boroughs emerging through the London Plan? If not, are the figures justified?

The Strategic Housing Market Assessment July 2017 (EB407) has broadly followed the approach to assessing housing needs as established in the guidance supporting the 2012 NPPF. However, we are concerned with the approach taken to migration trends and the consideration of market signals.

Migration trends

The starting point for any SHMA is the official household projections, formerly published by MHCLG and now published by ONS. These projections are based on the Sub National Population Projections and use a 5 year trend when considering future migration patterns. However, there is a disagreement as to whether this short term trend is an appropriate basis over which to consider household growth or whether a longer ten year trend would provide a more accurate projection of household growth. Whilst this debate will continue it is important to note that the Government have not stated that it considers the ten year trend to be a more appropriate approach and nor has it looked to change its methodology and extend the migration trend period to ten years. We recognise that the Government allow at paragraph 2a-017 for sensitivity testing as part of the OAN methodology but it also outlines that:

“Any local changes would need to be clearly explained and justified on the basis of established sources of robust evidence.

Issues will vary across areas but might include:

- migration levels that may be affected by changes in employment growth or a one off event such as a large employer moving in or out of an area or a large housing development such as an urban extension in the last 5 years*
- demographic structure that may be affected by local circumstances or policies e.g. expansion in education or facilities for older people”*

But, as we highlighted in our representation, no local justification has been provided with the SHMA suggesting that this is a preference of the consultants for a ten years trend rather than a specific local circumstance. Such a situation is wholly inappropriate given that EFDC is affected more severely by the adjusted trend period. Aside from the lack of justification we have two further concerns.

Firstly, the ten year trend period used covers a recessionary period where migration was substantially lower than normal. This should have indicated to the Council that any trend that included this period should have been considered inappropriate. Secondly, there are also wider concerns regarding the need for national consistency with regard to internal migration and adjusting trend periods within one area but not for all areas in the Country. For example, one difficulty in developing projections using a trend period is that it is possible for this period to have a different profile of migration (i.e. a different age structure of in- and out-migration). It is difficult to fully reflect any differences in age structure given that to do this would require understanding a full matrix of where population moves to- and from- (by age and sex) – as such data is not readily available. There must be a concern that by adjusting the period only for those authorities in the HMA that there is a lack of consistency between these authorities and their neighbours.

Given the significance of the impact of using the 10-year migration trend - for the HMA as a whole it reduces household growth from 50,707 to 45,507 – we would suggest there is not sufficient justification for the use of this trend period. Unless a more reasoned justification for the use of a longer-term migration trend is provided, as required by PPG, we do not consider the current approach to be sound. If the Government is to achieve its target of delivering 300,000 new homes per year by the mid-2020s then the Council will need to use an unadjusted starting point for its calculation of OAN.

Market Signals

As highlighted earlier in our statement the Council made the decision alongside its partners in the HMA to reduce its response to market signals from a 20% uplift to one of 14%. The SHMA outlines that this decision was justified on the basis of the implications for net migration and average household size. In effect the SHMA took the decision to place limits on the level of net migration. Given that London has not met its housing needs and the poor delivery in the HMA that will have suppressed household growth we are concerned that the decision to reduce market signals was made to reflect the level of development that the Councils in the HMA considered to be deliverable. This would raise the question as to whether the 14% market signals assessment was indeed an objective decision based on the relevant indicators or one based on capacity. We would suggest that the evidence supports a minimum uplift of 20% be applied and the 14% uplift is not justified.

The evidence on market signals shows an area with one of the worst affordability ratios outside of London. Evidence in the 2015 SHMA shows a market under pressure and as such a recommendation that a 20% adjustment be made to market signals. Since this SHMA was published the situation has worsened. Whilst pressure is seen across all indicators the concerns are best encapsulated in the lower quartile affordability ratios. In 2009 the ratio in EFDC dropped to 9.52 following the recession however since then it has steadily increased and now sits at 16.08. This is significantly higher than the other authorities in the HMA and is more similar to London and those authorities such as Waverley, Mid Sussex and Wycombe – all of whom applied market signals of 20% or above.

