

Date: 24 April 2018  
Our ref: Chigwell Neighbourhood Plan  
Your ref:



Mr David Coleman,  
Epping Forest District Council,  
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By email only: [REDACTED]

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Dear Mr Coleman,

### **Chigwell Neighbourhood Plan and Habitats Regulations Assessment**

Thank you for your consultation on the above which was received on the 21<sup>st</sup> of March 2017.

Natural England's advice here is focused upon the Habitats Regulations Assessment ('HRA') implications of the plan. Other individuals and organisations may have more detailed comments relating to wider ecological implications of the plan and the absence of advice from Natural England regarding specific issues should not infer that there will be no impact on the environment.

#### **Chigwell Convent and Rolls Park**

Natural England notes from paragraph 2.4 of the Chigwell Neighbourhood Plan: HRA screening report that:

*"The primary difference between the Local Plan and the Neighbourhood Plan arises due to the former's support for development at Chigwell Convent (Policy P7 Chigwell: CHIG.R7 Land at Chigwell Convent – approximately 28 homes) and the latter's preference for development at Rolls Park"*

Considering these sites within our own narrow remit (predominantly impacts on designated ecological sites and landscapes), Natural England advises that the issues with both sites are likely to be similar. There is no evidence currently available to Natural England that would cause us to prefer either the Chigwell Convent site as proposed by the Local Plan or the Rolls Park site as proposed by the Neighbourhood Plan. On the basis of currently available evidence Natural England would not object to either site provided that appropriate mitigation was in place with regards to impacts on Epping Forest Special Conservation Area (the 'SAC').

#### **Habitats Regulations Assessment**

Natural England agrees with the HRA screening assessment in identifying recreational pressure and air quality on Epping Forest SAC as the primary issues to be considered at plan level. We also commend the acknowledgement that Natural England, Essex County Council, Epping Forest District Council and other Neighbouring Authorities are seeking to address this through a Memorandum of Understanding. We agree that impacts on other sites and through other pathways can be screened out.

Paragraph 1.15 of the Neighbourhood Plan is, however, incorrect in stating that policies to avoid and mitigate the effects of development in P7 and DM2 of the Local Plan have been agreed with Natural England. As can be noted from our response to the submission version of the Epping Forest District Local Plan (dated the 26<sup>th</sup> January 2018) Natural England has advised that both these policies (and the accompanying HRA) are currently unsound. Whilst the aforementioned parties continue to engage productively it is important to note that at this point no mitigation strategy exists for either recreational impacts or air quality impacts on the SAC.

Natural England notes that from paragraph 3.9 of the Chigwell Neighbourhood Plan: HRA Screening that a buffer of 4km has been used to identify sites likely to have recreational impacts on the SAC. It is unclear what buffer has been used for air quality but it appears that all development over 4km has been screened out. Natural England advises that no Zone of Influence ('ZOI') has yet been established for either recreational pressure or air quality but current indications are that they will be larger than those utilised here. It is likely that the whole plan area will fall within the Epping Forest ZOI for both recreational pressure and air quality.

We therefore advise that any policy of the Neighbourhood Plan which has been screened out on the grounds of distance will need to be screened in. Any policy which has been screened out on the basis of reliance on Local Plan policies P7, DM2 and others will need to be screened in. Natural England disagrees that a likely significant effect as a result of Chigwell Neighbourhood Plan can be screened out when considered in combination with the Epping Forest Local Plan and advises that the following information is relevant.

#### **Neighbourhood Plan with Likely Significant Effects**

Neighbourhood Plans advancing ahead of the emerging Local Plan have the potential to result in likely significant effects, particularly those allocating development sites. **In accordance with Schedule 2 of The Neighbourhood Planning (General) Regulations 2012, a neighbourhood plan cannot be made if the likelihood of significant effects on any European site, either alone (or in combination with other plans and projects) cannot be ruled out.** Therefore, measures will need to be incorporated into neighbourhood plans to ensure that any likely significant effects are avoided in order to secure compliance with the Regulations.

Given the relationship to the emerging strategic approach, which intends to avoid and mitigate against effects, Natural England considers there to be three potential approaches in dealing with Neighbourhood Plans advancing ahead of the Local Plan:

- 1) The Neighbourhood Plan could completely remove the source of the likely significant effect(s) from the plan (avoidance), this may require development allocations to be removed from the plan or relocated to less sensitive areas.
- 2) The Neighbourhood Plan could await the adoption of the Local Plan and any proposals in the Neighbourhood Plan would require conformity with the strategic approach set out in the adopted Local Plan. This is Natural England's preferred approach as it ensures a consistent approach to future development based on a sound evidence base that has been tested through Examination. However, we recognise that locally, neighbourhood plan progress is often seen as a priority
- 3) If the Neighbourhood Plan is to progress ahead of the local plan and is within a zone of influence, the Neighbourhood Plan will need to adopt bespoke measures to deal with the effects in the interim period until the Local Plan is adopted. This approach will require robust evidence in order to meet the test of the Habitats Regulations and will require certainty that measures are deliverable. Given the complexity assessing and mitigating the potential air quality impact on Epping Forest SAC in particular it is difficult to envisage how this could be achieved through a neighbourhood plan.

With respect to the Neighbourhood Plan addressing recreational impacts on Epping Forest SAC we note the following:

- The plan requires developments to be subject to any mitigation and / or monitoring measures associated with the Epping Forest Mitigation Strategy in Policy CHG1, which is welcomed.
- Policy CHG2 requires “*a new public park and footpaths laid out in the form of a Natural Green Space to complement the adjoining Grange Farm Country Park to contribute to the Epping Forest SAC mitigation strategy*”. This commitment is also welcomed

However, in Natural England’s view it is not currently possible to identify potential mitigation measures to address air pollution impacts which could be delivered through the Neighbourhood Plan. We therefore recommend that the Neighbourhood Plan waits for the Local Plan Mitigation Strategy to be produced and that the Neighbourhood Plan then seeks alignment with the Local Plan on implementing mitigation.

If you have any queries relating to the advice in this letter please contact Jamie Melvin on [REDACTED].

Yours sincerely,

Mr Jamie Melvin  
Planning Lead Adviser – West Anglia