



## **The Conservators of Epping Forest Representations on the Inspectors' Matters, Issues and Questions (MIQs) for London Borough of Waltham Forest (LBWF) Local Plan LP1**

Further to the Conservators' response to the Regulation 19 pre-submission Local Plan (LPSV) made on 11<sup>th</sup> December 2020 (attached), we now make some further representations in response to the Matters, Issues and Questions (MIQs) raised by the Inspectors in relation to Matter 1, Issue 2 for the Hearing on 1st February 2022.

### **Matter 1: Duty to Co-operate and other legal requirements**

#### **Issue 2 Whether the requirements of the Conservation of Habitats and Species Regulations 2017 have been met**

##### **Issue 2, Question 8:**

*Is the Habitats Regulations Assessment [KD5] robust and does the Plan include all the recommendations identified as necessary to ensure compliance with the Regulations?*

Although we recognise helpful and strengthening changes to the Local Plan Policy 83 in the *Proposed Changes to the Local Plan* (Document KD2), and considerable effort on developing both Air Pollution Mitigation and Suitable Alternative Natural Greenspace (SANGS) Strategies, the Habitats Regulations Assessment (HRA) is still not robust in our view. Furthermore, in coming to its conclusions about mitigation of the likely significant effects from both recreational pressure and air pollution, the HRA (Document KD5) bases its conclusions of no adverse impacts on two strategies that are not in place. At this point there is no certainty of provision of mitigation.

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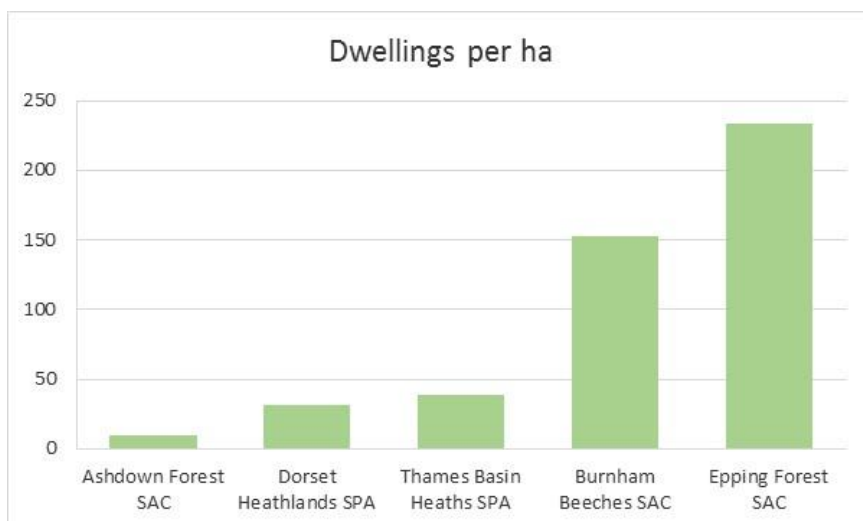
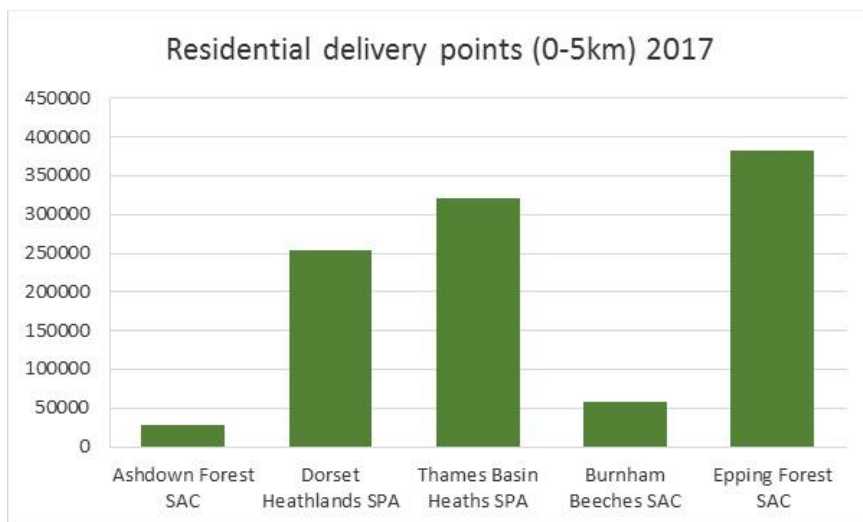
##### **Issue 2, Question 9:**

