Walkern Parish Council comment on: MM/12/01 East of Stevenage

Despite the main modifications to Chapter 12 – East of Stevenage, this section of the plan remains unsound and the inclusion of Policy EOS1 is not justified. In contradicting key elements of the NPPF it is not consistent with national policy. In conclusion, Policy EOS1 should be deleted from the Plan.

Walkern Parish Council has been working closely with PACE - Protecting Aston’s (and wider) Community Existence - and Aston Parish Council to formulate its response to the main modifications on behalf of its residents. It therefore very much endorses the submissions made by PACE as summarised in its composite document available at http://bit.ly/2HqLXxq.

Inclusion of EOS1 is not sound

The Council has failed to identify any exceptional circumstance for removing land east of Stevenage from its green belt designation. The site is described by the independent green belt review commissioned by the Council as being of ‘paramount importance’ to prevent the sprawl into the countryside of the urban area of Stevenage. Its suitability for development is “very low”. At no point during the Plan hearing, under questioning, was the Council able to explain how this parcel of land was assessed against other parcels of green belt land in terms of suitability for development. It has not tested this site against other green belt locations in the district, the vast majority of which were deemed to have a higher suitability for development. It has failed to evidence that all other reasonable options for meeting housing need have been ‘examined fully’, as required by the NPPF.

In the absence of a sound process to determine the areas of green belt that should be released, the Council relies on a contention that large-scale release of Green Belt across the District provides a more sustainable approach and thereby provides a generic ‘exceptional circumstance’ having relevance to each allocated site. This approach is surely open to challenge in court.

Further evidence of the Plan being unsound comes through a modification to the number of dwellings expected from the EoS proposal. The policy now seeks to deliver ‘at least’ the number of dwellings earlier identified for each allocated site. If this revised wording is retained it will have two likely impacts. First it will lead to a larger surplus of dwellings than required by the Full Objectively Assessed Housing Need (FOAHN). Second it will cause uncertainty during the plan period as development interests will inevitably argue that the term ‘at least’ effectively means ‘a minimum of’ with no upper limit being defined as to what excess over the minimum would be acceptable to the Council.

Whilst recognising that the Council needs to demonstrate its commitment to achieve its FOAHN, the revised wording lacks transparency and ease of understanding and will inevitably lead to unintended consequences and potential challenge down the line. This should be avoided at all costs.

In the event EoS is not removed from the Plan, the Council should insert a maximum percentage tolerance or number for the location.

Inclusion of EOS1 is not justified

EOS1 is developer led. It was included by the Council as a prospective location with no prior public consultation and very late in the Plan development process. Its inclusion was determined by the Council only months prior to the consultation on the Pre-Submission Plan, specifically as the developer stated within its Delivery Statement that it was able to develop the site within, and
therefore help deliver, the Council’s five-year supply target. A start on site of 2017 was then proposed with completion in four years. Contrary to assurances given by the Council during the hearing sessions that the whole development would be completed within the first five years of the Plan that is now proven not to be deliverable: This is acknowledged by the Council following the release of its latest update of the Statement of Common Ground (ED 131) dated 30th September 2017, and the latest Authority Monitoring Report (AMR) published 29th January 2018.

The Council now accepts it has the equivalent of 6.2 years land supply to cover the first five years of the remaining Plan period – an excess of 1,464 dwellings. Therefore, the rationale for the Council to include EOS1 in its initial Pre-Submission Plan – as an exceptional circumstance - no longer has validity.

Walkern Parish Council supports and endorses findings by PACE that updated housing supply estimates indicate that the inclusion of EOS1 is not justified.

PACE has examined the Council’s data sources and finds that the assumptions result in a ‘material’ understatement of the whole plan period excess, and an underestimation of supply during the Plan’s first five years.

PACE’s research demonstrates that the volume of new dwelling approvals, outstanding as at August 2017, will itself lead to a significant uplift in the volume of ‘windfalls’ assumed by the Council. This suggests that the ‘windfall’ allowance should be set at a more realistic level of between 100 and 140 dwellings per year. This would increase the notional surplus of dwellings by 2033 from 450 to between 850 and 1,490.

In support of this, and to test the Council’s assumption that just a further 109 dwellings will be built within Category 1 Villages by 2033, PACE’s research also examined the Council’s planning application portal to assess the volume of new dwelling applications made in the five-month period since the Plan numbers were finalised in August 2017. A second sieve examined pre-August 2017 applications subsequently approved. PACE’s findings on the former suggest that applications for some 388 dwellings have already been approved, or await determination at the end of February 2018. The second sieve found that a further 193 dwellings have subsequently been approved. Based on this latest information the Plan period dwelling excess could exceed 2,000, and not 450 as advised by the Council.

Again, this suggests that the Council’s claim of ‘exceptional circumstance’ is no longer valid.

EOS1 is not viable

As it stands, the proposed EOS1 development is not viable. Without major modification it is unlikely to deliver the community benefits it espouses. Many respondents to the Section 19 Consultation, and others at the hearing session, challenged the EOS1 delivery assumptions.

