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City of London Corporation
Environment Department
Epping Forest Offices
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RESPONSE of the CITY of LONDON CORPORATION as CONSERVATORS of EPPING FOREST to the EPPING FOREST DISTRICT COUNCIL LOCAL PLAN SUBMISSION VERSION 2017 MAIN MODIFICATIONS CONSULTATION (Document no. ED130)

Thank you for consulting the City of London Corporation, as the Conservators of Epping Forest (The Conservators), on the Main Modifications (ED130) proposed for the Epping Forest District Council (the Council) Local Plan Submission Version 2017 (LPSV) (Document EB114).

Introductory comments

Since the Examination-in-Public (EiP) in 2019 on the Local Plan, The Conservators have continued a dialogue with the Council's officers and consultants (and Natural England (NE)) around the Policies and Strategies of most concern to us, specifically D8, DM2 and DM22. At this consultation we welcome the fact that many of the Policy wording changes that we proposed at Examination, and subsequently, have been accommodated in the Main Modifications set out in Document ED130. In the comments provided below against each MM, we indicate these improvements. However, there remains some wording which we consider needs to be tightened, in order to ensure compliance with the Habitats Regulations (2017, as amended). These changes concern Policies DM2B, DM22 and D8, in particular and, also, these policies' links to the underlying Strategies, namely the Air Pollution Mitigation Strategy (APMS – Document EB212/ED126) and the Green & Blue Infrastructure Strategy (G&BIS) (ED159).

Summary of concerns and issues

These concerns relate to the soundness of the LPSV and its legal compliance with the Habitats Regulations with respect to two areas where *likely significant effects* have been identified:

1. recreational impacts
and
2. air pollution.

The Conservators consider that the revised Policies DM2B (1-3), DM22 and D8 still fail the test of soundness and that DM2B1 and D8 may not be legally compliant with the Habitat Regulations. The Conservators are also concerned that two of the three Strategies on which these Policies rely for the delivery of mitigation – the APMS and the SANGs section of the G&BIS - are not sufficiently precise in their quanta or timetabling of mitigation or that some of the proposed mitigation may not be achievable in line with development. In terms of the

APMS we are also concerned about the differences between it and the Local Plan HRA June 2021 proposals on air quality mitigation up to 2024/25.

These are issues of fundamental concern to The Conservators in relation to recreation and air quality, where likely significant effects (LSEs) have been identified by the HRA (EB211A) June 2021. The Conservators' concerns can be encompassed by two key themes:

- the certainty of implementation of the mitigation measures proposed for adverse impacts on Epping Forest Special Area of Conservation (EFSAC) and
- the timing of mitigation delivery and whether such mitigation would be secured prior to the relevant developments.

Other relevant documents

- 12th March 2021 letter in response to Policies D8, DM2 and DM22 (see Appendix 1)

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Comments on specific Main Modifications

MM8 (District Vision)

As we have stated before, The Conservators welcome the Vision's commitment to conserve and enhance Epping Forest (part v). The changed wording to Policy DM2A now supports this broader approach to the Forest as a whole (see our comments on MM47 below). We also welcome the new proposed wording on the protection of the natural environment and landscape character, which is of great significance to the environs of the Forest and its extensive boundaries, including important heritage features like parkland and ancient trees. The commitment to improving air quality is also an important and necessary addition, which, of course has our full support.

MM9 (Local Plan Objectives)

The additional wording in parts (v) and (vi) going beyond mitigation and supporting biodiversity net gain is important for this overview of the Plan, anticipating government legislation, although the insertion in the words "*where appropriate*" seems unnecessarily limiting for this Objective.

MM21 (Policy SP5)

The Conservators welcome the wording changes to part (iv) for Latton Priory (page 33 of the MMs) and for G (iii) for Water Lane which make explicit the need for SANGS. For Water Lane this is an important addition as this provision of a suitable SANGS at this allocation is a concern for the Conservators. The Council's commitment elsewhere in the Plan to 8ha per 1000 for the bespoke SANGS sites (G&BIS EB159E) is also a positive policy which we support. However, as set out in our comments on SANGS under MM47 (below) and in the letter appended to this response, we consider that this metric needs wider application to SANGS provision away from the Masterplan sites, in order to avoid increasing recreational pressure on Epping Forest Special Area of Conservation (EFSAC).

MM24 (accompanying text for Policy SP7)

As we comment later for the G&BIS at MM47, the vision, which is encapsulated in the new accompanying text in paragraph 2.152 supporting Policy SP7, is laudable. Therefore, The Conservators are requesting Policy changes (see MM47 below) to ensure delivery of mitigation in a timely way so that new greenspace opportunities are not outstripped by the pace of development and remain sustainable during the Plan period and beyond.

MM25 (Policy SP7)

In relation to the wording for Part E of this Policy (page 43 of the MMs (ED 130)), we would request that the words “*will be sought*” in relation to the new wording about “*financial contributions*” should be changed to “will be secured”.