*The Habitats Regulations Assessment identifies that, without mitigation, the Plan could result in likely significant (adverse) effects on the Epping Forest Special Area of Conservation, both alone and in combination with growth in neighbouring areas, in terms of air pollution, recreational pressures, and urban effects. The Habitats Regulations Assessment also identifies that development of small sites adjacent to the Lee Valley Special Protection Area and Ramsar could have adverse urban effects.*

*9i What are the implications for Habitats Sites arising from the spatial and growth strategy set out in the Plan, both alone and in combination with other plans and projects?*

The quantum of residential development proposed in the LBWF LPSV, lying entirely within the 6.2km Zone of Influence of the Epping Forest Special Area of Conservation (EFSAC), represents approximately 40% of all the proposed residential development from Local Plans in this Zone over the next 15 years. As such, this plan, alone, represents an enormous increase in the residential population of the Forest’s immediate area, for which there will be concomitant increases in traffic and visitor numbers. The sustainability of such increases are clearly in question and, therefore, any mitigation measures must be robust, clear and open to measurement and certain to be implemented.

The EFSAC is already under enormous pressure from ‘in combination’ developments elsewhere, even compared to other internationally-protected sites. The pair of histograms shown below provide a clear indication of the relative development pressure on Epping Forest SAC compared to other internationally-important sites.



Figures above show comparison between Epping Forest and selected other European sites showing number of dwellings (in 2017) within 5km radius per ha of European site and the

number of residential delivery points (in 2017) within 5km. (figure taken from *Footprint Ecology* report to the Conservators of Epping Forest).

*9ii Has the Suitable Alternative Natural Greenspace Strategy referred to been prepared and what is the up to date position in relation to the Strategic Access Management and Monitoring Strategy?*

As detailed in answer to Question 10 (below), much work has been carried out by LBWF officers and their consultants towards a SANGS Strategy, and we have been grateful to have been fully involved in an open and dynamic dialogue about SANGS provision. However, to our knowledge a SANGS strategy is yet to be drafted and remains aspirational. Given the complexity in providing SANGs and the challenges in ensuring they are of a sufficient scale and quality, uncertainty remains.

A Strategic Access Management and Monitoring Strategy (SAMMS) is almost in place, subject to six local authorities, including LBWF, approving the Partnership Agreement and its Schedules of the proposed mitigation measures and its funding mechanism. This would help to mitigate some of the likely significant effects of the very large increases in recreational pressure that the LBWF LPSV is likely to generate for Epping Forest SAC.

*9iii Has the Air Quality Mitigation Strategy referred to been prepared?*

The Conservators were provided with a copy the July 2021 of the Air Pollution Strategy (*ClearLead* 5<sup>th</sup> July) and are aware that further discussion have been held between the consultants, *ClearLead* and Natural England since that date. However, The Conservators have not seen any further documentation, although a meeting was held by the consultants in on 13<sup>th</sup> October 2021. However, the Conservators do not consider that any substantive or certain mitigation measures have been put forward that would prevent harm to the EFSAC.

*9iv Has the avoidance of harm to relevant Habitats Sites been considered before mitigation or compensation? If not, should it have been?*

All of Waltham Forest lies within the 6.2 zone of influence for recreation and as such the only approach to completely avoid harm would be to reduce the housing target. While we acknowledge the excellent dialogue with LBWF officers over the past 13 months and their pro-active approach to the application of the hierarchy, we consider that mitigation has still not been adequately secured particularly for developments under 100 units

This, in our view, does not accord with the clear need to follow the mitigation hierarchy highlighted in the National Policy Planning Framework (NPPF July 2021, page 11, Section 32 and page 52, Section 180a). Avoidance measures, such as the provision of alternative sites or other methods to ensure the deflection of recreational pressure away from the EFSAC, should be prioritised for all development to take into account the ‘in combination’ effects of very large quantum of development of this Local Plan.

In order to have confidence that adverse effects on the integrity of Epping Forest SAC can be ruled out, alone or in-combination, it is essential that sufficient mitigation is secured.

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### **Issue 2, Question 10:**

*Have any concerns been raised about the Habitats Regulations Assessment and, if so, what is the Council's response to those? How has Natural England been involved and what is its current position?*

The Conservators raised significant concerns about the 21<sup>st</sup> October 2020 iteration of the Habitats Regulations Assessment (HRA) for the Local Plan<sup>1</sup>. The Conservators could not agree with the October HRA's conclusions for several reasons that were set out in that response (see attached The Conservators' 11<sup>th</sup> Dec 2020 response, pp 4 – 7).

