

**HARLOW DISTRICT COUNCIL: Examination of the Harlow Local Development Plan,,
2011 – 2033.**

Essex County Council () Examination Hearing Statement

**MATTER 3: Overall Strategy; Harlow & Gilston Garden Town - General Principles &
Infrastructure Question 3.8**

Matter 7: Development Management Policies

Matter 3

3.8 Are the infrastructure requirements listed in Policy SIR1 necessary and justified? How would they be delivered? Would there be any adverse impacts?

1. North-South Sustainable Transport Corridor and River Stort Crossing to Eastwick Roundabout
2. East-West Sustainable Transport Corridor
3. Second River Stort Crossing at River Way
4. Access Route for Strategic Housing Site East of Harlow – covered in Matter 4
5. Cemetery Extension
6. New Allotment Provision

3.9 Should wastewater infrastructure and new schools provision be included in this Policy? (Thames Water and Essex CC representations)

Matter 7

Are the development management policies in the plan positively prepared, justified, effective and consistent with national policy? This includes some specific questions in bullet point form.

ECC Response

1. On the second question above (3.9), Essex County Council (ECC) originally sought a change to the Plan in its Regulation 19 representations so that new schools provision would be included within the list of key infrastructure items that the policy sets out. ECC notes that no change has been proposed on this by Harlow Council (through its Pre-Submission Local Plan Schedule of Minor Changes – 2018) (reference HSD19). but this matter has been discussed between the two Councils as part of wider discussions on all of ECC's representations. As result of this, it has been agreed that this could be covered (through new minor changes to be put forward by Harlow Council) by adding a note to support the policy wording and a similar footnote to the Proposals Map, since ECC acknowledges that the locations of all these new schools cannot yet be known or determined and therefore cannot be illustrated as specific points on the Proposals Map (the Key Diagram may allow for this).
2. ECC has suggested that this matter needs to be included within the emerging Statement of Common Ground (SoCG) between ECC and Harlow Council (HC). The Inspector is advised that these discussions have proven positive and effective and are expected to result in a series of proposed changes to the Local Plan and accordingly, the anticipated withdrawal of many of ECC's representations. While this work has been very productive and beneficial, recent discussions indicate that it is likely that the actual SoCG will not be completed and available to provide to the Inspector by 6 March, when the deadline applies for submission of statements for the hearing sessions. This statement therefore advises that by the time of this hearing session, due to take place on 29 March, the details of the proposed changes referred

to in paragraph 1 above (these being relatively straightforward in nature) will be available and provided for the Inspector's consideration. Subject to this matter being agreed between ECC and HC by 29 March, and the Inspector proposing a Plan modification to this effect, ECC would be willing to withdraw this objection.

3. Turning to the more substantive issue of matter 7 and whether the development management policies are positively prepared, justified, effective and consistent with national policy, ECC advises that the Plan user has to look at two different sections and two policies of the Local Plan in its current form, to establish the full infrastructure and planning obligations requirements on developers. These are divided between Policy SIR1 Infrastructure Requirements, in Chapter 11 (which refers to the IDP) and Policy IN6 Planning Obligations in Chapter 17. The subject matter of these two policies is largely common to both and this is indicated by the current cross-reference to Policy IN6 within Policy SIR1. This creates an immediate potential source of confusion for Plan users, particularly for developers. As a result, ECC suggests that the infrastructure requirements / planning obligations policies, in their current form, are not effective, and has proposed a combined policy in response to address these matters more fully and clearly. The approach ECC is proposing does not restrict the scope or ability of the local planning authority in any way, in its ability seek a full range of infrastructure contributions and measures.
4. ECC considers that Local Plan infrastructure requirements / planning obligations policies are of great importance in order to ensure that development impacts are captured and mitigated fully. This is also to ensure that development is sustainable. In instances where the full infrastructure requirements to support new developments are not provided, this can also have harmful impacts on infrastructure providers, where such measures need to be provided retrospectively. The alternative form of policy that ECC is recommending also has the advantage of seeking to ensure that an appropriate infrastructure planning process is followed. This is through the policy's third paragraph, requiring that developers and land owners work positively with the Councils concerned and others throughout the planning process to ensure that the cumulative impact of development is considered and then mitigated, at the appropriate time, in line with their published policies and guidance.
5. In order to address these issues, ECC suggested to HC that the two policies should be combined into a single, all embracing infrastructure requirements / planning obligations policy. ECC proposed to HC that the form of this could be as that of the single policy ECC has put forward. This has been proposed to, and taken up by, several Essex local planning authorities within their Local Plans.
6. The policy approach suggested by ECC was set out for HC's consideration in full within ECC's Regulation 19 representations. This matter has been discussed as part of SoCG discussions between the two Councils, although agreement was not reached. HC has stated its preference to retain its two policies, SIR1 and IN6, as currently included within the Local Plan. For the Inspector's convenience, the proposed single policy is provided here at appendix 1. The Inspector is respectfully requested to uphold this representation and ensure that the Plan is sound by replacing the two policies as currently set out by the single ECC best practice policy, together with the key infrastructure items list as referred to in paragraph 1 above.

