

Inspector's note to Epping Forest District Council

16 June 2022

I am very pleased to have been appointed to continue the examination into the Epping Forest Local Plan. My aim is to help the Council bring the plan to an adoptable state as soon as possible.

I have read the examination documents and have now considered all the comments made on the main modifications consultation, and as I have been newly appointed to complete the examination, I have reviewed the position more widely. It is clear that changes are required to both the text of the submitted plan and to those main modifications that have already been published in document ED130, in order to meet the tests of soundness set out in the National Planning Policy Framework.

These changes are set out in the schedule in Appendix 1, attached to this note. The schedule is in plan order for simplicity's sake and is cross referenced to Policy, Page and Main Modification number. It refers to both text in the submitted plan and to text in the published Main Modifications. It contains a set of actions and text changes which I hope are clear enough to be speedily implemented.

It is recommended that a completely new schedule of main modifications is produced. I will need to see and agree detailed wording before it is published for consultation, but as I have provided replacement text where possible to help the Council, I expect the wording to be quickly resolved.

The new schedule of main modifications will need to be distinguished from the schedule set out in ED130, but it will be convenient to use the same main modification numbers as the previously published set.

I accept that this will take a little time to carry out, but it is necessary so that the Council can adopt a robust plan that provides an effective basis for determining planning applications. At the present time, subject to the adequate demonstration of a rolling 5 year housing land supply, I can see no reason why the plan should not reach the stage where it can be adopted by this autumn.

It will be seen that there are recurrent themes throughout. These can be summarised as follows.

Use Classes

Notwithstanding the Council's response in document ED123B to Inspector Phillips' question regarding the changes in the Use Classes Order, it is clear that a number of policies are ineffective because they refer to revoked Use Classes. This can generally be simply remedied by inserting references to Class E, as indicated in the Appendix to this note, and the Council should make the relevant changes.

Housing delivery

I need to be satisfied that a 5 year housing land supply will be available on the adoption of the plan and can be maintained thereafter, so the Council need to produce a detailed calculation including new site capacities and up to date completions, based on an anticipated plan adoption date of Autumn 2022. This is particularly important given that the number of homes allocated by the plan has decreased as a result of the modifications. Once this is received, I may have further questions.

Non-statutory documents

A common theme is that the plan requires development to be in accordance with (or be in general conformity with) documents such as the Infrastructure Delivery Schedule, Concept Frameworks, Strategic Masterplans, and the Air Pollution Mitigation Strategy. Whilst these documents might be material considerations in planning decisions, they have not gone through the rigours of development plan production and examination, and do not carry the status or weight of the development plan. The plan cannot therefore require development to be in accordance, or in general conformity, with them. I have set out alternative wording in the Appendix to this note.

The protection of the Epping Forest SAC

As the Council rightly point out in document ED139, all relevant planning applications are required to be supported by a site-specific Habitats Regulations Assessment (and appropriate assessment). If development is incapable of meeting the policy requirements, such that a conclusion of “no adverse effect” cannot be reached, then the application will be refused. This in itself is sufficient to ensure that the plan will not have an adverse effect on the integrity of the SAC. With this in mind I have provided the Council with new wording for Policy DM2, set out in the Appendix to this note. This will serve to prevent harm to the integrity of the SAC. Policy DM2 needs to be worded in a brief and simple manner so that this point is completely clear.

An unnecessary amount of wording has been introduced into Policy DM2 and Policy DM22 and their supporting text through previous main modifications, much of which is repetitive and is not required to make the plan sound. The additions in fact undermine the effectiveness of these policies, and undue weight is placed on compliance with non-statutory documents. The text for Policy DM2 set out in the Appendix to this document is a simple and effective way of ensuring no harm to the integrity of the SAC. Policy DM22 addresses different air quality issues and should not deal with the SAC.

Zone of Influence for the Epping Forest SAC

Communities and developers need to be able to plan on the basis of sound evidence available at the present time and the policies in the plan need to be applied in a consistent manner. The current Zone of Influence should therefore be the basis for seeking mitigation measures for all the site allocations for the life of the plan. It is not sound for the plan to suggest, as it does in a number of places, that the Zone of Influence might change. Any such change would not have been subject to rigorous examination and would introduce uncertainty into the plan by potentially imposing a different and currently unknown pattern of mitigation requirements during the life of the plan.

