



Finachem House - 2-4 Ashley Road

Epsom and Ewell Local Plan Examination Stage 1 Hearing Statement

Andrew Black Consulting on behalf of Gavil Group

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1. Introduction

- 1.1 This matters statement has been prepared by Andrew Black Consulting on behalf of Gavil Group in relation to their interest in the land at Finachem House, 2-4 Ashley Road, Epsom. The land is allocated in the local plan under policy SA11.

- 1.2 These representations are made in the context of the tests of soundness as set out in paragraph 36 of the current National Planning Policy Framework (NPPF). This states that plans are 'sound' if they are:

Positively prepared – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;

Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;

Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and

Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.

- 1.3 Finachem House is located within Epsom Town Centre and is allocated for development of approximately 20 dwellings under policy SA11 of the local plan.



Figure 1 – Site Area

- 1.4 The allocation of the site, follows previous pre-application with the council on the potential redevelopment of the site. Whilst the allocation of the site is welcomed, the allocation for 20 dwellings is not reflective of the true development potential of the site or reflective of the aspirations presented to the council during the pre-application discussions. It is recognised

that any capacity in the plan is indicative and does not represent a maximum capacity. Nevertheless, the low indicative capacity of this site would not represent a viable, realistic or developable amount of housing. More importantly the approach taken to the development potential of this site is indicative of wider issues with the plan, particular in reference to the approach taken to urban capacity.

- 1.5 These representations set out comments in relation to key matters of soundness for stage 1 of the hearings.

2. Duty to Cooperate

2.1 The inspector has set out very specific questions in relation to the meetings referred to in the evidence base documents and specifically why no minutes are available from a series of meetings (1.4-1.13). These are matters for the council to respond on but the lack of full documentation in relation to key DTC is of significant concern.

2.2 The key questions raised by the inspector which benefit from a response are set out below with comments set out against each in turn.

1.14 Have the LPA done all they reasonably could to maximise the effectiveness of plan preparation by cooperating with all other relevant bodies?

2.3 This is largely a matter for the council to respond on. The most significant concern around the plan is the significant shortfall against the established housing requirement.

2.4 The constraints and restrictions that the council is faced with are acknowledged and recognised, nevertheless the onus remains firmly with the council to demonstrate that there has been *effective and ongoing* engagement between strategic policy making authorities as required by paragraph 26 of the NPPF.

2.5 There is no doubt from the statements of common ground with other boroughs, as summarised in the DTC Statement of Compliance Update (ref DTC1), that surrounding councils are equally restricted and cannot accommodate unmet housing need.

2.6 The key question remains on whether the council has done *all they reasonably could* to maximise effectiveness of the plan.

2.7 The question of whether the effectiveness of plan preparation has been maximised was most recently scrutinised by the inspector of the Mid Sussex Local Plan with the findings issued earlier this year. In this instance the council cited similar constraints for the LPA and that of neighbouring authorities, but it was ultimately concluded that the presence of such constraints did not obviate the necessity for MSDC to explore the possibilities of doing more to help address the unmet needs of the wider sub region.

2.8 It is considered that those conclusions can be directly read across to the situation in Mid Sussex where there is a lack of evidence that the council has done all it reasonably can to maximise the effectiveness of the plan. This is particularly apparent through scrutiny of the Sustainability Appraisal which shows that an option which met the full housing need for the LPA was not even considered. On this basis it is very difficult to conclude that the council has sought to maximise effectiveness of the plan.

1.15 Did the co-operation process deal with all the relevant strategic matters, and issues arising in relation to them?

2.9 Whilst it is clear that cooperation did take place with key DtC partners it remains clear that the issue of unmet housing need in Epsom and Ewell, and indeed the wider sub region, remains unresolved.

2.10 Paragraph 20 of the NPPF sets out the key matters that strategic policies should make provision for and includes (inter alia):

d) conservation and enhancement of the natural, built and historic environment.

2.11 There is clearly concern from the council over impact of development on the built heritage of in the borough and this has been a key factor in coming to a recommendation on development capacity of key sites (including Finachem House).

2.12 The Duty to Cooperate Statement of Compliance (DTC1) sets out at paragraph 4.2 that engagement with Surrey County Council included Heritage as a topic area. The Statement of Common Ground with Surrey County Council (SCG01) includes the regulation 19 response from SCC which includes some commentary on the wording of Heritage policies in the plan. However there is an absence of any guidance or agreement on impact on heritage, particularly on the town centre sites, and it remains unclear on how the council has discharged its duty relating to the protection of the historic environment.

1.16 Is it clear how each strategic matter was resolved? If any were not resolved, are there satisfactory reasons for this?

2.13 The issue of unmet housing need was clearly discussed with the DtC partners but remains unresolved. It is clear that the council failed to assess a reasonable alternative that would meet housing need in full, or even attempt to reduce the very significant shortfall between what the plan can achieve and the housing requirement.

2.14 It is clear that the council was eager to have a series of signed statements of common ground with the duty to cooperate partners, however that should not be taken as an indication that each strategic matter was successfully resolved. Adoption of the plan in its current form would leave the matter of housing need fundamentally unresolved.

