

4. This representation relates to

Paragraph

Policy

Site reference LOU R5

Settlement Loughton

5. We consider that this part of the Submission Version of the Local Plan is

b) Sound: No

because it fails

Positively Prepared

Effective

Justified

6. Details of why we consider the Plan to be unsound

6.1 Summary of the failure to apply the terms of the Plan in relation to site LOU R5

6.1.1 LRA considers that, in relation to site LOU R5 (Jessel Green)ⁱ, the Council has completely failed to demonstrate that it has applied its selection process - the “sequential test” - in a fair or logical manner. Indeed, it has failed to follow the processes it itself has laid down in the Plan:

- it has failed to justify that the development of the site “would maintain adequate open space within the settlement”, thus contravening the terms of Policy SP2 A(iv)ⁱⁱ
- it has failed to carry out a proper examination as to whether this site falls within the definition of “District Open Land”ⁱⁱⁱ
- allocating this site for development contravenes Policies SP3 H^{iv}, DM5 A (i)^v and DM6 A & B^{vi}
- it has failed to react to the clear doubts raised in the Site Suitability Assessment^{vii} about the unsuitability of this site for development
- it has failed to observe its own requirement that sites selected must comply with all other relevant policies of the Local Plan, as shown below; ^{viii}

See 6.2, 6.3 and 6.10 below.

6.1.2 The Council has ignored a vast weight of public response, and of the views of District Cllrs, across the whole period of the preparation of the Plan (from 2010 and indeed earlier). See 6.4 below.

6.1.3 Against this apparently arbitrary stance by the Council, the Plan itself provides for open space to be valued for its recreational and other benefits. Under Policy SP7^{ix} the Council talk grandly about maintaining, improving and increasing the “green and blue infrastructure” of the District, and in the “Vision for Loughton”^x they talk about minimising further recreational pressure. However they have failed to apply Policy SP7 or the Vision for Loughton in relation to site LOU R5.

6.1.4 The Council have attempted to justify the inclusion of site LOU R5 by reference to the phasing of development needed to fulfil the requirements of the Plan – we have separately submitted a rebuttal on this point - see 6.8 below.

6.1.5 The history of the site, and its implications

The site was planned as the central open space of the Debden Estate by the London County Council (developers and planners of the out-county estate) in 1945. It is shown exactly in its present form and extent on the photographs of the model the LCC made in 1946, which are in the London Metropolitan Archives. Jessel Green has always been maintained by them (and their successors the Greater London Council (1965) and the Council (from 1980)) as a public open recreational area.

We consider that the deliberate and continuous provision of site LOU R5 as an open space in a town by three successor authorities since 1944 could well afford it the protection of the Open Spaces Act 1906, and intend to take legal advice on this point.

6.1.6. Conclusion

The Council appears to have formed a view at an early stage in the preparation of the Plan that it wished to develop site LOU R5, and to have worded Policy SP2 A (iv) accordingly.

However, it has then failed to consider or to carry out the relevant provisions of its own Plan in relation to this site.

We therefore submit that the inclusion of this site is unsound – this can easily be remedied by its removal without any adverse effect on the provision of a minimum of a 5-year land supply (The actual allocation is very significantly above the 5-year land supply of 11,400).

Detailed comments

6.2 Failure to follow Policy SP2 A(iv)^{xi}

6.2.1 Policy SP2 A(iv) provides for development on “Sites located on open space within settlements where such selection would maintain adequate open space provision within the settlement;”

However, we can find no definition of what would be regarded as “adequate open space provision”; nor can we find any evidence that the Council has examined this point in a meaningful way.

6.2.2 Instead, we note that the Council has made arbitrary and unexplained changes to the proportion of the site that it has proposed at various times to allocate to housing, down to 75% and then down to 50%.

