

# **Epping Forest College Sites, Loughton**

## **Ecology Proof of Evidence of Dr Rebecca Brookbank**

Prepared on behalf of

Fairview New Homes

PINS Reference: APP/J1535/W/20/3258787

LPA References: EPF/2905/19 (Appeal A, College Buildings site); EPF/0379/20 (Appeal B, Former Playing Fields site)

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Final

23 March 2021

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### 1. INTRODUCTION

#### **Brief**

- 1.1 This Proof of Evidence has been prepared by Dr Rebecca Brookbank, Technical Director and Principal Ecological Consultant at Ecological Planning and Research Ltd. (EPR), on behalf of Fairview New Homes ('the Appellant').
- 1.2 I was initially instructed by the Appellant in January 2020 to advise on matters relating to the protection of Epping Forest Special Area of Conservation (SAC), in the context of two proposed redevelopment projects in Loughton, Epping. Submitted planning applications relate to the proposed residential development of the Epping Forest College site (EPF/2905/19) and the adjacent Playing Fields Site (EPF/0379/20).
- 1.3 Following non-determination of both applications by Epping Forest District Council (EFDC), planning appeals were made by the appellant and I was retained to act as Expert Witness. The appeals are to be heard at a single Inquiry due to the similarity of matters being considered (APP/J1535/W/20/3258787).

#### **Qualifications and Experience**

- 1.4 I am Dr Rebecca Brookbank, Technical Director and Principal Ecological Consultant at Ecological Planning & Research Ltd (EPR), Consulting Ecologists based in Winchester. I hold the degree of Bachelor of Science with Honours in Biology, and a Doctorate in Plant Community Ecology, at the University of Southampton. I am also a Full Member of the Chartered Institute of Ecology and Environmental Management (CIEEM).
- 1.5 I have worked in ecological consultancy since 2007. Over the last thirteen years I have worked in a variety of regions and Local Authority areas, providing advice to EPR's clients on the impact avoidance, mitigation, compensation and enhancement measures required to ensure compliance with nature conservation legislation and planning policy. This has involved work at the plan and project-level planning stages, for both commercial developers and local authorities.
- 1.6 My principal area of expertise is collating information to inform project-level Habitats Regulations Assessment (HRA), and in particular assessing the potential effects of increased recreational pressure and air quality change on protected heathland and woodland sites.
- 1.7 I have assessed potential recreational pressure and air pollution effects arising from large residential development schemes on the Wealden Heaths (Phase II) Special Protection Area (SPA) (and component Woolmer Forest SAC), the Thames Basin Heaths SPA, the Dorset Heath(land)s SAC/SPA/Ramsar, and the Chilterns Beechwoods SAC. These assessments were informed by bespoke evidence, comprising visitor survey, vegetation survey, and air quality monitoring and modelling, and involved the design of bespoke Impact Avoidance and Mitigation Strategies (IAMS) developed in close consultation with Natural England. These IAMS have included the design of bespoke Suitable Alternative Natural Greenspace (SANG) and

Strategic Access Management and Monitoring (SAMM) to address recreational pressure effects, as well as air quality mitigation and monitoring.

- 1.8 In addition to project-level assessment, I have also carried out strategic HRA work. In 2012 I devised an Outline Access Management Strategy for parts of the Wealden Heaths SPA on behalf of East Hampshire District Council to support delivery of the Whitehill & Bordon Eco-town proposals, which formed a key part of the then emerging Local Plan. In 2018 I contributed towards EPR's New Forest Air Quality Ecological Mitigation Plan which assessed the potential air quality effects of Local Plan development on the New Forest National Park International designations on behalf of the New Forest District Council and New Forest National Park Authority. In the same year I also led the most recent visitor monitoring survey of the Thames Basin Heaths SPA on behalf of Natural England, the results of which provide compelling evidence regarding the success of the adopted Thames Basin Heaths SPA Delivery Framework. Most recently in 2020 I reviewed the approach to SANG delivery in the context of the Thames Basin Heaths SPA on behalf of Hart, Rushmoor and Surrey Heaths Councils in order to review potential alternatives that might support future housing delivery. Finally, during 2020 I acted as a contributing author to CIEEM's latest advisory document 'Ecological Assessment of Air Quality Impacts', published January 2021.
- 1.9 I have also acted as Expert Witness on Ecology and HRA matters. In 2014 I acted as Expert Witness for the Magna Business Park Appeal Inquiry in Poole (APP/Q1255/A/13/2204098), successfully presenting evidence, in opposition of the Council and Natural England, to demonstrate that adverse effects on the integrity of the Dorset Heath(land)s SAC, SPA and Ramsar site would not arise. Then in 2017 I acted as Expert Witness for the Wisley Airfield Appeal Inquiry in Guildford Borough (APP/Y3615/W/16/3159894), presenting evidence regarding potential recreational pressure and air pollution effects on the Thames Basin Heaths SPA. Although this latter Appeal was dismissed on non-ecological grounds, the Inspector agreed that that the scheme would not result in likely significant effects on the SPA. The Wisley Airfield site has since been allocated in the Guildford Borough Local Plan (Strategy and Sites, 2015-2034) following Local Plan Examination and subsequent High Court challenge ([2019] EWHC 3242 (Admin)), which drew upon the evidence collated in relation to the Wisley Airfield Appeal proposals.

### **Scope of Evidence**

- 1.10 This Proof of Evidence addresses matters concerning potential ecological effects on Epping Forest SAC, in the context of the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended). My evidence on the potential ecological impacts of air pollution on Epping Forest SAC is informed by project-specific transport and air quality modelling, which was prepared by Mott MacDonald and Syntegra Consulting, respectively. References to Maps and Appendices produced as part of this Proof of Evidence are emboldened, as are references to Core Documents, but all other references remain as plain text.

### **Declaration**

- 1.11 The evidence that I have prepared and provide for this Appeal reference APP/J1535/W/20/3258787 in this Proof of Evidence is true, and has been prepared and is given in accordance with the guidance of my professional institution, the Chartered Institute of Ecology and Environmental Management. I confirm that the opinions expressed are my true and professional opinions.

## 2. PLANNING BACKGROUND AND REASONS FOR REFUSAL

2.1 Planning applications for redevelopment of the College Buildings site (EPF/2905/19, Appeal A) and the adjacent Former Playing Fields site (EPF/0379/20, Appeal B), both located on Borders Lane, Loughton (**Map 1**) were submitted to Epping Forest District Council (EFDC) in December 2019 and February 2020, respectively.

2.2 Proposed development descriptions are as follows:

Appeal A – *“Redevelopment of the site to provide x 139 no. residential units in 3 buildings ranging from 3-5 storeys, car parking spaces, communal landscaped amenity areas, secure cycling parking & other associated development.”*

Appeal B – *“Redevelopment of the site to provide 285 residential dwellings (Use Class C3) in a series of blocks ranging from 2 to 5 storeys in height, a new Wellness Centre (Use Class D1), creation of a new public park, car parking, communal landscaped amenity areas, secure cycle parking and other associated development.”*

2.3 Both sites are proposed as residential allocations within the Submission Version 2017 of the Epping Forest District Local Plan (**CD 4.1**). Draft Policy LOU.R9 ‘Land at former Epping Forest College site’ proposes 111 dwellings on the site that is the subject of Appeal A and Draft Policy ‘LOU.R4 Borders Lane Playing Fields’ proposes 217 homes on Appeal Site B. Both planning applications therefore propose additional dwellings beyond the draft allocated site dwelling number. Proposals for Appeal A include an uplift of 28 dwellings, with an additional 68 dwellings proposed in relation to Appeal B.

