

Report to Neighbourhoods Select Committee

Date of meeting: 15 November 2016

Subject: Draft Chigwell Neighbourhood Plan

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Recommendations/Decisions Required:

To endorse the points below as the main substance of a response to Chigwell Parish Council following the publication for consultation of the Draft Chigwell Neighbourhood Plan.

Introduction:

1. The Government introduced Neighbourhood Planning as part of the Localism Act 2011 in order to enable Town/Parish councils and Neighbourhood Forums to produce plans. A Neighbourhood Plan, once it has passed a referendum and been 'made' by the Local Planning Authority, forms part of the statutory development plan and must therefore be taken into account in the determination of planning applications. Neighbourhood Plans can include housing and employment land allocations, policies and design statements. Neighbourhood Development Plans can be as simple or as complicated, as broad or narrow in subject, as the Town/Parish council choose. Crucially, the Neighbourhood Plan must have regard to national planning policy as well as be in general conformity with the strategic policies of the adopted District Council Local Plan. Where a new District Local Plan is being produced by the Council it is sensible that the Neighbourhood Plan also looks toward emerging policy to avoid any relevant made neighbourhood plan policies becoming immediately out of date on adoption of the new District Local Plan.
2. Chigwell Parish Council submitted an application for the designation of a neighbourhood area in November 2013. The Neighbourhood Plan Area Application was approved by Epping Forest District Council at a Cabinet meeting on the 3 March 2014 following an eight week consultation period from 16 December 2013 to 10 February 2014.
3. Chigwell Parish Council has published its Draft Neighbourhood Plan for a period of formal public consultation which commenced on Monday 10 October 2016 and will run for six weeks, finishing on Monday 21 November 2016. The closing date for submission of comments is 25 November 2016. The District Council commends the Parish for the work undertaken in production of the Draft Neighbourhood Plan and seeks to make a formal representation to the plan through this report.
4. The requirements that apply to plan making at the neighbourhood level are not as onerous as those required by a District Local Plan. The examination process is 'light touch' and considers a limited number of matters. In order to pass examination a Neighbourhood Plan must comply with the basic conditions set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to Neighbourhood Plans by section 38A of the Planning and Compulsory Purchase Act 2004. The plan meets the basic conditions if:
 - a) Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the plan,
 - b) The making of the plan contributes to sustainable development,

- c) The making of the plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area), and
 - d) The making of the plan does not breach, and is otherwise compatible with, EU obligations and human rights requirements.
- 5. The Neighbourhood Plan policies do need to be based on evidence but are not generally required to be supported by the same level of evidence that would be expected for a District Local Plan. They can use the evidence base for the District Local Plan in addition to evidence gathered by the Town/Parish Council.
- 6. This report sets out the Council's response to the Chigwell Neighbourhood Plan 2015-2030 Pre-Submission Plan. It will first set out those policies which are considered to be in general compliance with the existing and emerging District Local Plan and then turn to areas of concern.

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- 7. As referenced in paragraph 4 above, all neighbourhood plans must be in general conformity with the adopted Local Plan for the area. The adopted Local Plan for the District is the Local Plan 1998 and the 2006 Alterations and is referred to as the 'Combined Local Plan' in the Draft Chigwell Neighbourhood Plan. Legal advice has previously been obtained regarding the compliance of the District's existing policies as set out in the adopted Plan with the draft National Planning Policy Framework (NPPF). In considering the Draft Chigwell Neighbourhood Plan the analysis of the Plan has focussed on the relevant adopted development plan policies considered to be compliant with the NPPF, and indeed the Draft Chigwell Neighbourhood Plan notes that the weight it attaches to each policy in the 'Combined Local Plan' may vary depending upon the extent to which the policy is consistent with the NPPF (paragraph 3.5).
- 8. Epping Forest District Council has recently published for public consultation the Draft Local Plan for the period up to 2033. This sets out the proposed strategy for managing residential growth across the District. Following consideration of the accommodation of growth across the West Essex and East Hertfordshire Housing Market area and assessment of strategic sites in and around Harlow a quantum of growth of about 3,900 homes is proposed for allocation on sites to the South, West and East of Harlow within the District. The Council is proposing that the remaining housing need identified for the District will be delivered by taking a sequential approach to where new homes will be delivered. The approach to the allocation of sites has been to take each settlement and consider the most appropriate sites in accordance with the order of priority set out in the table below:

