



Date: 07 June 2019
Our ref:
Your ref: EFDC DM2 DM22 NE and CoL Final

Alison Blom-Cooper: ablomcooper@eppingforestdc.gov.uk>

BY EMAIL ONLY

Dear Alison

Epping Forest District Local Plan Examination Matter 16 – Policies DM 2 and DM 22

Thank you for your letter received and dated 31st May 2019 requesting that Natural England and the City of London Corporation provide revised policy wording to Policies DM2 and DM22 to address concerns raised at the recent local plan examination hearing session. As requested, Natural England have worked collaboratively with the City of London Conservators to suggest key areas for improvements to the drafting.

Please note that whilst both Natural England and the City of London Corporation have provided the policy amendments in the spirit of collaborative working. They are provided 'without prejudice' to the cases both organisations made at the Examination. These textual amendments will **not** address the key issues raised relating to compliance with the Habitats Regulations. In particular, as stated at the hearing, we do not consider that the evidence base excludes reasonable scientific doubt about an adverse impact from the planned development on the integrity of the protected site.

In addition, the absence of adopted Mitigation Strategies that are specific, precise and certain to address air quality and recreational impacts means that the plan, in our view, is not currently legally compliant. Mitigation Strategies need to be assessed and tested through the HRA process and are required prior to the adoption of the Plan. Our reference to Mitigation Strategies includes both SAMM and SANG aspects of the strategy required for recreation impacts, and a strategy to address air quality impacts.

Supporting text to the Policies

In the light of the above comments, we do not propose changes to the supporting text for either DM2 or DM22 at this stage. The current supporting text describes the existing situation and refers to the present iteration of the HRA (Jan 2019), all of which requires change. New supporting text can only be written once the Mitigation Strategies are complete and a new iteration of the HRA has assessed them. However, we are clear that the supporting text must refer to a Mitigation Strategy for both recreation and air quality, that is designed and regularly reviewed for the express purpose of ensuring that there would be no adverse effects on the integrity of Epping Forest SAC. Additionally, the supporting text must also refer to the requirement for a joint Supplementary Planning Document that would set out the mechanisms by which the mitigation would be implemented. As discussed at Examination, the City of London Corporation would also wish to see the supporting text, and indeed the policy itself, having regard for the wider context of the Forest as a whole.

Natural England and the City of London Corporation would welcome the opportunity to work with the Council to develop up to date supporting text once the Mitigation Strategies are prepared and agreed.

Policy text

The wording changes proposed below for your consideration are submitted on a 'without prejudice' basis and written as if the full suite of Mitigation Strategies (SAMMs/SANGs/Air Quality) are in place prior to the adoption of the Plan. It will be important for the supporting text, when updated, to provide the necessary detail and context for this policy wording.

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Proposed Policy Changes to Policy DM2

- A. The Council will expect all relevant development proposals to assist in the conservation and enhancement of the biodiversity, character, appearance and landscape setting of Epping Forest and the Lee Valley. The Council will expect all relevant development proposals to ensure that there is no adverse effect on the site integrity of the Epping Forest Special Area of Conservation (SAC) and the Lee Valley Special Protection Area (SPA). The Council has adopted Mitigation Strategies in relation to mitigating for recreation and air quality impacts on Epping Forest SAC. For recreation impacts, the Mitigation Strategy comprises of two inter-related parts: Site Access Management and Monitoring (SAMM) which includes actions within the designated site, and provision of Suitable Alternative Natural Greenspace (SANGs), which provides for alternative sites for recreation.

[Notes/rationale for above proposed changes – expanding A to provide two parts – to recognise the wider value and benefits of the two sites and their ecological and landscape functions, and then to specifically note the European designations and introduce the Mitigation Strategies into the policy, which are then referred to in more detail in subsequent parts below. Supporting text should give more context in relation to the restoration and maintenance of the sites in accordance with their conservation objectives].

- B. New development likely to have a significant effect, either alone or in combination with other plans or projects, will not be permitted unless sufficient measures are put in place to avoid or mitigate any potential adverse effects from the development ensuring that there will be no harm to the integrity of the protected sites. For Epping Forest SAC, the need for a strategic approach has been identified and such measures will be expected to include those identified in the Mitigation Strategies adopted by the Council relating to air quality and recreational pressures, which will be reviewed and updated as required over the plan period. The relevant strategies for Epping Forest are as follows:

B1 – Epping Forest Air Quality Strategy – To mitigate for potential or identified adverse effects on air quality arising from additional development in the District... *

*[*Note: Text for DM2B1 to be completed once the strategy agreed & then to be cross-referenced to Policy DM 22]*

B2 – Epping Forest SAMM Strategy - To mitigate for potential or identified adverse recreational effects of additional development in the District, all residential developments within the zone of influence identified by visitor survey work are required to be mitigated for through SAMM measures. Developments are required to make a contribution in accordance with the SAMM strategy.