2.4 Following the Appeal, EFDC’s putative Reason for Refusal (RfR) 2 set out in their Statement of Case (SoC, **CD 5.2**) states:

*“The application does not provide sufficient information to satisfy the Council, as competent authority, that the development would not adversely affect the integrity of the Epping Forest Special Area for Conservation and there are no alternative solutions or imperative reasons of overriding public interest why the development should be permitted. As such, the development is contrary to policies CP1 and CP6 of the Adopted Local Plan and Alterations, policies DM 2 and DM 22 of the Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.”*

2.5 With regards to RfR 2, the Council’s SoC sets out the details of further information required to enable them to fully assess the potential air quality effects of the appeal proposals on Epping Forest SAC:

*“Reason (2)*

*The LPA will argue that inadequate information has been submitted to fully assess the impact of the scheme on the integrity of the Epping Forest Special Area for Conservation (‘EFSAC’). For the Council to assess the potential impacts arising from the proposed development, against the existing modelling, the Council will need:*

*a) the total 24hr Annual Average Daily Traffic (AADT) forecast to be generated by the proposed development, including the percentage HDV (Heavy Duty Vehicles), and the methodology for calculating this;*

*b) details, and any supporting evidence for, the methodology for distributing the development-generated AADT (including HDV %) on any road within the EFSAC or within 200m of the EFSAC;*

*c) in addition to the forecast AADT's already provided, the estimated development generated AADT HDV% on any road within the EFSAC or within 200m of the EFSAC (if any);*

*d) details of any proposed mitigation measures proposed to be secured through recognised planning mechanisms that are expected to impact on trip generation and/or distribution. If applicable, AADT forecasts should be provided for both 'with' and 'without' the proposed measures.; and*

*e) the Council request that the AADT forecasts and distribution for the residential and wellness centre uses be separated.*

*For the avoidance of doubt, all development trips will be considered to be new to the network."*

2.6 Although not made clear in the wording of RfR 2 itself, nor the supporting text that sets out the further information request, subsequent discussions with the Council have confirmed that RfR 2 relates specifically to trip generation in the context of potential air pollution effects on Epping Forest SAC.

2.7 Since an appropriate financial contribution can be made to EFDC's 'Interim Approach to Managing Recreational Pressures on the Epping Forest Special Area of Conservation' (**CD 8.1**) and any future iteration of that strategy, secured by Section 106 Agreement, it is common ground that the appeal proposals would not contribute to adverse effects on Epping Forest SAC as a result of increased recreational pressure (**CD 5.4**). This Proof of Evidence therefore focuses on matters relating air pollution.

### 3. ECOLOGY AND HRA BACKGROUND

#### Site Context

- 3.1 The Appeal sites are located 1.3 and 1.4 km, respectively, from the closest boundary of Epping Forest Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI)(see **Map 1**).
- 3.2 Epping Forest SAC is afforded strict protection under the Conservation of Habitats and Species Regulations 2017 (as amended) and was originally designated under the European Habitats Directive 92/43/EEC in 2005 for its Internationally important habitats and species. Qualifying features (with the relevant EUNIS code) include the following Annex 1 habitats and Annex II species:
- Northern Atlantic wet heaths with *Erica tetralix* (H4010);
  - European dry heaths (H4030);
  - Atlantic acidophilous beech forests with *Ilex* and sometimes also *Taxus* in the shrub layer (H9120); and
  - Stag Beetle *Lucanus cervus* (S1083).
- 3.3 The SAC sits predominantly within Epping Forest District (and the County of Essex), but its southern extremities extend into Greater London and the Boroughs of Waltham Forest and Redbridge.

#### Plan-level HRA

- 3.4 Habitats Regulations Assessment (HRA) of iterative consultation versions of the emerging Local Plan was carried out by AECOM on behalf of EFDC (in 2016, 2017, 2019).
- 3.5 Air quality modelling reported in the HRA of the Submission Local Plan (**CD 8.2**) predicted that future housing growth would have the effect of delaying the achievement of air quality restoration targets for Epping Forest SAC, such that the conservation objectives for the SAC would be undermined and adverse effects on site integrity as a result of the Local Plan policies could not be ruled out. The HRA consequently proposed the adoption of strategic air quality mitigation measures, which, it concluded, would prevent the occurrence of adverse effects on the integrity of the SAC.
- 3.6 However, the robustness of the Local Plan HRA was challenged and heavily scrutinised during the Local Plan examination (including by Natural England, a statutory advisor under the Habitats Regulations) and its conclusions were not accepted by the Inspector, as summarised within the 'Inspector's Advice After Hearings' (**CD 8.3**).
- 3.7 EFDC was therefore tasked with revising its air quality modelling work and developing an Air Quality Mitigation Strategy (AQMS) to provide confidence regarding the mitigation necessary to ensure that planned development would not result in adverse effects on Epping Forest SAC, with further changes to the Plan (in the form of Main Modifications) required.
- 3.8 EFDC has not yet published and consulted on the Main Modifications version of the Local Plan.

## Project-level HRA

- 3.9 Although the Appeal sites were modelled as part of the Plan-level HRA work, air quality modelling and assessment considered broad development scenarios such that the specific effects of the Appeal proposals could not be readily isolated and considered in the context of wider in-combination effects.
- 3.10 Bespoke air quality modelling work was therefore completed by the appellants appointed air quality consultant (Syntegra Consulting), with information for Project-level HRA collated by EPR. 'Information for Habitats Regulations Assessment' reports for the Epping Forest College and Playing Fields Site were submitted to EFDC pursuant to the aforementioned planning applications (**CD 2.42**).
- 3.11 These reports include the following information of relevance to HRA of the appeal proposals, information that is not unnecessarily repeated in this Proof of Evidence:
- further details of the nature conservation legislation, planning policy, guidance and articles of case law of relevance to the HRA of the proposals;
  - methodologies employed;
  - characterisation of the proposed developments and the biophysical changes that could give rise to ecological effects;
  - information regarding Epping Forest SAC's qualifying features, conservation objectives and the condition of its component SSSI;
  - sensitivity of the SAC habitats and features to air pollution, notably atmospheric nitrogen oxides (NO<sub>x</sub>) and ammonia (NH<sub>3</sub>) emitted from vehicles, both contributing to nitrogen deposition, with effects on long term habitat composition and condition; and
  - an assessment of potential air quality effects arising from the proposals both alone and in combination with other plans and projects, informed by the aforementioned bespoke air quality modelling work.
- 3.12 Air quality modelling work carried out predicts that the Appeal proposals would make small contributions towards total future nitrogen deposition rates and ammonia concentrations, meaning that an adverse effect when considered alone would not be anticipated. However the proposals would still act in combination with other plans and projects to result in the ongoing exceedance of the environmental standards for nitrogen deposition and ammonia (the 'Critical Load' and 'Critical Level', respectively) across all modelled receptors within the SAC. Whilst air pollution would not get worse as a result of the proposals, they would nonetheless contribute towards delays in the future achievement of air quality standards and undermine site restoration objectives, such that contributions towards the delivery of strategic mitigation measures would be required in order to ensure that the proposals do not result in an adverse effect on site integrity. The reports therefore proposed that appropriate financial contributions to the future EFDC AQMS, once adopted, would be secured, although at that time (June 2020) no information had been made available by the Council or Natural England regarding the contents or proposed funding of that strategy.



## Interim Air Pollution Mitigation Strategy

- 3.13 Following consultation with Natural England and the Epping Forest Conservators on an earlier Draft Mitigation Strategy 'Managing the Effects of Air Pollution on the Epping Forest Special Area of Conservation' (July 2020), an 'Epping Forest Interim Air Pollution Mitigation Strategy' (Interim APMS, **CD 8.4**) was finally confirmed for adoption during the Extraordinary General Meeting of the Full Council on 8<sup>th</sup> February 2021. Adoption of the Interim APMS is confirmed by EFDC on their website page 'EFSAC protocol for releasing planning decisions' (an extract is provided at **Appendix 1**). The strategy had been previously approved for adoption by the nominated Portfolio Holder in December 2020 (as detailed within the Cabinet Report dated 4 December 2020, **CD 8.5**), but this decision was subsequently called in for wider Council consideration.
- 3.14 The now adopted Interim APMS includes a package of air pollution mitigation measures to be funded via various means, the broad details of which are summarised at Appendix 3 (of that document).
- 3.15 For those measures outlined to be funded via developer contributions (the Clean Air Zone (CAZ), the Veteran Tree Management Plan, Trialling City Trees and the Road Based Pollution Extraction System) the following residential development tariffs are set out on page 29, the latter of which relates to the appeal schemes:
- The Garden Communities (GCs): £232 per dwelling;
  - North Weald Bassett Masterplan Area and South of Epping Masterplan Area: £641 per dwelling; and
  - Smaller sites (including windfall sites) and the Waltham Abbey Masterplan Area: £335 per dwelling.
- 3.16 The Interim APMS is supported by a Technical Note produced by AECOM (August 2020, Appendix 1A to the 4 December Cabinet Report, **CD 8.6**) 'Air Quality Assessment Modelling Methodology for 2020 Habitat Regulations Assessment'. This report sets out revised air quality modelling parameters and data regarding Average Annual Daily Trips (AADT) on assessed roads, to address previous comments from the Local Plan Examination Inspector (as well as key consultees), the previous iterations of which were used to inform the appellants bespoke project-specific air quality modelling and HRA work. Although this revised data results in no material changes to the conclusions of the project-level shadow HRA for the Appeal schemes, to ensure that the most up to date data is available for the Inquiry the project-specific air quality modelling methodology and modelling results have been updated, alongside the project-specific Information for HRA reports. These revised documents are included at **Appendix 2**.
- 3.17 Appendix 1C to the 4 December Cabinet Report (**CD 8.7**) contains Natural England's consultation response regarding the Interim APMS, which endorses the proposed approach:
- "Natural England has reviewed the Interim Strategy as referenced above. We confirm that if it is secured through appropriate policy wording within the Plan to provide the necessary link between the HRA conclusions and mitigation relied upon we consider that it would provide a sound strategy for the purposes of avoiding and mitigating air quality impacts on Epping Forest SAC that result from plan led development."*