- 1 A sequential flood risk assessment – proposing land in Flood Zone 2 and 3 only where need cannot be met in Flood Zone 1
- 2 Sites located on previously developed land within settlements
- 3 Sites located on open space within settlements where such selection would maintain adequate open space provision within the settlement
- 4 Previously developed land within the Green Belt (in anticipation of the NPPF being updated to take account of the proposed changes published in December 2015).
- 5 Greenfield/Green Belt land on the edge of settlements:
 - a. Of least value to the Green Belt if the land meets other suitable criteria for development.
 - b. Of greater value to the Green Belt if the land meets other suitable criteria for development.
 - c. Of most value to the Green Belt if the land meets other suitable criteria for development.
- 6 Agricultural land:
 - a. Of Grade 4-5 if the land meets other suitable criteria for development.
 - b. Of Grade 1-3 if the land meets other suitable criteria for development.
- 7 Enable small scale sites in smaller rural communities to come forward where there is a clear local need which supports the social and economic well-being of that community.

Epping Forest District Council *Draft Local Plan* paragraph 3.54

9. The Draft Chigwell Neighbourhood Plan covers the period 2015-2030, and provides for approximately 400 new homes that are proposed for allocation on 12 sites and includes a number of policies which seek to manage the impacts of development within the Parish. The Neighbourhood Plan itself cannot change Green Belt boundaries and thus recommends to Epping Forest District Council that the revised boundary account for these proposed allocations.
10. There are a number of policies in the Draft Chigwell Neighbourhood Plan that are clearly in compliance with the emerging policy in the Epping Forest District Draft Local Plan 2016:
 - i) The Council finds that Policies CHG 1 'A Spatial Plan for the Parish', CHG7 'Supporting Community Assets', CHG 10 'Promoting Good Design in the Parish' and CHG 11 'Promoting Good Design in the Chigwell Conservation Area' are in compliance with the basic principles of the NPPF and therefore with the emerging local policy in the form of the Draft Local Plan and national planning policy. However, this view is subject to the evaluation of any evidence upon which the Parish Council have based their policies beyond that explained in the Draft Sustainability Appraisal /Strategic Environmental Assessment Report. Such evidence does not currently appear to be in the public domain neither have the Council received supporting documents on these matters to support the Draft Chigwell Neighbourhood Plan.
 - ii) In relation to Policies CHG 8 'Supporting Local Shops' and CHG 9 'Supporting Local Businesses', the Council finds the policies are mostly in compliance with the basic principles of the NPPF. The Council would like to note the issue of sustainable transport in relation to these two policies. CHG 8 supports an increase in the provision of parking spaces at village centres whilst the NPPF highlights that local authorities should seek to improve the quality of car parking in town centres (paragraph 40). In line with Draft Policy T 1 the Council is focusing on sustainable modes of transport and providing genuine alternatives to the car. The Council will be developing its own residential car parking standards but the Draft Local Plan is silent on the matter of parking provision in town and village centres. CHG 9 supports the provision of jobs in areas that do

not exacerbate traffic movement. In line with Draft Policy T 1 and the definition of sustainable development provided in Paragraph 7 of the NPPF the Council supports new development in sustainable locations that give a wide range of transport choices.

