

As invited by the appointed Inspector, the following provides the Council's response to several themes arising from representations on the Main Modifications consultation relating to the securing of mitigation to satisfy the Habitats Regulations, the Infrastructure Delivery Plan Schedules and the proposed early review mechanism.

Habitats Regulations

1. As a general comment it is ultimately for the Council, as competent authority, to be satisfied that the policies within the Plan, together with adopted strategies, are capable of securing the necessary mitigation to ensure that there will be no adverse effect on the integrity of the Epping Forest Special Area of Conservation arising from development in the Local Plan either alone or in combination with other plans and projects. The Council is satisfied that the combination of overarching policies (primarily DM2 and DM22) and the requirements set out in site specific policies when taken together provide a robust policy framework against which avoidance or mitigation measures are secured. The securing of measures is achieved through well-established mechanisms by way of planning conditions and Section 106 obligations. The Council considers that some suggestions from Natural England and the Conservators of Epping Forest that, for example, some policy wording should be amended from '...sought' to '...secured' (i.e. representations on MM25) is rather nuanced. Nevertheless, should the Inspector consider that a wording change is necessary to make the purpose and intention of policies clearer then the Council would have no objection to any such Modification. Notwithstanding this the Council has provided further commentary and suggested minimal potential Modifications in order to assist the Inspector.
2. The Council considers that it is important to recognise that there is no 'hierarchy' of approach within the Habitats Regulations but rather 'avoidance or mitigation' measures are equally appropriate.
3. All relevant planning applications are required to be supported by a site-specific Habitats Regulations Assessment (HRA). If at this point the development proposal is incapable of meeting the policy requirements such that a conclusion of 'no adverse effect' can be reached then the application would be refused. This is the ultimate 'fallback' situation.

Comments in relation to Air Quality matters as they relate to the Epping Forest Special Area of Conservation

4. In providing comment having had an opportunity to review the response to the Main Modifications by Natural England it is also noted that a similar response has been made by the Conservators of Epping Forest in relation to air quality matters.
5. To assist, the Council considers that the following paragraphs of the Habitats Regulations Assessment (HRA) 2021 (ED129A) are of particular relevance to the representations made by Natural England and the Conservators.

*Extract from HRA 2021 (ED129A) (page 158)
(Explanation of acronyms: CAZ - Clean Air Zone), ULEVs - Ultra Low Emission Vehicles and
SAC – Special Area of Conservation)*

“6.88 *Since the AECOM modelling indicates that both a CAZ and measures to achieve a shift of petrol cars to ULEVs by 2033 are required, the review targets against which effectiveness would be measured are proposed to be:*

- *A minimum 10% conversion of petrol cars to ULEVs by 2025, in other words, 4-5% of the Epping Forest SAC vehicle fleet to be ULEVs by this year;*
- *The introduction of a Clean Air Zone from 2025;*
- *A minimum 20% conversion of petrol cars to ULEVs by 2029 and the continued effectiveness of the CAZ in comparison to its modelled effectiveness; and*
- *A minimum 30% conversion of petrol cars to ULEVs by 2033 (12-15% of the Epping Forest SAC vehicle fleet being ULEVs by this year) and continued effectiveness of the CAZ in comparison to its modelled effectiveness.*

6.89 *Since there can be no absolute certainty the necessary percentage conversions of petrol cars to ULEVs (or comparable suppression of forecast additional trips) will be achieved, a safeguard is required to ensure no adverse effect on SAC integrity arises. Epping Forest District Council is introducing the initial pre-CAZ measures (i.e. those outlined in paragraph 6.76 above) and then monitor the effectiveness of those measures. If, by 2025, the 10% conversion (i.e. 4% of traffic being ULEVs) wasn't achieved then the Council, through 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, unless the forecast mitigated air quality results for 2025 were achieved by other means. Similarly, if the total package of mitigation measures including the CAZ did not appear to be on track to achieve the necessary air quality targets by 2029 and 2033 compared to their forecast effectiveness, the release of further growth would be contingent on alternative measures to achieve those targets being identified, unless the forecast mitigated air quality results for 2029/2033 were achieved by other means. This would therefore protect the SAC from the uncontrolled release of growth failing to keep pace with air quality improvements.*