Energy and renewables

The requirement for all parking spaces in new development (of whatever kind and purpose) to have access to an electric charging point is unnecessary because this issue is being addressed by the Building Regulations.

The requirement for all major sites to (in effect) be self-sufficient in meeting all their energy needs is neither realistic nor founded on satisfactory evidence. Changes to these policies are addressed in the Appendix to this note.

Site allocations

Outstanding issues concerning the South Epping Masterplan Area include the justification for the site capacity figures, the relationship with the air quality monitoring exercise referred to by the Council and its effect on housing delivery, and the question of whether the approach to this site is consistent with that of other sites. Rather than re-iterate the points here, they are set out in detail in the Appendix to this note.

Policy RUR.R1 as modified is ineffective; being a development allocation it cannot remain in the Green Belt; alternatively, the allocation should not be made.

Review

It is not appropriate to insert a plan review requirement based on the outcome of future air quality monitoring. It would undermine the plan; the implication that the plan's current provisions could be removed in certain circumstances would create uncertainty which would act as a potential deterrent to investment and implementation.

If individual schemes were unable to demonstrate (in accordance with Policy DM2) that they would not cause harm to the integrity of the SAC, they would not be able to come forward. If that were to lead to a shortfall in housing supply, a review would be triggered. It follows that the review triggers based on housing delivery and supply are adequate in themselves.

Other matters

There are several other points which are picked up in the Appendix and will not be repeated here.

Conclusion

I would be grateful if the Council could carefully consider all the points raised in this note and in the Appendix and reply to me in due course with proposed modified text. This should not be presented as "modifications to the modifications" because of the potential for confusion. Rather, as I indicated above, there needs to be a completely new schedule of main modifications to the submitted plan, encompassing all the changes to the plan, clearly distinguishable from the set in document ED130 but keeping to the same MM numbers if practical to do so. This will ensure that there is one clear set of changes, paving the way for my final report and for the plan to move to adoption.

Please can the Council also respond to the small number of questions I have raised in the Appendix, the most significant of which relate to the South Epping Masterplan Area and to housing land supply.

Provided the Council can produce appropriately modified text as indicated in the Appendix, a sound and effective approach to the South Epping Masterplan Area, and convincing evidence in respect of housing land supply, further hearings will probably not be needed and I am hopeful that the outstanding issues can be speedily resolved. I am not inviting comments from any other party at this time. The new schedule of main modifications will be subject to public consultation.

Jonathan Bore

INSPECTOR

APPENDIX

Schedule of changes required, and Inspector's questions

This schedule contains cross references to both the submitted plan and to the previously published schedule of main modifications (ED130).

Plan page	Policy or para	MM	Comment
30	Table 2.5 and para 2.72	13	<p>EMPLOYMENT LAND Employment land requirements refer to B Class office uses. However, these now fall within Class E.</p> <p>Action 1: change references from Use Class B to Use Class E. See also note on Policy E 1 and supporting text below.</p>
31	Policy SP2, Table 2.3 and Appendix 5	15	<p>SPATIAL DEVELOPMENT STRATEGY AND HOUSING LAND SUPPLY In view of the reduction in the number of homes allocated by the plan, please will the Council provide me with an up-to-date and realistic site by site housing delivery schedule with commentary and, related to that, a year-by-year calculation demonstrating that a 5 year housing land supply will exist from the adoption date of the plan and will be maintained. This calculation should be carried out against the criteria accepted by Inspector Phillips: ie the Liverpool approach and stepped trajectory.</p> <p>Action 2: submit supply calculations and trajectory as indicated; I may have further questions following its receipt.</p> <p>The sequential approach in Part A of Policy SP2 is not appropriate as a policy. The reason for this is that any sites that come forward will be determined according to the plan's allocations and DM policies and cannot reasonably be subjected to a further sequential test against all other potential locations. So the sequential approach here has no value as a development management tool and could potentially cause confusion and uncertainty.</p> <p>Action 3: remove the sequential approach from Part A in the interests of the plan's effectiveness. The policy should read "Within the period 2011-2033 the Local Plan will provide for a minimum of 11,400 homes, including a minimum of 2,851 new affordable homes between 2016-2033." [Then go straight to Parts B and C.]</p>
Various	SP3, 6.28 to 6.30 and Policy D2	16, 17, 107, 108	<p>PLACE SHAPING It is unclear why the text and policy on health has been moved from its logical position in Policy D 2, which is about essential facilities including health and educational facilities, to SP3 which is entitled "Place Shaping" where it sits less easily. This</p>