Matters of concern

11. The Draft Chigwell Neighbourhood Plan approach to site selection will not, in the Council's view, meet the basic conditions at examination.
 - i) The strategy for identifying potential development sites in Chigwell Parish differs to the approach taken by the Epping Forest District Draft Local Plan 2016 (refer Paragraph 3.10 of the Draft Chigwell Neighbourhood Plan). It is recognised there is little available previously developed land in Chigwell Parish, in common with the wider District. In the District Draft Local Plan as noted above the Council has sought to propose allocations taking into account the feedback from the Community Choices (Issues and Options) consultation in 2012, government policy set out in the National Planning Policy Framework and a thorough consideration of all the sites put forward to meet the identified housing need. On this basis the Council is proposing that housing provision should be spread across the District, with areas around Harlow (within the District) to be a focus for growth. In line with Government Policy the Council has then sought to maximise the potential for allocations within existing settlements focusing on land that has previously been developed and utilising open space within settlements where such selection would maintain adequate open space provision within the settlement. This is in order to ensure that there is a limited release of land in the Green Belt to provide for housing on the edge of settlements.
 - ii) Policy CHG12 in the Draft Chigwell Neighbourhood Plan proposes a "Local Green Space" designation in accordance with paragraph 77 of the NPPF to three open spaces in the Parish namely: Glebe Land at High Road/ Vicarage Lane; Land at Chigwell Convent, High Road, Woodford Bridge and Limes Farm Open Space. Two of the areas of open space identified (Limes Farm Open Space Draft Local Plan reference SR-0557, and Land at Chigwell Convent and The Gate Lodge Draft Local Plan reference SR-0588) are proposed for allocation for residential development within the Epping Forest District Draft Local Plan. No detailed evidence has been supplied as part of the Neighbourhood Plan consultation to demonstrate how the proposed designations of Local Green Space meet the requirements of the NPPF.
 - iii) Whilst a difference in priorities pertaining to site choice is not in and of itself considered to be of concern the Council finds that the Plan's two-tier site selection process does not constitute a robust evaluation process in comparison to the site selection methodology used for the proposed allocation of sites in the Draft Local Plan. This is also not necessarily a concern given the differing tests of veracity applied to neighbourhood and district plans. However, the outcome of the application of different criteria and the weight afforded them in the site selection process has resulted in two quite different options for the future growth of Chigwell. Of the 12 sites proposed by the Draft Chigwell Neighbourhood Plan, only 2 have been proposed in the Draft Local Plan namely the former Beis Shammai School, High Road (Draft Local Plan Reference SR-043, Draft CNP reference CV1) and land at the former Grange Farm, High Road (SR- 0601, CV3). Two sites proposed in the Draft Chigwell Neighbourhood Plan (CV5 Waste Transfer Facility - SR-0560 and CR5 The Maypole no Draft Local Plan reference) were not evaluated through the site selection process for residential use but are currently being assessed using the Council's site selection methodology. It is anticipated that the outcomes of the evaluation will be available by the time of the Committee meeting.

- iv) Of concern regarding the fit between the emerging Epping Forest District Draft Local Plan proposed site allocations and those identified in the Draft Chigwell Neighbourhood Plan is the approach taken to judgements regarding
 - a) the sustainability of sites that are in the proposed allocations made by the Parish Council and:
 - b) the impact of those proposed allocations on the Green Belt.

Sustainability of the proposed site allocations

- 12. With regard to the sustainability of sites the Council's view is that the Parish Council proposes to allocate a number of sites that are not within the existing settlement or on the edge of the existing settlement and as relatively remote locations would not contribute to the achievement of sustainable development in Chigwell Parish or Epping Forest District. A key issue lies in the differing approaches taken by the Draft Chigwell Neighbourhood Plan and the EFDC Draft Local Plan in the assessment of accessibility via the local transport network together with the accessibility of sites to services and facilities.
- 13. In the application of a four stage site selection method (as outlined in the Report on Site Selection and Appendix A Site Selection Methodology) the Council sifts sites based on major policy constraints (Stage 1), the detailed qualitative and quantitative criteria (Stage 2), the best fit of sites for the particular settlement considering reasonable alternatives (Stage 3) and finally the deliverability of sites (Stage 4).
- 14. Stage 2 of the EFDC Draft Local Plan site selection methodology is predicated on a wide range of 32 detailed qualitative and quantitative criteria applicable to residential uses including 2 relating to the proximity of sites to transport networks and 5 to the proximity of sites to key services and facilities in addition to 1 on traffic impact. These are:
 - a. 3.1: Distance to the nearest rail/ tube station
 - b. 3.2: Walking distance to nearest bus stop (with at least peak hourly day service)
 - c. 3.3: Access to employment locations
 - d. 3.4: Distance to local amenities
 - e. 3.5: Distance to nearest infant/primary school
 - f. 3.6: Distance to nearest secondary school
 - g. 3.7: Distance to nearest GP surgery
 - h. 6.6: Traffic impact (on sites with capacity greater than 25 dwellings)
- 15. In the case of Chigwell at Stage 3 the more suitable strategic options were assessed as intensification and eastern expansion. The Council considers that its site selection methodology has enabled a choice of sites that is fully compliant with the NPPF.
- 16. The Draft Chigwell Neighbourhood Plan site selection methodology takes a long list of sites primarily from the EFDC SLAA 2014 and assesses them against the spatial objectives of the Chigwell Neighbourhood Plan, the EFDC Green Belt Stage 2 criteria and the Chigwell Neighbourhood Plan SEA Objectives. The Draft Chigwell Neighbourhood Plan makes clear that one of its main objectives is to manage new growth in such a manner that the effects on the existing congested local road network will be minimised (objective bullet 5 paragraph 4.2). The outcome of its site selection process is to seek to allocate development in locations that are remote from the road network. In so doing, it is argued that new residents will either use the proposed new bus service, or those using private vehicles will take longer to reach congested areas, which will therefore help to alleviate pressure. No evidence is provided to support this approach, and by placing development away from main services and facilities in the

