



Phase 2

PLANNING &
DEVELOPMENT
LIMITED

270 Avenue West
Skyline 120
Great Notley
Braintree
Essex
CM77 7AA

01376 329059
office@phase2planning.co.uk

Heather Langridge
West1 Team
The Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

08 April 2020
Our Ref: C17082
Your ref: APP/J1535/W/19/3239502

Dear Heather,

Appeal by Troy Homes
Site Address: Bower Hill, Epping, CM16 7AD
APP/J1535/W/19/3239502

Thank you for the Council's Statement of Case and Third Party representations in respect of the above appeal.

The Council's Statement of Case contains some recent information that was not available at the time of the submission of this appeal, such as the results of the Council's viability review, and the Council's response to the draft Local Plan Inspectors interim findings. The Appellant has now had the opportunity to review the evidence and provides this response in the interests of assisting the Inspector identify and to refine the scope of the discussion at the hearing.

This letter and the enclosed documents are submitted under r.11(11) Town and Country Planning (Hearings Procedure) (England) Rules 2000.

A copy of this letter and all supporting material has been provided to the local planning authority and interested parties who have made comments to this appeal have been notified that it is viewable on the Council's website. Currently the hearing is proposed for the 8th July and there is significant opportunity (3 calendar months) for interested parties to review this information and consequently no prejudice to their interests.

This letter provides further clarity and updates regarding the following:

1. The agreed position on affordable housing provision;
2. Further clarification regarding acoustic assessment submitted with the appeal;
3. Additional detail regarding the appellant's landscape strategy and amenity space provision;
4. Additional detail regarding Bio-Diversity Net Gain;
5. Further clarification regarding the provision of a car club space and the parking strategy;
6. Update regarding the impact of the proposal on the Epping Forest Special Area of Conservation;
7. Summary of the Five Year Land Supply; and
8. Proposed modification to some of the submitted application drawings;
9. Further clarification regarding daylight and sunlight impacts of the development;
10. National Design Guide; and
11. Updated Arboricultural Impact Assessment

Directors: Kevin Coleman BSc (Hons) DipTP MRTPI
Trevor Dodkins BSc (Hons) DipTP MRTPI
Michael Calder BSc (Hons) DipTP MRTPI
Lisa Skinner BSc (Hons) MA DipMgt MRTPI



We comment of the above documents under the following headings.

1. Affordable Housing

Epping Forest District Council (EFDC) has provided a 'independent verification' of the Appellant's viability report. EFDC report accepts that it will only be viable for this proposal to provide 16 affordable homes. EFDC has requested that the provision be made up of 12 apartments for affordable rent and 4 as shared ownership which is a 75:25 split consistent with the Council's evidence base.

The Appellant has reached agreement with EFDC and wishes to confirm through this letter that this level of provision is to be reflected within the legal agreement.

Consequently, this has required an amendment to apartments on levels 03/04 of Block B to reflect the tenure changes, which will supersede the earlier floor plans for these levels of Block B. Accordingly, we have provided updated drawings and an updated drawing list, which confirms the drawings that the Appellant is seeking approval in this appeal.

The Appellant's draft legal agreement is being updated to reflect this amendment.

2. Noise

We have reviewed EFDC Statement of Case with regards to their understanding of impacts within external spaces due to noise (paragraphs 70 to 72) and to assist have provided clarification regarding the relevant standard, guidance and impact within the attached letter from Sol Acoustics contained in Document 1.

3. Landscape and Amenity Space

As part of the process of drafting conditions and obligations/responsibilities within the S106 agreement the Appellant has clarified the areas proposed for hard and soft landscaping, to be secured and maintained within this development.

We enclose as Enclosure 2 the confirmed:

- Landscape Master Plan – dwg no. D0346_001 E;
- Landscape Softworks – dwg no. D0346_004;
- Tree Screen Details – dwg no. D0346_003 A; and
- Landscape Roof Plan – dwg no. D0346 F.

These drawings confirm the retention of playspace between Blocks C and D and its enhancement with the provision of a further communal area of amenity space comprising a communal wildlife garden between Blocks D and E.

More detailed design has been provided in respect of the soft and hard landscaped areas to provide the clarification and certainty sought by EFDC and some neighbours. For example, the boundary planting and landscaped verges along the eastern side of the access road have been specified and illustrated within a Tree Screen Details, which identify a planting specification along the common boundary to secure the uplifted public realm and screen to neighbouring properties.

The landscape roof plans also illustrate the areas of bio-diversity net gain and further forms of mitigation.

