

# **Hearing Statement Examination of the East Herts District Local Plan 2011-2033**

**Matters 1 & 2**

**Week Commencing 2 October 2017**

Philip and Jane Newton

Land at Gosmore Paddock, Benington

11 September 2017

**LICHFIELDS**

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# **Appendices**

Appendix 1: Land at Gosmore Paddock, Benington

Appendix 2: Site Location Plan



## 1.0 Introduction

1.1 This Hearing Statement has been prepared by Lichfields, on behalf of Philip and Jane Newton (our clients) in relation to Matters 1 & 2 identified by the Inspector.

### Context

1.2 Lichfields have submitted representations on behalf of our clients to the earlier Pre-Submission iteration of the East Herts District Local Plan (EHDP) (the Emerging Plan) in December 2016 (2016 representations).

1.3 These focus on housing need and our clients' view that the policy context is too restrictive and may fetter appropriate residential development in sustainable locations in villages. Therefore the plan is not sound.

1.4 Their specific concern relates to land at Gosmore Paddock (see Appendix 2) within Benington<sup>1</sup> which is an appropriate location for a modest level of residential development. We recognise the Inspectors comments<sup>2</sup> that it is not the purpose of the emerging plan to consider "*omission sites*" and our comments relate to the emerging policy context which may fetter such development instead of specifically seeking an allocation.

1.5 The site is currently subject to an outline planning application for up to 13 private and affordable dwellings across private and affordable tenures (EHDC ref. 3/17/1145/OUT). The technical analysis accompanying the application confirms the appropriateness of this scale of residential development in this location.

1.6 This Hearing Statement amplifies the earlier representation from our clients and addresses the subsequent documents forming part of the EHDC evidence base. Specifically it responds to the following Inspectors Questions :

- Matter 1: General Matters – Issue (1); and
- Matter 2: The Development Strategy – Housing – Issues (1 to 6), (8), (9), (11) and (15); and
- Matter 2 : Villages - Issues (1) and (4)

### Overview

1.7 Our clients' concerns are that the emerging EHDLP is not sound, when assessed against the relevant legislative and NPPF tests as it is not (a) positively prepared, (b) justified, (c) effective and (d) consistent with national policy.

1.8 In essence their concerns are:

- The plan is based on an inaccurate assessment of Objectively Assessed Need (OAN) which understates true housing demand and the Memorandum of Understanding (March 2017) between EHDC and neighbouring authorities does not relate to the subsequent assessment of OAN<sup>3</sup> (July 2017).
- The failure to plan to meet an appropriate level of OAN is compounded by the inclusion of a policy approach which risks fettering a contribution towards housing need from land within sustainable location in villages. The evidence base relied on to identify the extent and nature of existing villages is flawed, the policy context is too restrictive and there is a

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<sup>1</sup> The site is actually identified as part of Hebing End, a Group 3 Village under Vill 3 within the emerging Local Plan

<sup>2</sup> Matters and Issues, Part 1

<sup>3</sup> West Essex and East Hertfordshire Strategic Housing Market Assessment (July 2017)

reliance on Neighbourhood Plans which may not come forward – this will curtail the scope for otherwise appropriate resident development in sustainable locations.

1.9 We expand upon these concerns below using the Inspectors numbering.

## 2.0 **Responses to Matter 1**

### **Issue 1**

- 2.1 Our 2016 representations noted that there was no agreement in place between EHDC and the surrounding authorities (including Epping Forest, Harlow and Uttlesford District Councils). Subsequently these four parties signed a Memorandum of Understanding<sup>4</sup> (March 2017).
- 2.2 This is based on the 2015 SHMA (para 1.6) and we note however that the MOU precedes the subsequent publication of the West Essex and East Hertfordshire Strategic Housing Market Assessment (July 2017).
- 2.3 There is no evidence that the implications of the 2017 SHMA have been assessed by EHDC and the neighbouring authorities.