			<p>change is not necessary for the plan to be sound and I am not likely to recommend it.</p> <p>Action 4: do not include this as a main modification; in other words, the submitted plan does not change.</p>
34	New para after 2.91 and Policy SP3 Part H after (xiv)	16, 17	<p>PLACE SHAPING</p> <p>The Active Design Principles are not part of any examined planning document and have the status of other parties' guidance, rather than planning policy, so the plan cannot require development to incorporate them.</p> <p>Action 5: replace "incorporate" with "have regard to" in supporting text and policy in the interests of soundness.</p>
36	2.99 - 2.100	16	<p>PLACE SHAPING</p> <p>The concept framework plans are not part of the development plan and planning applications cannot be required to conform with them or even be in "general conformity" with them. The same point is picked up below against the West Ongar and South Nazeing site allocations.</p> <p>Action 6: change the wording to "have regard to" in the interests of soundness.</p>
38	After 2.117 and 2.118 and Policy SP4	18, 19	<p>GARDEN TOWN COMMUNITIES</p> <p>Apart from the motorway junction, the main modification is not clear enough as to what elements of sustainable transport will need to be provided at first occupation and it is also unclear whether such a requirement has been viability tested.</p> <p>Action 7: replace this requirement by one which seeks appropriate sustainable transport provision commensurate with the phasing of development. Discussions on the timing of sustainable transport provision should take place at the time of any planning application. This is a similar point to that in Policy DM18, MM68.</p>
38	After 2.118	18	<p>GARDEN TOWN COMMUNITIES</p> <p>The new paragraph referring to the HGGT IDP is just descriptive text. It is not required for soundness and I am not likely to recommend it.</p> <p>Action 8: remove from the list of main modifications; the submitted plan does not change.</p>
41	Policy SP4 after (xvi)	19	<p>GARDEN TOWN COMMUNITIES</p> <p>The new paragraph relating to heritage impact assessments contains an incorrect summary of national policy and is therefore not sound. Also, an "impact assessment" represents a reactive rather than proactive approach.</p>

			<p>Action 9: replace the paragraph with: "Develop a positive and coordinated approach towards the conservation and enhancement of heritage assets and their settings in accordance with national policy".</p>
42	Policy SP5 D	21	<p>GARDEN TOWN COMMUNITIES</p> <p>The plan cannot require development to be in general conformity with a strategic masterplan because the latter is not part of the development plan and has not been through the rigours of examination.</p> <p>Action 10: replace "Development proposals ... will be required ... endorsed by the Council" with "Planning applications for ... should be accompanied by and have regard to a strategic masterplan which will accommodate the development requirements set out in this policy."</p>
51	SP6 supporting text RUR.R1 And Policies Map	22, 209	<p>GREEN BELT AND SITE RUR.R1</p> <p>The plan proposes to remove RUR.R1 from the Green Belt and allocate it for development with an approximate capacity of 11 homes. However, MM22, whilst retaining the allocation, seeks to keep the site in the Green Belt and requires very special circumstances to be shown in order to develop it. This is not sound. The allocation of a site for development is an acceptance by the Council that development can go ahead and should leave no uncertainty as to whether development is acceptable.</p> <p>Action 11: provided the Council consider that there are exceptional circumstances for changing the Green Belt boundary to accommodate development on this site, the site should be taken out of the Green Belt and allocated for development as per the submitted plan. If the Council do not consider that there are exceptional circumstances, the allocation should be deleted. The Council's response is invited, together with supporting evidence.</p>
64-65	Paras 3.43 to 3.49 and all modified text and paragraphs Table 3.41 Policy E1	33, 34	<p>EMPLOYMENT SITES</p> <p>There are repeated references to B Class uses in existing and modified text but for effectiveness this must change because only B2 and B8 survive from the old B Class. References to B1, B1(a), B1(b) and B1(c) must be replaced with references to Use Class E. Note: in re-casting the policy and text, no distinction should be made between the various sub-categories of Class E because changes within Class E do not constitute development.</p> <p>"Employment site" and "employment use" are not defined so it is unclear what kinds of use and development this policy refers to. Either the headings and text should refer to "Commercial, Business and Service, General Industrial, Storage and Distribution" or the terms "employment site" and</p>

