

Name:

Andy Butcher, Strutt & Parker on behalf of Countryside Properties

**Part B – Your representation on the Main Modifications and/or supporting documents**

If you wish to make more than one representation, please complete a separate [Part B form](#) for each representation and clearly print your name at the top of this form.

4. Which **Main Modification number and/or supporting document** does your representation relate to? (Each Main Modification within the Schedule has a reference number. This can be found in the first column i.e. MM1, MM2 and each Supporting Document has a reference number beginning with ED).

Any representation on a supporting document should clearly state (in question 6) which paragraphs of the document it relates to and, as far as possible, your comments should be linked to specific Main Modifications. You should avoid lengthy comments on the supporting documents themselves.

MM no.

46 &47

Supporting document reference

ED124A-G/ EB159A-G

5. Do you consider this **Main Modification and/or supporting document**:

(Please refer to the Guidance notes for an explanation of terms)

- a) Is Legally compliant      Yes ☐      No ☐
- b) Sound      Yes ☐      No ☒

If no, then which of the soundness test(s) does it fail

Positively prepared ☒      Effective ☒

Justified ☐      Consistent with national policy ☐

6. Please give details of why you consider the **Main Modification and/or supporting document** is not legally compliant or is unsound. Please be as precise as possible. If you wish to support the legal compliance, soundness of the Local Plan or compliance with the duty to co-operate, please also use this box to set out your comments.

Introduction

These representations on the Main Modifications (MM) to Epping Forest Local Plan Submission Version (LPSV) have been prepared by Strutt and Parker on behalf of Countryside Properties and are of particular relevance to the proposed residential allocation of land at North Weald Bassett under Policy P6 of the LPSV.

These representations set out Countryside's position on the MM. Countryside have control of NWB.R3 which is the largest of the five residential allocations at North Weald Bassett. They are made in the context of both the application of Policy DM2 (as proposed for modification- MM47) and the supporting text (as proposed for modification- MM 46) to development in the District as well as the delivery of that site.

Representations to support the allocation of NWB.R3 have been made throughout the Local Plan process, including Hearing Statements and appearance at the Local Plan Examination; February to June 2019. Countryside's overall position is one of support for the LPSV. Prior to and since the Examination we have continued to work on a Strategic Masterplan (SMP) in consultation with key stakeholders in accordance with the objectives of Policy P6. We have also continued to engage with EFDC on matters relating to the Local Plan that have arisen since the Examination, including the consultation on the Green Infrastructure Strategy (GIS), carried out in June/July 2020. This is particularly relevant to these representations as they now form part of the Supporting Documents to the MM (ED124A-G/EB159A-G) and the matter of provision of Suitable Alternative Natural Greenspace Strategy (SANGs) relevant to MM46 and MM47 as well as our further representations on MM 86 and 87.

The GIS is a supporting document to the Local Plan and does not hold the same weight as a statutory planning document. Indeed, as ED124E/EB159E advises at page 107 it is intended as guidance and by, ED124A/EB159A as a material consideration in preparing SMPs etc.

#### Reasons for Representation – MM46 & 47

MM46 and 47 set out a long and overarching set of proposed changes to Policy DM2 and the supporting text to address the impact of development on sites of international importance for habitats and species.

As far as MM 46 and 47 are concerned, and linked to our further representations in relation to MM86 and 87, we recognise the objective of providing an integrated approach to protecting the Epping Forest Special Area of Conservation (SAC). This is proposed, in part, to be dealt with through the provision of SANGs to relieve visitor pressure on the SAC. We recognise that this needs to be addressed in order to assist soundness of the Local Plan.

However, we have particular concerns regarding the MM in relation to two matters:

- 1) The potential scope for changes to the Zone of Influence (Zoi) (MM46; amendments to paragraphs 4.18, to 4.20. and Footnote 1 pages 72 and 73) and the implications for site specific SANG considerations.
- 2) That the provision of SANGs be in accordance with the most up-to date adopted GIS and specifically matters relating to implementation (MM 47 new B3); specifically that ED124E/EB159E states that SANGS will need to be available from the first occupation of the first phase of the residential development proposed (paragraph 6; page 157 of ED124E/EB159E).