That concern has subsequently been reinforced by the independent Hertfordshire Building Futures Design Review Panel in a report recently published following a Freedom of Information (FOI) request by PACE. That report, available at http://bit.ly/2n8vBRx comments in essence that … a development of this scale would struggle to support a viable neighbourhood centre, local shops, facilities and services on its own. It “recommends that viability levels to support shops and services are revisited”. 

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Insufficient secondary school provision

There is insufficient secondary school provision to accommodate the needs of potential students of Gresley Park (EOS1). In its MOU with East Herts Council (ED141), Stevenage Borough Council advise in para. 5.9. “that no additional capacity exists in Secondary schools within Stevenage, and no new provision was made within the Stevenage Borough Local Plan ... to meet the needs of the Gresley Park development.” Gresley Park falls within the wider Stevenage Education Area. This includes Stevenage and relevant parts of North Hertfordshire District Council. The three local authorities currently agree with HCC (Education) that a new school should be developed within North Herts to accommodate prospective students from Gresley Park, locations around Great Ashby and the northern part of Stevenage. In its evidence submitted by HCC to the North Herts District Plan Enquiry, the County states that an 8FE school will be required. NHDC advise that it will provide a site for a 4FE school in Great Ashby (GA2) and another 4FE school in Knebworth. This option is not considered economically or educational viable by the Education Authority. It remains to be seen how the NHDC Plan Inspector will view the differing arguments, and whether he judges this matter to impact the soundness of the NHDC Local Plan. Given the lack of agreement on how and where its potential Gresley Park secondary school students are to be educated it would be inappropriate for the Council to progress EOS1.

Failure to evaluate impact of EOS1 on Walkern

At the Plan hearing session, the Council failed to demonstrate it had formally evaluated the impact the development east of Stevenage would have on Walkern – and have therefore failed to identify any mitigation measures. It has failed to acknowledge the traffic impact on Walkern, particularly the High Street. Necessary on-street parking in the High Street effectively reduces it to a single lane carriageway. It is used extensively to ‘rat-run’ to the A10 (north). Walkern’s traffic difficulties have been exacerbated by the recent approval on appeal of 85 dwellings. County Highways objected to that application as it would put further unsustainable pressure on the local highway network.

Further highways and traffic issues

The Inspector will be aware that limited update information has been submitted, either by the Council or the developer, Pidgeon Land Ltd., regarding traffic and highway junction implications of the Gresley Park (EOS1) proposal since the Section 19 Consultation round. Information within the public domain, on which formal traffic studies have been conducted, are based on a two-junction access to EOS1. That has now increased to three. A fourth entrance, rightly under consideration, to allow direct access of the Showpeople’s vehicles and equipment to their site in order to avoid access through narrow residential streets, has not been taken into consideration in assessing the viability of the proposed allocation, nor is it included in IDP01. County Council (Highways) noted this. It also advised that further studies would be required of the developer to demonstrate the impact on remaining junctions to the south of the junction of Gresley Way and Six Hills Way and the A602, and that mitigations will be required to effectively reduce ‘rat-running’ through Aston End, to Aston and on to the A602 at Bragbury End. Without this information, EOS1 should not be included in the Plan.

Objection to East Herts District Plan Main Modification: MM/19/02, Policy CFLR2 Local Green Space, Page 242

Development will not be allowed within Local Green Spaces, as defined on the Policies Map, other than in very special circumstances. Development will be permitted only if it is consistent with the function, character and use of the Local Green Space to which it relates.
Introduction

The power to designate Local Green Spaces was introduced by the Localism Act 2011 and ratified in the National Planning Policy Framework published in March 2012. Neighbourhood plans can be used to designate Local Green Spaces to protect them for current and future generations. The power given to local communities to designate Local Green Spaces, which are given the same level of protection as Green Belts, is one of the key attractions of preparing a Neighbourhood Plan. The weakening of a District level policy through Main Modification 19/02 to the East Herts District Plan compromises a key part of the Neighbourhood Planning Process in East Hertfordshire.

Background to the Modification

The proposed modification to Policy CFLR 2 was made in response to an issue raised by the Inspector in her Matters and Issues, Part 2.

The direct quote from the Inspectors East Herts District Plan 2011 - 2033 Matters and Issues, Part 2 is:

“Chapter 19 - Leisure and Recreation

Issues

12. CFLR 2 – Local Green Space. Further guidance may be helpful on what constitutes very special circumstances.”

East Herts District Council (EHDC) responded in their Matters and Issues Part 2 Hearing Statement with the following suggested wording:

“Development that is inconsistent with the function, character and use of Local Green Spaces, as defined on the Policies Map, will not be allowed except in very special circumstances.”

The revised wording was justified by EHDC on the basis that the NPPF defines categories of development that “are not inappropriate” in the Green Belt and according to Paragraph 102 of the NPPF, policies for managing development within a Local Green Space should be consistent with those for Green Belts.