- 3.18 Alongside adoption of the Interim APMS the Council has also proposed a tandem process for assessing applications that deviate from the Local Plan proposals (the specifics of which have formed the basis of the air quality modelling work that underpins the Interim APMS), to determine whether further assessment in relation to potential effects on Epping Forest SAC is required. This process is set out within the document 'Epping Forest District Council Habitats Regulations: Site-specific assessment processes in relation to the effects of development on atmospheric pollution' included at Appendix 2 of the 4 December Cabinet Report (**CD 8.8**). This process is considered further below.
- 3.19 Finally, the Council has also produced a standard Section 106 template that will be used to secure financial contributions, which was appended at Appendix 3 of the 4 December Cabinet Report (**CD 8.9**).

**Epping Forest District Council Habitats Regulations: Site-specific assessment processes in relation to the effects of development on atmospheric pollution**

- 3.20 The above-named document, included at Appendix 2 of the EFDC 4 December Cabinet Report (the 'Appendix 2 document', **CD 8.8**), sets out the triggers for, and process through which, following adoption of the Interim APMS development proposals are required to be assessed in relation to their potential effects on the SAC. These include:

*"a) If the development proposal is not specifically proposed for allocation within the emerging Local Plan (in relation to residential developments this will apply to proposals for six or more dwellings or those greater than 0.2 Ha recognising that a small sites windfall allowance has been included in the evidence work); or*

*b) if the development proposal represents a variation (which results to an increase in the quantum of development or changes the proposed use) from the site's land use allocation as set out in the emerging Local Plan." [my emphasis]*

- 3.21 Trigger b) applies to the Appeal proposals for Appeals A and B, which as previously mentioned propose additional dwelling numbers above those cited by related draft allocation policies.
- 3.22 The Appendix 2 document sets out a stepwise process for assessing applications that deviate from Local Plan proposals, that may be summarised as follows:

Step 1 – Provision of traffic information to enable the predicted increase in vehicle trips (Average Annual Daily Trips or AADT) generated by the proposals, in total and on roads within 200m of the SAC and including the percentage of Heavy Duty Vehicles (HDV), to be calculated to the end of the plan period in 2033. Information regarding any mitigation measures proposed is also requested.

Step 2 – Council to appraise the information submitted and liaise with applicants to ensure it is fit for purpose.

Step 3 – AADT information to be reviewed by the Council's transport consultant against the site-specific land use and trip data previously forecast in the Council's evidence base.

Step 4 – Where Step 3 highlights an increase in AADT associated with the proposals beyond the Council's site allocation forecasts, or a predicted increase in distances travelled on roads within 200m of the SAC, the relevant transport data is to be subject to further assessment by

the Council's air pollution modelling consultant. Step 4 states *"the revised assessment outcomes will be reviewed to determine if the mitigation measures identified within the APMS will be capable of satisfactorily addressing any further impact, or if additional measures need to be secured. Such measures will need to be considered on a site-by-site basis and may require additional assessment(s)."*

### **Natural England Consultation**

- 3.23 Following submission of the project-specific Information for HRA reports to EFDC in July 2020, a meeting was held between the Appellant's advisors and Natural England on 28 September 2020 (meeting minutes are included at **Appendix 3**, along with the email requesting their agreement - as no response from Natural England was received, these minutes cannot be described as 'agreed', although in my view they represent an accurate record of what was discussed). During this meeting the conclusions of the project-specific 'shadow' HRAs were discussed, with Natural England confirming general agreement. Natural England provided some feedback on progress with EFDC's AQMS.

## 4. RESPONSE TO REASON FOR REFUSAL 2

### Background

#### 4.1 Reason for Refusal (RfR) 2 (**CD 5.2**) states:

*“The application does not provide sufficient information to satisfy the Council, as competent authority, that the development would not adversely affect the integrity of the Epping Forest Special Area for Conservation and there are no alternative solutions or imperative reasons of overriding public interest why the development should be permitted. As such, the development is contrary to policies CP1 and CP6 of the Adopted Local Plan and Alterations, policies DM 2 and DM 22 of the Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.”*

#### 4.2 As stated in **Section 2**, in the context of RfR 2 EFDC’s SoC sets out details of the further information required to enable them to ‘fully assess’ the effects of the appeal proposals on the integrity of the SAC. This information reflects that listed within the EFDC Appendix 2 document (**CD 8.8**) described in **Section 3**, which sets out a process for assessing any discrepancies in trip generation on road links within 200m of Epping Forest SAC, between development proposals and site allocations modelled as part of the Local Plan HRA evidence base underpinning the Interim APMS.

#### 4.3 Although much of the information requested by EFDC was submitted as part of the application material (contained within the Transport Assessments, Information for HRA reports, and Air Quality reports), in order to provide the information requested within the Council’s SoC in a clear and consolidated manner the appellant’s transport consultant produced a further technical note that was submitted to the Council on the 25<sup>th</sup> February 2021; this is provided at **Appendix 4**. This note provides the relevant information regarding trip generation, transport assessment methodology, information regarding the proportion of HDV trips and information regarding proposed sustainable transport measures that would contribute towards improvements in air quality within Loughton and the SAC.

#### 4.4 The Council confirmed during the pre-Inquiry meeting of 15 March 2021 that they had completed the relevant modelling and assessment work using the data provided by the appellant, to consider the potential effects of the appeal proposals relative to that modelled as part of the Local Plan and Interim APMS evidence base. The Council’s witness Dr Riley subsequently issued their ‘Epping Forest SAC – Issue-Specific Statement of Common and Uncommon Ground’ (SOCUG, **CD 5.4**) on 16 March 2021. It should be noted that this is a Council document to which the appellant has not provided input.

#### 4.5 The latter point above notwithstanding, in terms of common ground, the following is agreed between the appellant and Council:

- 1) The appellant has submitted sufficient information to enable the impacts of the appeal proposals to be modelled;
- 2) The Council’s SAC SOCUG states *“the Council is satisfied that the adverse effect on the SAC of the unmitigated dwellings is identical to that modelled to inform the need for the Air Pollution Mitigation Strategy (APMS).”* This conclusion is reached on the basis that the air quality changes modelled for the specific development quantum and housing

mix proposed by the appeal schemes, sit within the limits of (i.e. do not exceed) the air quality changes modelled for the Local Plan HRA which underpins the Interim APMS. The additional units proposed by the appeal schemes, beyond the development quantum cited in the draft site allocation policies (as detailed at paragraph 2.3 above), does therefore not introduce a requirement for additional mitigation beyond that set out within planning policy and the adopted Interim APMS (**CD 8.4**); and

- 3) As mentioned at paragraph 2.7 above, the recreational effects of the appeal proposals can be mitigated through appropriate, per dwelling tariff-based, financial contribution to the Council's Interim Recreation Strategy (**CD 8.1**) and pending iterations.

4.6 The SAC SOCUG does, however, raise 3 matters that are considered to represent uncommon ground (continuing the sequential numbering from above), which are covered in turn below:

- 4) Parking provision;
- 5) Wellness Centre mitigation; and
- 6) Electric Vehicle charging.