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<sup>4</sup> On Distribution of Objectively Assessed Housing Need across the West Essex / East Hertfordshire Housing Market Area

## 3.0 Responses to Matter 2

### Issues 1 to 6

3.1 Our 2016 representations highlighted a number of concerns regarding the calculation of OAN. EHDC have since commissioned updated work in relation to this (ED112) which has failed to address these. Our outstanding concerns include :

- The SHMA does not use the DCLG household projections as the starting point for the estimate of housing need and fails to identify local demographic factors which justify departure PPG (ID 2a-015);
- The market signals uplift applied is not supported by any evidence that it would help to improve affordability as required by the PPG (ID2a-019);
- The SHMA's calculation of affordable housing need is not compliant with the NPPF or PPG (ID: 2a-022 to ID: 2a-029) which sets out a structured methodology for the calculation.

3.2 Our subsequent concerns regarding the policy context for the housing distribution relate to the current assumptions of OAN underpinning the Emerging Plan. This is in a context where, even on the basis of the current OAN assumptions EHDC have accepted :

- Since 2011 *"there has not been sufficient development"* with 3,244 dwellings having been completed against a housing requirement of 5,017 dwellings (EHDC Housing Topic Paper August 2017 para 3.17);
- *"Given the significant shortfall in housing delivery the Council accepts that a 20 % buffer should be applied"* (Housing Topic Paper para 3.18); and
- The rate of housing delivery required in the first five years of the plan is *"very high and potentially unachievable"* based on the policies of the Emerging Plan.

3.3 If the Inspector concludes that true OAN is higher, as we consider is the case, then these concerns will be amplified.

### Issue 8

3.4 The Development Strategy Topic Paper (March 2017) recognises that after considering the Group 1 Villages a *"residual figure of at least 173 homes will be provided across the remaining villages in the district."* If, as we set out above, the assessment of OAN underpinning the emerging plan is considered to be too low, then further sources of housing provision will need to be identified and this figure is likely to increase.

3.5 Even with the current levels of OAN, and as expanded upon in our response to Question 11 below, we consider that the policy context relating to future residential development in villages beyond Group 1 villages is too restrictive.

3.6 The Planning Practice Guidance (PPG) sets out *"the role of housing in supporting the broader sustainability of villages and smaller settlements"* (Paragraph: 001 Reference ID: 50-001-20160519). It recognises that housing in these areas is *"essential to ensure viable use of these local facilities"* including schools, public houses and places of worship – all of which are present in Benington.

3.7 The same paragraph states that *"all settlements can play a role in delivering sustainable development in rural areas – and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence"*.

- 3.8 The Emerging Plan does not respond to these concerns. Not only does this have implications for the delivery of sufficient housing overall it will also fetter the ability to deliver this in the right place to meet the objectives outlined in this question.

### **Issue 9**

- 3.9 As outlined in our response to the Questions regarding VILL 1 to 4 below our clients consider that there are substantial flaws within the evidence base for assessing the options for the distribution of housing within Villages. As a result the LPA have not appropriately assessed the full contribution that Villages can make to the delivery of sustainable development.

### **Question 11**

- 3.10 In a context where EHDC have acknowledged the substantive under delivery of housing in recent years and the inability of the emerging Plan to deliver an adequate supply of housing in the next five years (even on the basis of an OAN figure which we consider is too low) it is clear that housing supply will not be sufficient to meet housing needs.
- 3.11 The revisions our clients are seeking to the policies relating to housing delivery within villages, outlined in the section below, will enable the delivery of additional residential development within these sustainable locations.

### **Question 15**

- 3.12 EHDC answer the question as to whether the Plan would realistically provide a five year housing supply on adoption by conceding, even based on current OAN, by conceding that  
*“current housing land supply phased for the five year period from 1 April 2017 to March 2022, which totals 6,796 dwellings, falls short of the housing requirement for this period”* (Updated Housing Topic Paper para 3.19)
- 3.13 If the Inspector concludes that true OAN should be higher the anticipated shortfall in delivery will be even starker.
- 3.14 Instead EHDC suggests (para 3.20) that the plan should seek to address the shortfall over a 10 year period from 2017 – 2027.
- 3.15 The use of a 10 year period to address the backlog has no basis in policy in policy or guidance. The PPG at ID3-035 expresses a clear preference that LPAs *“should aim to deal with any undersupply within the first 5 years of the plan period where possible”*; the so-called ‘Sedgefield’ approach. The other less commonly adopted approach, ‘Liverpool’, would see the backlog spread over the remainder of the plan period, but plainly in the context of PPG ID3-035 should only be used if adopting Sedgefield is not possible (e.g. through making available more sites that can deliver in the shorter timeframe) and only then, following attempts to address the backlog via the duty-to-cooperate. The adoption of a 10 year period, whilst arguably more positive than a Liverpool approach, is neither ‘fish nor fowl’, may serve only to confuse matters and in our opinion should not be adopted in preference over the well-established Sedgefield method and seeking to address the backlog of unmet housing in as shorter period as possible.
- 3.16 The emerging plan compounds this situation by failing to incorporate flexibility – for example by considering the village hierarchy on the basis of a flawed evidence base and a reliance on Neighbourhood Plan led developments even in locations where it is clear there are no intentions for these to be pursued. We expand upon this below

