

Date: 26 January 2018  
Our ref: 234430 Epping Forest LP Pre-sub  
Your ref:



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Dear Sir/Madam

**Epping Forest District Local Plan Submission Version 2017**  
**Publication period: 18 December 2017 - 29 January 2018**

Thank you for your consultation on the above dated the 20<sup>th</sup> December 2017.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

We are encouraged to see that there is good consideration of environmental assets at various points throughout the plan. We do, however, have a number of outstanding concerns and must therefore advise that at this point we consider the plan unsound. Some, although not all, of our concerns, relate to matters which are still being discussed under the Memorandum of Understanding ('MoU') your authority has entered into along with the other Housing Market Area ('HMA') authorities, Essex County Council, Hertfordshire County Council, the City of London Corporation and ourselves. Whilst Natural England welcomes the fact that some progress has been made on the MoU, which due to timing isn't reflected in the consultation documents, we have to base our comments on the documents which form part of the formal consultation. Natural England will continue to offer support through the MoU and is keen to meet to discuss other concerns raised in the plan.

**The Vision and Objectives**

Natural England is encouraged to see that protection and enhancement of the high quality environment, the provision of new alternative green spaces for people and wildlife and the increase of green infrastructure forming a key part of the vision. We are encouraged by the commitment to working with partners and are keen to continuing working with you to ensure these mutual aims can be achieved.

Natural England considers that it would be appropriate to include improvement of air quality across the district within the vision and objectives and an objective to ensure new development incorporates green infrastructure and protection and enhancement of biodiversity into its design to deliver a net gain.

**SP 2 Spatial Development Strategy 2011-2033**

**Natural England considers this policy to be unsound – not consistent with national policy**

This policy sets out the strategy for development in the district over the plan period. Given that Natural England has outstanding concerns relating to the Habitats Regulations Assessment ('HRA') and we do not, at this time, consider this policy to be sound. Our concerns will be set out in more detail below.

#### **Policy SP4 – Development and Delivery of Garden Communities in Harlow and Gilston Garden Town**

**Natural England considers this policy to be unsound – not consistent with national policy**

Natural England supports the elements of this policy which commits to an enhancement of biodiversity, a net gain for biodiversity and the creation of significant networks of green infrastructure. However, given the potential impact these Garden Communities could have on a number of Sites of Special Scientific Interest (see comments on Policy SP 5) and on Epping Forest Special Area of Conservation (SAC) we would expect there to be policy wording which commits to protecting these sites and providing any required mitigation measures to address any impacts.

#### **SP 5 Garden Town Communities**

**Natural England considers this policy to be unsound – not consistent with national policy**

Given that the local plan is allocating two of its strategic sites either side of a Site of Special Scientific Interest ('SSSI') at a distance of less than 300m at their closest points it is disappointing to see that there is no evidence of consideration of impact on Harlow Woods in either the Local Plan or the Sustainability Appraisal ('SA'). Given the scale of the housing for Latton Priory and Water Lane Area 1,500 homes and 2,100 homes respectively the potential exists for an impact on the SSSI.

The Harlow Strategic Site Assessment conducted for the purposes of informing local plan-making for Harlow, Epping Forest, East Herts and Uttlesford District Councils acknowledges that the: *"Site[s] fall[s] within an IRZ [Impact Risk Zone] and, due to the nature and scale of development proposed, consultation with Natural England would be required. Mitigation may ameliorate risk to SSSI."*

No record of any such consultation having taken place is presented in the submission documents. Natural England's previous advice on this allocation was that *"Further assessment of potential impacts is required and any proposed mitigation should be enshrined in policy."*

In the absence of further assessment Natural England is keen to engage with your authority to advise on what steps need to be taken to ensure that developments can be delivered without an adverse effect on the site's notified special interest features. Our advice relating to the HRA and to Policies P1 – P15 in general is also relevant to these allocations.