The Council's response was to hold a series of detailed meetings during early 2021, to which officers of The Conservators were invited, and to undertake a considerable amount of work with its consultants, *ClearLead*, prior to the publication of the 2<sup>nd</sup> iteration of the HRA in April 2021 (Document KD5.1). The series of meetings involved discussions on each of the main areas of the HRA, including air quality, recreation, and urban effects.

#### **Urban effects**

In relation to urban effects, at a further meeting in October 2021, it was requested that the 500m zone outlined in LBWF LPSV Policy 83C (see KD1) should be reduced to 400m. Although The Conservators' officers expressed concern about the lack of clear evidence being used to formulate this zone width, it was accepted that 400m would be likely to address most of the urban issues previously highlighted in The Conservators' submission of 11<sup>th</sup> December 2020 (see attached) and would also match the 400m width proposed in the Epping Forest District Local Plan, which was currently in the process of Main Modifications.

#### **Recreational pressure on the SAC, SANGS Strategy and network**

In addition to virtual meetings, a day-long site visit was also hosted in April 2021 by the Council officers (as referred to in the HRA – see Section 5.3.1, page 29) to enable officers of the Conservators and Natural England to view possible locations for SANGS, some of which are published in the April HRA (KD5.1, Figure 5.1).

However, the HRA's (KD5.1) conclusion, that "*LP1 will have no adverse effects on the integrity of Epping Forest SAC*" (page 34) is not robust (see answer to Issue 2, Question 8 above) because at the time it was written there was no certain SANGS Strategy in place nor a Supplementary Planning Document (SPD). A SANGS Strategy and SPD remain, to our knowledge, unpublished at this stage.

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<sup>1</sup> Letter of 11<sup>th</sup> December responding to the Regulation 19 Consultation of the LBWF Local Plan Submission Version (LPSV) Document KD1

In addition, even with the proposed changes to Policy 83 in relation to development sizes and their contributions, there remains a gap in Policy 83A in relation to SANGS mitigation in our opinion (see our answer to Question 11 below).

Air Pollution mitigation

Although, separate discussions have been held on this issue during 2021 leading to the HRA Air Quality Mitigation Strategy of 5<sup>th</sup> July 2021, this issue remains of significant concern to The Conservators. The recommendations of the 5<sup>th</sup> July HRA iteration do not provide certainty of mitigation and, therefore, cannot be considered robust.

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**Issue 2, Question 11:**

*Have the necessary mitigation measures to avoid adverse effects on the integrity of designated sites been incorporated into the Plan's policies?*

No, The Conservators consider that there remain key issues with the LBWF LPSV Policies.

The key Plan Policy with respect to Epping Forest SAC (EFSAC) is Policy 83 (A – C). In response to our LPSV Regulation 19 Consultation representations (see attached) and for other reasons, there were changes to Policy 83 published in Document KD2, pp 39 - 42. However, although all developments would now be required to make provision for SAMMS, we do not agree with the current wording of the Policy which states that smaller developments, below 100 units, should only contribute to SAMMS.

With the LP2 Site Allocation Regulation 19 Consultation still not concluded, there is considerable uncertainty about the scale of the various developments and their respective locations and, in addition, to this 'windfall' developments seem likely to remain a significant development issue in the Borough. There is no certainty about the proportion of development that would be forthcoming from 'windfall' and other developments below the 100 house quantum and the lack of an avoidance mechanism for this significant proportion of development pressure on the Forest is not 'sound', in our view.

Policy 83 A and 83C – mitigation measures are there in the Policy but measures are not finalised and secured

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**Issue 2, Question 12:**

*Overall, have the requirements of the Conservation of Habitats and Species Regulations 2017 been met?*

No, despite considerable efforts by the Council officers and its consultants, for the reasons given in the answers to Questions 8 – 11 above.

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**Issue 2, Question 13:**

*Are any main modifications necessary for legal compliance?*

We suggest that the Plan should be modified such that any development should be dependent on Local Plan's accompanying documents, the SPD and the two strategies on Air Pollution Mitigation and SANGS. This change would ensure that sufficient mitigation was in place before development commences.

In addition, Policy 83's wording should be strengthened to ensure that there is a requirement on all development to contribute to provide both SANGs and SAMM because of the scale of the development being proposed and the difficulty and likely impracticability of tackling this through mitigation within the Forest only.

Yours faithfully,

Dr Jeremy Dagley  
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