			<p>"employment use" may be retained provided a definition is inserted into the Glossary indicating that employment uses include all those within Classes E, B2 and B8 of the Use Classes Order and that employment sites are sites that contain a predominance of such uses.</p> <p>Action 12: incorporate the changes described above into the supporting paragraphs, the policy, the table and, if required, the glossary.</p>
66	Policy E2	36	<p>RETAIL POLICY</p> <p>Part B of Policy E2 appears robust enough to work within the context of new Use Class E but the additional vitality and viability test for acceptability should be deleted for effectiveness because these are all uses appropriate to a town centre and there is no clarity for a developer as to what is required to meet such a test.</p> <p>Action 13: remove the vitality and viability test.</p> <p>Parts C and D of the policy are no longer effective because Use Class A1 does not exist.</p> <p>Action 14: in both, all references to "A1" should be replaced by "E". Similarly, "retail" (as in "retail frontage") should be replaced with "commercial, business and service". There should be no attempt to distinguish between different elements within Class E because changes within Use Class E do not constitute development.</p> <p>Part F, including the modifications, has been rendered redundant by Class MA of the Town and Country Planning (General Permitted Development) Order 2015 as amended, which allows changes of use from Class E to Class C3 (dwellinghouses) subject to certain conditions. The loss of town centre uses, floorspace or frontage is not a condition within MA.2.</p> <p>Action 15: delete Part F (and do not adopt the previously worded modifications).</p> <p>Part G should be re-cast to refer to Use Class F which includes small shops selling essential goods for the local community.</p> <p>Action 16: create a main modification to this effect.</p> <p>Part H still appears relevant.</p>
73, 75	Amendment to para 3.90 and Policy	40, 41	<p>ELECTRIC CHARGING POINTS</p> <p>MM40 and MM41 require all parking spaces in all new developments to have direct access to electric charging points.</p>

	T1 Part G		<p>There is an issue about the appropriateness of applying this to all new developments given their differing parking and charging needs, as well as ambiguity in what is meant by "direct access to". However, this matter is about to be covered by the building regulations so this requirement should be deleted as a policy.</p> <p>Action 17: Delete the requirement for all parking spaces to have direct access to electric charging points.</p>
75	Policy T1 Part F (iv)	41	<p>TRANSPORT AND PARKING</p> <p>The plan cannot require parking "in accordance with" adopted parking standards because these are not a development plan document and have not been examined.</p> <p>Action 18: replace "in accordance with" with "having regard to".</p>
82	First new paragraph after para 4.23	46	<p>EPPING FOREST SAC</p> <p>The plan itself establishes the quantum and location of development. Subsequent outputs from the monitoring framework cannot change the location of development or alter the quantum of development from the plan's provisions (though those provisions may themselves allow for increases above defined thresholds in clearly defined circumstances).</p> <p>Action 19: end the paragraph at "APMS". Delete "or the Local Plan ... development being proposed."</p>
82	Second new paragraph after para 4.23	46	<p>EPPING FOREST SAC</p> <p>The plan cannot be based on a moveable zone of influence because that leaves too much uncertainty for developers who need to plan their sites on the basis of current requirements.</p> <p>Action 20: delete "The current zone of influence is the Monitoring Framework for the Forest" and replace with "The zone of influence for the purposes of this plan is 6.2km".</p>
82	Policy DM2 Part B, B1, B2 and B3	47	<p>EPPING FOREST SAC</p> <p><u>The key policy element is in the first sentence of Part B. This is the main mechanism by which harm to the SAC and SPA will be prevented.</u> It is perfectly sufficient to say this:</p> <p><i>"New development that would [not will] have an adverse effect on the integrity of the Epping Forest Special Area for Conservation or the Lee Valley Special Protection Area, either alone or in combination with other plans or projects, will not be permitted unless mitigation measures, on-site and off-site as appropriate, are put in place to ensure that there will be no harm to the integrity of these areas. Contributions towards off-site measures to mitigate the likely impacts of air pollution and</i></p>