#### **SP 7 The Natural Environment, Landscape Character and Green and Blue Infrastructure**

**Natural England considers this policy to be unsound – not consistent with national policy**

Whilst Natural England is supportive of elements of this policy we advise that to meet the requirements of para 117 of the NPPF it should:

- Identify and map the components of the Districts ecological network, including the hierarchy of international, national and locally designated sites
- Make specific reference to the need to preserve, restore and enhance priority habitats and protect priority species
- Consider geodiversity conservation in terms of any geological sites and features in the wider environment

#### **Policy E 4 The Visitor Economy**

This policy is seeking to promote recreational use of the Lee Valley Special Protection Area ('SPA') and Epping Forest SAC. The current protective wording is not considered strong enough. We suggest that the following wording would be appropriate:

*"This will include better linkages between the towns and rural surroundings; and opportunities for the enjoyment of the Lee Valley Regional Park and Epping Forest whilst ensuring these sites are protected in accordance with the Habitats Regulations and recognising the importance of conserving and enhancing the cultural heritage of the area, as assets that form the basis of the tourist industry here"*

### **DM 1 Habitat Protection and Improving Biodiversity**

**Natural England considers this policy to be unsound – not consistent with national policy**

Paragraph 113 of the NPPF requires that 'distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status. Currently no distinction is made between international and national sites.

Whilst policy DM 1 sets out the criteria for assessment of impact on local sites there is currently no mention of SSSIs in policy. Whilst we acknowledge policy DM 2, reference to European Sites within this policy may also help to clearly demonstrate accordance with paragraph 113.

### **DM 2 Epping Forest SAC and the Lee Valley SPA**

**Natural England considers this policy to be unsound – not consistent with national policy**

Natural England welcomes reference to the MoU in the supporting text however we consider that reference to the production of a Mitigation Strategy by plan adoption needs to be included in policy to ensure that any strategy brought about by discussion is deliverable and enforceable as detailed in our previous advice.

Whilst the policy identifies some potential mitigation measures and implies that the list is not exhaustive this policy is likely to require further amendment as the MoU and associated Mitigation Strategy progresses.

Please also see our comments relating to HRA for further details.

### **DM 22 Air Quality**

**Natural England considers this policy to be unsound – not consistent with national policy**

We consider that there needs to be reference to the Mitigation Strategy in policy to ensure that any mitigation or avoidance measures brought about by discussion are deliverable and enforceable.

Please also see our comments relating to HRA.

### **Policies P1 – P15**

**Natural England considers these policies to be unsound – not consistent with national policy**

Since Natural England's concerns regarding impacts on Epping Forest Special Area of Conservation and SSSI relate to the in combination effects of development we cannot consider any of the site policies sound until uncertainty relating to impacts on the designated sites have been resolved. Natural England will discuss outstanding concerns relating to the HRA below.

We are encouraged to see the issue of Air Pollution and Recreational Pressure recognised in many of these policies but until an appropriate Mitigation Strategy has been agreed through the MoU we cannot have certainty that an impact can and will be mitigated. Whilst we agree that individual sites should be required to do their own air quality assessments, we consider that it is unrealistic to expect individual allocations to resolve an issue as complex as air quality impacts on the SAC. It should be the role of the Mitigation Strategy to identify the mitigation measures required for the housing allocations within the local plan, including site specific and strategic.

We note that a number of policies do not contain paragraphs relating to air pollution and recreational pressure based on the presumption that they are too distant. We advise that until zones of influence have been identified it is premature to rule any site out.

### **Policy P 2 Loughton**

**Natural England considers this policy to be unsound – not consistent with national policy**

This policy is not consistent with paragraph 118 of the NPPF as there has been no analysis of the impacts and therefore has not been subject to appropriate avoidance or mitigation measures. A number of large allocations in Loughton will trigger our Impact Risk Zones for Roding Valley Meadows SSSI (as detailed in our previous consultation response dated the 12<sup>th</sup> of December 2016). There is currently no evidence of consideration of impacts either alone or in combination either within the plan or the SA. Further assessment of impacts is required and Essex Wildlife Trust should be consulted regarding current and future site management. Protection of the SSSI should

be enshrined in policy along with any identified mitigation required to accommodate new development.