### **Parking Provision**

4.7 The Council maintains at RfR 5 (**CD 5.2**) that excessive parking within Appeal Site B is a reason for refusal.

4.8 RfR 5 states:

*"5. Due to the over provision of parking on a site in a sustainable location, the proposal encourages the reliance on private motor vehicles and would result in the overdominance of parked cars to the detriment of a lower carbon future, traffic movement, and the amenity of the surrounding area, contrary to the site specific requirements of the allocated site LOU.R4 along with policies T1 B and F (iv), P2A and SP3 of the Local Plan Submission Version 2017 and the National Planning Policy Framework."*

4.9 The Proof of Evidence of Colin Romain responds to this RfR on behalf of the appellant, in his capacity as a transport consultant. However the Council has also raised parking as a concern in the context of RfR 2 (SAC matters) in their SAC SOCUG (**CD 5.4**), stating:

*"4. The excessive parking provision across the two application sites will work against the APMS and thus adversely affect the integrity of Epping Forest SAC by actively encouraging car ownership, whereas it is key to the efficacy of the APMS in achieving its stringent targets to discourage car ownership unless those cars are Ultra-Low Emission Vehicles (ULEVs)."*

4.10 The SOCUG refers to 'the two application sites'. Given that a RfR on parking was only raised in relation to Appeal B (RfR 5), and informal pre-Inquiry discussion between myself and Dr Riley had also focussed on parking concerns regarding Appeal B, the context for this reference was queried during the meeting with the Council held on 22 March 2021. During this meeting the Council confirmed that with respect to the SAC, it is their position that *both* Appeal schemes overprovide on parking, albeit that Appeal B does so to a greater extent. It should be noted that this was the first time that the matter of excessive parking, specifically with regards to Appeal Site A, was raised by the Council, and so this matter was not covered within the Proof of

Evidence of Colin Romain which was submitted to PINS as per the 16<sup>th</sup> March 2021 deadline. Indeed Ms Tovey's planning evidence at paragraph 25 states that *"This issue [overprovision of parking] applies to appeal site B only"*.

- 4.11 EFDC's position would now appear to be that both Appeal Site A and B provide 'excessive' parking, which in the context of HRA would undermine the aims of the Interim APMS and therefore result in adverse effects on the integrity of the SAC. Specifically, they assert that excessive parking provision would 'actively encourage car ownership', whereas 'discouraging car ownership' is key to the APMS achieving its 'stringent targets'.

- 4.12 However the 'stringent targets' to which the Council refer in the APMS would appear to be those set out at paragraph 5.3, which relate to conversion of the vehicle fleet from petrol cars to ULEV. There is no specific requirement established through the APMS for schemes being car free, nor is there reference to 'discouraging car ownership'. In fact, the language used in the APMS relates to *positive encouragement*, for example at paragraph 5.5:

*"The aim is to encourage motorists to replace older vehicles with newer vehicles compliant with the latest emissions standards, and in particular Ultra-Low Emission Vehicles or ULEVs". [my emphasis]*

- 4.13 This same paragraph continues to state:

*"A series of measures that are intended to encourage the uptake of ULEVs to maximise the likelihood of achieving the conversion of 30% of petrol cars using the modelled roads to ULEVs by 2033 include:*

*a) ensuring that the necessary infrastructure for ULEVs is widely and easily available across the District;*

*b) incentivising the replacement of petrol cars with ULEVs, targeted at people who live in areas from which the most frequent trips on roads in close proximity to the Epping Forest SAC arise; and*

*c) Undertaking awareness-raising of both the issue of air pollution and the things that residents and businesses can do to contribute to improving air quality." [my emphasis]*

- 4.14 The reality is that people own cars and will continue to own cars, such that achieving car free schemes is not realistic nor achievable. This was recognised by the Local Plan Examining Inspector in her Post-Hearing Advice at paragraph 16 (**CD 8.3**):

*"However, actually achieving sufficient confidence in any necessary mitigation measures is clearly challenging. I heard that physical measures (road works) to which specific benefits could be attributed would themselves harm the SAC; and while schemes for road charging and completely car-free development might warrant future consideration, they could not realistically be implemented to support this Plan." [My emphasis]*

- 4.15 If the APMS targets are based on people switching from petrol to ULEV, with an awareness-raising campaign planned as part of the Interim APMS to help achieve that, then actually providing limited to no parking and therefore little to no ULEV charging infrastructure would actually seem to me to go against the aims of the achieving those targets. In my view people won't convert to ULEV if they have no means to store and charge their vehicles. Colin Romain

in his Proof of Evidence has reviewed the need to find the right balance in parking provision to encourage modal shift, whilst also meeting the needs of the development and avoiding car parking issues elsewhere.

- 4.16 Insofar as the APMS comments on parking provision, references all relate to the provision of electric vehicle charging, for example at paragraph 4.5 with reference to Policy T1. Electric vehicle charging is considered separately below.
- 4.17 In terms of parking provision having the potential to prevent the achievement of the stringent targets of the APMS, and by extension generating concern about a proposal contributing towards an effect on a European site such as an SAC, case law in Boggis ([2009] EWCA Civ 1061) confirms the need for there to be “*credible evidence that there was a real, rather than a hypothetical, risk*” of an effect before a refusal under the Habitats Regulations would be warranted.
- 4.18 In terms of modelled assumptions regarding the parking provision for the Local Plan and allocated sites and specifically the ‘revised stringent Parking Standards’ cited at paragraph 2.2.1 of the 2019 HRA, the EFDC Local Plan Submission Version Transport Assessment Report (January 2019, **CD 4.4**) states at paragraph 6.5.13:
- “A precautionary approach has been adopted for assessment purposes and all relevant sites have been considered as a Reduced Parking development as a worst-case.”* [My emphasis]
- 4.19 ‘Reduced Parking’ is defined at the preceding paragraph as “*approximately 50% of ECC standards or lower where practicable.*”
- 4.20 Although there may be disagreement between the Council and appellant over the policy position regarding parking quantum for Appeal Site B, as is set out within the Proof of Evidence of Colin Romain, the parking provision proposed for Appeal Site B is less than 50% of the ECC standard, calculated either as the provision for the appeal proposals or for the allocated site development quantum. This means that on a quantitative basis the parking provision proposed sits within the margins of, and does not exceed, that modelled for the Local Plan evidence base and therefore the modelling underpinning the APMS. There is therefore, in my view, no credible quantifiable evidence and therefore risk that the parking provision proposed has the potential to materially undermine the achievement of the modelled APMS targets, nor therefore to result in adverse effects on the integrity of the SAC.
- 4.21 Detailed evidence regarding the parking provision for Appeal Site A has not been prepared by the appellant, the matter only being clearly established as a matter for concern with the Council during the meeting of 22 March 2021 and not prior to exchange of evidence. The appellant may therefore seek to submit further evidence on parking following submission of evidence on SAC matters.
- 4.22 Notwithstanding this, in more general terms, and as already detailed above, in the Proof of Evidence of Colin Romain, and as summarised at **Appendix 4** (Table 5), the appeal proposals outline various positive contributions towards achieving the aims of the APMS in accordance with draft Policy T1 and P2, specifically:

- Tariff-based contributions towards the Interim APMS measures secured via S106 Agreement;

- Reduced parking provision in accordance with ECC requirements and as agreed with ECC;
- Provision of electric vehicle charging, secured by planning condition; and
- Travel Plan and Travel Information Pack (comprising travel vouchers), cycle storage areas, and car club, secured by planning condition.

### Wellness Centre Mitigation

- 4.23 Regarding air quality mitigation for the Wellness Centre, the Council's SAC SOCUG (**CD 5.4**) states:

*"There must be adequate mitigation provided for the contribution of the Wellness Centre to traffic flows in the SAC."*

- 4.24 During pre-inquiry discussions, Dr Riley clarified in his email of 10 March 2021 (**Appendix 5**):

*"Mitigation for the Wellness Centre would not be additional to the APMS; it would be covered by the APMS and the existing modelled growth. However, there still needs to be agreement over the amount of money to be contributed and the specific aspect of the APMS that this amount will contribute towards delivering (or entirely deliver), such as the examples I mentioned. All trip generating new development needs to contribute to the delivery of APMS measures even if it doesn't by itself change the concentrations/rates in the model, because of the need to pick up 'in combination' effects."*

- 4.25 The Council's case is therefore that irrespective of the number of trips generated by the Wellness Centre, a contribution to delivery of the APMS measures is required. However the APMS only specifies a tariff for residential developments, and under 'non-residential development' on Page 29 of the APMS (**CD 8.4**) it states *"Other trip generating development proposals will be considered on a case by case basis."* Therefore whilst the Wellness Centre has been modelled as part of the Local Plan evidence underpinning the design of measures within the APMS, the Council asserts that a bespoke contribution to a specific aspect of the APMS needs to be agreed to ensure that its contribution to the wider in combination effect can be addressed.
- 4.26 Before considering the scope of any *additional* mitigation that might be required specifically for the Wellness Centre, in my view it is important to first consider the potential scale and significance of unmitigated effects, and second to review the mitigation that is already being delivered by the appeal proposals, to which the Wellness Centre is an integral part, in line with policy and APMS requirements.
- 4.27 First, in terms of trip generation, the modelling work carried out by the appellant's transport consultant, as set out in the last 3 columns of Table 5, **Appendix 4**, predicts that the Wellness Centre will generate an average increase of 2 AADT across SAC link roads. This AADT increase is set within the wider context of an improving trend in background air pollution, and a comprehensive and now adopted APMS designed to mitigate the adverse effects arising from Local Plan growth and the developments making the most significant contributions to air pollution.