MM38 (Policy E3)

The Conservators fully support the new wording proposed for Policy E3 after Part A (iv).

MM39 (Policy E4)

The Conservators fully support the new wording proposed for Policy E4 Part (vi).

MM40 (supporting text to Policy T1)

Although welcoming the text changes to this supporting text relating to EFSAC and the Bell Common AQMA, we need to reiterate our objection to the Epping South proposals. Any transport assessment recommendations and any realistically achievable modal shift seem unlikely to be of the scale required to reduce the adverse impact of this development on both air quality but also congestion and queuing.

MM44 (supporting text to Policy DM1)

We welcome the new positive wording in paragraph 4.15, stating clearly that all sites should make a positive contribution to biodiversity, because cumulative contributions are critical across a wide area. However, they cannot, of course, replace large-scale connected landscapes such as Epping Forest, the protection of which is of paramount importance to the District’s natural environment.

MM45 (Policy DM1)

The new wording to include the SSSI and SAC is welcomed as an improvement, with greater clarity for developers and links better now to Policy DM2 and the more holistic approach to the protection of Epping Forest in Policy DM2A.

MM46 (supporting text for Policy DM2)

The Conservators welcome much of the newly added text which sets out much more clearly the importance of Epping Forest and the Policy requirements that follow in Policy DM2. In particular, we welcome the insertion of the words “*and secure any*” in the new paragraph that has been split from Paragraph 4.16.

In paragraph 4.17 the inclusion of a statement of the importance of Plan-level measures is a significant and welcome addition.

The additional wording at Paragraph 4.18 on air pollution is also a significant improvement to the supporting text. The newly split paragraph to follow 4.18 is also welcome in clarifying the issue of recreational pressure and to support the Policy that follows.

In 4.20 the clear reference to the HRA and the Plan-level response is another important addition.

The new wording at 4.23 and the new following paragraph on the APMS are key additions to the text and we recognise these are important for the rationale for Policy DM2 (and DM22). In terms of the new Footnote 1 to the new paragraph on the APMS, we express our concern that these words indicate that the Council already may not consider that the CAZ is achievable. Given that HRA (EB211A) has made it clear this is currently essential to the delivery of substantive mitigation under the APMS (see our comments below on MMs75 and 112) we highlight this issue. Although we do not object to the wording as proposed, we do press for immediate clarity on the delayed APMS Delivery Framework timetable. We also urge the Council to engage Natural England (NE) at the earliest opportunity in the overdue APMS working group.

MM47 (Policy DM2)

DM2A: In relation to Policy DM2A, we welcome its broadened scope such that it now provides for the protection of the whole of Epping Forest, its biodiversity and landscape, and not just the SAC area. This was one of our requests for wording changes made in our response to the MIQs Matter 16, Issue 1 Q3. This modification also meets the requirements of Section 175 of the NPPF when taken along with Policy DM1.

We also welcome the concomitant change with the specific protection under the Habitats Regulations for the SAC now separated out in the new wording, as we requested.

DM2B: The additional wording in this sub-policy is important and welcome, again responding to our requests for tighter links between the Policy wording and the Strategies. The Strategies are separately identified and listed. We welcome the changed wording to make it clear that measures must be secured and delivered. However, we request that the first sentence of the Policy is re-considered as it states at the moment in MM47 that: “~~New residential development that will have an adverse effect on integrity, likely to have a significant effect, either alone or in combination with other development in these areas plans or projects, will not be permitted...~~” [our **bold** emphasis]. The use of the word **will**, highlighted in bold, rules out those developments where adverse effect on integrity can only not be ruled out and thereby, presumably inadvertently, precludes the precautionary approach. Given our comments, below, about Policy DM2B1 this is important. We would ask for altered wording to remove this potential ambiguity. We suggest that the wording could be improved along the lines of:

“New development where adverse effects on integrity cannot be ruled out, either alone or in combination with other plans or projects, will not be permitted. ...”

We very much welcome the splitting of the sub-policy DM2B into its component parts (B1 – B3) so that the different Strategies, that would deliver the mitigation, are set out with specific wording addressing the issues.

DM2B1: The wording in this sub-policy related to the APMS is different to that used in DM2B as addressed in our comments above. This difference seems likely to cause uncertainty in interpretation, because DM2B1 states: “Development will not be consented until such ~~those~~ measures, and any necessary financial contributions required for their delivery, are secured”. This does not tie the Policy into the delivery of the measures in the APMS to ensure that any adverse impacts are avoided.

Our concern with regard to this *lacuna* in policy DM2B1, which we consider *unsound*, is amplified by the Council’s response to the Inspector in ED127. In ED127, the Council states on page 7 (although the pages are un-numbered) in relation to the HRA’s (EB211A) air quality forecasts that “if a greater number of dwellings were to be completed and occupied in 2024 than has been modelled, their effects on the EFSAC **would be temporary** due to the implementation of the CAZ.....” [our bold emphasis]. In other words, the Council seems to be proposing that adverse impacts on EFSAC would be allowed to take place “temporarily” without mitigation measures secured, let alone delivered, given that in 2024 the CAZ may still not have been fully secured as a deliverable measure. Given the uncertainty of the achievability of the CAZ (see our comments under MM75 below), the temporariness of the delay in securing and delivering mitigation also cannot be quantified, in our view.