## **Policies DPS3, DPS 6, VILL 1 and VILL 4**

3.17 We recognise that the Local Plan Inquiry is not seeking to appraise “*omission sites.*” Whilst we reference our clients proposals at Benington (albeit currently identified as being in Hebing End a VILL 3 settlement) these concerns will be applicable to similar sustainable locations where the emerging plan risks fettering otherwise appropriate residential development on sites within villages.

3.18 In essence a combination of :

- errors in the evidence base used to assess villages within the categories of VILL 1 to VILL 4;
- the settlement boundaries being “*drawn quite tightly*”<sup>5</sup>; and
- an over-restrictive policy context – particularly where there are no intentions to pursue a Neighbourhood Plan

3.19 All result on the emerging plan fettering the scope for potential residential development on sustainable sites within villages to meet the housing need identified above. We summarise at appendix 1 our clients specific concerns regarding their land within Benington and respond to the specific queries raised by the Inspector, by reference to this appendix, below.

### **Question 1**

3.20 Appendix 1 highlights the appropriateness of our clients’ site for a modest level of residential development within a village. For the reasons highlighted however we believe the plan is flawed in not identifying this (and potentially similar locations) as being within VILL 2 locations. Specifically the boundary on VILL 2 locations are “*quite tightly draw*” fettering the geographical extent of the application of this policy. In respect of Benington specifically the evidence base is flawed as the Council’s Final Village Hierarchy Study (August 2016) appears to consider Benington and Hebing End as one settlement to assess the ranking but then exclude Hebing End from the resultant designation on the proposals map.

3.21 In these circumstances we consider that there risk being substantial constraints on dwellings coming forward in villages outside VILL 1 and VILL 2 locations.

3.22 Whilst VILL 2 permits both “*limited infill development*” and “*small-scale development identified in an adopted Neighbourhood Plan*” the policy context for residential developments within VILL 3 is significantly more restrictive stating “*limited infill development identified in an adopted Neighbourhood Plan will be permitted, in addition to development that is considered to be appropriate in the Green Belt and Rural Area Beyond the Green Belt.*”

3.23 Furthermore Policy GBR2 states “*within the Rural Area beyond the Green Belt, as defined on the Policies Map, the construction of new buildings will be considered inappropriate*”. The policy goes on to highlight a series of exceptions to this which are considered as appropriate development under the policy. However, the first six of these replicate paragraph 89 of the NPPF which is applicable to land within the Green Belt. The only additional exceptions are rural exception housing, Gypsy, Traveller and Travelling Showpeople accommodation and development identified in an adopted Neighbourhood Plan.

3.24 As such, this Policy is effectively akin to Green Belt policies, yet applied to land outside the Green Belt. This is in a context where around one third of the District already comprises Green Belt land and we consider that the emerging plan fails to properly assess and meet objectively assessed housing need. Consequently VILL 3, Policy GBR2 and the wider strategy within the

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<sup>5</sup> Emerging Plan para 10.3.1

Emerging Plan is not consistent with National Planning Policies, including Paragraphs 14, 17 and 47 of NPPF. It is also not internally consistent with emerging policy INT 1 which states the Councils intention to seek to find *“solutions which mean that proposals can be approved wherever possible.”*

#### **Question 4**

- 3.25 Benington has no proposals to prepare a Neighbourhood Plan, the minutes of the Annual Parish Council meeting (July 2016) states *“The Chairman stated that no one from the village was prepared to put themselves forward to put together a Neighbourhood Plan.”*
- 3.26 The reliance on Neighbourhood Plans to identify sources of housing in village, but the lack of provisions if they are not forthcoming, risk posing substantial delivery constraints to residential development in one of the locations the plan seeks to direct residential development to.
- 3.27 Our clients are of the view therefore that Policy GBR2 of the draft Local Plan cannot be considered justified nor positively prepared as it limits the plans ability to meet objectively assessed development requirements and is likely to preclude sustainable development.