		<p><i>adverse recreational effects arising from a development will be sought where these are necessary to make the development acceptable, are directly related to the development and are fairly and reasonably related in scale to the development.”</i></p> <p>That is all that is required for Part B of the policy to be sound and fully effective and for the local plan to safeguard impacts on the SACs.</p> <p>It is not necessary to repeat the requirement in each site-specific policy because the plan is read as a whole and each development must comply with Policy DM2. It is not necessary to add further parts of Policies SP 4, P 1 and P 6 as suggested by document ED139. Each development giving rise to likely significant effects will need to have an appropriate assessment and suitable measures devised to ensure the integrity of the protected areas is not adversely affected.</p> <p>The reference to the Council’s mitigation strategies for the Epping Forest SAC should be put into the supporting text in brief. They are not examined documents and cannot form part of local plan policy. In any case it is noted that the air quality mitigation strategy is not finalised; certain aspects such as the CAZ have not been fully worked through, and consultation and technical modelling are likely to be required, notably involving Essex County Council who are currently an objector to that aspect of the air quality strategy. Moreover, this is a fast moving subject, with ongoing rapid take up of fully electric vehicles in response to technical improvements, increasing fuel costs and changing social attitudes: see https://www.gov.uk/government/statistics/vehicle-licensing-statistics-2021/vehicle-licensing-statistics-2021</p> <p>There was a 76% annual increase in battery electric vehicle registrations in 2021 and a 1,726% increase in such registrations over the 5 years to 2021. Additional statistics for Q1 of 2022 will be available in July 2022 but the trend is expected to continue on a rapid upward trajectory.</p> <p>In addition, the focus needs to be on impacts, not outputs. So it is not appropriate to require mitigation in respect of all developments giving rise to a net increase in traffic. The issue is whether emissions from vehicles associated with such developments will harm the integrity of the SAC, not whether they give rise to extra traffic per se. This point comes up again in the proposed new paragraphs following paragraph 4.163 (MM74). Specific mitigation measures will need to be put forward for each development at the time of the application, with the strategies providing guidance and overview.</p>
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			<p>For all these reasons it is inappropriate to say in Policy DM2 (and elsewhere) that mitigation measures should be “in accordance with” such strategies.</p> <p>Action 21: delete Part B, B1, B2 and B3 and replace them with the text set out in italics above. Include a modified version of Parts B1, B2 and B3 in the supporting text, taking account of the comments above.</p>
82	Policy DM2 part C	47	<p>EPPING FOREST SAC</p> <p>Perpendicular can be construed as vertically above.</p> <p>Action 22: modify the policy to read “within 400 metres of the boundary of the Epping Forest SAC” in the interests of clarity.</p>
105	Policy DM18	68	<p>WATER INFRASTRUCTURE</p> <p>MM68 needs to recognise the role of phasing in the delivery of water infrastructure. This is a similar point to Policy SP 4, MM19.</p> <p>Action 23: after “in advance of occupation of development” add “or at an agreed point where development is phased”. The final sentence “failure to do so...occupation of development” should be deleted.</p>
107-108	Para 4.149 Policy DM20	71, 72	<p>RENEWABLE ENERGY</p> <p>The requirement in paragraph 4.149 for all major development (the definition of major development being as small as developments of 10 or more homes) to incorporate site wide communal energy systems that serve all energy demands from within the development is highly unrealistic particularly when it is considered that “all energy demands” includes heating, lighting, energy required for cooking and other appliances, and the supply of electricity to vehicle charge points. The warning about the use of biomass which has been inserted into paragraph 4.149 is unnecessary because the plan already contains policies which prevent harm to the integrity of the SAC. Part E of the policy is unnecessary as it is background material that focuses on only one possible supply of energy.</p> <p>Having regard to Inspector Ms Phillips’ clear post-hearing advice in paragraph 82 and Action 10, both the supporting text and Policy DM 20 are still too focused on district heating and cooling systems. There are other possibilities for renewable energy generation as well as the promotion of energy efficiency in new development and it should be recognised that whilst encouraging renewables is beneficial, energy self-sufficiency on a site-by-site basis is an unrealistic and unnecessary strategy given both growing future energy demands and the potential for major future national and indeed international sources of renewable energy generation.</p>