### 1) Scope for Changes to the Zol

As currently proposed, Footnote 1 to the MM states that: “additional residential development within parts of the District is likely to give rise to further visitor pressure on the Forest that needs to be either avoided or mitigated. These parts of the District are defined by a ‘Zone of Influence’ which has been established using evidence from visitor surveys in 2017 and 2019. The Footnote then goes on to state that, *the current ‘Zone of Influence’ is 6.2km but this may change over the course of the period of this Plan as a result of future visitor surveys that are scheduled to be undertaken as part of the Monitoring Framework for the Forest*”.

The clear implication of the sentence in italics is that the current Zol has potential to change. Furthermore, the Monitoring Framework for the Forest referred to is such that a Zol change may be introduced via a non-formal planning policy framework document. Any change to Zol could therefore occur without any prior notice to landowners or developers or independent scrutiny. Through this Monitoring Framework the radius of the Zol could decrease, remain constant or increase.

Should the Zol increase in area, even by 100 metres, this would represent a substantial material change with very significant implications for locations and allocations that straddle, or are close to, the Zol as there is a highly non-linear relationship between the Zol and the quantum of SANG required.

Putting in place a Framework which can enable ad-hoc adjustments to the Zol without full independent scrutiny and prior notice, as proposed in Footnote 1 to MM46 (page 72 of the MM) and by changes to policy as set out at MM47 (page 75 of the MM), would mean that landowners, developers and applicants can have no reasonable expectation of what standard they are required to achieve. Indeed, a planning application could be submitted one day, fully in compliance with the Zol but, during the course of consideration, it could change to be non-compliant and incapable of satisfying any updated standard. In the extreme, ad-hoc changes to the Zol are capable of rendering parts of the entire Local Plan and some allocations undeliverable or subject to significant change.

Against this background, it is considered that this MM has not been positively prepared or is effective having regard to the Local Plan review process set out at MM 112 (MM to Policy DM8). This is referred to in our suggested changes set out below.

The Footnote also refers to the adopted Green Infrastructure Strategy (ED124A-G/ EB159A-G) *which provides the District wide framework for providing new areas of Suitable Alternative Natural Greenspace (SANG) related to a number of the Masterplan areas.*

In our representations on MM 87 with supporting plan by Terence O’Rourke (Appendix 1 to those representations) and assessment by David Jarvis Associates (Appendix 2 to those representations), we draw attention, in detail, to the issues that arise on the NWB SMP in terms of the quantum of area and location that is set out in the GIS. Critically, those representations make the case that the area of 20ha and location suggested for the NWB SMP area is not justified by the evidence; it should be 2.816 ha. and that actually, an amount of 4.81 ha can be accommodated within the SMP area.

## 2) Delivery of SANGs

MM 46 Footnote 1 at page 73 indicates that the GIS has been adopted by the Council but provides no clarification on its status or how the document is to be used. As indicated above, ED124E/EB159E, advises at page 107, that it is intended as guidance and ED124A/EB159A as a material consideration in preparing SMPs etc. We believe the Footnote and B3 to DM2 would benefit from this clarification to make it clear that it is intended as guidance.

Footnote 1 also states that SANGs measures will be implemented by developers of relevant sites. Further, MM 47 at pages 75 and 76 introduce a new criterion at B3 which, amongst other matters, requires that mitigation provision and enhancements for the Epping Forest SAC should be in accordance with the site-specific policies contained within the Local Plan and the most up to-date adopted Green Infrastructure Strategy (GIS).

The measures to deliver SANGS are to include: (i) providing new natural greenspaces; (ii) improving access to natural greenspaces; (iii) improving the recreation facilities, naturalness, and habitat quality of existing greenspaces; (iv) improving the connectivity between greenspaces where this would not result in an adverse effect on the integrity of any designated site.