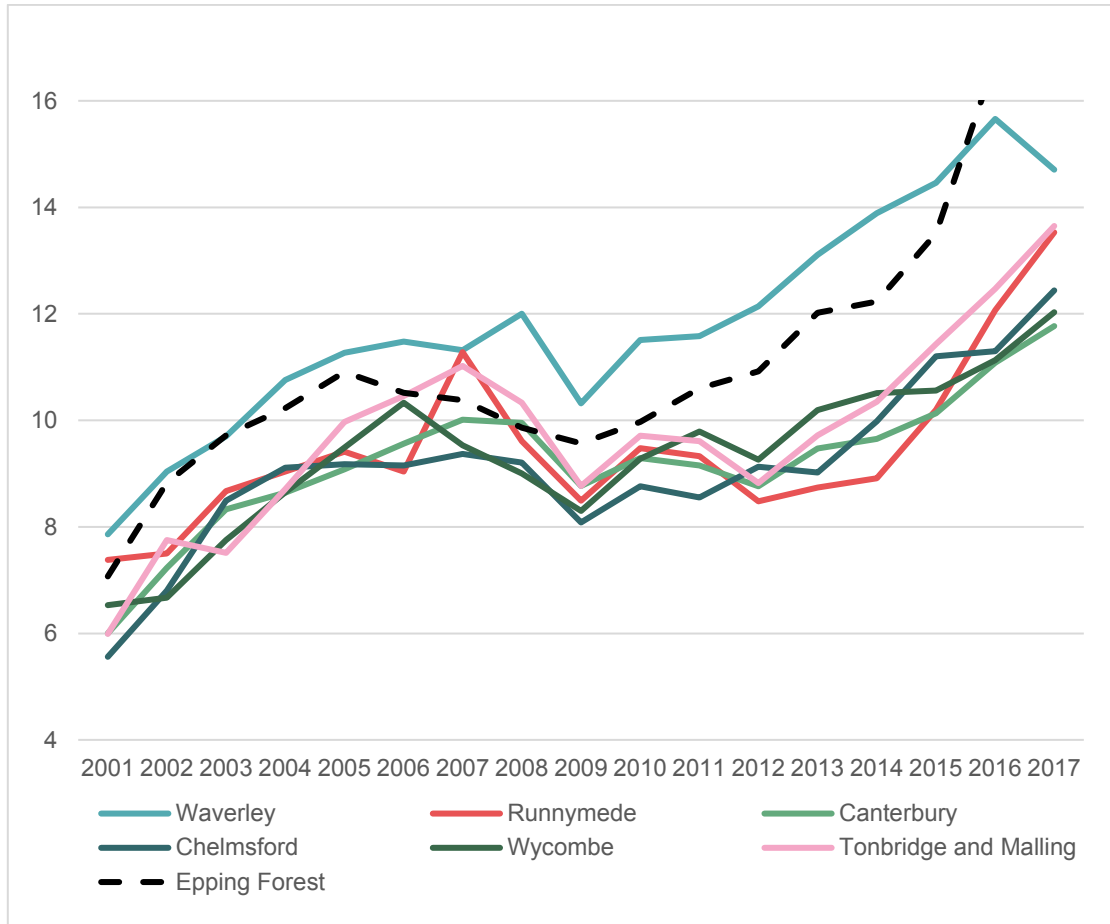


Figure 1: Comparison of affordability ratios between EFDC and local authorities with a market signals uplift of 20% or more.

Conclusions

This means that with an uplift to take account of suppressed household formation and market signals, the HMA is essentially meeting the level of household growth expected by the 2014 projections. This cannot be considered to be the boost to housing supply required by paragraph 47 of the NPPF. Given the impacts from using the 10-year trend and applying a 14% uplift for market signals we do not consider the Council's objective Assessment of housing needs to be a sound basis against which to establish its housing requirement.

This position is even more concerning given that the standard method requires the Council to deliver at least 923 homes each year from 2018/19. There is the considerable risk that the Local Plan will be considered out of date as soon as it is adopted due to it being inconsistent with national policy. This is because the Plan whilst being examined against the policies in the 2012 NPPF will, of course, be applied under the auspices of the 2018 NPPF. Paragraph 213 of the 2018 NPPF recognises that this will not automatically mean that plans made prior to the publication of the latest Framework are considered out of date. However, it goes on to state that due weight should only be given to policies adopted prior to the publication of the NPPF:

“... according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

The approach taken in assessing housing needs will not be consistent with the requirements of paragraph 60. The Council's assessment of housing needs will be based on an assessment of need that is significantly less than would be required using the standard methodology. There will be no consistency between the Plan and national policy in relation to housing needs and supply and as such those policies would be considered out of date on adoption and lead to the application of the paragraph 11 of the NPPF. We would therefore suggest that delivery is increased to ensure that this is not the case.

3. What is the relevance of the OAN figure of 13,278 for Epping Forest DC referred to in paragraph 6.8 of the Sustainability Appraisal (EB204)?

No comment

4. Is it justified for the HMA as a whole, and for Epping Forest DC specifically, to plan for less than the OAN as established by the SHMA 2017, at 51,100 and 11,400 homes respectively?

a. Has the alternative of delivering the OAN been tested through Sustainability Appraisal? If not, is the SA process deficient?

b. Will the Plan in fact provide more housing than the OAN of 12,573 as found by the SHMA 2017 (13,152 indicated in Appendix 5)? If so, is it justified to set the requirement below this?