4. Bio-diversity net gain

In tandem with specifying more detail within the landscape strategy the Appellant has updated its bio-diversity calculations, which illustrate a net gain of 28.7% as provided in Enclosure 3.

5. Car Club and Parking Strategy

EFDC are seeking more clarity regarding the location and mechanism to secure a car club space within this development (paragraph 100 of their statement).

This is now labelled more clearly on the enclosed Site Plan dwg no. 01199B. It is located alongside the access road adjoining the sub station to the rear of Block E. The location of the car club space at the site entrance offers the opportunity for the space to be used more widely by existing residents not living within the new development. The Car Club space is also an obligation within the draft legal agreement, which includes arrangements for its provision and management.

In addition, Site Plan dwg no. 01199B illustrates a redistribution of parking spaces Enclosure 4. This illustrates a reduction in car parking on the site to 54 spaces (including 3 disabled spaces) from 57 spaces in the original application. This is pursuant to the request by EFDC to limit car parking on the site below standards due to its proximity to public transport and local facilities. However, in light of local car ownership levels and representations from some local residents to avoid overspill issues on surrounding streets, parking has been set at a level of just below 1 space per dwelling on average.

The Appellant submits that this level of provision strikes the right balance between the desire of EFDC to reduce parking standards, promoting non car modes of travel, and car ownership levels for the local area.

6. Epping Forest Special Area of Conservation (EFSAC)

The Appellant's evidence demonstrates that this proposal will mitigate and avoid the potential adverse effects to the integrity of the EFSAC having regard to a revisited assessment of traffic generation from both the existing lawful use of the site, the proposed residential development of the site and the amended parking strategy contained. This addendum is provided in Enclosure 5.

The appeal site is one of the plans and projects envisaged for the district in the Submission Version Local Plan given its allocation for residential redevelopment and as such is included in the Habitat Regulation Assessment of the Local Plan, which has concluded that there are two pathways whereby housing growth is likely to result in significant effects on the SAC, namely disturbance from recreational activities as a result of additional nearby residents and atmospheric pollution as a result of increased traffic.

In regard to recreational pressure, as set out in the Appellant's Statement of case, on 18 October 2018 the Council adopted an 'Interim Approach to Managing Recreational Pressure on the Epping Forest Special Area of Conservation' in conjunction with Natural England and the Conservators. This Interim Approach identifies that any net additional residential development located within a 6.2km zone of influence of the EFSAC would be likely to have a significant effect when considered in combination with other plans / projects and are required to mitigate the impact of this recreational pressure through a contribution set at £352 per net additional dwelling.

The Appellant has made provision for a contribution of £19,712 (56 x £352) to be secured by a legal agreement made under S106 of the Town and Country Planning Act. This is agreed with EFDC.

In respect of impacts to the EFSAC from atmospheric pollution the original Transport Statement under-estimates the existing vehicle trip generation from the appeal site and over-estimated the proposed traffic generation of the residential development. This has been corrected in the enclosed Transport Addendum Report (Enclosure 5). In addition, the addendum takes full account of the provision of electric charging spaces (100% provision), and a car club space as well as a further reduction in parking. These will be secured via planning condition (for electric charging spaces) and through the Section 106 Agreement (for the car club space). Residential Travel Information Packs are also to be provided to each household as a commitment to sustainable transport measures as both a planning condition and within the Section 106.

The updated assessment contained within Enclosure 5 has demonstrated that this proposal will result in a reduction of vehicle movements from the site offering more betterment to the EFSAC and consequently no adverse effect on integrity of the EFSAC. This is because full account has been taken of the use of the site as a MOT/car repairs, which has paused during the determination of this application but will re-commence given the

delay in determining proposals for redevelopment of this site. There are also a number of private garages used by individuals. These garages were not previously unaccounted for in the original TS.

Consequently, taken a more informed view of the existing site uses the proposal will not result in any adverse effect on integrity of the EFSAC from atmospheric pollution and a contribution will be paid towards securing mitigation against any recreation impacts.

The Appellant has therefore provided a Habitats Regulation Assessment (Enclosure 6) which taking the above into account demonstrates that the appeal proposal, in combination with other plans and projects would not have an adverse effect on the integrity of Epping Forest SAC in relation to air quality or recreation impacts.