The Council’s justification in ED127 is unclear to The Conservators, particularly as elsewhere in its ED127 response it states clearly that the delivery of mitigation measures should “keep pace with the delivery of developments”, which of course is what is required in order to avoid adverse effects on integrity of EFSAC.

Suggested wording improvement to Policy DM2B1

In order to ensure that the Policy is tied to the APMS and that mitigation does keep pace with developments, The Conservators would suggest that DM2B1 text is revised to state unequivocally that development would not be consented if the delivery of mitigation, as timetabled in Appendix 3 of the APMS, has not been completed or unless a future HRA review determines that those timetabled measures should be modified because of results from monitoring that suggest faster improvements in air quality.

DM2B2: We welcome the clarification of this commitment to SAMMS contributions with the new wording provided in the Main Modifications. We also wish to acknowledge the considerable progress made at the SAC Mitigation Oversight Group on SAMMS during 2021, and the efforts of the Council’s officers working constructively and at pace with NE and other local authorities. However, as the SAMM Strategy remains to be agreed, The Conservators remain concerned that requiring a financial contribution does not yet link to meaningful delivery of mitigation.

Suggested wording improvement to Policy DM2B2

Given the delay in confirmation of an updated SAMM Strategy, with definitive milestones for delivery, The Conservators would propose the Policy wording is amended, to make it clear that mitigation measures need to be secured and in place prior to occupation:

“...development proposals will be required to comply with the most up-to-date SAMM strategy and contribute towards mitigation measures, to ensure mitigation is secured and implemented prior to occupation”.

DM2B3: As with sub-policy DM2B2 above, The Conservators welcome the additional wording as a clear strengthening of Local Plan Policy. We also welcome the scope and ambition of the Green & Blue Infrastructure Strategy (G&BIS) (April 2021 Documents EB159 A-G) and the range of ideas set out there. However, the mechanism by which the infrastructure project list would be kept “live” is not clearly set out to ensure that uplift in provision can be certain to match the increase in residential population.

The G&BIS does not seem to acknowledge the potential importance of the some of the Epping Forest Buffer Lands to draw visitors away from the SAC, and thereby the opportunities for the Council to work with The Conservators to improve access opportunities to some of them while further enhancing wildlife habitats. This is despite the Habitats Regulations Assessment (HRA) June 2021 highlighting this potential (EB211A, paragraph 5.26). We hope in the near future that we can work with the Council’s officers in relation to infrastructure projects, such as car parking and bus services, in a further iteration of the G&BIS and that the project list is indeed kept “live”.

Although there is much to welcome, our reservations remain in relation to G&BIS, as set out in detail in our letter of 12th March 2021 (which is appended to this document to support this representation with more detail). The quantum of SANGS required is not set out with certainty as a target that will be guaranteed by the Policy, although indicative locations, estimates and potential amounts are given. On existing greenspace (EB159F) the uplift potential has not been ascertained and there is only a general reassurance that there is spare capacity at the three areas listed. Measures DM2B3 ii), iii) and iv) may have no impact on capacity increases and the modifications may not cater for more people if these existing sites are at capacity at key times.

Although we recognise that the G&BIS is moving towards this, there is an absence of a clear timetable and no clarity on the total number or area of SANGS to be provided for the level of growth proposed in the District by 2033. In order to provide the certainty that the mitigation can be relied on, we would expect certainty on the levels of SANG provision and criteria for SANG. These need to be secured in policy so that development can only come forward if adequate mitigation is provided. The current G&BIS does not provide the certainty and nor does the policy DM2B3 to which the G&BIS is tied. We request that the Policy wording is modified to ensure legally-binding mitigation provision.

New wording added to this sub-policy states: *“Relevant development proposals will be required to make a financial contribution towards the delivery of off-site projects in accordance with the adopted Green Infrastructure Strategy”.*

The Policy wording must be unequivocal, in our view, in stating that measurable increases in greenspace capacity must be delivered through the securing of financial contributions and that the provision of this additional capacity, or ‘uplift’, should be in place prior to the occupation of the new development that is providing the financial contribution. The delivery

of SANGS on a number of the sites, both bespoke (G&BIS Appendix 3 EB159E) and as enhancements to existing greenspace (G&BIS Appendix 4 EB159F), is not yet secured. Therefore, the Policy needs to ensure in its wording that: “*delivery of the proportionate level of SANGS will be secured prior to occupation of the associated development*”. In other words, the provision of new residential development is conditional on the delivery of the recreation pressure mitigation measures.