It is not justified for the HMA to be planning for a lower level of housing than is established by the SHMA. Much of the land in the HMA sits outside of the Green Belt and is not affected by other designations set out in footnote 9. As such the Councils are required to ensure that housing needs are met in full. With regard to Epping Forest not meeting needs we accept that footnote 9 of paragraph 14 could lead to an LPA not meeting its own needs. However, if needs are not being met in full elsewhere in the HMA it is necessary for EFDC, who are not meeting their own needs, to identify where these homes will be delivered. If EFDC are able to deliver more homes that will ensure the needs of the HMA are addressed in full then its housing requirement should be adjusted accordingly.

MATTER 4: The Spatial Strategy/Distribution of Development

Issue 4: Is the distribution of development justified in respect of the need for, and approach to, Green Belt release?

1. Paragraph 14 of the NPPF generally requires that a Local Plan should meet the objectively assessed development needs of the area. However, it also confirms (via footnote 9) that Green Belt is one of the constraints which indicates that development should be restricted. How has this tension been resolved in favour of the conclusion that there are exceptional circumstances to justify the alteration of Green Belt boundaries? In particular:

a. How do the specific development needs of the District weigh against the importance given to Green Belt protection?

We would support the Council's decision to amend Green Belt boundaries. This recognises that the scale of the development needs of the Borough and increasing cost of accommodation was not a sustainable position and one that could only be addressed through the amendment of Green Belt boundaries. In particular the poor affordability and rapidly increasing accommodation costs within Epping Forest attests to the acuteness of the issue with regard to housing supply in the Borough and the limited opportunities for further development within its urban areas. We would also suggest that the circumstances faced by EFDC would support further amendments should the inspector consider the assessment of housing needs to be under estimated as we have suggested in our representations and statement to matter 3.

b. What would be the consequences of not releasing Green Belt land to help meet development needs?

The consequences of not releasing Green Belt land in EFDC will be severe. The current problems seen with regard to affordability will worsen not only in the Borough but across the HMA as those unable to form households in EFDC seeking to move elsewhere within the HMA. Even at the proposed level of delivery the affordable housing needs arising in EFDC will not be met in full and this situation will be considerably worse without the development opportunities created by the release of land from the Green Belt. Given that there is no land outside of the urban area that is not Green Belt it is vital that boundaries are amended to support development.

c. Have alternatives to Green Belt release been fully considered:

i. Has full use been made of previously developed land? Has a Brownfield Land Register been published and how has it been taken into account?

ii. Has the density of development been maximised, on brownfield and greenfield allocations?

iii. Could vacant homes be brought back into use? Have approximately 1000 properties in the Epping Area been empty for more than 6 months?

iv. Has the potential for windfall development during the Plan period been underestimated?

v. Could any other authority within the HMA have accommodated some of the District's housing need on non-Green Belt land?

Whilst it is important that the Council seeks to ensure that other alternatives have been considered the scale of the need within Epping Forest mean that it is inevitable that Green belt boundaries would need to be amended in order to support delivery. The Council's expectations of what could be delivered in the urban area would appear to be sound and that whilst further opportunities may come forward it is unlikely for these will not be sufficient to offset the allocations resulting from the proposed Green Belt boundary amendments.

2. Are the changes proposed to the Green Belt boundary informed by a robust assessment of the contribution made by individual sites to the purposes of the Green Belt (EB74A-B; and EB705A-B)? How were the findings of the Green Belt Review weighed in the balance with other planning considerations in the site selection process?

No comment

3. Is the scale of Green Belt release proposed at NWB, Thornwood and Waltham Abbey justified and proportionate to the size of the existing built up areas?

No comment

4. How have anomalies in the Green Belt boundary been identified and does the need to correct them amount to the exceptional circumstances necessary to alter the boundaries? Should sites with planning permission for residential development in the Green Belt (such as land north of Ivy Chimneys Road, Epping) be removed from the Green Belt? (See Reps 19LAD0022 re. land north of Ivy Chimneys Road, Epping).

No comment

5. Having regard to paragraph 85 of the NPPF, and to the potential for an increased level of housing need in the District to be identified in the future, how has the Council satisfied itself that Green Belt boundaries will not need to be altered at the end of the Plan period? Is it necessary to identify areas of safeguarded land between the urban area and the Green Belt?

Given the level of housing needs that are likely in future it is inevitable that boundaries will need to be reviewed within five years of this plan being adopted let alone at the end of the plan period. The primary concern of the Council should therefore be to ensure that its assessment of housing need is realistic and in line with the expectations of the standard methodology. So, whilst it is important that the Council can deliver beyond the plan period, we would suggest that there is a more pressing need to identify land to deliver the development needs of this area within this plan period.

Mark Behrendt MRTPI

Planning Manager – Local Plans SE and E