6.90 *In addition to these targets, other factors could also result in the achievement of the air quality modelling predictions, such as a lower increase in traffic growth than that assumed in the modelling. Therefore, on site air quality and traffic monitoring will also be key elements in assessing effectiveness.”*

6. The adopted Air Pollution Mitigation Strategy (APMS) is currently an Interim Strategy which takes account of the proposed Main Modifications. It was prepared and adopted prior to the finalisation of the HRA 2021. The adoption of a final strategy has to be, by necessity, dependent on the findings of the Inspector’s Report with particular regard to the quantum and distribution of development to be allocated in the Local Plan. As such the recommendations of Natural England (MM112) could be accommodated through the incorporation of the review targets as set out in 6.88 and 6.89 of the HRA 2021 within Appendix 3 of the APMS. In doing so, the Council would also reflect the fact that should the forecast mitigated air quality results for 2025 be achieved by a conversion of ULEVs together with other measures that this would be equally valid in terms of the need to determine

whether or not a review and update of the Local Plan was required. As has been stated previously on-site monitoring, which is currently proposed to be undertaken in 2024/25, is the critical component of the evidence base needed to determine this. The approach the Council proposes to take in this regard is set out in Section 6: Monitoring and Review of the IAPMS. This Section could also be updated to include reference to the review targets identified in the HRA (or achievement of the forecast mitigated air quality results for 2025 as also referred to in paragraph 6.88 of the HRA 2021).

7. The Council will also take the opportunity to assess the appropriateness of 'bringing forward' the timescale for undertaking the on-site air quality monitoring currently proposed to be undertaken in 2024/25 so that evidence concerning the need for such measures as set out in the IAPMS is available before a Plan review may be triggered.

8. Taking such an approach would accord with the advice set out on pages 12-13 of Natural England's response to the Main Modifications. The Council considers that this would, as indicated by Natural England in its response, require some modification to the wording of policies in the emerging Local Plan. The Council's preference is that this is achieved through a modification to Policy D8 Part C third bullet point (MM112). Such an approach has been indicated in Natural England's response as being acceptable. In order to assist, the Council has set out a possible form of words below but would defer to the Inspector as to the final form of the wording if he/she considers that the above approach is necessary to address Natural England's (and the Conservators of Epping Forest's) continued concerns:

- the monitoring to be undertaken in the relevant adopted Mitigation Strategies as set out in Policy DM2, together with updated air quality modelling outputs and Habitat Regulations Assessment, indicates, that a delay in the delivery of the air quality review targets or achievement of the forecast mitigated air quality results, including for the 2024 interim year is such that the Council, as competent authority, can no longer conclude that the delivery of planned development will not cause adverse effects on the integrity of the Epping Forest Special Area of Conservation. This will include consideration of any delay in securing and delivering the required measures set out in those strategies. In considering these matters the Council will consult with Natural England and have regard to its advice.

9. The Inspector may find it helpful to know that a number of important actions identified within the IAPMS are now being taken forward. In particular:

- Essex County Council has commenced the development of a West Essex Transport model. The Council has been working closely with Essex County Council to ensure that the model will be capable of supporting the future air quality modelling needed. Of particular importance is that the model will be more 'sophisticated' than the current spreadsheet model used, including providing the ability to understand the effect of any CAZ in terms of the redistribution of trips. This joint working is a precursor to the establishment of the APMS Officer Working Group. However, a Portfolio Holder Advisory Group has been established, which includes elected representatives from the Council and Essex County Council, together with the Conservators of Epping Forest, and has met on a number of occasions in 2021.
- The Council has initiated the updating of the Transport Strategy for the Epping Forest in partnership with the Conservators of Epping Forest and Essex County Council.
- The Council has also undertaken [awareness-raising of air quality issues](#) and how residents and other stakeholders can support improvements as part of its consultation on a draft Climate Change Action Plan. This reflects the fact that many of the actions

that people can take will be beneficial for addressing both air quality and climate emergency impacts. The engagement programme has been extensive and practical information is now provided on the [Council's website](#) on how people can respond.