It is significant to EFDC supply of housing that all available and suitable sites for housing are delivered at the earliest opportunity given the significant delay to the adoption of the Local Plan and the substantial shortfall in the five year land supply (set out below). There are a significant number of emerging housing allocations within the Local Plan, which will require mitigation to be in place prior to being able to conclude that there will be no adverse effect on integrity of the EFSAC. However, in this case it has been demonstrated that the site will not result in an adverse effect. This site, and others like it, will therefore play an important role in delivering much needed housing in a district which has a chronic shortfall.

7. Summary of Five Year Land Supply

As set out in paragraphs 6.9 to 6.18 of the Appellant's Statement of Case (dated October 2019), there is an onus on EFDC to provide "clear evidence" of its ability to deliver a five year land supply in accordance with the NPPF and PPG.

EFDC evidence relating to its five year land supply is contained within its Housing Implementation Strategy Update 2019 (HIS), specifically Appendix 1 (Housing Trajectory) of that document. However, Appendix 1 of the HIS is incomplete and therefore the Appellant has provided a summary note (Enclosure 7) to summarise the relevant information contained within the HIS trajectory and present all the information in one document to provide clarity and identify the differences between EFDC and the Appellant.

The starting point is that both EFDC and the Appellant agree that the Council cannot demonstrate a five year land supply. Paragraph 169 of EFDC Statement of Case confirms that EFDC position is that there is a 4.2 year supply. However, it is the Appellant's evidence that this is substantially less at 1.15 years. The Council should therefore take proactive and precautionary action to fulfil the NPPF requirements of a "deliverable" five year land supply. This substantial shortfall in the five year supply and the inability of EFDC to demonstrate a continuous supply of housing land beyond that period to meet needs is a significant material consideration in itself.

8. Consequential Updates to Appeal Drawings

As a consequence of the above refinements and clarifications the Appellant is proposing some amendments to the submitted architectural drawings to provide greater clarity and certainty over the proposed development.

The alterations provided in Enclosure 8 are:

a) Tenure Amendments (Block B plans)

- Amendments to apartment labelling on levels 03/04 of Block B;
- Substitute drawings 01199B_BB_33 P1 and 01199B_BB_34 P2 with drawings 01199B_BB_33 P2 and 01199B_BB_34 P3

b) Tree screening amendments (Site plans)

- Updating site plans to illustrate amendments to access road and tree soft landscaping
- Production of a site section to illustrate soft landscaping

- Substitute drawings 01199B_MP_10 P3, 01199B_MP_11 P2 and 01199B_MP_15 P2 with drawings 01199B_MP_10 P4, 01199B_MP_11 P3 and 01199B_MP_15 P3

c) Amendments to the flank elevations of Block C and D (Block C and D plans + Elevations. Street elevations)

- Illustrate detail of privacy screens to the gap in brickwork on the side balconies.
- Illustrate obscure notes to elevations for the flank windows including lower elements of ground floor windows.
- Amend layouts of NW apartment to swap bedroom and kitchen
- Substitute drawings 01199B_BC_40 P2, 01199B_BC_41 P2, 01199B_BC_42 P2, 01199B_BC_45 P2, 01199B_BD_50 P2, 01199B_BD_51 P2 and 01199B_BB_55 P2 with drawings 01199B_BC_40 P3, 01199B_BC_41 P3, 01199B_BC_42 P3, 01199B_BC_45 P3, 01199B_BD_50 P3, 01199B_BD_51 P3 and 01199B_BB_55 P3

d) Parking amendment and detail landscaping (Site plans. Site sections. Street elevations)

- Reconfiguration of parking court to east of Block D to accommodate 2x parking space plus sub-station facing the street and new landscaped space behind
- Illustrate new landscape space to rear of Block D
- Reconfigure bin store in Block D. Expand ground floor NE apartment to create more active frontage overlooking new landscape space. Move Block D cycle store out of the building into new landscape space to the east.
- Reconfiguration of parking to south of Block D to replace 2x standard parking spaces with 1x wheelchair space to give a total of 3 wheelchair spaces.
- Additional notes highlighting car club parking space and play area in space between blocks C+D
- Substitute drawings 01199B_MP_10 P3, 01199B_MP_11 P2, 01199B_MP_15 P2, 01199B_MP_16 P2 and 01199B_BD_50 P2 with drawings 01199B_MP_10 P4, 01199B_MP_11 P3, 01199B_MP_15 P3, 01199B_MP_16 P3 and 01199B_BD_50 P3

e) Amendments to the Block B balconies closest to Block A (Block B Plans + Elevations, Street elevations)

- Full height screening added to balconies to mitigate overlooking of Block A rear terraces.
- Substitute drawings 01199B_BB_31 P2 and 01199B_BB_32 P2 with drawings 01199B_BB_31 P3 and 01199B_BB_32 P3
-

f) Amendments to Block A eastern terrace (Block A elevations. Street elevations)

- Indicate screening above parapet to eastern terrace to mitigate overlooking to adjacent gardens
- Substitute drawings 01199B_BA_20 P2 and 01199B_BA_21 P2 with drawings 01199B_BA_20 P3 and 01199B_BA_21 P3

An updated drawing list highlighting those drawings which are proposed for substitution is included in Enclosure 9.

