

EPPING FOREST DISTRICT COUNCIL: Examination of the District Local Plan, 2011 – 2033.

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HEARING AGENDA – WEEK 6, TUESDAY 21 MAY 2019:

Matter 1 Issue 5; and Matter 16 Policies DM2 and DM22.

The hearing session for the above matters will take place on Tuesday 21 May commencing at **10am**.

Participants should be aware of my Matters, Issues and Questions (MIQs) (Document **ED5**) as they will provide the framework for discussion at the hearing. They should also be aware of the statements submitted in response to my MIQs by the Council and others. These are available on the website.

Some of my questions have been adequately answered in the statements so that limited discussion should be needed at the hearing. Consequently, further discussion will focus upon the issues on the following agenda.

I look forward to seeing you on 21 May.

Louise Phillips

INSPECTOR

8 May 2019.

MATTER 1: Legal Compliance

Issue 5: Have the requirements of the Conservation of Habitats and Species Regulations 2017 been met?

1. Overview of the Habitats Regulations Assessment January 2019; and Update on the Mitigation Strategy.

- HRA methodology – general issues inc. whether AAs must rule out all reasonable scientific doubt as to the effects of the plan on the relevant sites. If so, do they?
- Summary of key findings in relation to each protected site.
- Overview/status of the Interim Mitigation Strategy and emerging long-term mitigation strategy in relation to recreational pressure and air quality.
- Has the Plan been reviewed in light of the findings of the updated HRA? If not, is this necessary to ensure that the HRA has informed the Plan?
- Has the Plan sought to avoid harm as a 'first step' before moving to consider mitigation?
- Current position of Natural England and the Conservators of Epping Forest.

2. Consideration of each pathway of impact.

Recreational Activity/Urbanisation

- Lee Valley SAC/Ramsar Site, inc. overview of findings:
 - What is the Zone of Influence (ZOI)?
 - Does AA indicate that there would not be a significant adverse effect even in the absence of mitigation? If so, is it justified to require the relevant developments to comply with Policy DM2?
 - Does the plan identify the relevant sites/areas which must comply?
- Wormley Hoddesdonpark Woods SAC, inc. overview of findings:
 - Is mitigation required to avoid an adverse effect? Is it necessary to identify a specific ZOI?
- Epping Forest SAC, inc. overview of findings:
 - Explain ZOI of 6.2km and relevance of 3km distance.
 - What are the access management arrangements to which sites within 3km of the SAC should contribute? Will these avoid adverse effects?
 - It is recommended that sites of over 400 dwellings within 3-6.2km of the SAC should either provide their own SANG or contribute to the provision of large SANGs. Does this apply only to SP5.1, SP5.2, EPPR1/R2 and NWB.R3 at present? Are the necessary policy requirements in place to secure them and can they be physically provided? Should sites of 100+ houses be expected to provide on-site open space?

- If off-site strategic SANGs are required, where and how will they be delivered?
- Effects of sites LOU.R5 (Jessel Green) and CHIG.R6 (Limes Estate) within 3km of SAC. Does the HRA support the allocation of these sites? Is specific mitigation required?
- What is the role of the Interim/Final Mitigation Strategy?
- Having regard to Tables 5 & 6 in the HRA, and to table 1 of Natural England's Statement (page 10), are there settlements in the District in which development could take place **without** causing recreational pressure on the SAC?

Atmospheric Pollution

- Is Epping Forest SAC the only one of the relevant protected sites vulnerable to a likely significant effect? Is this because the other sites are not threatened by this pathway, meaning AA is not necessary?
- Assessment of likely effects of NOx and ammonia, inc. methodological issues; the relevant development scenarios (DS2-DS5); and confidence in findings. In particular:
 - Have the impacts of ammonia been properly considered? Have the effects of increased concentrations been assessed?
 - Has nitrogen and ammonia deposition been underestimated by modelling for "short" vegetation rather than "forest" vegetation?
 - Overview of the relevant development scenarios DS2-DS5:
 - Confirmation that the HRA is **not** recommending reliance upon mitigation measures at Wake Arms Roundabout, Robin Hood Roundabout or Honey Lane (DS23 and DS4)? Are there any specific references in the plan to these schemes which require removal?
 - Why are the Honey Lane measures (in DS4) not recommended in addition to the measures considered under DS5?
 - Explanation of 2030 vs 2023 emission factors used in DS5. Use of DEFRA Emission Factor Toolkit. Have any background benefits been double counted?
 - Where is transect N? Why is this worst affected? Is any specific mitigation required?
 - Will the measures modelled in DS5 be effective in managing nitrogen loads so that the conclusion of no adverse effects is justified?
 - Can a conclusion of no adverse effects be reached if reduction in exceedances is delayed by development proposed in the plan? How long will the delays in reaching the critical level be and what will be the effects upon the integrity of the SAC? Is Natural

England/Conservators advocating additional measures to reduce any delays?

- Implications of the “Dutch nitrogen cases”. Does the plan include adequate safeguards against permitting development which could cause harm?
- Role of Plan policies and Mitigation Strategy in delivering requisite mitigation.

Water Abstraction

- Confirmation that potential for significant effects only applies to Lee Valley SPA/Ramsar Site and that AA concludes no adverse effects on the basis of the HRA of Affinity Water’s Water Resource Management Plan?

Water Quality

- Confirmation that the potential for significant effects only applies to Lee Valley SPA/Ramsar Site? Explanation of conclusions of AA in relation to capacity of Rye Meads Waste Water Treatment Works.

3. Overall Conclusions/Implications

- Confidence that the Plan and/or Mitigation Strategy provide an appropriate framework for securing the requisite mitigation to support planned growth.
- Do the findings of the HRA indicate a “ceiling” upon the amount of residential or employment development that can be accommodated in the District?
- If the District could potentially accommodate more development, are there particular settlements which are more or less sensitive from an HRA perspective?

MATTER 16: Development Management Policies

Issue 1: Are the Development Management Policies in the Plan justified, effective and consistent with national policy in respect of the specific matters set out below? Are there any other issues concerning their soundness?

Policy DM2: Epping Forest SAC and the Lee Valley SPA

1. Council to explain proposed modifications to the policy and, in particular:
 - Should the policy deal separately with the Epping Forest SAC and the Lee Valley SPA/Ramsar site?
 - Should the policy be clearer about where and which types/scale of development are required to mitigate the potential adverse effects of air pollution and/or recreation? I.e. is Part B sufficiently specific in terms of

development size and distance thresholds; and the nature of mitigation required?

- How should any requirements in respect of air quality be addressed in this policy? Are the relevant measures in DM22 and other policies adequately cross-referenced? If it is intended that Policy DM2 concerns only recreational impacts, should this be made clear?
- Is it appropriate to specify the ZOI for recreational impact in the policy itself? If not, could the source of this information be more clearly signposted?
- Is the 400m threshold set in Part E justified by the findings of the HRA report?
- Is the role of the Mitigation Strategy (whether for air quality or recreational impact) adequately referenced? Will this document set out the physical or financial mitigation required for each allocated site/windfall development and, if not, are the requirements adequately covered in policy?

DM22: Air Quality

1. Taking account of the other policies in the Plan, are any amendments to this policy required in order to ensure the protection of the Epping Forest SAC?
2. In Part C, is the meaning of "larger proposals" defined? Similarly, is it clear which developments "have potential to produce air pollution"?

End.