			<p>Action 24: re-write and reduce 4.149 and Policy DM 20, creating a much shorter policy that simply seeks the incorporation of renewable energy installations and energy efficiency measures in new development.</p>
110	Additional paragraphs before para 4.156	74	<p>AIR QUALITY MM74 adds four new descriptive paragraphs about different kinds of pollution. These are not necessary to make the plan sound and I am not going to recommend their inclusion.</p> <p>Action 25: delete the four additional paragraphs before 4.156.</p>
111	Para 4.162	74	<p>AIR QUALITY As the plan as a whole is based on sustainability objectives, it is misleading to single out a few policies that contribute to those objectives.</p> <p>Action 26: do not include the additional list of policies added to paragraph 4.162 and delete the sentence in paragraph 4.162 of the submitted plan which refers to Policies SP 2 and T 1.</p>
111	Policy DM22 and proposed new paragraphs following paragraph 4.163	74	<p>AIR QUALITY This section mixes up the effects on the SAC with other air pollution issues. As the Epping Forest SAC has its own specific policy in Policy DM2, SAC issues should not be re-visited in Policy DM22 or its supporting text. This creates a lot of confusion and raises the potential for inconsistency and argument.</p> <p>Action 27: strip out all references to the Epping Forest SAC from Policy DM22 and its supporting text. That includes all the references that have been added in as part of previous modifications. Simply cross-refer the reader to Policy DM2. See commentary on plan p82/MM47/Action 21 above.</p> <p>The second new paragraph in the supporting text after paragraph 4.163 gives some examples of pollution generation including pollution controllable under other legislation. It is not required for soundness and I will not be recommending its inclusion.</p> <p>Action 28: delete this paragraph. Retain the third paragraph which refers to validation requirements.</p>
116-117	Policy P1 and supporting text	78	<p>SOUTH EPPING MASTERPLAN AREA The number of homes allocated in the South Epping Masterplan Area has been reduced by the main modifications from 950 to 450. However, document ED120 has been submitted on behalf of the developers containing a capacity analysis pointing to the potential for the site to accommodate</p>

		<p>735-829 dwellings, or 650 if a new primary school is required. The Council's response document ED133 re-iterates the figure of 450.</p> <p>Action 29: please may I see the Council's detailed analysis of document ED120 that underpins its conclusions in ED133.</p> <p>The proposed new part of the policy after Part L appears to prevent any application for permission being determined until the results of air quality monitoring in 2024/25. The first rather fundamental point is that policy cannot prevent any statutory procedure under the Planning Acts from being discharged. The second, more practical point, is that there is no indication as to the relevance of 2024/25, nor would an applicant have any control over the time interval from monitoring to analysis and publication. Given the length of time it would take (even after publication) for the applicant to obtain the full range of permissions and consents, negotiate the s106 process and put the contracts in place, the effect of this requirement appears largely to negate the contribution of this site to the housing trajectory within the plan period.</p> <p>A third point is one of inconsistency: there is a question as to why this restriction is solely applied to this site when there are other development sites capable of having an impact on the SAC.</p> <p>Moreover, there appears to be inconsistency between the main modification which prevents any development from taking place at all pre-monitoring, and what the Council says in ED133. This says "The proposed approximate capacity of 450 new dwellings is predicated on the current assessment of constraints ... However, the Council recognises that there may be the potential for the SEMPA to deliver an increased number of dwellings to the 450 ... any increase would need to be justified through the submission of a robust Appropriate Assessment.." ED133 therefore says something quite different from Policy P1 as modified because it appears to accept the 450 dwellings as a baseline predicated on the current assessment, with any additional dwellings over and above the 450 being predicated on air quality monitoring in 2024/25. Perhaps this is what the modification to Policy P1 meant to say?</p> <p>Action 30: the allocation needs to be demonstrably capable of a meaningful contribution towards housing supply in the plan period and its commencement should not be predicated on mid-term monitoring, the outcome of which cannot be known; the trigger which would allow for an increase in development over the figure of 450 homes needs to be clearly set out; and</p>
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			<p>the approach to this site needs to be consistent with that for other sites.</p> <p>Part J of the policy requires development proposals to be in general conformity with a strategic masterplan. The way the policy and text are phrased, the plan seeks to give the masterplan in effect development plan status, requiring it to have been formally endorsed prior to the determination of any planning applications. Any such masterplan would be non-statutory and the development plan cannot require applications to comply with it. Nor can this policy prevent the determination of any planning application for the site. The appropriate approach is to allow the masterplan to come forward as part of the normal planning application process.</p> <p>Action 31: The policy should state that planning applications should be accompanied by and have regard to a masterplan which takes into account the requirements of the wider defined area as set out in Policy P1. This masterplan should be subject (as Part L says) to consideration by the Quality Review Panel and should also be subject to public consultation, including consultation with all those with a development interest in the defined area. See also comments on Policy P6.</p>
122	Policy P2	79	<p>LOUGHTON</p> <p>Inspector Phillips' Action 17 was to consider imposing a height limit and Action 18 was to seek a statement of common ground with TfL. But both sites LOU.R1 and LOU.R2 have been deleted.</p> <p>Action 32: please can the Council provide me with the background that led to this decision and any SOCG with TfL (or details of any attempt to draw one up).</p>
134	Policy P4, new paragraph after 5.69	83	<p>ONGAR / ZoI</p> <p>The inappropriateness of a variable Zone of Influence has been discussed above in connection with MM46.</p> <p>Action 33: delete the proposed new paragraph after 5.69.</p>
134-135	Policy P4	84	<p>ONGAR</p> <p>Action 34: please will the Council confirm that Part D(ii) of this policy remains as a consequence of the modifications.</p>
135	Policy P4 I	84	<p>ONGAR</p> <p>The plan cannot require development proposals to be in accordance with (or even in general conformity with) a concept framework which has previously been endorsed by the Council since such a framework will not have the status of a development plan. Nor can this policy prevent the</p>