ED124E/EB 159E of the GIS states that “in order to be effective, the land to be used as SANG will need to be available from first occupation of the first phase of the residential development proposed. This will be secured through Section 106 planning obligations and will need to be supported by a phasing and delivery plan for the implementation of the works required to create the full SANG offer” (page 157).

Whilst we have no issues with the set of measures set out for mitigation by B3, the blanket approach that land to be used as SANG will need to be available from first occupation, as set out by the GIS at ED124E/EB159E, to support Policy DM 2, is not reasonable or justified. It would be disproportionate and insufficiently fine grained to take into account the circumstances of individual site allocations contained within the GIS.

Provision before occupation would not relate to the impact of that development on Epping Forest SAC i.e. there is no impact with no occupations, and very limited impact, or no perceivable impact, with a low level of occupations at early phases of a development. Furthermore, the provision of a SANG may well be influenced by many delivery aspects, such as the provision of suitable and safe vehicular and pedestrian access, which may not all be able to be provided prior to first occupation (for a number of reasons) or construction phasing and therefore prevent safe access to any SANG.

It is agreed that the provision of SANG should form part of a phasing scheme to be submitted to and approved by the Council (in consultation with NE). This would enable phasing to take into account a number of factors like infrastructure delivery, relationship to ongoing construction activities and phasing of construction on a site, the nature, design, usability and ability to deliver the agreed SANG scheme which may also involve land assembly, works to Council or highway authority land etc. over the course of the lifetime of construction.

However, the actual entirety of provision of the space should not be necessary prior to occupation as the space and the facilities, the provision of usable areas can be phased over the course of the lifetime of construction linked to occupations. These are all matters that could be dealt with by a delivery framework as part of an SMP and future planning applications with suitable conditions and/or planning obligations.

This approach to the provision of SANGs would be consistent with the Natural England Standing Advice of August 2021 copied at Appendix 1 to these representations which indicates that developments be dealt with on a case by case basis. We suggest changes below that would support the effectiveness of this approach.

7. Please set out what change(s) you consider necessary to make the **Main Modification and/or supporting document** legally compliant or sound, having regard to the test you have identified in the question above (Positively prepared/Justified/Effective/Consistent with national policy) where this relates to soundness. You will need to say why this change will make the Submission Version of the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

In order to address the issues identified in these representations it is suggested that:

1) Scope for Changes to the Zol:

The following additional wording be inserted to Footnote 1 MM 46; DM2 as follows:

- At line 6 after “Forest”:

*Any intended changes to the Zone of Influence as a result of future visitor surveys will be considered as part of a future Local Plan review or any earlier review as set out in the circumstances set out at Policy D8 and criterion C (MM112).*

2) Delivery of SANGs

- At line 14 after “species” with specific new text underlined:

*In order to achieve this objective the Council has adopted a Green Infrastructure Strategy which provides the District wide framework for providing new areas of Suitable Alternative Natural Greenspace (SANG) to provide an alternative recreational offer to the Forest, including through enhancements to existing open spaces. These measures will be implemented by developers of relevant sites on a case by case basis with a delivery framework and/or phasing plan to be agreed with the Council and Natural England or through securing financial contributions for the implementation of measures by the Council and its partners. The Strategy is intended for guidance to be used as a material planning consideration in the preparation of Strategic Masterplans, Concept Frameworks, pre-application advice, assessing planning applications and any other development management and implementation related purposes within the District.*

- At MM47 DM2 B3:

Insert the following words after the “Plan and...” (Line 7)  
*and have regard to the most up to date adopted Green Infrastructure Strategy on a case by basis*

Insert after (iv):

*In accordance with a delivery/phasing framework to be agreed with the Council and Natural England.*

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8. Have you attached any documents with this representation which specifically relate to an MM or supporting document?

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Yes

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No

Appendix 1 – Standing Advice – Natural England August 2021

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Signature:



Date

23/09/2021