The concerns of our 12th March letter do not seem to have been substantially addressed despite the updated HRA June 2021 (EB211A) and the new wording of the Policy. The HRA largely repeats the wording of the G&BIS and does not seek to examine the lack of certainty of delivery of SANGS to which our concerns relate. As a result, Policy DM2B3 does not provide certainty that sufficient mitigation would be in place ahead of development nor any certainty that adverse recreational impacts to EFSAC from development would be avoided during the period of the Plan.

Appended 12th March letter from The Conservators

Our letter of 12th March 2021 is important in this regard as it provides further detailed comments on Policy DM2 and considerable detail on DM2B2 and DM2B3. Therefore, the letter is appended to this response as it provides essential support to our representation without the need for further repetition here. It was not a formal submission to the Local Plan document itself. We request, therefore, that it is made available to the Inspector.

DM2C: We welcome the changes to sub-policy DM2C set out in the Main Modifications. The changes and new wording reflect the issues we raised against the original DM2D and DM2E, now both deleted and replaced. Urbanisation is now specifically and better addressed. However, the lack of a “buffer zone” (footnote 2 to the Policy) is not ideal nor standard compared to other internationally important sites. In particular, The Conservators are most concerned about the limits of what the proposed project-level HRA approach can achieve. A Project-level HRA could certainly appraise design issues specific to a project proposal (such as light pollution). However, a Project-level HRA is not likely to address ‘in combination’ impacts effectively and this would make adverse impacts difficult to assess.

The Conservators are aware of a recent residential development, to which we objected, that was granted permission despite abutting directly onto the SAC boundary (within 400m) and despite the fact that the environmental appraisal by the applicant did not constitute a compliant HRA or Appropriate Assessment. The issue of compliance was not dealt with at the Council’s local planning committee despite our representation to it.

Nonetheless, given the mixed nature of the Forest boundaries, we accept the new policy wording here and look forward to engaging with the Council officers and Members to ensure that any future project-level HRAs comply with the Habitats Regulations and that likely significant effects are fully screened and subject to rigorous appraisal.

MM48 (Policy DM3)

There is a need to protect the landscape around the Epping Forest boundaries, much of it still containing ancient countryside features. We request that this Policy DM3, and its new wording on landscape sensitivity studies is linked to Policy DM2C (see comments under

MM47 above) and the issue of the 400m zone around the Forest. Any developments within the 400m zone around the Forest, as well as carrying out Project-level HRAs, should also be required to undertake landscape sensitivity studies to ensure the Forest's wider landscape and environs are protected.

MM74 (supporting text for Policy DM22)

We fully support the greater clarity and significantly expanded scope of the new wording and new paragraphs added to the supporting text for Policy DM22.

MM75 (Policy DM22)

The Conservators welcome the new wording of this Policy DM22 parts B and C, particularly the addition of the word "secured" at the end of Part DM22B. However, as with Policy DM2, we are concerned that the actual delivery of the mitigation measures is not covered by the wording. We request that the Policy wording is tightened in this regard to ensure development is tied to mitigation delivery and does not outpace it, to borrow a phrase from the Council's response to the Inspector in Document ED127 (July 2021).

However, in addition, a cause for concern is the deliverability of the mitigation measures in the APMS on which this Policy relies for the prevention of adverse impacts. There are only two measures in the APMS which currently would meet the requirements of avoiding adverse impacts on integrity, as set out by the HRA (EB211A) in paragraph 6.88. These are the 30% shift from petrol to electric vehicles by 2033, with a 10% conversion by 2025, and the introduction of a Clean Air Zone (CAZ) in 2025.

Firstly, we reiterate that we accept these APMS measures and the HRA's rationale for them and acknowledge that it is for your Council to be satisfied that the CAZ and the other elements of the APMS are achievable in practice. In the APMS Appendix 3 "Mitigation Measures Framework for Delivery" the timetable given for the CAZ remains 'indicative' only. Some Members and officers of the Council have made it clear, during the debate at Council and since the APMS was approved in February 2021, that the aim is to try to avoid the introduction of the CAZ altogether and to rely on alternative forms of mitigation instead, although these have yet to be identified. This expressed hope, coupled with apparent delay to the actions in the indicative timetable, such as the formation of a working group (due for January 2021), suggest uncertainty around the deliverability of this mitigation measure.

Secondly, the APMS Appendix 3, although providing a timetable in its Delivery Framework does not make it clear how slippage will be addressed. In particular, the targets for ULEV uptake in 2024, 2029 and 2033 in paragraph 6.88 of the HRA do not seem to be clearly set out. Therefore, given that the APMS is not explicit on the quanta in the same way as the HRA, it is not clear how Policy DM22 could be relied upon to ensure the delivery of the required mitigation.

A 'brake' mechanism and Plan review 'trigger'

The issue of a 'brake' on development is not tackled in the Policy wording, should the level of mitigation measures not be delivered. As already pointed out, the Council's response to the Inspector in ED127 suggests that the Council is aware that mitigation measures in the APMS may start to lag behind development as early as 2024, and as a result damaging

development may be allowed to proceed without mitigation in place or even certain of being put in place at all.