6.2.3 Our view that the site should not have been included is supported by 4.3 and 5.2 of the Council’s site suitability assessment^{xii}, which make clear the loss of public open space with few opportunities for site re-orientation or re-provision (none of which are documented in the Plan) and the potential for development to adversely affect the character of the area. 1.1 and 1.2 also outline the potential adverse effects on International and National Protected Sites.

6.3 Failure to consider site LOU R5 as potential District Open Land

6.3.1 The Council has not evaluated site LOU R5 as potential District Open Land, although the definition would seem tailor-made to include it (“The key characteristics of District Open Land are their openness, permanence, local significance, wildlife value and/or public accessibility”, not all of which are needed to qualify).

6.3.2 We contend that this demonstrates that the Council has not approached this site with an open mind. Despite all of the public concern expressed over the possibility of development on it (see 6.4 below), they appear to have decided from the outset to include all or part of it for development.

6.4 The Council’s failure to consider public opinion

6.4.1 Even before the Council formally started on the Plan, they had been made aware of the strength of public feeling about site LOU R5. Following a considerable public outcry, in a Council Overview & Scrutiny meeting on 28/08/08^{xiii}, LRA Cllrs “called-in” the Housing Portfolio-holder’s inclusion of site LOU R5 and other sites on a list of Council Owned Sites to be submitted for consideration as future residential land in response to the Council’s “Call for Sites”. (HSG/010/2008-09). The proposal was for 1.87 hectares (of 8.6 hectares) with 75 - 95 houses on the level part of the site – the area most used by residents for special events as well as general recreation! The proposal was referred back to the Portfolio-holder.

6.4.2 The 2010 consultation

In the 2010 consultation^{xiv} there were no specific site based questions, but in the Community Visioning, the first and preponderant response was to preserve and enhance the green and open spaces of the District. Response priority (a) was stated in the report to the LDF Cabinet Committee on 7 February 2011^{xv} (paper LDF-020-2010-11) as "To protect and enhance green spaces, whilst encouraging the growth of jobs and businesses", and (b) Better protection for green spaces, reducing traffic...and more job opportunities". The predominant public reaction was (as reported to Cabinet 7.3.11^{xvi}) to protect and enhance green spaces, whilst encouraging local businesses.

6.4.3 The 2012 consultation

In the 2012 consultation the site was not included. However, a footnote on p.88 of paper C-006 2013-14^{xvii} states that "some respondents suggested developing some of the urban green spaces in the town", but it was later stated by the report author that the number of such suggestions was very small.

In the 2012 Report, a majority (29%) of respondents selected one of the two *development away from the Central Line* options as compared with 24% who preferred proportionate distribution. (Report to Cabinet 10.6.13^{xviii}).

6.4.4 The 2016 consultation

In the 2016 Regulation 18 consultation, the consultation relied greatly on the concept of a so-called "proportionate" distribution of housing in the District; but 76% of respondents to the consultation disagreed or strongly disagreed with this^{xix}. There was an overwhelming public response against any development on Jessel Green. Figures are difficult to quote from the published evidence base, but it is believed some 2,000 individual objections were received (information stated to the Council Members' workshop on 22 April 2017; officers when questioned admitted responses in favour of Jessel Green were "very few"). The strength of public feeling restated that expressed at a public meeting held by Loughton Town Council on 17 November 2016.

6.4.5 In the current consultation we are aware of a petition^{xx} organised by the *SaveJesselGreen* group in defence of site LOU R5 which has raised over 4,500 signatures in a relatively short period.

6.5 The Council's failure to respect Policy SP3 Place Shaping

6.5.1 Policy SP 3 Place Shaping (see end-note iv) requires that development proposals must reflect and demonstrate that certain place shaping principles have been adhered to with respect to the scale of development proposed, including

- (vi) ensure generous, well connected and biodiverse rich green space provision;
- (vii) extend, enhance and reinforce strategic green infrastructure and public open space;
- (viii) ensure that development enhances the natural environment;
- (ix) deliver strong local cultural, recreational, social (including health and educational where required) and shopping facilities to support day-to-day needs in walkable neighbourhoods;

6.6 The Council's failure to respect Policy DM5 A(i)

6.6.1 Policy DM5 A(i) (see end-note v) provides that development proposals must demonstrate that they have been designed to: retain and where possible enhance existing green infrastructure. It is of course impossible to fulfil this requirement by building houses on site LOU R5.