Parish the District Councils view is that occupants will inevitably resort to the use of private cars. Whilst the District Council welcomes the provision of a new bus service the Council is concerned that the funding arrangements are not fully in place and that the bus service will not be retained in perpetuity (refer also paragraph 22 below)

17. It is considered that the approach in the Draft Chigwell Neighbourhood Plan falls short of having regard to national policy in respect of the NPPF as follows: *“Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.”* paragraph 34. In addition *“.developments should be located and designed, where practical to give priority to pedestrian and cycle movements, and have access to high quality public transport facilities..”* paragraph 35.
18. In addition, the Draft Chigwell Neighbourhood Plan is not considered to have due regard to core principle 11 of the NPPF *“actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable”* paragraph 17.

Impact on the Green Belt

19. The impact on Green Belt of the locations proposed in the Draft Chigwell Neighbourhood Plan is of concern to Epping Forest District Council. In broad locational terms CV4 (Rolls Park) falls within the strategic locations considered to be least favourable by the Council due to concerns regarding coalescence of Chigwell with Loughton. In particular sites have been selected that are separate from the built area and the pattern of development proposed by the Draft Chigwell Neighbourhood Plan if allocated would punch holes into the Green Belt e.g. Site CV4 (Rolls Park) and CR1 (Gravel Lane). It is the Council's view that the allocation of these sites would be more likely to lead to further future pressure to join these developments to others close by thus causing unacceptable harm to the openness of the Green Belt in these locations.
20. In the Council's view the approach to site selection does not meet the basic conditions, and in particular in contributing to sustainable development. This concern has previously been expressed to Chigwell Parish Council by way of considered legal opinion, which has been shared.

Policy CHG5 – Bus Service

21. A matter directly related to the issue of transport impact and the accessibility of developments proposed is Policy CHG5 'Chigwell Parish Bus Service' which proposes the establishment of a bus service to operate around key locations across the Parish. If this were implemented it would clearly act as some degree of mitigation for the traffic impacts of the proposed locations and assist occupants in accessing services using an alternative to the private car. Whilst Draft Policy D 1 of the Draft Local Plan requires all new development to make best use of existing infrastructure before considering the provision of additional services it is feasible that the Parish could operate a bus service that would provide for these new locations. However, this is not in the Council's view adequate mitigation for the relatively remote location of the proposed sites when there are sites available within the settlement that would not need to rely on a bus service to access the existing public transport network, local shops and other services. In the implementation of Policy CHG5, the Parish should be mindful that there may also have to be on- and off-site infrastructure and services that will be identified in the forthcoming Infrastructure Delivery Plan for the Draft Local Plan. It should be noted that the Parish Council has not supplied any evidence regarding projections of the financial feasibility of the bus scheme and the ability to maintain the service in the long term.
22. On an advisory note the Parish Council's stipulation that all contributions should be made through the S106 mechanism is unlikely to be feasible in the current context. Paragraph 123 of the Community Infrastructure Regulations (2010) explains that the

use of pooled S106 contributions may only be sought from five separate development proposals. These restrictions would prevent all of the development sites contributing to the service through S106. Should the District Council adopt the Community Infrastructure Levy, the neighbourhood proportion of the levy collected in the Parish could be used for such a service by the Parish Council.