### **Policy P 3 Waltham Abbey**

**Natural England considers this policy to be unsound – not consistent with national policy**

This policy is not consistent with paragraph 118 of the NPPF as there has been no analysis of the impacts and therefore has not been subject to appropriate avoidance or mitigation measures. Allocation within this policy will trigger our Impact Risk Zone for Cornmill Stream and Old River Lea SSSI (as detailed in our previous consultation response dated the 12<sup>th</sup> of December 2016). There is currently no evidence of consideration of impacts either alone or in combination either within the plan or the SA. Further assessment of impacts is required. Protection of the SSSI should be enshrined in policy along with any identified mitigation required to accommodate new development.

### **Policy D 3 Utilities**

Natural England notes from the HRA that Thames Water has confirmed that Rye Meads Waste Water Treatment Works is expected to have headroom until 2036 based on a recent position statement. We have not had sight of that mission statement but provided there was relative certainty we would not raise concerns. Where uncertainty remains the following recommended wording or similar should be incorporated into policy:

*'The Authority will co-operate with utilities and service providers to ensure that appropriate capacity is available to serve new development and ensure new development does not have an adverse effect on the Lee Valley Special Protection Area. New development post 2026 will only be permitted if the required capacity is available at Rye Meads Sewage Treatment Works, including any associated sewer connections.'*

### **Habitats Regulations Assessment**

Natural England has significant outstanding concerns relating to the HRA of the Epping Forest Local Plan and cannot therefore agree with the conclusion of no likely significant effect and no adverse effect on integrity as summarised here:

- a. The Local Plan does not contain any commitment in policy to prepare a Mitigation Strategy by the time the local plan is adopted. This results in a lack of certainty that the required mitigation measures to address air pollution and recreational impacts will be delivered. The Habitats Regulations requires certainty with respect to the deliverability of avoidance or mitigation measures, without this policy commitment the plan cannot be considered to be compliant with the Habitats Regulations.
- b. Paras 2.29 and 2.30 makes reference to the refinement of modelling and traffic mitigation measures as well as long term modelling which will be ready when the plan is submitted to the SoS for Examination. We advise that until this additional work has been undertaken it is premature to conclude no adverse effect.
- c. There is still considerable uncertainty that the proposed transport mitigation measures will be practically deliverable on the ground. Until NE has further details of what these proposals include we advise it is premature to conclude no adverse effect.
- d. We have some concerns about the modelling methodology, see below for further details

### **Air Quality**

Previous iterations of the HRA have identified an inability to factor in the effect of queueing at the Wake Arms Roundabout as confirmed in paragraph 6.10. The Infrastructure Delivery Plan regards as 'Essential' 'Improvements to Wake Arms Roundabout to relieve long queues.' Natural England has not officially been afforded the opportunity to comment on the viability or impact of any proposed scheme.

Paragraph 2.30 of the HRA states that "traffic modelling of the Submission Local Plan (including traffic mitigation options) is still being refined, the air quality modelling will need to be updated. It is intended that the air quality modelling reported in Appendix C will be updated in 2018, before

*submission of the Epping Forest District Local Plan to the Secretary of State. This is likely to include modelling of additional parameters (particularly ammonia), allowance for queuing traffic at Wake Arms Roundabout and additional links."*

Since the modelling work is still ongoing and a clear pathway exists, Natural England considers that it is premature to draw any conclusions with certainty until this work is completed.

In addition we have not been consulted on or had sight of the traffic modelling methodology and there is insufficient information provided within the HRA on what work is required in each of the 5 modelled options. We also have particular concerns in relation to what data has been included in the "Baseline Scenario."

Paragraph 6.7 refers to an Appendix D which does not appear to exist in the updated HRA. Given that there is no Appendix D listed in the table of contents Natural England assumes that this is a typographical error. We are pleased to see that this paragraph recognises the requirement to compare 'Do Something' to the 'Base' rather than 'Do Minimum' in accordance with our previous advice. The tables within Appendix C, however, do not appear to have been updated and still show the comparison of 'Do Minimum' to 'Do Something'.

Using the data provided it is unclear how the NO<sub>x</sub> concentrations in the tables at the end of Appendix C are showing such a marked reduction in the 'Do Minimum' and 'Do Something' scenarios. Even accounting for technological improvement providing a 2% reduction to the midpoint of the plan the figures seem unlikely and without further explanation cannot be considered sufficiently precautionary to satisfy the requirements of the Habitats Regulations.