2.15 It is considered that it is still possible for a sound plan to be put forward by the council but allocation of further sites is required and this is a matter which will require the preparation of further evidence, testing through SEA and likely need further consultation.

3. Sustainability Appraisal

- 3.1 The key questions in relation to the Sustainability Appraisal (SA) are set out below with commentary against each in turn.

2.4 *Has the SA tested all reasonable alternatives? Is it clear how the conclusions drawn have been justified ?*

- 3.2 Section 5.5 of the SA (SD05a) sets out the Reasonable Growth Scenarios but it is noted that under all 7 of the scenarios that the delivery from the Urban Area remains constant at 1,416 dwellings. There is no commentary on why a range of delivery from the Urban Area was considered including the impact of delivery of a higher amount of housing through a higher density approach in the town centre.

2.5 *As the Council have set out, the standard method is the starting point for housing need. However, of the different options assessed within the SA, none of these look to address the standard method requirement in full. What is the justification for this approach and in what way does it demonstrate the Council have tested all reasonable alternatives?*

- 3.3 Section 5.5 of the SA (SD05a) sets out the reasonable growth scenarios but as highlighted, none consider an option to meet need in full, or even a scenario where the significant 4,000 home shortfall would be significantly reduced. There is no explanation for the lack of this testing of a reasonable alternatives and this should be of significant concern to the inspector in assessing whether the plan is justified on this basis.

- 3.4 The result of the lack of reasonable alternative which meets housing need is plainly apparent in relation to section 6.10 of the SA which highlights that all scenarios are considered to have a significant negative effect.

2.6 *To what extent has the SA informed the content of the Plan?*

- 3.5 The Planning Practice Guidance is clear that an SA *should be applied as an iterative process informing the development of the plan.* (Paragraph 001 Reference ID 11-001-20190722).

- 3.6 The SA itself makes the conclusion on the preferred scenario at paragraph 9.10.1 which states:

The appraisal in Section 6 flags a significant concern with the preferred scenario, for the simple fact that it would involve generating significant unmet housing need. Specifically, the Local Plan identifies a total supply of 4,914 homes over the plan period, such that the proposal is to set the housing requirement at 4,700 homes (261 per annum) with a 4.5% 'supply buffer' as a contingency for unforeseen delivery issues

- 3.7 In relation to housing paragraph 9.10.9 of the SA states:

*In **conclusion**, there is a clear need to predict a negative effect on the baseline, which is one whereby planning applications would be considered in the context of standard method LHN*

rather than the much lower proposed housing requirement. However, there are also many clear reasons to adopt the Local Plan, from a housing perspective, including with a view to setting clear policy requirements for housing mix and affordable housing and delivering Horton Farm, which is crucially important in a number of respects but not least given the potential to provide a mix of affordable homes and for Gypsy and Traveller accommodation needs. On balance it is considered appropriate to predict a 'moderate or uncertain' negative effect for the Local Plan as a whole, but this is marginal, i.e. there is a case for predicting a negative effect given the extent of unmet housing need generated.

- 3.8 It is not considered that the negative effect on the plan as a whole is 'marginal' and can only be considered as a significant negative effect in any reading or scenario.
- 3.9 Whilst the need to adopt a plan for the council are acknowledged it cannot be the case that the adoption of a plan which fails to meet housing need to such an extent should be found sound when alternative scenarios were available to the council to bridge the gap but were discounted by the council for unsubstantiated reasons.
- 3.10 There is little evidence that the council has followed an *iterative process* in producing the submitted plan and the council has failed to follow a logical process in preparing a plan which can be considered effective and justified.

2.7 *Is the distribution of housing growth supported by the SA and will it deliver an appropriate pattern of housing growth?*

- 3.11 It is noted that under the reasonable alternative growth scenarios (as summarised in table 5.2 of the SA) that the housing numbers envisaged in the urban area are all constant at 1,416 dwellings. It is unclear why any scenarios which delivered a greater amount of housing in the urban areas were not considered as part of delivery of an appropriate pattern of growth.

2.8 *Overall, does the SA demonstrate that the submitted plan is justified and would it comprise an appropriate strategy, taking into account the reasonable alternatives?*

- 3.12 In its current form, the plan is not considered to represent a plan which is justified in light of the requirements of the NPPF and recommendations of the Planning Practice Guidance.
- 3.13 It is considered that it is still possible for a justified plan to be prepared but this will require detailed consideration and testing of a much greater range of reasonable alternatives which would consider the impacts of meeting the housing need in full alongside options which would narrow the significant shortfall created by the plan as submitted.

4. Other Stage 1 Matters

- 4.1 ABC does not intend to make any representations on the Habitats Regulations Assessment (HRA); Climate Change; Equalities; or Local Development Scheme questions raised by the inspector.

5. Conclusions

- 5.1 These representations demonstrate the significant shortcomings in the plan as submitted for examination.
- 5.2 The plan in its submitted form is unjustified and as a result is not currently sound.
- 5.3 It is considered that a sound plan is capable of being brought forward by the council, but this will require detailed consideration of reasonable alternatives which will include allocation of further green belt sites in order to meet the established housing need. It is acknowledged that this will require further evidence and testing through SEA but it is not considered that adoption of the current plan is justified.

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