			<p>determination of any planning application prior to the endorsement of a concept framework by the Council. The appropriate approach is to allow the concept framework to come forward as part of the normal planning application process.</p> <p>Action 35: the policy should state that planning applications should be accompanied by and have regard to a concept framework which takes into account the requirements of the wider defined area as set out in Policy P4. The concept framework should be subject (as Part K says) to consideration by the Quality Review Panel and should also be subject to public consultation, including consultation with all those with a development interest in the defined area.</p>
142-144	Policy P6 parts K and L, paragraph 5.92, additional paragraph following 5.93	86, 87	<p>NORTH WEALD BASSETT</p> <p>As with Policy P 1, this policy takes an unsound approach in respect of the requirement for a strategic masterplan. The way the policy and text are phrased, the plan seeks to give the masterplan in effect development plan status, requiring proposals to be in general conformity with it despite it being a non-statutory document and requiring certain details (including the access to site NWB.T1) to be precisely in accordance with it.</p> <p>The appropriate approach is to allow the masterplan to come forward as part of the normal planning application process.</p> <p>Action 36: the policy and supporting text should state that planning applications should be accompanied by and have regard to a masterplan which takes into account the requirements of the wider defined area as set out in Policy P6. This masterplan should be subject (as Part M says) to consideration by the Quality Review Panel and should also be subject to public consultation, including consultation with all those with a development interest in the defined area.</p>
143	Policy P6 D	87	<p>NORTH WEALD BASSETT</p> <p>The modification and Part O refer to Use Class B1 which has been revoked.</p> <p>Action 37: delete the reference to B1 and replace with Use Class E.</p>
154	New paragraph after 5.131	91	<p>ROYDON</p> <p>The inappropriateness of a variable Zone of Influence for planning purposes has already been commented upon.</p> <p>Action 38: remove this new paragraph entirely.</p>

157	New paragraph after 5.143	93	<p>NAZEING</p> <p>The inappropriateness of a variable Zone of Influence for planning purposes has already been commented upon.</p> <p>Action 39: remove this new paragraph entirely.</p>
158	Policy P10 Parts H-J and 5.138	94	<p>NAZEING</p> <p>This approach is similar to that in Policy P4 and suffers from the same defect. The plan cannot require development proposals to be in accordance with (or even in general conformity with) a concept framework which has previously been endorsed by the Council since such a framework will not have the status of a development plan.</p> <p>Action 40: as with Policy P4, the policy should state that planning applications should be accompanied by and have regard to a concept framework which takes into account the requirements of the wider defined area as set out in Policy P4. The concept framework should be subject (as Part K says) to consideration by the Quality Review Panel and should also be subject to public consultation, including consultation with all those with a development interest in the defined area.</p>
164	New paragraph after 5.161	97	<p>COOPERSALE, FYFIELD ETC</p> <p>The inappropriateness of a variable Zone of Influence for planning purposes has already been commented upon.</p> <p>Action 41: remove this new paragraph entirely.</p>
173, 174	5.169 And Policy P13 D	99	<p>RURAL SITES IN THE EAST OF THE DISTRICT</p> <p>The modifications refer to Use Classes B1(a) and B1(b), both of which have been revoked.</p> <p>Action 42: replace the outdated references with a reference to Use Class E.</p>
173	New paragraph after 5.170	99	<p>RURAL SITES IN THE EAST OF THE DISTRICT</p> <p>The inappropriateness of a variable Zone of Influence for planning purposes has already been commented upon.</p> <p>Action 43: remove this new paragraph entirely.</p>
183	Policy D1, new part following A	106	<p>DELIVERY OF INFRASTRUCTURE</p> <p>As with a number of policies discussed above, this treats the infrastructure delivery schedule as if it were part of the development plan, with contributions towards the items on the schedule "expected". But the schedule is not part of the plan. Infrastructure delivery and contributions should relate to the particular development proposed in accordance with the CIL regulations. Whilst regard should be had to the</p>