Suitable Alternative Natural Greenspaces (SANG) provision (and mitigating recreational impacts generally)

10. The Council has continued to work positively and constructively with Natural England and the Conservators of Epping Forest in relation to the Recreational Pressures Pathway of Impact. Both Natural England and the Conservators make specific reference as such within their representations in respect of Strategic Access Management and Monitoring (SAMM) measures. Indeed, the Technical Oversight Group which currently comprises the Corporation and six competent authorities, supported by Natural England, is presently refining the revised SAMM Strategy to supersede the 2018 Interim Approach to Recreational Pressure (EB134). Partners have also undertaken legal review of the draft Governance Agreement to deliver the SAMM Strategy with a view to sign-off by all partners in early 2022. As well as therefore establishing the process for the longer term, sign-off will be valuable in enabling the delivery of mitigation measures to commence. The Council has already secured monies that can be paid to the Corporation as Delivery Body upon the finalisation of governance arrangements. Since the submission of Natural England's representations on the Main Modifications the Council has undertaken a site visit with officers of Natural England to assess the efficacy of several of the proposed SANG and Infrastructure Enhancement Projects (IEP) as identified within the Council's adopted Green Infrastructure Strategy with a focus on North Weald Bassett and the Roding Valley Recreation Ground.

11. At page two of its response to the consultation on the Main Modifications Natural England states:

As set out in our advice dated the 5th March, the nature of a strategic land use plan is such that it is not reasonable to anticipate or require delivery of the measures relied upon to avoid adverse effects prior to plan adoption. It is settled case law that for a plan HRA a conditional commitment to development is acceptable¹. A plan can play its part in constraining development where clear and firm policies to eliminate the risk to a European site are included²; and the Council, as the competent authority, need to be satisfied that the measures they rely upon to avoid adverse effects are achievable in practice³. It is therefore possible to rely upon a policy specific caveat or restriction to provide the necessary confidence that adverse effects can be avoided. **It will be for the Council to provide the necessary reassurances to satisfy the Inspector that the mitigation measures relied upon to avoid adverse effects are achievable in practice and that policy caveats/restrictions can be relied upon to avoid adverse effects to site integrity.**

12. The Council considers that Policy DM2 (with particular regard to the inclusion of the adopted Green Infrastructure Strategy) and the relevant site specific policies as now proposed to be Modified provide clear and firm policies which will secure the delivery of SANG. It is not possible within the Plan itself, or in the adopted Green Infrastructure Strategy, to specify the exact quantum of SANG. This is because it will be dependent on the number of new homes that will be located on the relevant Masterplan sites. There is a particular complexity in that the 6.2km Zone of Influence (ZOI) bisects the Strategic Masterplan Areas of North Weald Bassett, Latton Priory and Water Lane (see attached map). Whilst the Council is encouraging the developers of the Masterplan sites to look to 'future-proof' their developments should the extent of the ZOI increase over the period of the Plan there is no legal requirement for

the developers to make such provision for residential development which does not fall within the ZOI. The Council has, and continues to adopt a cautious approach recognising that the ZOI could be subject to change but in drawing on established strategic approaches elsewhere (e.g. Thames Basin Heaths Special Protection Area) it is also not aware that other ZOIs having been altered to date following the adoption of a strategic solution. It will only be at the planning application stage that the quantum of residential development and therefore the quantum of SANG required by these sites will be known. Further detail is provided below to illustrate the specifics of this in relation to the Masterplan Areas referred:

North Weald Bassett Masterplan Area

Only some 10.7ha of gross developable area of NWB.R3 (one of the five sites making up the Masterplan Area with the other sites entirely outside of the ZOI) lies within the Epping Forest SAC 6.2km ZOI. An existing area of Natural Green Space of some 3.5ha which is owned by the Council is located immediately adjacent to the boundary of the site. Natural England has indicated that, given its location, attributes and apparent limited use, this could form part of any wider SANG offer that may be required. In addition, a further area of land owned by the Council also has potential for SANG which would continue the offer westwards.

The Inspector may also wish to be aware that the Council is taking a proactive approach by developing a detailed framework for the provision of both SANG and wider environmental and green infrastructure (GI) enhancements in North Weald Bassett as noted in a report to the Council's Cabinet on 8 November 2021. This is in order to create an integrated framework for providing new, and enhancing existing, GI provision to maximise opportunities to better integrate fragmented elements and help inform the development of the North Weald Masterplan in relation to GI and SANG provision.