On page 6 of ED127, second paragraph, the comment there in relation to phased development suggests the Council's view is that mitigation only needs to be fully in place by 2033 but not actually during the Plan period. In the view of The Conservators, if this were to be the case, this would seem to bring into question legal compliance and certainly the effectiveness, and thereby soundness, of Local Plan Policy. The Local Plan's HRA seems to concur with this, contradicting ED127, as it states in paragraph 6.87: *"introduction of mitigation cannot be deferred until the CAZ is implemented in 2025 but must begin before the CAZ is in place and significant effort will be required to achieve the 2024 targets"*.

The Conservators, therefore, request that the Policy DM22 is strengthened and that the APMS timetable at Appendix 3 is tightened by more precise wording and clearer links to the HRA.

In addition to a 'brake' there is also doubt about the effectiveness of monitoring providing for a 'trigger' to ensure a review of the pace or level of development at any stage in relation to the effectiveness of mitigation. The issue of a 'trigger', linked to the implementation of mitigation measures, is further discussed under Policy D8 below (in MM112). The HRA (EB211A) in paragraph 6.89 suggests that such a 'trigger' is in place: *"Policy D8, has made it clear that the release of any further growth would be contingent on a review of the plan and/or the implementation of the CAZ/other measures that did achieve that 10% conversion"*. However, neither the wording of Policy D8 nor of Policies DM2 and DM22 justifies this conclusion in the view of The Conservators.

MM78 (Policy P1)

We welcome the additional wording under a Part G of this Policy P1 (page 105 of the MMs) concerning the provision of financial contributions towards the APMS. Our comments in relation to Policies DM2 and DM22 are, however, relevant here in terms of the certainty of delivery of the APMS.

In relation to Part K of Policy P1 (page 107 of MMs), we need to reiterate our specific concerns about this proposed development at Epping South (EPP.R1 &2). The reduction of the allocation to 450 homes from 950 is certainly an improvement. The delay and proposed phasing in of the development later in the Plan period, as set out in the Council's response in ED127, is also noted as response to air pollution concerns and the implementation of the APMS. However, in relation to this latter point this does not remove the problem of congestion at small road junctions at Ivy Chimneys and Bell Common, which would serve traffic leaving the development.

Two of the relevant road junctions, at least, are surrounded by Forest Land with no room for expansion without the loss of Forest and one of the junctions is in the District's only AQMA. It is not clear how a viable solution to the inevitable congestion would be found. Given the site allocation's size and location, we would question the effectiveness of the proposed modal shift to be sought through the Strategic Masterplan in the new Policy wording (pages 108 and 109 of the MMs).

Although an additional point has been added after (xvi) (Page 108 of the MMs) to ensure a SANG is part of the Masterplan, our objection to the development remain the same as expressed at Examination. As we said in our representation to the Examination, the SANG is unlikely to be of adequate size or quality, sandwiched against the M25 on the southern boundary of the site and with high power pylons crossing the site.

The footbridge across the M25 leads directly to Epping Forest Buffer Land at Great Gregories where our cattle wintering facilities are sited. This increased access is likely to cause considerable security issues (and associated costs) on this restricted site and this has not been picked up by the G&BIS Infrastructure proposals, despite our clear representation on these issues. Furthermore, as acknowledged by the Plan itself, this footbridge link is also likely to add to the recreational pressure on the EFSAC itself. The Conservators' objection to this development and this Policy P1 Part K, therefore, remains.

MM100 (Policy P13)

We welcome the expanded text of Part H and reference to the APMS.

MM102 (Policy P14)

We welcome the new Part after Part E on air pollution (page 165 of MMs (ED130)).

MM104 (Policy P15)

We welcome the new Part after Part A on air pollution (page 166 of MMs (ED130)).

MM112 (Policy D8C)

In the light of our reservations set out above about Policies DM2 and DM22 (in MMs 46, 47, 74 & 75), the lack of certainty about the delivery of mitigation measures, and the lack of 'brake' or 'trigger' wording in those policies, the 'trigger' provided within Policy D8 at sub-policy D8C (bullet point 3), is highly significant to the protection of EFSAC from adverse impacts due to Local Plan development. However, this trigger is not sufficiently precise, in The Conservators' view, to provide the required protection to Epping Forest and, therefore, does not provide the certainty required by the Habitats Regulations. This lack of precision, in our view, renders this current Policy wording *unsound*.

The wording suggests that updated modelling and an updated HRA would be required, which themselves could require a considerable time to produce. Instead the Policy should rely on the current HRA (June 2021 – EB211A) which is unequivocal about the adverse impacts without mitigation measures (e.g. para 6.87).

Furthermore, the Policy D8 should be clear that any delay in securing and delivering the mitigation set out in Policies DM2 and DM22 and their associated strategies (G&BIS, SAMMS and APMS) would be sufficient to trigger a Local Plan review. The new wording suggests that there will only be a "*consideration of any delay*" rather than delay itself being the immediate trigger. This is not compliant with the prevention of adverse impacts on integrity of EFSAC and we would request that the wording of Policy D8 is changed to ensure that delay to mitigation, of itself, is a key trigger. Such a change would ensure the soundness of the Policy which underscores the certainty of mitigation delivery in Policies DM2 and DM22.