B3 – Epping Forest SANGs Strategy - To mitigate for potential or identified adverse recreational effects of additional development in the District, in particular from strategic developments, the Council will ensure provision of and access to sufficient Suitable Alternative Natural Green Space (SANGs). For Epping Forest SAC, SANGs provision should be in accordance with the agreed SANGs Strategy. This could involve:

- (i) providing new green spaces; or
- (ii) improving access to green spaces; or
- (iii) improving the recreation facilities, naturalness, and habitat quality at existing green spaces; or
- (iv) improving connectivity between green spaces where this would not contribute to a material increase in recreational pressure on designated sites.

[Notes and rationale to above proposed changes – the previous B and C have been combined to provide a logical explanation of the three strategy areas (now B1 to B3). The policy should be clear about the requirements of the Mitigation Strategies, which should be agreed before plan adoption. This then provides developers with the framework to which to adhere. Projects may need to be assessed in combination with activities that may not amount to ‘development’, and may occur across local authority boundaries, such as traffic and recreational pressure, and all impact pathways need to be considered in combination with each other, hence the proposed deletions in B].

- C. In recognition of the risks posed to Epping Forest SAC from urbanisation effects in close proximity, planning applications for development will not be permitted within the strategic exclusion zone **of xxxm**** perpendicular to the boundary of the Epping Forest SAC, unless in exceptional circumstances it can be demonstrated through project level HRA that the development is of a type that would not generate any such impacts.

****** *[**Notes on exclusion zone width and rationale to above proposed changes - The policy should set out the requirement for an exclusion zone. However, there is not currently sufficient evidence to justify the exact width of the exclusion zone. To determine the width, the updated HRA needs to provide evidence to support it. In doing so the HRA needs to consider the issues such as light pollution, pets, dumping of garden waste, spread of alien species from gardens, encroachments from properties and the other issues of urbanisation where the impacts can be directly attributed to the households and their close proximity. We would welcome the opportunity to further discuss the zone and available evidence, to support the HRA consultants in making recommendations for the appropriate distance].*

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Proposed policy Changes to DM22

- A. The Council will seek to ensure that the District is protected from the impacts of air pollution. Potential air pollution risks will need to be properly considered and adequate mitigation included in the design of new development to ensure neither future, nor existing residents, workers, visitors, or environmental receptors including the Epping Forest SAC are adversely impacted as a result of the development.
- B. Mitigation measures required will be determined by the scale of development, its location, the potential to cause air pollution, and the presence of sensitive receptors in the locality. Such requirements will include, where appropriate, measures identified within the most up-to-date Air Quality Mitigation Strategy for Epping Forest Special Area of Conservation which

will be in place by the time the local plan is adopted by the Council (as further updated during the life of the plan).

- C. Proposals that have potential to produce air pollution, will be required to undertake an air quality assessment that identifies the potential impact of the development, and where appropriate, make contributions towards air quality monitoring. Assessments shall identify mitigation measures that will address any deterioration in air quality as a result of the development, having taken into account all other material sources of pollution (such as air, sea and land transport, agriculture and existing and permitted developments), and these measures shall be incorporated into the development proposals. The assessment will include an assessment of emissions (including from traffic generation) and calculation of the cost of the development to the environment. All assessments for air quality shall be undertaken by competent persons.

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We hope this letter clarifies the key aspects of Policy wording changes both organisations feel are necessary. In the absence of finalised Mitigation Strategies, and a revised HRA, we have highlighted key areas for wording refinement only. We consider that the full policy wording and supporting text will need to be checked and updated to reflect the finalised underpinning documents, and, therefore, we have not commented in detail on all aspects of policy wording and supporting text. We would look forward to assisting the Council in this regard in the near future. Should you wish to discuss the matter further with Natural England or the City of London Corporation please contact Sarah Fraser for Natural England (e: sarah.fraser2@naturalengland.org.uk /t: 0208 0261725) or Jeremy Dagley for the City of London (Jeremy.dagley@cityoflondon.gov.uk /t: 020 8532 5313).

Kind Regards



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