Appendix 1

Recommended wording for such an 'Infrastructure delivery and impact mitigation' policy is provided within the ECC proposed Infrastructure delivery and impact mitigation Policy as below:

“Policy IN6: Planning Obligations, Infrastructure delivery and impact mitigation

Permission will only be granted if it can be demonstrated that there is sufficient appropriate infrastructure capacity to support the development or that such capacity will be delivered by the proposal. It must further be demonstrated that such capacity as is required will prove sustainable over time both in physical and financial terms.

Where a development proposal requires additional infrastructure capacity, to be deemed acceptable, mitigation measures must be agreed with the Council and the appropriate infrastructure provider. Such measures may include (not exclusively):

- **financial contributions towards new or expanded facilities and the maintenance thereof;**
- **on-site construction of new provision;**
- **off-site capacity improvement works; and/or**
- **the provision of land.**

Developers and land owners must work positively with the Council, neighbouring authorities and other infrastructure providers throughout the planning process to ensure that the cumulative impact of development is considered and then mitigated, at the appropriate time, in line with their published policies and guidance.

The Council will consider introducing a Community Infrastructure Levy (CIL) and will implement such for areas and/or development types where a viable charging schedule would best mitigate the impacts of growth. Section 106 will remain the appropriate mechanism for securing land and works along with financial contributions where a sum for the necessary infrastructure is not secured via CIL.

For the purposes of this policy the widest reasonable definition of infrastructure and infrastructure providers will be applied. Exemplar types of infrastructure are provided in the glossary appended to this plan.

Exceptions to this policy will only be considered whereby:

- **it is proven that the benefit of the development proceeding without full mitigation outweighs the collective harm;**
- **a fully transparent open book viability assessment has proven that full mitigation cannot be afforded, allowing only for the minimum level of developer profit and land owner receipt necessary for the development to proceed;**
- **full and thorough investigation has been undertaken to find innovative solutions to issues and all possible steps have been taken to minimise the residual level of unmitigated impacts; and**

- **obligations are entered into by the developer that provide for appropriate additional mitigation in the event that viability improves prior to completion of the development.”**

Please note that the following glossary to support this policy could be included within the Draft Plan at Appendix 1 – Acronyms and Glossary.

“Glossary

Infrastructure means any structure, building, system facility and/or provision required by an area for its social and/or economic function and/or well-being including (but not exclusively):

- a. footways, cycleways and highways**
- b. public transport**
- c. drainage and flood protection**
- d. waste recycling facilities**
- e. education and childcare**
- f. healthcare**
- g. sports, leisure and recreation facilities**
- h. community and social facilities**
- i. cultural facilities, including public art**
- j. emergency services**
- k. green infrastructure**
- l. open space**
- m. affordable housing**
- n. live/work units and lifetime homes**
- o. broadband**
- p. facilities for specific sections of the community such as youth or the elderly”**