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Conclusions

Following the significant progress on the SAC Mitigation Strategy this year, The Conservators look forward to continuing the important work on the SAC strategic solution with the Council's officers. We hope that our comments here on these Main Modifications will assist in strengthening the Plan, reduce its vulnerability to challenge and help to ensure the deliverability and success of the proposed mitigation strategies.

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Signed

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**Graeme Doshi-Smith BSc (Hons), CISSP, CISM, CRISC, CC
Chairman of The Conservators of Epping Forest**

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APPENDIX 1 to Conservators' EFDC LPSV MMs response



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Date 12 March 2021

Dear Alison,

EPPING FOREST DISTRICT COUNCIL LOCAL PLAN POLICIES D8, DM2 & DM22 and AMENDED DRAFTS of PARTS 3 & 4 of the GREEN & BLUE INFRASTRUCTURE STRATEGY

Thank you for consulting the Conservators on the proposed amendments to Local Plan Policies DM2, DM22, D8 and also on the proposed modifications to Parts 3 and 4 of the Green & Blue Infrastructure Strategy, relating to SANGS measures. The Conservators have been able to take a preliminary view on these issues over the last few weeks both in respect to your full Council's debate of the Air Pollution Mitigation Strategy (APMS) on 8th February and in the light of Natural England's response of 5th March to the three Policies cited above.

In relation to the former, we note the reservations expressed by councillors about the proposed Clean Air Zone (CAZ) and we also note that the APMS's timetable for the introduction of the CAZ remains only indicative (Appendix 3, page 36, APMS - Document EB154). Our comments on the Plan Policies below are made with these uncertainties in mind. However, like Natural England in its response, we accept the APMS measures in principle and acknowledge that it is for your Council to be satisfied that the CAZ and the other elements of the APMS are achievable in practice.

APMS and Policy DM2(B1) and Policy DM22

Therefore, we concur with Natural England's reservations, expressed in its letter, that the inherent uncertainties and nature of the measures, like CAZ, require precisely worded policies, with clear provisos and restrictions on development. The current wording of Policy DM2 (B1) does not provide that precision in our view

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because, with the insertion of the 'and/or', it is not tied to the delivery of the measures, only the finance for them.

In relation to the other key APMS measure, to increase the uptake of ULEVs, we have discussed with you the need to provide clearer incentives to reach the percentage targets. We are conscious that there remain large uncertainties about meeting the APMS targets and, therefore, the policy wordings in DM2 and DM22 need to be tightened to tie into specific measures. In addition, we are keen to explore with you other measures that might encourage the reduction of polluting road traffic.

Monitoring will also be absolutely key to the certainty around mitigation measures and their impacts, and this needs to be clearly set out in and linked to the two policies.

SAMMS and Policy DM2(B2)

As discussed at the recent SAC Oversight Group meetings, the financial contributions have still not secured any SAMMS mitigation measures. The contributions have not been released by any authority due to a lack of agreement on a mitigation governance structure by the competent authorities. The Policy wording, therefore, needs to make much clearer links between implementation being secured before development, or in a timely manner, to ensure that adverse impacts are avoided. The current wording, in our view, needs further revision as we requested in our letter of 9th September 2020.

"Relevant development" needs to be defined based on likely significant effects and a ZoI that is periodically reviewed as part of a joint SAMMS and SANGS Strategy. All development in the ZoI in the District should contribute to SAMMS, recognising the likely significant effects on the Forest that the Plan HRA has demonstrated. SAMMS contributions should be required, even if the development is also expected to deliver "bespoke" SANGS. The Policy wording, in our view, should be much clearer. For example, amended wording could read: "*all development within the Zone of Influence, as defined and periodically reviewed by the SAMMS Strategy, will be required to make a sufficient financial contribution to secure effective implementation of the SAMMS Strategy measures for in-perpetuity protection of Epping Forest SAC*".

There also needs to be wording to ensure early adoption of the updated costings for SAMMS (from November 2020 LUC report and The Conservators' revised table for in-perpetuity costs) and any future updated financial contributions required to meet the more detailed SAMMS measures. The mechanism for revision and review of projects and costs needs to be clearly set out and linked in the Policy wording. This is where a Supplementary Planning Document (SPD) on SAC Mitigation measures would be important, as we have requested before, to ensure strong

links between implementation and review mechanisms and policy. We repeat our view that an SPD should be considered and this would assist in cross-border coordination of mitigation projects.