Improvements in technology are not being brought about as a result of this plan so if the assessment is utilising a falling baseline this should be clearly presented. The report states that the figures provided do not take into account mitigation. If this is true, the only consequence of this plan that can be reliably predicted is an increase in traffic which must in turn be assumed to bring with it at least some increase in NO<sub>x</sub>. It is not at all clear from the data provided how much NO<sub>x</sub> the plan alone and in combination with other plans and projects will contribute.

#### **Recreational Pressure**

Paragraph 5.19 advises that "*visitor survey work is currently being updated*". Natural England was consulted on the updated visitor survey on the 26<sup>th</sup> January 2018 and has not yet had time to consider its implications in full. Initial viewing, however, suggests that the surveys do not support the Zone of Influence put forward here.

Natural England appreciates that a tariff has been proposed as mitigation in paragraph 5.24 but at this stage no evidence has been presented that the recreational impacts can be mitigated or what form of mitigation might be appropriate. Further progress needs to be made in progressing the Mitigation Strategy under the MoU before a likely significant effect on Epping Forest as a result of recreational pressure can be ruled out.

#### **Urbanisation**

The report identifies a 400m threshold within which urbanisation impacts need to be considered. The primary justification for this appears to be that this is the distance used for Thames Basin Heaths Special Protection Area (SPA) within which cat predation of ground nesting birds was most likely to occur and that it is '*easy walking distance*'. Given that Epping Forest is not an SPA this seems inappropriate without further justification. The HRA should consider existing and likely urbanisation impacts at Epping Forest and seek to assign an appropriate distance at which those impacts are likely to occur.

#### **Initial Policy Sift and Screening of Site Allocation**

Given the uncertainties relating to Air Quality and the Zones of Influence for Recreational Pressure and Urbanisation Natural England advises that amendment to the initial site sift and screening of site allocations is likely to be required. This in turn may have implications for plan policies.

## Conclusion on HRA

Given the above Natural England considers that significant uncertainty remains and that this uncertainty undermines the conclusions drawn in section 9. At this stage Natural England advises that neither an adverse effect or a likely significant effect on Epping Forest SAC can be ruled out.

## Strategic Environmental Assessment

Para 5.24 should make reference to the fact that one of the key findings from the Community Visioning consultation was the desire to protect green spaces (section 5.2). This isn't specifically mentioned in 5.24 in the summary of key findings. Green belt is mentioned and the countryside is mentioned but this isn't the same as green spaces.

Figure 5 and paras 6.24 relating to the site selection process mentions major constraints as being international wildlife sites and county and local wildlife sites but doesn't mention SSSI's which are of national importance. This seems to be a significant omission.

Paragraph 9.6 – Natural England currently disagrees with the conclusion of the HRA in relation to air and recreational impacts on Epping Forest SAC. There is no commitment in policy to produce the mentioned Mitigation Strategy and we do not currently consider the plan to be compliant with the Habitats Regulations. As currently worded the local plan does not provide enough certainty that a required mitigation strategy will be delivered.

9.9 and 9.3 – Natural England has concerns with respect to policies DM22 and DM2 and do not currently consider them to be robust enough to enable a conclusion of no Adverse Effect to be concluded.

9.19 – Natural England disagrees with the conclusion that there are neutral effects with respect to air pollution. It is premature to conclude this as we have not been consulted on the highways measures mentioned in the SA or the HRA in relation to how these will mitigate the impacts on Epping Forest SAC.

9.22 – This states there is a commitment for all new development to provide greenspace in accordance with Natural England's ANGst. Policy DM2 makes a commitment to a "meaningful" amount of greenspace but the amount does not appear to be defined anywhere in policy.

9.23 – We note that the site selection process includes consideration of national sites but this was omitted from the site selection diagram Figure 5.

9.25 – Natural England does not currently agree with the HRA conclusion

Loughton (pg. 131-133) – Summary of impacts doesn't mention the potential for development at Loughton to impact on any SSSIs, despite this being picked up as part of the site selection process (ARUP documents)

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter only please contact Jamie Melvin on 020 802 61025. For any new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours faithfully,