Policy CHG 6 ‘Housing Mix’

23. Policy CHG 6 ‘Housing Mix’ is not compliant with the currently adopted approach to the provision of affordable housing in Policy H7A of the Local Plan 1998 and the 2006 Alterations which require the provision of 40% of affordable homes on sites with 15 or more units. In addition it is not in conformity with the emerging policy contained within the Draft Local Plan. Draft Policy H 2 requires the provision of 40% of affordable homes on sites of 11 or more dwellings. The policy approach contained within the Draft Local Plan is supported by the Strategic Housing Market Assessment and Housing Background Paper provided in the Council’s evidence base. The Draft Chigwell Neighbourhood Plan does not present any evidence to demonstrate why a change from the currently adopted policy approach, or the emerging position within the Draft Local Plan, is justified. The data presented in the Draft Sustainability Appraisal/Strategic Environmental Assessment Report is purely relating to tenure mix and travel to work patterns prior to the last census in 2011. This is of significant concern and a clear matter for objection to the Draft Chigwell Neighbourhood Plan. It is not clear what evidence is available to support the proposal that 30% of open market units in every development should be suited for occupation by older households (independent living or extra care dwellings). The Draft Local Plan provides for all new homes to be built to Category 2: Accessible and Adaptable Homes standards

Other matters of importance

24. The Council notes the Parish intent with regard to the Habitats Regulation Assessment prior to submission of the Chigwell Neighbourhood Plan for examination – refer Paragraph 1.11 of the Draft Chigwell Neighbourhood Plan. This will be required to meet the basic conditions.
25. Whilst some level of detail has been provided in this report the District Council will continue to engage with the Parish Council regarding the future versions of the Neighbourhood Plan but also reserves the right to raise further matters in the course of both the Chigwell Neighbourhood Plan and the Local Plan production.

As a number of concerns have been raised about the Draft Chigwell Neighbourhood Plan, it would be advisable for the Parish Council to seek an early “health check” review of their Plan using the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).

Reason for decision:

EFDC has a statutory responsibility to advise and assist with the preparation of all Neighbourhood Plans in the District. It is prudent for the District Council to make its views known regarding whether the Draft Neighbourhood Plan meets the required basic conditions at as early a stage as possible although a formal view from the Council is not required by the regulations until later in the process. The publication of the Draft Chigwell Neighbourhood Plan for consultation under Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 as amended by the Neighbourhood Planning (General) (Amendment) Regulations 2015 is the first opportunity for a formal consideration of the Draft Chigwell Neighbourhood Plan in this regard.

Options considered and rejected:

To not provide a response to the Draft Chigwell Neighbourhood Plan.

Consultation undertaken:

Some early engagement with Chigwell Parish Council on their emerging draft Neighbourhood Plan. Further discussion with the Parish Council is required.

Resource implications:

Budget provision: Review of Draft CNP and preparation of report from within existing resources in the Planning Policy team.

Personnel: None

Land: Contradiction highlighted between the Draft Epping Forest District Local Plan and the Draft CNP. Views expressed concern the Limes Farm Estate, which is largely within the ownership of EFDC.

Community Plan/BVPP reference: None

Relevant statutory powers:

Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 as amended by the Neighbourhood Planning (General) (Amendment) Regulations 2015 set out that those preparing a Neighbourhood Plan must consult and send a copy of the proposal for a neighbourhood development plan to the local planning authority

Background papers:

- Draft Chigwell Neighbourhood Plan
- Draft Sustainability Appraisal / Strategic Environmental Assessment
- Epping Forest District Draft Local Plan 2016
- Site Selection Report and Appendices 2016

Environmental/Human Rights Act/Crime and Disorder Act Implications: None

Key Decision reference: None