Latton Priory Masterplan Area

The total area of the site within the 6.2km ZOI is some 56.37ha. Of this 29.7ha is Green Belt and 1.84ha comprises RUR.E19A/B. The site promoter has identified that the Green Belt land which is within its control is capable of being brought forward as SANG and has the necessary attributes.

Water Lane Masterplan Area

The gross developable area within the 6.2km ZOI is 12.18ha and it is considered that there is sufficient flexibility within the Masterplan Area to be able to provide for SANG with the necessary attributes.

South of Epping Masterplan Area

The reduction in the number of new homes to be delivered on the site as proposed through the Main Modifications has released an additional quantum of land that could be brought forward for SANG purposes.

Roding Valley Recreation Ground, Loughton/ Buckhurst Hill

The Roding Valley Recreation Ground IEP is of particular importance as its primary purpose is to act as further SANG beyond that provided by strategic sites. The project is identified in Part 4 of the Green Infrastructure Strategy (ED124F). The quantum of land that is available

for enhancements for SANG purposes is some 50ha (excluding a small amount of formal sports pitches/recreation facilities). The Council has, however, used different terminology in order to differentiate between new provision and enhancement of existing GI. Officers at Natural England have now been able to undertake a site visit and have indicated that the site has the necessary attributes to act as SANG including that it is within the ownership of the Council. In particular Natural England indicated that the site has the potential to accommodate a significant uplift in use subject to the implementation of enhancements (as outlined in the adopted Green Infrastructure Strategy) including the creation of a circular walk of at least 2.4km.



Aerial view of Roding Valley Playing Fields in Loughton

13. The site lies immediately adjacent to the built up areas of Loughton and Buckhurst Hill with direct links into the site from these areas at a number of points along its length which would make it accessible to new residents arising from sites proposed for allocation within the Loughton and Buckhurst Hill areas in particular but also from further afield. The potential additional carrying capacity is considered to be significant and further work is being undertaken to refine the final figure based on adopted approaches elsewhere. The Council considers that, with the enhancements proposed, it has the potential to absorb at least the additional recreational pressure arising from the 599 dwellings proposed for allocation in the Local Plan (based on the Main Modifications) within the Buckhurst Hill, Loughton and Theydon Bois areas and potentially significantly more. The Roding Valley Recreation Ground would therefore provide sufficient SANG provision for all new development within these locations.
14. The Council is considering the detailed enhancement plan and bringing together the key stakeholders. The site visit was an important first step in taking this forward. Financial contributions towards the enhancement of the site are already being secured (including from two sites in Loughton which were allowed on appeal in April 2021). This demonstrates the effectiveness of the emerging policies in securing funding towards the delivery of the Project.