6.7 The Council's failure to respect Policy DM6 A & B)

6.7.1 Policy DM6 A & B (see end-note vi) provide that

- a) developments must provide open space, or links to open space, (Policy DM6 A)
- b) Development on open spaces will only be permitted if it does not result in a net loss of usable public open space or reasonable access to alternative open space within a settlement (Policy DM6 B)
- c) Existing open space should not be built upon unless:
 - (i) an assessment has been undertaken showing the land to be surplus to requirements; or

(ii) development would not have a detrimental impact upon the accessibility to open space, or other conditions (not relevant here) are fulfilled. (Policy DM6 B)

6.7.2 Building houses on site LOU R5 will of course reduce the usable public open space.

6.7.3 The Council has failed to produce any justification under Policy DM6 for including site LOU R5.

6.8 Attempt to justify inclusion of site LOU R5 by reference to phasing of developments

6.8.1 In a meeting between LRA Executive Committee members David Linnell and Becky Fricker and Cllrs Whitbread and Philip (03/11/17), the Cllrs asserted that one reason for selecting site LOU R5 was that, because it was owned by the Council, it would enable development early in the 5-year period.

6.8.2 We do not consider that this could possibly justify the Council's complete disregard for the other provisions of the plan. Nor do we think it justifiable on its own terms – we have separately submitted a response in respect of Policy T1 (Sustainable Transport policies - road capacity) showing that Transport constraints mean that *any* large development in Loughton would have to be deferred until towards the end of the Plan period if the Plan's requirements are to be met..

6.9 Failure to respect the Plan's "Vision for Loughton"

In the "Vision for Loughton" (after paragraph 5.28) the Plan states that "The impact of further development on Epping Forest, ... in terms of further recreational pressure will be minimised and mitigation measures will have been implemented where necessary."

We cannot reconcile

1. the removal, by the development of site LOU R5, of a very significant area of recreational land, highly valued by residents,
2. a significant increase in the number of local residents, by virtue of the proposed development, who would further increase the level of recreational pressure on the remaining open area

with this "Vision for Loughton".

6.10 Conflict with other policies of the Plan.

We have demonstrated that the inclusion of site LOU R5 conflicts with other Plan Policies. We note that wording in the 2016 draft Local Plan permitted development proposals within the defined settlement boundaries *where they comply with all other relevant policies of the Local Plan* (emphasis added)^{xxi} but that this has been omitted from the current version of the Plan. However, it would still seem to be a reasonable condition.

7. Changes needed

To make this aspect of the Plan sound, site LOU R% should be dropped from the list of sites for development.

8. Participation in the oral part of the examination

Yes, we wish to participate in the hearings.

9. We consider this to be necessary because

We think that it is necessary for us to participate at the hearings

- Because of our local knowledge (see description of Loughton Residents Association below)
- Because of the Council's failure to take proper action in respect of the views expressed in public consultations or in feedback from local Cllrs (see for example our representation on Site LOU R5 Loughton.

About Loughton Residents Association

Loughton Residents Association is a very active group of local residents who care for Loughton and its environment. Our membership is around 1,000 households, and we have been in existence for over 35 years. We are independent of any political party. We seek, and listen to, the views and concerns of Loughton residents and take action in support. We have a majority of the councillors on the Loughton Town

Council, are the second largest group on Epping Forest District Council & are represented on Essex County Council. We provide our own regular printed and email newsletters to residents and our own website, www.loughtonresidents.org.uk

10. We wish to be notified when the Plan is submitted for independent examination

Yes ✓

11. Have you attached any documents to this application? No

David Hunt.