4.28 The Council may refute any suggestion that a very small potentially unmitigated (I return to this below) contribution might be regarded as ‘de minimis’ or ‘inconsequential’ in an Epping Forest context, however case law has not entirely ruled out the possibility that very small contributions might reasonably be ignored.

4.29 Mr Justice Jay in the Wealden Judgment ([2017] EWCA 351 (Admin), **Appendix 6**) considers the case for ‘de minimis’ in the context of air quality assessment and preceding case law (which he summarises at paragraph 44, drawing out reference to Sweetman and Smythe at paragraphs 50 and 51 respectively), eventually reaching the conclusion at paragraph 95 that there is still a valid case for screening out ‘very low’ impacts (N.B. the Wealden case was also considered in the context of the possibility for cumulative or in combination effects):

*“AECOM assert that AQTAG [the Air Quality Technical Advisory Group - joint group comprising the Environment Agency, Natural England and Natural Resources Wales] has always drawn a distinction between, I paraphrase, minuscule effects which can be ignored, even in combination, and effects which are capable of being non-neutral, once combined. I can discern no explicit or implied reference to that distinction in anything I have been shown. In any event, an AADT of 950 is not minuscule. Even so, I can well see that distinctions may be capable of being drawn in practice, because if it is known that specific impacts are very low indeed, or are likely to be such, these can properly be ignored (e.g. if each AADT were known to be 20, it would require 50 of these to attain the threshold: depending on the precise facts, a reasonable planning judgment could be made that 50 plans or projects is inherently unlikely).”* [My addition and emphasis]

4.30 Indeed, the Joint Nature Conservation Committee (JNCC) has also recently commissioned their ‘De Minimis’ Project, which is being led by DTA Ecology in consortium with a number of specialist consultancies including my company EPR, the aim of which is to *“develop an evidence-based approach for determining when a proposal and the emissions it gives rise to are considered “nugatory” in the context of ecological risk assessment.”* (**Appendix 7**). Although in its early stages with no published outcomes available, the existence of this project further validates the basic notion that certain levels of trip generation in an air pollution context might be capable of being screened out without further detailed consideration or mitigation. If there ever was a case for a contribution to be regarded as ‘de minimis’, ‘inconsequential’ or ‘nugatory’, then the AADT contributions from the Wellness Centre would surely be it.

4.31 However the very small number of trips on SAC road links predicted to be generated by the Wellness Centre are not ‘unmitigated’. The Wellness Centre is an integral part of the appeal proposals, which include a comprehensive pack of sustainable transport measures that will contribute towards the achievement of air quality improvements. As summarised at Table 5 of **Appendix 5**, this includes electric vehicle charging and delivery of a Site Travel Plan and Travel Information Packs. These measures can be secured by planning condition, as per the draft planning conditions 18, 19 and 27 within the EFDC SoC (**CD 5.2**). For the Wellness Centre component specifically, the only 2 disabled spaces can include electric vehicle charging points, and the Travel Information Packs delivered as part of the Travel Plan can be adapted and distributed as part of the operation of the Wellness Centre. Reference is made to such provision within the ‘Epping Forest Sports and Wellness Centre Transport Statement’ (Appendix J of the Wellness Centre Design and Access Statement, **CD 1.17**), where page 7 states under ‘Communications and marketing’:

*“It is anticipated that whilst the travel and transport implications of the day-to-day operations of the sport and wellness centre can be managed within existing car parking and other transport arrangements, there will be specific communications promoting public transport when the centre is opened. ....The centre’s website and all marketing materials related to the centre will reference existing travel and transport arrangements. They will also encourage travel by public transport or by foot in order to reduce the implications on carbon dioxide emissions.”*

- 4.32 Distribution of information to users of the Wellness Centre can and would link in with the Awareness Raising Campaign identified as a specific mitigation measure within the Interim APMS (paragraph 5.17 *et seq* of **CD 8.4**). The appellant could therefore either deliver measures themselves, the details of which could be agreed with the Council and be secured by planning condition, or they could agree a bespoke financial contribution towards EFDC delivery of awareness raising measures, as detailed within the APMS, to be secured by S106. Discussions with the Council are ongoing on this matter. Positive progress towards agreeing requirements for a bespoke Awareness Raising Campaign was made during a meeting held on 22 March 2021, therefore it is hoped that a mitigation solution can be agreed within the SOCUG by the 6th April deadline or by the start of the Inquiry.
- 4.33 In terms of other APMS measures to be funded by tariff-based contributions from relevant planning applications, if the Wellness Centre has been modelled as part of the site allocation, and the APMS tariffs and measures have been set to provide confidence that adverse effects on SAC site integrity will not arise as a result of Local Plan development, then the relevant tariff-based contribution for the residential component of the scheme should actually be sufficient to address the air pollution effects of the appeal proposals in their entirety. This is particularly the case if the trip generation modelled by the Council has been underestimated due to assumptions about housing mix, as has been confirmed within the SOCUG.
- 4.34 Notwithstanding this point, if the Competent Authority were to take the view that a proportionate contribution to wider APMS measures might be required instead of, or in addition to, the measures described above (in the form of a modified APMS tariff), the Interim APMS requires non-residential schemes to be considered on a ‘case-by-case’ basis and Appendix 3 states that the Clean Air Zone (CAZ), the Veteran Tree Management Plan, Trialling City Trees and the Road based Pollution extraction system would be funded by *“Securing financial contributions from relevant planning applications.”* These measures are therefore not necessarily restricted to being funded by residential developments only, and if the Wellness Centre trips have been modelled as part of the site allocation then a proportionate contribution towards the funding of these measures should be possible.
- 4.35 From the point of view of the SAC, a trip is a trip no matter the source, residential or otherwise, so long as HDV trips are not predicted - which they are not, as can be seen from the data provided at Table 5 of **Appendix 4**. It is therefore possible to calculate the number of houses that would generate the equivalent number of trips on the specific SAC road links as the Wellness Centre is predicted to generate, based on the modelling work done by the appellants transport consultant (using data included at **Appendix 4**). The relevant calculation is set out at **Table 4.1** below.

**Table 4.1: Wellness Centre housing equivalency calculation, using data from Table 4 of Appendix 4.** [Direction\* = northbound, southbound, westbound, eastbound]

Description	Direction*	Site B Residential - Total Dev Flows 'Daily' Without Mitigation	Trips per house for Site B residential scheme	Site B Wellness only - Total Dev Flows 'Daily' Without Mitigation	House equivalency for Wellness Centre Trips
High Road	nb	79.1	0.3	3.1	11.3
High Road	sb	75.9	0.3	3.5	13.0
Forest Road	wb	0.0	0.0	0.0	0.0
Forest Road	eb	0.0	0.0	0.0	0.0
Epping New Road	nb	0.0	0.0	0.0	0.0
Epping New Road	sb	0.0	0.0	0.0	0.0
Goldings Hill (A121)	nb	129.0	0.5	5.9	13.0
Goldings Hill (A121)	sb	134.5	0.5	5.3	11.3
B172	eb	0.0	0.0	0.0	0.0
B172	wb	0.0	0.0	0.0	0.0
Epping Road	nb	33.3	0.1	1.5	13.0
Epping Road	sb	34.7	0.1	1.4	11.3
A121 (heading west to M25)	eb	95.7	0.3	4.4	13.0
A121 (heading west to M25)	wb	99.8	0.4	3.9	11.3
<b>Max no. of equivalent houses</b>					<b>13</b>

4.36 **Table 4.1** shows that, at most, 13 houses located on Appeal Site B would generate the equivalent number of trips on SAC road links as those predicted to be generated as part of the servicing of the Wellness Centre. Accepting that all development-borne (non-HDV) trip generation is equivalent, a financial contribution to the APMS should therefore be possible via the residential tariff, which would generate a requirement for a proportionate contribution to APMS measures in the region of £4,355 (on the basis of the £335/dwelling tariff for 'smaller sites').