G&BI Strategy and Policy DM2(B3)

Although there have been some minor wording changes to Policy DM2(B3), these do not accord with the changes we requested in our response to you of 9th September 2020 (please see page 3 of 10 of our response). As we stated then, the wording of this Policy is too vague and does not meet the requirements to secure actual delivery of any SANGS measures in a timely fashion. "*Measures could involve*" does not provide certainty of mitigation. The G&BI Strategy at this stage is still not adopted and is still under development (see comments on Parts 3 and 4 below). This makes the Policy wording even more important, as with our APMS comments above, because of the uncertainties of delivery and uncertainties about the quanta of SANGS to be provided at this stage.

In addition, the four measures listed (shown as ii) to v) on the January 2021 draft), apart from the first (numbered as ii)) do not provide any guarantee of being able to deal with the "uplift" in recreational pressure associated with additional residential developments. Under DM2 (B3), approving "*access to natural greenspaces*" or "*improving recreation facilities*" may have no, or not sufficient impact, on the increased visitor pressure on the Forest. These measures may not be able to cater for more people at those modified greenspaces, if they are already at capacity at key times.

The Policy DM2(B3) needs wording that makes it clear that measurable capacity increases through additional greenspace are required to be secured as mitigation and that financial contributions alone are not sufficient. Delivery of a clear quantum of SANGS or related infrastructure projects, with precise location and hectarage, must be secured, not just the finance for them.

Quality of SANGS also remains an issue. Monitoring their future effectiveness in drawing visitors to them as an alternative to the Forest, by a review of the number of visitors to such sites, needs to be built into either the G&BI Strategy or the Policy, and if in the former it must be clearly linked to the Policy's wording.

Green & Blue Infrastructure Strategy - revised drafts of Parts 3 and 4

We welcome the re-framing of the SANGS on the master-planned sites as "bespoke SANGS" rather than "Strategic". This reflects more accurately the scope of such greenspaces, linked to large developments, in reducing recreational pressures on the Forest. The use of the 8ha per 1000 residents is also welcomed, being in-line with precedent at the long-standing Thames Basin Heaths strategic solution. However, in our view, this leaves a gap in the provision of strategic,

District-wide SANGS that are attractive enough to ensure the deflection of visitor pressure from Epping Forest SAC.

Concerns remain for us and our preliminary views before seeing the final Strategy are in relation to **Part 3, "Bespoke SANGS"**:

- If the masterplan sites are also contributing to SAMM then the 8ha per 1000 would make sense, in our view. However, if they are not, then there needs to be even more clarity that the 8ha per 1000 is adequate to accommodate the increased recreational requirements of these extra residents. Compared to other strategic solutions, where both SANGS and SAMMS are delivered through dual tariffs, it is a low level of mitigation that is being proposed.
- This is particularly pertinent for Waltham Abbey, where there is no space for SANGS, for North Weald where the SANGS location is still not secured and for Epping South where the quality of SANGS, in terms of it's likely attractiveness, remains open to considerable doubt.
- For Waltham Abbey the Forest's nearby green lanes that link to the Lee Valley, and Warlies Park on the Forest Buffer Lands, are likely to both take increased recreational pressure. They will, therefore, alleviate pressure on the SAC if the correct infrastructure is put into place through Part 4 funding. This needs to be addressed directly in the G&BI Strategy and more specific measures need to be put forward in relation to this development and the use of City of London-owned land.
- There was reference to the fact that some of the Masterplan sites straddle the 6.2km ZoI. It makes sense that the whole of the master-planned sites are expected to deliver appropriate quanta of SANGS and not divided into sections. If the SANGS are not sufficient for the whole development, there would be likely to be displacement away from them if visitors found them too busy or too many conflicts arose between different recreational activities.
- There seems to be a suggestion that master-planned sites may be able to sell their SANG capacity in the future to other developers as mitigation for other sites (e.g. Thornwood). The GI strategy suggests this will be on a 'commercial basis'. In our view this requires precise clarification as it seems to be clearly anti-strategic. If a SANG is set out in a masterplan to provide a set level of mitigation for a given number of houses, it shouldn't then be possible to sell it off in the future.
- We would welcome wording in the G&BI Strategy to indicate a minimum parcel size for the SANGS within the masterplans and clarity on the overall quantum (calculated using the 8ha per 1000 residents). It is important that the

SANGS is not made up of lots of small disparate patches but works as an integrated place and visitor destination.

Part 4 Infrastructure Projects

In relation to Part 4, Infrastructure projects, our preliminary views are:

The existence of the Buffer Lands, and their contribution as attractor sites away from the SAC, should be emphasised and a mechanism set out in Part 4 as to how the District Council will work with The Conservators to ensure that these sites are used and financed in future to accommodate the extra recreational pressure that will inevitably come their way. Their role in alleviating the recreational pressures on the SAC cannot be doubted and yet there remains no clear route for supporting these sites through the infrastructure project proposals, e.g. through the provision of car parking or connected, circular walk routes.

The Part 4 projects relate to the scattered smaller developments - and particularly Loughton. We welcome the proposal to keep such projects as a "live" list and to actively review and consider the quanta, location and recreational activities provided by such projects.