9. Daylight and Sunlight

As a consequence of the foregoing details the Appellant has re-tested all of the previously reported rooms for both daylight and sunlight using the same methodology and parameters in Enclosure 10. This demonstrates, as was the case previously, that all rooms adhere to the Average Daylight Factor (ADF) analysis for daylight. There are some reductions in ADF, but nonetheless all rooms retain the target minimum values. For sunlight, again the same adherence rates are shown in the results. Those that transgress the guidelines do no more than 2% Annual Probable Sunlight Hours (APSH). For the proposed scheme amenity areas, the same sunlight

conditions are recorded. Further, the internal amendments and introduction of screens, make very little difference to the original results.

In addition, the detailed soft landscaping and trees do not impact the proposed scheme amenity areas results as previously reported due to being predominantly to the north of them.

With regard to the tree planting along the access road and rear of Bower Vale residents, the impact on the Bower Vale neighbour's gardens has been considered, with the proposed buildings in place, and with the proposed buildings plus the tree planting. The results are that neither the proposed development nor the development with the proposed tree planting will adversely impact on the sunlight received to those properties amenity areas against the BRE standards.

10: National Design Guide

Whilst not forming part of the EFDC original assessment of the proposal and not identified within the reasons for refusal EFDC has presented evidence within its Statement of Case that the appeal proposal is contrary to some of the guidance contained within the National Design Guide. Accordingly, the Appellant has undertaken a review of the proposal against the relevant guidance in response as provided within Enclosure 11.

11. Other Matters

For clarity we would identify that EFDC have correctly identified in paragraph 86 to 89 of their Statement of Case that there is no policy requirement for provision of allotments on this site or a national or local accessibility standard. Therefore, to the contrary this proposal doesn't fail any policy in this regard. There is however access to existing allotments as set out in paragraph 7.60 of the Appellant's Statement of Case.

In respect of the planning balance, the 'out of date' adopted policies relating to the supply of housing and the lack of five year land supply triggers the presumption in favour of this proposal and application of the 'tilted balance' in the overall planning balance. Notwithstanding the position of EFDC, the Appellant has demonstrated that the 'tilted balance' will still apply because the evidence in Transport Addendum (Enclosure 4) demonstrates that this proposal will result in a reduction of vehicle based movements compared with the baseline of the existing site uses, and therefore not result in any adverse impacts to atmospheric pollution, and that there is mitigation in place to offset recreational impacts through contributions, this proposal would not have an adverse effect on the integrity of Epping Forest SAC. This is confirmed in the updated HRA (Enclosure 6).

Accordingly, footnote 6 of the NPPF would not provide a clear reason for refusal and accordingly paragraph 11d) remains in full force in the determination of this proposal.

Precedent images are provided within Enclosure 12.

An updated Arboricultural Impact Assessment is provided at Enclosure 13.

A copy of this letter and all supporting material has been provided to the local planning authority and all interested parties have been provided with this letter and notification that these documents will be made available on the Council's website or available by request.

Please contact me should you require anything further.

Yours sincerely



Michael Calder BSc(Hons) Dip TP MRTPI

Director

mcalders@phase2planning.co.uk

Telephone: 01376 329059

- Enclosure 1** – Sol Acoustics Technical Letter dated 27.3.20
- Enclosure 2** – Landscape Details
- Enclosure 3** – Bio-diversity Net Gain calculations
- Enclosure 4** - Site Plan dwg no. 01199B
- Enclosure 5** – Transport Addendum Report
- Enclosure 6** – Habitats Regulation Assessment
- Enclosure 7** – Five Year Land Supply Summary
- Enclosure 8** – Proposed drawing Substitutions
- Enclosure 9** – Proposed Drawing List
- Enclosure 10** – Daylight and Sunlight Addendum
- Enclosure 11** – National Design Guide
- Enclosure 12** – Precedent Images
- Enclosure 13** - AIA