4.37 This proposal was put to the Council during pre-Inquiry discussions, although the feedback was that a specific-costed Awareness Raising Campaign or other discrete mitigation project would be preferable. My view remains that such a contribution, instead of, or in addition to, the aforementioned EV charging and Travel Plan/Awareness Raising Campaign provisions, would more than adequately mitigate the potential effects on air quality within the SAC arising from the very small number of trips on SAC road links predicted to be generated during the operation of the Wellness Centre, notwithstanding the fact that the APMS will ensure that there are no other significant sources of unmitigated trips with which the Wellness Centre contribution might combine.

## Electric Vehicle Charging

- 4.38 The Council's SAC SOCUG (**CD 5.4**) states that insufficient provision of electric vehicle charging points is made (in relation to both appeal schemes) and that:

*"Ten percent active provision is inadequate to meet the APMS requirement and will undermine the APMS target for 10% conversion of petrol cars on the Epping Forest SAC network to ULEVs by 2024."*

- 4.39 As set out at Table 5 of the transport summary note included at **Appendix 4** of this Proof of Evidence, the appeal proposals include a minimum 10% provision for active electric vehicle (EV) charging, with passive provision safeguarded for future use.

- 4.40 The appeal proposals were submitted prior to publication of the APMS, with the only requirement for electric vehicle charging set out in Draft Policy T1 as follows:

*"secure the provision of electric vehicle charging points in all new development which includes vehicle parking spaces."*

- 4.41 This policy does not establish a percentage provision for EV charging, however the APMS takes this requirement further stating:

*"Development proposals will need to be able to demonstrate that all new parking spaces can have direct access to a charging point."* [my emphasis]

- 4.42 The appellant is committed to providing 100% EV charging infrastructure so that residents can have EV charging should they want it (in accordance with the stated requirement of the APMS), however they want to ensure that active provision (i.e. the provision of charging points) can respond flexibly to evolving demand, and accommodate a potential future scenario where the shift is towards Hydrogen rather than EV.

- 4.43 Indeed the APMS (**CD 8.4**) at paragraph 5.4 makes reference to the need for ongoing review in order that it can respond to new approaches and technologies:

*"It is also important that this Strategy is reviewed, and if necessary, updated on a regular basis. In part this is to ensure that it is achieving its objective of improving air quality across the Epping Forest SAC but will also enable consideration to be given to new technologies and other approaches that may emerge in the future."*

- 4.44 The appellant has looked at the model for EV charging provision in London where uptake is more prevalent. The London Plan (March 2021, **Appendix 8**) Policy T6.1 Residential parking requires:

*"all residential car parking spaces must provide infrastructure for electric or Ultra-Low Emission vehicles. At least 20 per cent of spaces should have active charging facilities, with passive provision for all remaining spaces"*.

- 4.45 The appellant considers that it would be reasonable to have the same provision for the appeal schemes, where active charging provision is supported through a Car Park Management Plan. Active EV charging points would first be marketed to people who currently own an electric car, with the conversion of passive to active charging spaces supported on the basis of demand.

The rate of conversion could incorporate a buffer to ensure smooth supply, so that potential EV uptake is not disincentivised. The details of the Car Park Management Plan could be secured by planning condition, worded as follows:

*“Prior to occupation of development hereby approved, a car parking management plan shall be submitted to and approved in writing by the Local Planning Authority. The car parking spaces shall be laid out and allocated in accordance with the approved management plan and shall be made available for the purposes of parking private motor vehicles in association with the development and for no other purpose. This will include the allocation of active EV charging spaces, as well as procedures for the conversion of passive spaces. The development shall be implemented in accordance with the approved details and retained as such for the lifetime of the development.”*

- 4.46 Discussions with the Council are ongoing on EV charging provision, with the requirement for 50% active charging provision raised during a meeting held on 22 March 2021. The appellant is reviewing their position on this matter, and it is hoped that a mitigation solution can be agreed within the SOCUG by the 6th April deadline or by the start of the Inquiry.

## 5. RESPONSE TO THE CITY OF LONDON

### Introduction

- 5.1 The City of London (CoL), owners and Conservators of Epping Forest, has commented on the appeal proposals in their letter dated 25 February 2021. The comments raised relate to both Appeal A and B, and the discrete points raised are considered further below.

### Status of Local Plan and SAC Mitigation Strategies

- 5.2 The CoL assert that *“no planning applications can be determined at the present time until a full mitigation strategy is agreed, there is still no approved Local Plan within the EFDC area and no Sustainable Alternative Natural Green Space (SANGS) strategy.”*
- 5.3 Although the Local Plan remains at the Main Modifications stage and is not yet formally adopted, EFDC has nevertheless adopted two mitigation strategies that are material considerations in the determination of these appeals. The Interim Strategy for managing recreational pressure (**CD 8.1**) was adopted in October 2018, and the Interim Air Pollution Mitigation Strategy (**CD 8.4**) was adopted in February 2021. The status of these strategies is confirmed by EFDC on their website page ‘EFSAC protocol for releasing planning decisions’, which is submitted to the Inquiry at **Appendix 1**.

### Requirement for SANG

- 5.4 The CoL state that the 2019 HRA (**CD 8.2**) includes a requirement for sites in excess of 400+ homes to provide ‘Sustainable Alternative Natural Green Space (SANGS)’ [sic]. Reference is made to paragraph 5.26 of the 2019 HRA, and the CoL response continues to assert firstly, that due to the location of the appeal schemes that their proposed dwelling numbers should be combined, and that secondly because that total quantum is in excess of 400 homes that a requirement for 8 ha of alternative natural greenspace is generated.
- 5.5 I would like to respond with a few points of clarification.
- 5.6 First, the 2019 HRA makes no reference to ‘Sustainable Alternative Natural Green Space (SANGS)’, but rather ‘accessible natural greenspace’. ‘SANGS’, which in its original incarnation stood for ‘Suitable Accessible Natural Green Space’ and which later became ‘Suitable Alternative Natural Greenspace’ (SANG), relates to a particular standard of natural greenspace designed to mitigate recreational effects on the Thames Basin Heaths (TBH) Special Protection Area (SPA). ‘SANG’ as a concept was originally defined by Natural England in their SANG Creation Guidelines (**CD 8.11**) following the Examination in Public (EiP) of the former South East Plan Regional Spatial Strategy and its evidence base. In the TBH region, SANG provision of at least 8 ha per 1,000 population is required to be provided by housing developments located between 400m and 5km of the SPA, as detailed within the Thames Basin Heaths Delivery Framework (**CD 8.12**). However this provision rate and particular mitigation standard was informed by site-specific evidence regarding the patterns of visitor access to the TBH SPA, as summarised within the South East Plan Assessors Report (**CD 8.13**). The requirement for SANG and the 8ha/1,000 standard cannot therefore be ‘copied and pasted’ and directly applied in the Epping Forest context, and that is not what the AECOM HRA proposes.