Signature:

28/01/18

END-NOTES

ⁱ Policy P 2 Loughton Policy

A. Proposals for development on allocated sites should accord with the site specific requirements set out in Appendix 6.

Residential Sites

B. In accordance with Policy SP 2 the following sites are allocated for residential development:

.....
(v) LOU.R5 Land at Jessel Green –
Approximately 154 homes

ⁱⁱ Policy SP 2 Spatial Development Strategy 2011-2033

A. Within the period 2011-2033 the Local Plan will provide for a minimum of 11,400 new homes allocated in accordance with the following sequential approach:

- (i)** The creation of Garden Town Communities around Harlow recognising its strategic economic role and needs;
- (ii)** A sequential flood risk assessment – proposing land in Flood Zone 2 and 3 only where need cannot be met in Flood Zone 1;
- (iii)** Sites located on previously developed land within settlements;
- (iv)** Sites located on open space within settlements where such selection would maintain adequate open space provision within the settlement;

ⁱⁱⁱ Policy SP 6B. District Open Land

The same level of protection will be applied to areas of District Open Land as is applied to Green Belt. The key characteristics of District Open Land are their openness, permanence, local significance, wildlife value and/or public accessibility. It is not necessary for each of these characteristics to be present to be designated or retained as such. “ (Policy SP6B, p51)

^{iv} Policy SP 3 Place Shaping

H. Strategic Masterplans and development proposals must reflect and demonstrate that the following place shaping principles have been adhered to with respect to the scale of development proposed:

- (vi)** ensure generous, well connected and biodiverse rich green space provision;
- (vii)** extend, enhance and reinforce strategic green infrastructure and public open space;
- (viii)** ensure that development enhances the natural environment;
- (ix)** deliver strong local cultural, recreational, social (including health and educational

where required) and shopping facilities to support day-to-day needs in walkable neighbourhoods;

v Policy DM 5 Green and Blue Infrastructure

A. Development proposals must demonstrate that they have been designed to:

- (i) retain and where possible enhance existing green infrastructure, including trees, hedgerows, woods and meadows, green lanes, wetlands, ponds and watercourses;

vi Policy DM 6 Designated and Undesignated Open Spaces

A. Where appropriate development proposals will be required to provide open space, or links to open space in accordance with the guidance contained within the Infrastructure Delivery Plan and Open Space Strategy. Nationally adopted space standards will be used as a starting point for provision.

B. Development on open spaces will only be permitted if it does not result in a net loss of usable public open space or reasonable access to alternative open space within a settlement. Existing open space should not be built upon unless:

- (i) an assessment has been undertaken showing the land to be surplus to requirements; or
- (ii) development would not have a detrimental impact upon the accessibility to open space; or
- (iii) the loss would be replaced by equivalent or better provision in terms of quantity or quality in a suitable location; or
- (iv) the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

vii Site Suitability Assessment SR-0361

4.3 Capacity to improve access to open space: Development may involve the loss of public open space with no opportunities for on-site off-setting or mitigation.: The public open space is entirely located in the site area. This would result in loss of public open space (managed public open space covers 97% of the site), with few opportunities for site re-orientation or re-provision.

5.2 Settlement character sensitivity; Development could detract from the existing settlement character.; Site is identified as a potential regeneration area. However, the whole site is an existing open space. Therefore, redevelopment has the potential to adversely affect the character of the area.

<http://www.efdclocalplan.org/wp-content/uploads/2017/12/A-B1.4.2-Extract-for-Loughton-p141-181-of-full-Appendix-EB801Gviii.pdf>

viii Epping Forest Draft Local Plan 2016
Draft Policy SP 2: Spatial Development Strategy 2011-2033

Within the period 2011-2033 the Council will provide for approximately 11,400 new homes and approximately 10,000 new jobs through the Local Plan.