EHDC statement read:

“It is acknowledged that local green spaces can differ from Green Belts greatly in terms of scale and it is therefore not necessarily appropriate to simply translate Green Belt policy but instead should recognise that some development that is consistent with the character and use of the Local Green Spaces may be appropriate.”

We would argue that Local Green Spaces are not only very different to Green Belts in scale, they are almost entirely without built development, perhaps with the exception of and only very occasionally including ancillary buildings for leisure purposes, such as a cricket pavilion.
At this point the words “… other than in …” and gained the words “… that is inconsistent with the function, character and use of …” were lost.

The revision suggested by EHDC would provide extra information for a planning officer dealing with an application for development in a Local Green Space. It suggests that some development may be allowed, without having to prove very special circumstances, if it is not inconsistent (or losing the double negative, is consistent) with the function, character and use of the Local Green Space. However, it didn’t explain what would constitute ‘very special circumstances’ for allowing any development in a Local Green Space.

However, following Part 2 Hearing Session EHDC proposed in their Hearing Session Note paragraph 4.2:

“While the Local Green Space policy as described in the NPPF is generally one of constraint, it is important to note that the Council proposes a modification to policy CFLR2 Local Green Space, which clarifies that development, which is commensurate to the role and function of the spaces, would be acceptable in principle.”

The proposed new wording was not provided in EHDC’s Hearing Session Note.

The wording now proposed in Main Modification MM/19/02 is not acceptable.

The guidance we are given in the NPPF, i.e. the suggested criteria for designating Local Green Space in Paragraph 101, includes its beauty, historic significance (including cemeteries), recreational value (including as a playing field and subsequently best practice has also included allotments), tranquility or richness of its wildlife.

Although the suggested new policy wording relates specifically to the Local Green Spaces, which have been designated through East Herts District Plan, Neighbourhood Plans in East Hertfordshire must be in accordance with the Strategic Policies of the District Plan.

If assurance can be given that Policy CFLR 2 is not a Strategic Policy and Neighbourhood Plans can retain the wording “will only be allowed in very special circumstances” then some level of comfort could be found. However, this is leaving the decision up to successive Neighbourhood Plan Examiners to agree that Neighbourhood Plans can be contrary to District Plan policies. This position of doubt is not acceptable for the Parish and Town Councils who have put so much effort into producing Neighbourhood Plans, including designating Local Green Spaces. They expect certainty that the current wording in the NPPF Paragraph 14 and Footnote 9 will protect Local Green Spaces.

For completeness and specifically in relation to Local Green Space, Paragraph 14 says there is a presumption in favour of sustainable development unless “specific policies in this Framework indicate development should be restricted.”. Footnote 9 says “For example, those policies relating to … land designated as Local Green Space …”

Paragraphs 76 -78 of the NPPF further clarify the level of protection that should be given to Local Green Spaces. Paragraph 76 says, “By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.”
We contend that it is not appropriate to remove the wording contained in the NPPF to create a policy that implies that development will be allowed in Local Green Space, in principle, if is consistent with the function, character and use of the Local Green Space in the East Herts District Plan.

We are aware that a revised version of the NPPF is currently the subject of consultation. However, the East Herts District Plan is being examined in relation to the current NNPF in which local communities can identify for special protection green areas of particular importance to them and expect them to be protected.

Every Neighbourhood Plan in East Herts would have to include a detailed character assessment of every Local Green Space it designates. This would be the only way it could hope to protect its Local Green Spaces from ‘in principle’ development consistent with their function, character and use.

A Neighbourhood Plan should provide a robust and proportionate evidence base. However, in order to protect Local Green Spaces from development, in the light of the proposed new Policy CFLR 2, it would require the preparation of a disproportionate evidence base, which would be unduly onerous on the Neighbourhood Plan qualifying body, which in many cases in East Herts District, comprise small Parish Councils.

Conclusion

The proposed Main Modification affects all Neighbourhood Plans in East Hertfordshire; the completed ones and the ones in progress. The proposed Major Modification 19/02 is significantly less stringent than Policy CFLR 2 in the East Herts submission District Plan. In fact it is an insult to all the volunteers that have given up significant amounts of their time over a period of years to put together a neighbourhood plan that has weight and meaning - and, if allowed to stand, calls into question the worth of the entire neighbourhood planning process.

We believe we still need the wording ‘very special circumstances’ in the Local Green Space policy in the East Herts District Plan and in Neighbourhood Plans. Supporting text may state when those very special circumstances kick in i.e. where the harm to the Local Green Space is outweighed by other considerations.

The proposed Main Modification 19/02 should be deleted.

In accordance with the NPPF, the wording of CFLR 2 should revert to the original submission East Herts District Plan wording:

Development will not be allowed within Local Green Spaces, as defined on the Policies Map, other than in very special circumstances.

Supporting text should be added to paragraph 19.3.1 could explain what might be constituted very special circumstances. The function, character and use of Local Green Spaces will be different in every case and the additional wording proposed as a response to the Inspectors Matters and Issues Part 2 is not necessary.