- 5.7 Second, reference to the 8 ha per 1,000 population standard was initially made in the 2016 HRA (**CD 8.10**), which states at paragraph 6.4.10:

*“As an interim measure, it is recommended that Epping Forest District Council should, in line with Draft Policies DM 3 and DM 4, require:*

- All outline or (if outline permission has already been obtained) detailed housing applications (that have not already received a Resolution to Grant permission) for more than 400 dwellings<sup>51</sup> in Loughton, Epping, Waltham Abbey, Theydon Bois and Chigwell to deliver their own on-site accessible natural greenspace (typically at a rate of 8ha per 1000 population, although this can be judged against quality and accessibility on a case by case basis) and make a financial contribution towards access management of the SAC”.*

- 5.8 However following update visitor survey work, the approach to mitigating the effects of increased recreational pressure on the SAC was further developed, with an interim strategy adopted in October 2018 (**CD 8.1**). The most recent HRA (**CD 8.2**) proposes a ‘two-tier’ zone-based approach at paragraph 5.22 as follows:

- “ - To adopt a 3km inner zone where all net new dwellings make a financial contribution to access management in the SAC, this is currently £352 per dwelling and is based upon the cost of delivering the interventions in the Interim Mitigation Strategy. Residential care home schemes will be assessed on a case by case basis to determine whether they need to make the above contribution, dependent upon the nature and level of care being provided and the likely level of independence of occupiers. The tariff (and interventions) will be reviewed as the long-term Mitigation Strategy is developed; and*
- Require the four large sites situated within 3km and 6.2km of the SAC (SP5.1 Latton Priory, SP5.2 Water Lane Area, EPP.R1/EPP.R2 South of Epping and NWB.R3 North Weald Bassett) deliver (or contribute to delivering) large areas of nearby accessible natural greenspace with a view to making these development sites as recreationally self-sufficient as possible. This is on the basis that they could change current patterns of visitor origin for the SAC and by capturing them the vast majority of new housing in this outer zone would be addressed.” [My emphasis]*

- 5.9 There is therefore no extant requirement within Epping Forest District for SANG nor accessible natural greenspace provided at an 8ha per 1,000 population standard. In fact, the current approach is for proposed developments within the inner 3km zone around the SAC, including the appeal proposals, to contribute towards the delivery of access management measures within the SAC as part of the interim recreation strategy (**CD 8.1**) via the dwelling-based tariff (which itself will be subject to review and incorporation in a long-term strategy).
- 5.10 Natural England reviewed the bespoke Information for HRA reports for the appeal proposals, and did not comment on any specific requirement for SANG or accessible natural greenspace during a meeting held on 28 September 2020 (the draft minutes for which are provided at **Appendix 3**).
- 5.11 It is also common ground with EFDC that “Suitable Alternative Natural Greenspace (SANG) is not required for development at Loughton and that the recreational impact of the two

applications can be mitigated through payment of the SAMM per dwelling tariff and the GI Strategy Strategic Infrastructure Projects per dwelling tariff.” (CD 5.4).

- 5.12 The above notwithstanding, the CoL imply that the combined quantum of housing proposed by the two appeal schemes has somehow been overlooked, and that by exceeding a 400 dwelling limit that the aforementioned requirements for a particular quantum of SANG accessible natural greenspace is triggered.

- 5.13 They cite paragraph 5.26 of the 2019 HRA, however far from introducing an explicit requirement for SANG or accessible natural greenspace, this in fact states:

*“To facilitate this potential, all allocations above a certain size (such as for more than 400 dwellings<sup>60</sup>) in the core catchment of the SAC, and particularly the settlements of Loughton, Epping, Waltham Abbey, Theydon Bois and Chigwell, should consider any potential to deliver their own on-site accessible natural greenspace.”* [My emphasis]

- 5.14 The HRA therefore suggests that developments above a certain size OR in a particular location should consider the *potential* to deliver accessible natural greenspace, but doesn’t stipulate a stated requirement to do so, nor to do so at a stated provision rate. Given that the appeal sites are located in Loughton, the requirement to consider the potential for incorporating accessible natural greenspace carries irrespective of their combined dwelling number, and both appeal schemes include areas of accessible natural greenspace, as detailed within the respective Design and Access Statements and DAS Addendums (CD 1.2, 1.3, 1.17, 1.18).

### **Relevance of the Alderton Hill Appeal Decision in Considering Potential Recreational Effects**

- 5.15 Finally the CoL cite the Alderton Hill appeal decision (CD 9.2) as relevant to the consideration of recreational effects arising from the appeal proposals. In their response they state:

*“I also refer to The Planning Inspectorate decision on 13-15a Alderton Hill, Loughton, Essex, IG10 3JD. In which the inspector noted the recreational impacts of developments to the SAC within 3km, which led to the refusal of the appeal. These sites are 1.5km from the Forest, so the position of the Inspectorate in the former decision is still relevant at these proposed locations.”* [My emphasis]

- 5.16 The CoL therefore assert that the consideration of recreational effects was material to the dismissal of that appeal.

- 5.17 However the appeal decision states at paragraph 34:

*“To address this issue the Council, working with the Conservators who manage the forest, have identified a series of mitigation measures to manage visitor pressure costing £2.6 m over the EFDLP plan period or £352 per new dwelling. The Council, supported by NE, adopted this interim strategy on 18 October 2018 and the appellant has offered the necessary financial contribution in a unilateral planning obligation. NE confirm that this approach is still appropriate and accordingly an adverse effect on the integrity of the SAC as a result of increased recreational pressure from the appeal proposal can be ruled out.”*

- 5.18 Therefore whilst the Inspector noted the potential recreational impacts of the development, the issue cannot be said to have led to the refusal of the appeal. Whilst the potential for recreational



pressure effects upon the SAC must be duly considered and addressed, the Inspector in the Alderton Hill appeal was of the view that an appropriate financial contribution to the adopted interim recreation strategy (**CD 8.1**) was sufficient to avoid an adverse effect on the integrity of the SAC.

## 6. SUMMARY & CONCLUSION

### Summary

- 6.1 The appeal sites for Appeals A and B sit within close proximity of Epping Forest SAC, a site of International conservation importance that is afforded protection by the Conservation of Habitats and Species Regulations 2017 (as amended).
- 6.2 Owing to draft policies within the latest iteration of the Local Plan, which propose the allocation of both appeal sites for residential development, the appeal sites have been included within plan-level Habitats Regulations Assessments carried out by AECOM on behalf of EFDC to date. Bespoke project-specific assessment against the requirements of the Habitats Regulations has also been undertaken by the appellant's appointed consultants (EPR). These assessments have considered the potential for the appeal proposals to result in adverse effects on the integrity of the SAC as a result of contributions to recreational pressure and air pollution, both alone and in combination with other plans and projects.
- 6.3 The Council's RfR 2 states that the applications provide insufficient information to satisfy the Council, as competent authority [the role that now resides with the Inspector], that the appeal proposals would not adversely affect the integrity of the Epping Forest SAC contrary to policy and the requirements of the Habitats Regulations.
- 6.4 Following receipt of the Council's SoC, which details the information inadequacies pursuant to RfR 2, the appellant submitted additional transport information to enable further site-specific transport and air quality assessment work to be carried out. The Council has confirmed that this information is now sufficient to enable them to consider the effects of the proposals.
- 6.5 Following review by the Council of the submitted information, it is now common ground that the additional residential units proposed by the appeal schemes, beyond the dwelling numbers cited in draft site allocation policy, do not materially alter the effects on the SAC modelled as part of the evidence base underpinning the APMS. This means that a tariff-based financial contribution to the delivery of APMS measures can be made, with no additional requirements for air pollution mitigation for the residential component of the scheme beyond that set out within wider Local Plan policy (in particular Policies T1 and P2).
- 6.6 With regards to potential effects arising from increased recreational pressure, it is also common ground that such effects can be addressed by a dwelling-based financial contribution to the adopted recreation strategy (**CD 8.1**) and any future iterations, secured by S106 Agreement, and that the provision of bespoke Suitable Alternative Natural Greenspace (SANG) is not required.
- 6.7 In terms of matters still outstanding at the time of exchange of evidence, with regards to Appeal B the Council asserts that additional mitigation is required to address the specific contributions to air pollution predicted to be generated by the operation of the Wellness Centre. Notwithstanding the very small and conceivably inconsequential contributions to trip generation on SAC road links predicted, and the existing contributions to mitigation proposed by virtue of the Wellness Centre being an integral part of the appeal scheme, discussions with the Council in relation to additional mitigation are nevertheless ongoing, with a number of potential options available for securing mitigation as detailed in **Section 4** above. It is hoped that agreement will be reached on this particular matter by or before the start of the Inquiry, to be detailed within

future revisions to the SAC SOCUG (**CD 5.4**) and/or a further Wellness Centre mitigation proposal. If agreement is not reached, it would fall to the Inspector as Competent Authority to review the adequacy of the measures proposed in light of the requirements of the Habitats Regulations.