A The new homes will be delivered by: i) permitting development proposals within the defined settlement boundaries where they comply with all other relevant policies of the Local Plan;

<http://www.efdclocalplan.org/wp-content/uploads/2017/12/Epping-Forest-Draft-Local-Plan-2016.pdf>

^{ix} **Policy SP 7 The Natural Environment,
Landscape Character and Green and Blue
Infrastructure**

A. The Council will protect the natural environment, enhance its quality and extend access to it; this contributes to the health and wellbeing of its people and economic viability of the District. In considering proposals for development the Council aims to create a comprehensive network of green and blue corridors⁴ and places, appropriate to the specific rural or urban setting. In so doing, it seeks to connect and enrich biodiversity through habitat improvement and protection at all scales, including priority habitats and extend access to and maximise the recreation opportunities of, our countryside and urban open spaces.

^x The impact of further development on Epping Forest, both in terms of air quality and also in terms of further recreational pressure will be minimised and mitigation measures will have been implemented where necessary.

^{xi} **Policy SP 2 Spatial Development Strategy
2011-2033**

A. Within the period 2011-2033 the Local Plan will provide for a minimum of 11,400 new homes allocated in accordance with the following sequential approach:

- (i) The creation of Garden Town Communities around Harlow recognising its strategic economic role and needs;
- (ii) A sequential flood risk assessment – proposing land in Flood Zone 2 and 3 only where need cannot be met in Flood Zone 1;
- (iii) Sites located on previously developed land within settlements;
- (iv) Sites located on open space within settlements where such selection would maintain adequate open space provision within the settlement;

^{xii} Site Suitability Assessment SR-0361, page 20 of <http://www.efdclocalplan.org/wp-content/uploads/2017/12/A-B1.4.2-Extract-for-Loughton-p141-181-of-full-Appendix-EB801Gviii.pdf>

^{xiii} Item 28 at <http://rds.eppingforestdc.gov.uk/ieListDocuments.aspx?CIId=395&MIId=5315&Ver=4>

^{xiv} “The Cabinet Committee were informed of the three key findings from the Community Visioning. The first key finding was that the priority for the District over the next twenty years was to protect and enhance green spaces whilst encouraging the growth of local jobs and businesses. The second key finding was that the most important planning issues facing local areas were better protection for green spaces, reducing traffic congestion and providing more local job opportunities. The third key finding was that the favoured approach to the location of new houses and jobs should be to locate growth close to public transport links and around or within existing towns whilst considering a combination of options throughout the District where appropriate. “ Cabinet 07 03 11, Supplementary agenda item 50 (page 46). <http://rds.eppingforestdc.gov.uk/documents/b8358/Cabinet%20Supplementary%20Agenda%20XIII%2007th-Mar-2011%2019.00%20Cabinet.pdf?T=9>

^{xv} LDF Cabinet Committee on 7 February 2011

<http://rds.eppingforestdc.gov.uk/ieListDocuments.aspx?Cid=623&Mid=6213&Ver=4>

^{xvi} Report to Cabinet 07/03/11

<http://rds.eppingforestdc.gov.uk/ieListDocuments.aspx?Cid=623&Mid=6213&Ver=4>

^{xvii} Responses to the Community Choices (Issues & Options) consultation for the Local Plan.

<http://www.efdclocalplan.org/wp-content/uploads/2017/11/Community-Choices-Consultation-Report-EFDC-2013-EB100.pdf>

^{xviii} Report to Cabinet 10.6.13 p43

<http://rds.eppingforestdc.gov.uk/ieListDocuments.aspx?Cid=295&Mid=7392&Ver=4>

^{xix} Remarkable Engagement report Feb 2017, Q2.

^{xx} <https://www.change.org/p/independent-inspector-help-a-community-save-jessel-green-before-it-s-too-late>

^{xxi} Draft Policy SP 2: Spatial Development Strategy 2011-2033

Within the period 2011-2033 the Council will provide for approximately 11,400 new homes and approximately 10,000 new jobs through the Local Plan.

A The new homes will be delivered by: i) permitting development proposals within the defined settlement boundaries where they comply with all other relevant policies of the Local Plan;