This flexibility to adapt to particular recreational pressures on the SAC, like mountain biking, could be effective in addressing likely significant effects from new developments. This, of course, could only be the case where sufficient new capacity can be provided and as long as existing greenspaces are not damaged.

However, the process for the review of this "live" list is not yet clear. Review needs to be both regular and ahead of new developments in order to meet their needs. New locations, where the projects would be effective for those developments, need to be specifically identified in the Strategy. Ideally, for such an approach to be effective there would be an agreed list of projects with a set level of capacity (new houses) that they could mitigate. Small developments could then contribute to the most appropriate (e.g. nearest) that has available capacity at the time. This would provide certainty of adequate mitigation being available and deliverable. This is not the case at the moment.

Parts of the City Corporation's Epping Forest Buffer Lands may be able to contribute to this infrastructure approach and possibly cater for specific activities.

We would welcome a continuing dialogue on this with your Council in order to ensure opportunities are highlighted for practical and deliverable solutions.

- The process for developing these infrastructure projects therefore needs to be set out clearly in the G&BI Strategy Part 4 and clearly linked to additional wording in Policy DM2(B3).
- Based on discussions it is clear that, at the moment, only two projects (a Roding Valley site and footpath links to a site at Theydon Bois) are put forward (plus measures at the LVRP related to Waltham Abbey North). We are concerned at this relatively late stage in the Local Plan process, that there is no evidence available as to the scope and capacity of mitigation that these sites will provide. For example, what kind of catchment (which development sites) and how much capacity there is for these sites to absorb increased recreation (how many houses)? We are aware that the Roding Valley area is already a well-visited site. The evidence needs to be set out prior to the adoption of the Local Plan, in our view, as otherwise this part of the SANGS Strategy cannot be ascribed any certainty in mitigating impacts on the SAC.
- For small development sites outside the catchment of these infrastructure projects (e.g. in Chigwell), some other mitigation will be necessary alongside SAMM – i.e. further infrastructure projects or SANG. Without any projects or mitigation those houses should be phased to a later point in time or not relied on in the Plan because there is no confidence, at this stage, that adequate mitigation can be provided.
- Some small development sites are identified as providing their own on green space, i.e. more akin to bespoke SANGS. For example, this is stated as required for R4 and R9 in Loughton. There needs to be clarity as to the scale and adequacy of SANG provision for such sites. In order to rule out adverse effects on integrity for these sites it will be necessary to have confidence that measures being relied on will be effective and are achievable in practice.
- If any SANGs or infrastructure projects are limited in their capacity, greater reliance will need to be placed on SAMMS.
- However, reliance on SAMMS for the smaller developments remains a concern of The Conservators and we consider that mitigation that **avoids** placing further pressure on the Forest SAC is essential in addition to SAMMS.

Policy DM2(C)

This Policy, in our view, places too much emphasis on project level HRA and does not provide a way to deal with the issues at strategic Plan level. Therefore, it does not provide sufficient protection from the likely significant effects of urbanisation

and un-buffered recreational access. The Local Plan policy needs to address growth within 400m in-combination. A 400m or 500m buffer, and at examination-in-public we put forward an 800m buffer related to your Council's own evidence, reduces the recreation pressure on the SAC because development this close is very difficult to deflect. Also, it reduces the reliance on SANGS and SAMMS, particularly the latter which we consider is being relied upon too heavily by the Local Plan Policy DM2 (see comments on the G&BI Strategy above)

Policy D8

We endorse completely the points raised in paragraph c) of the Natural England letter of 5th March with regards to the wording of Policy D8. Triggering a review of the Local Plan would be an important restriction on development and a protection of the Forest SAC from adverse impacts but only if the parameters of such a review are clearly laid out within a strict timetable for resolution of any delays in securing mitigation.

Conclusions

The precise wording of the Policies remains absolutely crucial to the Local Plan's compliance with the Habitat Regulations and we concur with Natural England's reservations in this regard, as set out in its recent letter of 5th March.

The protection of the internationally important Forest is at stake and we would request that the issues raised here are addressed comprehensively in the main modifications.

1. We consider that the Policy wording needs to be tightened in all three Policies DM2, DM22 and D8 so as to ensure that mitigation delivery is secured rather than only finances for some future possible mitigation.
2. The Clean Air Zone indicative timetable needs to be addressed through Policy precision and clearer measures to promote ULEVs need to be set out in the APMS or in the Policy DM22. If the CAZ remains unspecified for a long period, then the uncertainty increases around its likely impacts on mitigation and how much it can be relied upon as an achievable mitigation measure.
3. It is also key that the balance between SANGS and SAMMS is addressed so that the final adopted Local Plan places explicit emphasis on securing more, measurable and location-specific SANGS capacity in a timely way ahead of developments, including for smaller developments.
4. We support the idea of Green Infrastructure projects (Part 4) as an adjunct to the larger SANGS approach, provided there are sufficient opportunities and

they can be shown to increase capacity for specific recreational activities that might otherwise result in more recreational pressure on the Forest SAC.

Yours sincerely

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