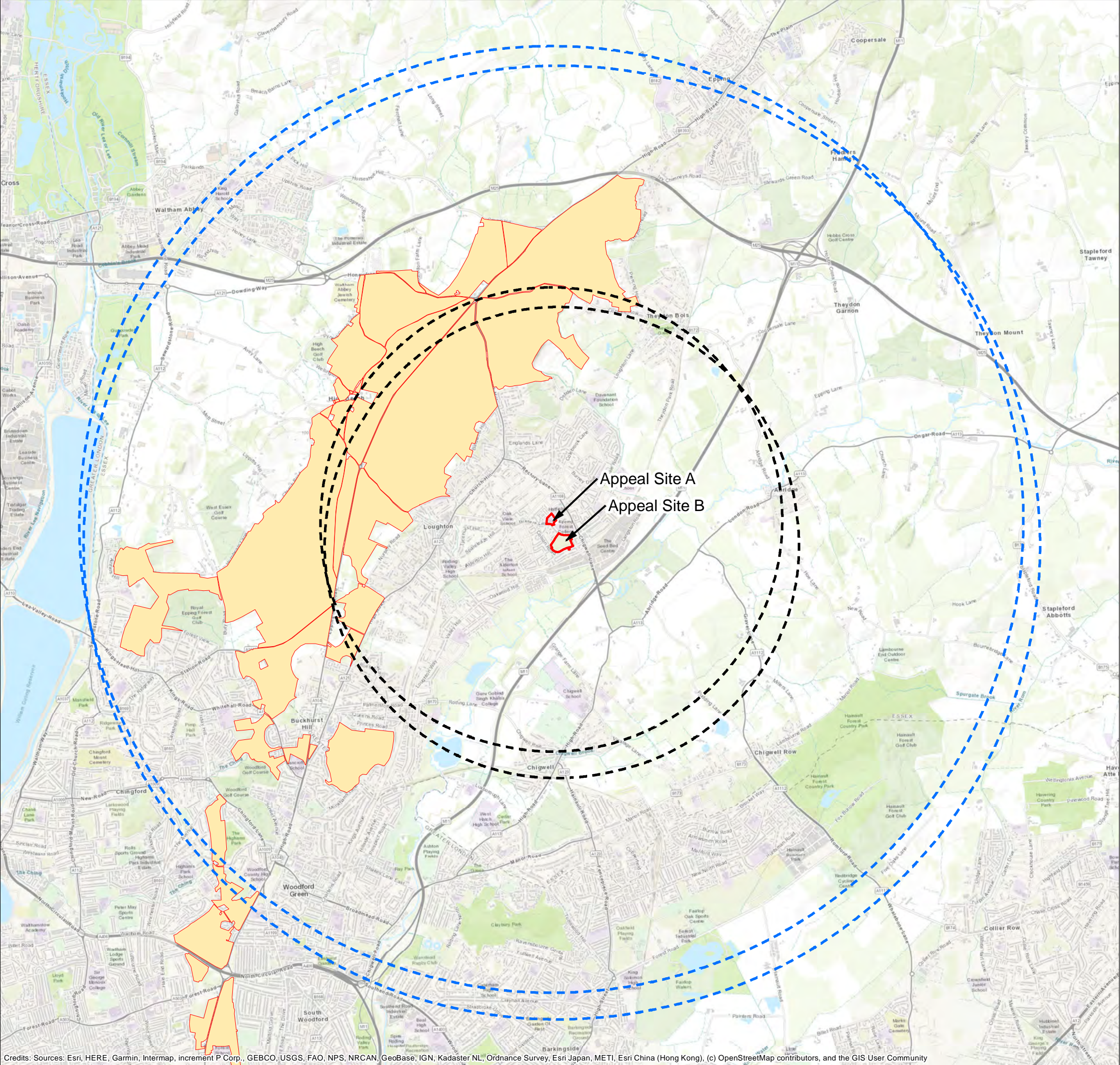
- 6.8 There is also ongoing discussion regarding electric vehicle charging provision within both appeal schemes. The Council in the meeting of 22 March 2021 advised that 50% active charging provision would be required, i.e. 50% of all parking spaces having an electric vehicle charging point from the outset. The appellant wishes to retain flexibility in active charging provision to accommodate future changes in requirement, for example a shift towards Hydrogen cars as opposed to electric, and to supply charging points on the basis of demand. Their preference is for all parking spaces to be equipped with electric vehicle charging infrastructure, but with the upgrade of spaces to accommodate charging points to be managed by way of a Car Park Management Plan, the details and implementation of which could be secured by planning condition. The appellant is therefore considering their position on the percentage of active charging provision, and it is also hoped that agreement will be reached on this particular matter by or before the start of the Inquiry, to be detailed within future revisions to the SAC SOCUG (**CD 5.4**). However, as above, if agreement is not reached, it would fall to the Inspector as Competent Authority to review the adequacy of the measures proposed in light of the requirements of the Habitats Regulations.
- 6.9 The remaining and apparently enduring point of disagreement between the parties, insofar as RfR 2 and Epping Forest SAC matters are concerned, therefore relates to parking provision. It was previously understood that concerns regarding parking related only to Appeal B, hence RfR 5 raised in relation to that appeal, however during the meeting of the 22 March 2021 the Council confirmed that their concern regarding excessive parking provision does in fact relate to both Appeal A and B. The Council contests that the parking provision for both schemes is excessive, which would work against the APMS, therefore resulting in adverse effects on the integrity of the SAC. They assert that too much parking would encourage car ownership and would prevent the APMS from achieving its stringent targets.
- 6.10 The appellants case, insofar as Appeal B is concerned, which is substantiated by evidence set out within this Proof of Evidence and that of Colin Romain's, is that:
- the parking provision for Appeal scheme B has in fact been carefully balanced to meet the realistic requirements of a residential scheme whilst also promoting modal shift;
  - that the parking quantum has been agreed with the relevant Highway Authority (ECC); and
  - that the percentage provision sits within the margins of that modelled as part of the Local Plan evidence base underpinning the APMS, with no further explicit targets for parking provision, car free schemes or discouragement of (non-ULEV) car ownership set out in the APMS.
- 6.11 Detailed evidence regarding the parking provision for Appeal Site A has not been prepared by the appellant, the matter only being clearly established as a matter for concern with the Council during the meeting of 22 March 2021 and not prior to exchange of evidence. The appellant may therefore seek to submit further evidence on parking following submission of evidence on SAC matters.

- 6.12 Overall, the proposals for Appeals A and B include a comprehensive pack of sustainable transport measures, including electric vehicle charging and a Travel Plan comprising a Travel Information Pack, and these measures when combined with carefully balanced parking provision will in my view contribute positively towards achieving the specific targets set by the APMS for conversion of the vehicle fleet from petrol cars to ULEVs. Whilst a car free scheme is not realistic nor achievable, as recognised by the Local Plan Examining Inspector, lack of parking would also result in a lack of ULEV charging infrastructure, which in my view would go against the APMS aims of encouraging those owning cars to switch to ULEVs.
- 6.13 In my view the parking provision proposed does not deviate in quantitative terms, or any other meaningful way, from that modelled as part of the work that informed the targets and measures set out within the APMS, and so cannot be said to be undermining or working against the APMS nor to present a real risk of contributing towards adverse effects on the integrity of the SAC in combination with other plans and projects.

## **Conclusion**

- 6.14 Subject to agreement and delivery of the following measures, the potential effects of the appeal proposals on Epping Forest SAC from increases in recreational pressure and air pollution would in my view be adequately mitigated, such that they would not result in adverse effects on the integrity of the SAC either alone or in combination with other plans and projects:
- Tariff-based financial contributions towards the provision of strategic air pollution mitigation measures, secured by S106 Agreement;
  - Tariff-based financial contributions towards the provision of strategic recreation mitigation and access management measures, secured by S106 Agreement;
  - Reduced parking provision in accordance with ECC requirements and as agreed with ECC;
  - Bespoke air pollution mitigation in relation to the Wellness Centre, secured by planning condition or S106 Agreement; and
  - Sustainable transport measures, including appropriate ULEV charging infrastructure, Travel Plan and Travel Information Packs, secured by planning condition.
- 6.15 On this basis the proposals would accord with the requirements of the Habitats Regulations, Policies T1, P2, DM 2 and DM 22 of the Local Plan Submission Version 2017, and Policies CP1 and CP6 of the Adopted Local Plan. In that event, insofar as ecology and nature conservation is concerned, and in particular effects on Epping Forest SAC, my advice to the Inspector is that there is no reason why Appeals A and B should not be allowed.


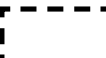

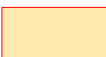




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MAP 1 Epping Forest SAC & Appeal Site Location

KEY

-  Appeal sites
-  3km linear distance from appeal site A & B
-  6.2km linear distance from appeal site A & B
-  Epping Forest SAC

SCALE: 1:50,000 at A3

0 500 1,000 1,500 2,000 Metres



CLIENT: Fairview New Homes Ltd

PROJECT: Epping Forest, Loughton

DATE: 10 March 2021