4.0

## **Changes sought to Local Plan**

4.1

In light of the issues outlined above, the following amendments are sought to the Emerging Plan:

- The emerging Local Plan should fully assess and plan to meet the District's objectively assessed need, and comply with the implications of the duty to co-operate.
- The emerging proposals map should be revisited such that village development boundaries are not "*quite tightly drawn*" and accord with the evidence base – specifically the village development boundary for Benington should extend southwards to reflect the inclusion of the facilities that have informed its ranking;
- Amendments should be made to both VILL 3 and Policy GBR2: Rural Area beyond the Green Belt to recognise the scope for appropriate small scale residential developments on both infill sites and on land adjoining the Village Development boundaries ; and
- The policy should include a "trigger" enabling appropriate development in locations below VILL 3 in the hierarchy where no Neighbourhood Plans are brought forward.

4.2

Without the amendments sought above our clients do not consider that the Submission Local Plan can be considered sound particularly with regards to being "*positively prepared*" or "*justified*".

# **Appendix 1: Land at Gosmore Paddock, Benington**

Our clients concerns regarding the policy context for villages are brought into stark focus by their site at Gosmore Paddock, Benington which has the following characteristics :

- The site is located within the south-eastern part of Benington, in an enclave surrounded by development.
- Is easily accessible by public transport and benefits from two bus stops located approximately c.100m from the site on Whempstead Road. These provide a regular service, running Monday to Saturday from the site to Ware, Hertford and Stevenage and intervening locations.
- Is less than one mile from Benington Primary School<sup>1</sup> and is close to Little Munden Primary School (1.6 miles) and Aston St. Mary's Primary School (2.25 miles)<sup>6</sup>. In addition to its proximity to Heath Mount School (2.4 miles) the Village is also served by the Barnwell School in Stevenage;
- Is within 0.6 miles of Benington Surgery and within 3.1 miles of two other doctors surgeries and two dental practices; and
- It benefits from a range of other local services and facilities including two pubs, a community hall and two churches.

However, consistent with the acknowledgement within the emerging plan that (para 10.3.1) that the village development boundaries have been "drawn quite tightly" the site falls outside Benington (VILL 2) and within Hebing End (VILL 3) with a markedly different policy context for residential development. We consider this differentiation is flawed as :

- Both parts of the village fall within Benington Parish, and are considered as one village by Benington Parish Council
- By virtue of its close proximity, shared amenities and sense of character, Hebing End is not a stand-alone settlement, but instead is part of Benington. This is particularly evident on the ground at both the site and within the settlement.
- For example the village sign for Benington is on Whempstead Road, south of our clients site;
- It is readily apparent on the ground that Benington functions as one long settlement incorporating Hebing End. The two ends of Benington are connected by one road, a footpath network, and a number of shared services and facilities.
- It is evident that there is no break in the settlement
- The so-called settlement of Hebing End is not referenced anywhere in the village. Hebing End is only the name of a road, and visitors to the village (as well as the majority of residents) would not identify Hebing End as a separate entity.

Importantly the Council's Final Village Hierarchy Study (August 2016) forming a key part of the evidence base of the emerging plan appears to consider Benington and Hebing End as one settlement. The scoring of facilities identifies Benington as having 2 public houses. Whilst not identified, these appear to be The Bell in Benington on Town Lane, and The Lordship Arms on Whempstead Road.

It is therefore clear that the part of the village accommodating our clients should be treated as part of the larger settlement of Benington, and classified as VILL 2 within the emerging East Herts District Plan, reflecting the true extent of the village.

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<sup>6</sup> During both July and September 2017 the school website stated "spaces available in most year groups"

## **Appendix 2: Site Location Plan**

**KEY**

Site boundary



**Nathaniel Lichfield & Partners**  
Planning, Design, Economics.

Project **Gosmore Paddock, Benington**

Title **Site Location Plan**

Client **Philip and Jane Newton**

Date **December 2016**

Scale **1:2000 @ A3**

Drawn by **CP**

Drg. No **ID15115-01 B**

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CL15115