

Date: 12 January 2022
Our ref: 379223



The Planning Inspectorate

BY EMAIL ONLY

Customer Services
Hornbeam House
Crewe Business Park
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Crewe
Cheshire
CW1 6GJ

Dear Mrs Housden and Mrs Jack,

Waltham Forest Local Plan (LP1) 'Shaping the Borough Examination' – Matters, Issues and Questions

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development. Please find below Natural England's responses to Issue 2 – 'Whether the requirements of the Conservation of Habitats and Species Regulations 2017 have been met'.

Q8. Is the Habitats Regulations Assessment [KD5] robust and does the Plan include all the recommendations identified as necessary to ensure compliance with the Regulations?

Natural England is largely satisfied with the Plan and the Habitats Regulations Assessment, and we feel that the foundations of these documents are strong in terms of ensuring compliance with the Regulations and avoiding harm to Habitat Sites. However, we have concerns over the supporting documentation, and have not yet seen versions of the Suitable Alternative Natural Greenspace Strategy and Air Quality Mitigation Strategy that would allow us to agree with the conclusions that there will be no adverse effects on designated sites as a result of the plan. In order to remove our challenge of soundness on the local plan we need to see finalised versions of these documents.

In order to ensure compliance with the Habitats Regulations, we would advise that Policy 83 part A needs to be updated to reflect that all developments need to contribute towards the provision of SANGs (Suitable Alternative Natural Greenspace). During the interim position on mitigation for Epping Forest only developments over 100 units were contributing towards SANG. However, a borough wide strategy (as we believe will be laid out in the Council's Mitigating the Impact of Development on SAC/SPA SPD, which is also referred to as the SANG strategy throughout our response), would make it feasible for contributions towards the provision of SANGs from developments of all sizes. This will then ensure that all developments are avoiding harm to designated sites as well as mitigating it, as there will be SANG provision for all developments coming forward.

We apologise for raising this so late in the process, but we hadn't been directly consulted on this element of the SANG Strategy and after consideration are mentioning the matter due to concerns over compliance with the Habitats Regulations. It is not a matter we have discussed with any affected Epping Forest SAC LPAs, before today. We would be happy to discuss the mechanism for collecting contributions from all developments further with the London Borough of Waltham Forest.

Q9. 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 area, 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.

- i. 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.*

As set out in the Habitats Regulation Assessment there is the potential for air quality, recreational pressure and urbanisation likely significant (adverse) effect on Epping Forest SAC both alone and in combination with other plans and projects coming forward. There are a limited number of sites adjacent to the Lee Valley SPA that may have adverse urban effects on this designated site. It is Natural England's view that without adequate mitigation for these effects, the plan cannot go forward.

- ii. 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?*

At the time of writing, Natural England have not yet seen a Suitable Alternative Natural Greenspace Strategy. We have been working proactively alongside Kelvin Bathie and Alexander Ross of The London Borough of Waltham Forest as well as Clearlead Consultancy, and have participated in a site visit in April 2021, as well as several MS Teams meetings on the subject.

A final version of the Governance Agreement for the Strategic Access Management and Monitoring (SAMM) Strategy has been circulated to all the Local Authorities involved, as well as the City of London as the Delivery Body for the mitigation, for sign off. We are expecting a start date to this agreement of March 2022. We note that there have been changes to the proposed SAMM package that forms part of the Strategic Mitigation Strategy since the publication of the Habitats Regulations Assessment for LP1, and that these costings have now been revised, with an 80 year total of £24,817,469.05.

We welcome the inclusion of SAMM+ for developments in close proximity to Epping Forest SAC. However, we note that these SAMM+ measures need to be agreed between Natural England, London Borough of Waltham Forest and the City of London as they cannot fund measures which are part of the wider strategic solution as is currently suggested in section 5.3.1 of the Habitats Regulation Assessment. This is to avoid double payment towards some measures, and to ensure that developments in close proximity are providing an adequate level of mitigation over and above the strategic package. We have gone into more detail about this topic in our response to the Habitats Regulations Assessment for LP2.

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

Natural England has not yet seen an Air Quality Mitigation Strategy that we feel would adequately address the potential effects on Epping Forest. While we have seen an Air Quality Assessment that flags Likely Significant Effect on Epping Forest SAC, we have not yet seen any mitigation measures that we feel will alleviate the issues. Natural England have used the services of an external Environmental Consultant specialising in air quality to review drafts of this strategy, and most recently held a meeting on the 10th of December to outline our concerns over the current draft of the strategy including comments on the modelling used, and the mitigation suggested. We would be happy to continue discussions on the Air Quality Mitigation Strategy with the London Borough of Waltham Forest.

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

We are of the view that where possible, the London Borough of Waltham Forest has been trying to follow the mitigation hierarchy. In terms of recreational pressure, avoidance is achieved through the use of SANG, and mitigation through SAMM contributions. While air quality is more complicated, the London Borough of Waltham Forest have been doing as much as possible to develop a strategy which avoid impacts on Epping Forest SAC. Through the use of these mechanisms the London Borough of Waltham Forest have avoided getting to the compensation tests.

Q10. 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?

Natural England has made comments on the Habitats Regulations Assessment throughout the process, both in statutory consultation responses as well as in meetings and email exchanges. We have worked pro-actively with the London Borough of Waltham Forest to try and resolve these issues, but due to the complexity of the issues and the timescales involved in working through these matters, we still have some outstanding concerns. Our concerns do not surround the Habitats Regulations Assessment itself nor the policies (with the exception of policy 83A), but the documents that underpin it. Without having seen complete versions of the SANG and Air Quality Strategies, we cannot agree to the current conclusions of the Habitats Regulation Assessment that no adverse effect on Habitat Sites will be caused by the plan. If required, we are happy to provide a timeline of the meetings thus far.

Q11. Have the necessary mitigation measures to avoid adverse effects on the integrity of designated sites been incorporated into the Plan's Policies?

Policy 83 has been discussed above in terms of the changes required to ensure that adverse effects on Habitat sites can be avoided. We are still awaiting the SANG and Air Quality Strategies, and without receipt of these documents we cannot be sure that the necessary mitigation measures to underpin the Plan's Policies have been incorporated. We are happy to continue discussions on the SANG and Air Quality Mitigation Strategies with the London Borough of Waltham Forest.

Q12. Overall, have the requirements of the Conservation of Habitats and Species Regulations 2017 been met?

Natural England are broadly in agreement with the foundations of the Plan and the Habitats Regulations Assessment, and acknowledge the significant amount of work that has gone into the avoidance and mitigation measures for Epping Forest SAC. We feel that the policy foundations are in place for the plan, but at this juncture still need to see the underpinning strategies before we are able to remove our challenge of soundness. Without the SANG and Air Quality Strategies, Natural England are of the view that the Conservation of Habitats and Species Regulations 2017 have not been met. Without these documents we cannot agree to the conclusions in the Habitats Regulations Assessment, and cannot be certain that there won't be Likely Significant Effect on Epping Forest SAC. This is consistent with our approach and responses to the Epping Forest District Council Local Plan.

Q13. Are any main modifications necessary for legal compliance?

In order to ensure legal compliance with the Habitats Regulations, we feel that a modification is required to the plan to require SANG contributions from all new development coming forward in the borough. Alongside this, we also need to see versions of the SANG and Air Quality Strategies that adequately address and mitigate the impacts of the plan on Habitat Sites.

Please do not hesitate to contact us with any further questions on the information we have provided above.

Yours sincerely

Marc Turner
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Thames Solent Team