15. In addition to the above SANG opportunities, the Conservators of Epping Forest reference the potential importance of some of the Epping Forest Buffer Lands. It is understood that the Conservators are now formally exploring the development of a number of initiatives, including for access enhancement, on land within its ownership at Copped Hall. The site lies outside of the Epping Forest SAC within Epping Forest District. The Council is of the view that this initiative has the potential to provide further SANG opportunities over the course of the Plan period and the Council is committed to working with the Conservators on longer term opportunities that may arise. [The relevant report](#) was considered by the City of London Epping Forest and Commons Committee on 12 July 2021 (Item 11 paras 36-44 Pages 204-205). The published Minutes can be viewed [here](#).
16. As can be seen, the Council is not relying solely on the delivery of SAMMs measures to avoid or mitigate any adverse effects on the Epping Forest SAC in respect of recreational pressures. Instead the approach focuses on:
- the delivery of site-specific SANG at Latton Priory, Water Lane, North Weald Bassett and South of Epping;
 - A bespoke approach for the Waltham Abbey North Masterplan area recognising its extremely close proximity to the Lea Valley Regional Park (as per MM82);
 - the delivery of the Roding Valley Recreation Ground Infrastructure Enhancement Project; and
 - working with key stakeholders to identify longer-term opportunities for the enhancement of GI.
17. The Council has assessed the overall quantum of development to be allocated in the emerging Local Plan that falls within the 6.2km ZOI. The quantum of development outside of the Masterplan Areas but within the ZOI amounts to some 1,043 dwellings. Based on the potential additional carrying capacity for the Roding Valley Recreation Ground, and the potential for additional enhancement projects such as at Copped Hall, the provision of further SANG at North Weald on land within the Council's ownership, the likely scale of the SANG provision at Latton Priory and the delivery of SAMMs measures, the Council considers that it can demonstrate a robust and deliverable approach to avoiding or mitigating the recreational impacts of Local Plan development on the Epping Forest SAC.
18. Notwithstanding the above the Council recognises the importance of securing and delivering SANG as part of the relevant Masterplan Areas. Recognising the on-going concerns raised by Natural England and the Conservators in relation to the delivery of site-specific SANG, should the Inspector consider it to be necessary and appropriate, then the Council would suggest that modifications could be made to include case-specific policy restrictions as follows:
- Policy SP4 New Part after Part B
With regard to any proposed development at Latton Priory and the Water Lane Area, development proposals will only be in accordance with this Plan and will only be granted planning permission if there would be no adverse effect on the integrity of the Epping Forest Special Area of Conservation, either alone or in combination with other plans or projects.
- Policy P1 Epping addition to 'New Parts after Part L' outlined in the Main Modifications Schedule
With regard to any proposed development in relation to the Masterplan Area, development proposals will only be in accordance with this Plan and will only be granted planning

permission if there would be no adverse effect on the integrity of the Epping Forest Special Area of Conservation, either alone or in combination with other plans or projects.

Policy P6 North Weald Bassett New Part after Part L

With regard to any proposed development in relation to the Masterplan Area, development proposals will only be in accordance with this Plan and will only be granted planning permission if there would be no adverse effect on the integrity of the Epping Forest Special Area of Conservation, either alone or in combination with other plans or projects.

Viability Considerations

19. The Council considers that the most up-to-date Viability Assessment (ED116) to support the emerging Local Plan has adequately assessed the impacts of the delivery of measures necessary to mitigate or avoid the effects of Local Plan development on the Epping Forest SAC. As some costs were unknown at the time sensitivity testing was undertaken which was at a level of contribution which was higher than is now being sought. Furthermore, as with any Local Plan Viability assessment, a 'contingency' factor was built in. The Viability Assessment demonstrates that the mitigation and avoidance measures do not impact on the viability of the Local Plan.

Infrastructure Delivery Plan (IDP) Schedules

20. As reflected within MM18 IDPs are live documents and by their very nature provide a 'snapshot in time'. As different infrastructure providers respond to their own unique challenges, the information that they provide will naturally date and alter. MM18, reflecting the Inspector's Interim findings, also clarifies the Council's approach in respect of the District's IDP and the Harlow and Gilston Garden Town IDP.
21. The Council considers that there is more than sufficient clarity and certainty within the Local Plan and the IDPs in relation to infrastructure requirements and funding to facilitate the future delivery of infrastructure required to support planned growth and deliver sustainable development.
22. It is not possible, appropriate or desirable to be completely prescriptive at the plan-making stage. This is because circumstances may change. For instance, new external funding sources may become available, allocated sites may not deliver, or may deliver a different quantum of housing than originally anticipated. In addition, detailed developer contributions can only be agreed once planning proposals reach a detailed stage, and it is not possible to plan for precise details at this stage.
23. However, Policy D1 as proposed to be amended by MM105, together with the commensurate Main Modifications to individual site allocations, ensures compliance with the IDP Schedules whilst allowing flexibility where subsequent iterations of the IDP Schedules or discussions with providers determine that these requirements have changed.

Proposed early review mechanism

24. As detailed above, the Council considers that the concerns of Natural England can be addressed through a further modification to Policy D8 Part C third bullet point.
25. The Council considers that Policy D8 establishes a clear, consistent and agreed basis for a future review of the Local Plan which is consistent with the NPPF. The proposed policy includes arrangements for Local Plan review and outlines the range of considerations that the Council would take into account in determining whether or not policies will require updating. The Policy also sets out specific instances which would trigger an earlier review of relevant policies within the Local Plan.