			<p>infrastructure delivery schedule, the issues arising from any particular site might in practice require deviation from it.</p> <p>Action 44: Delete the first new paragraph and replace with the following: "The delivery of infrastructure either directly or through contributions will be sought where this is necessary to make the development acceptable, is directly related to the development and is fairly and reasonably related in scale to the development. In assessing the need for particular kinds of infrastructure, regard will be had to the infrastructure delivery schedule." The second new paragraph is acceptable.</p>
184	Paragraph 6.18	107	<p>ESSENTIAL FACILITIES AND SERVICES</p> <p>In the second sentence of 6.18, the word "include" is ambiguous and is likely to lead to future argument over the extent of the policy. A change is required for effectiveness.</p> <p>Action 45: replace "include:" with "are:"</p>
186	Policy D2, Part B (iii) and (iv)	108	<p>ESSENTIAL FACILITIES AND SERVICES</p> <p>There should be an "or" at the end of part B (iii) before new clause (iv).</p> <p>Action 46: add "or" as indicated.</p>
187	Policy D3 Part B	109	<p>UTILITIES</p> <p>The Council cannot by law or policy <i>require</i> a developer to enter into an obligation, which is a voluntary act, in order to make a payment. Moreover, utilities providers themselves have certain statutory obligations which will need to be factored into any consideration of infrastructure contributions. And not all infrastructure will need to be completed prior to first occupation as Part B of the policy requires. This part of the policy is largely unnecessary anyway because the issue is covered adequately in Part A.</p> <p>Action 47: delete Part B and simply add "at the right time" to Part A. In Part C, replace "prior to occupation" with "at the right time".</p>
112	New Policy D8	n/a	<p>NEW POLICY: PLAN REVIEW</p> <p>Part C, third bullet. This is not an appropriate review criterion because it undermines the plan. The plan contains very strong policy safeguards for the protection of the SAC, not to mention the statutory safeguards that exist. If any of the individual sites is unable to demonstrate through appropriate assessment that it would not harm the integrity of the SAC then the site cannot progress. Ultimately any problems progressing any site will</p>

			<p>affect housing delivery and the review mechanism will be triggered through that route.</p> <p>Action 48: delete new Part C, third bullet.</p>
Various	Policy SP5C, P1D, P2E, P3F, P4D, P5C, P6F, P7C, P8C, P9C, P10D, P11D, P12E, P13F, P14D	Various	<p>INFRASTRUCTURE DELIVERY SCHEDULE</p> <p>Action 49: in all these instances, the expression should be "having regard to" the Infrastructure Delivery Schedule, rather than "in accordance with". The modification "unless...have changed" should be dropped.</p>
Various	Policy P1F, P2G, P3G, P4F, P5E	Various	<p>USE CLASSES</p> <p>Action 50: in all these instances, the reference to Use Class A1 should be deleted and replaced with "Class E use".</p>
Various	Policy P1G, P2 I, P3J, P4G, P5F, P6H, P7E, P8E, P9E, P10F, P11F, P12G, P13H, P14E, P15 (new part)	Various	<p>AIR POLLUTION MITIGATION STRATEGY</p> <p>Action 51: in all these instances the text should say "... they are in accordance with Policy DM2 and Policy DM22 and should have regard to the Council's adopted Air Pollution Mitigation Strategy".</p>