



## **The Conservators of Epping Forest Representations on the Inspector's Matters, Issues and Questions (MIQs) for Epping Forest District (EFDC) Local Plan 2011-2033**

Further to the Conservators' response to the Regulation 19 pre-submission Local Plan (Document 19STAT0035) we now make some further representations in response to the Matters, Issues and Questions (MIQs) raised by the Inspector in relation to Matters 1 and 4 for the Hearings in February 2019.

### **Matter 1: Legal Compliance**

#### **Issue 5: Have the requirements of the Conservation of Habitats and Species Regulations 2017 been met?**

##### **Issue 5.2**

*The Habitats Regulations Assessment of the Regulation 19 Local Plan (EB206 & 206A) identified that, without mitigation, the Plan would result in likely significant effects upon the Epping Forest SAC, either alone or in combination with other plans or projects, in respect of recreational pressure; urbanisation; and air quality.*

##### **Issue 5.2b**

*Both Natural England and the Conservators of Epping Forest have raised concerns about how the "Baseline", "Do Minimum" and "Do Something" scenarios have been compared in the HRA process to identify likely significant effects. What is the relevance of these terms and is the HRA methodology valid in this respect?*

We await an updated HRA and, at present, our comments remain unchanged, therefore.  
(13 words in representation on Issue 5.2b)

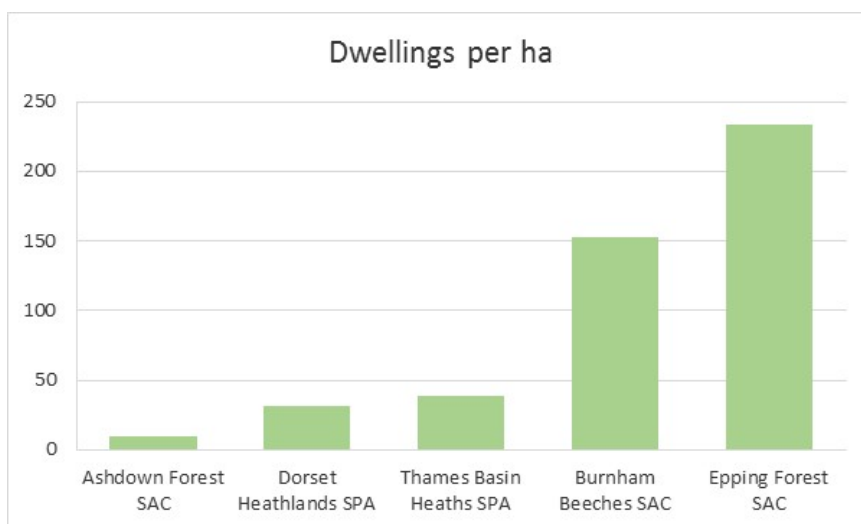
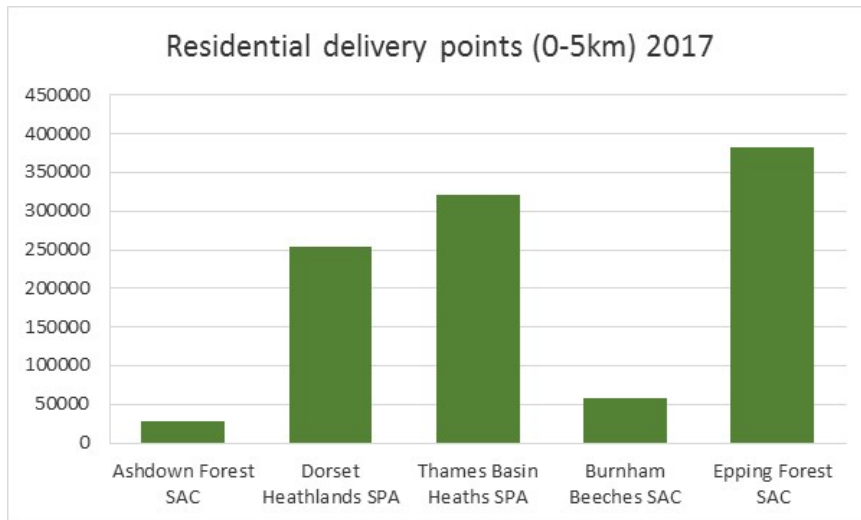
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##### **Issue 5.2c**

*Does the HRA process for screening Plan policies in or out of the assessment remain valid in light of up to date and emerging evidence on visitor behaviour and traffic impact? For example, recent visitor survey information seems to indicate that the Zone of Influence for recreational pressure on Epping Forest SAC is larger than was thought when the Plan was submitted. Has this resulted in any policies and/or site allocations being wrongly screened out of the assessment? If so, what should be done?*

The quantum of development proposed in the Local Plan around the Forest, would put unsustainable pressure on roads, infrastructure and Forest visitor infrastructure. Although the Interim Mitigation Strategy attempts to deal with the latter issue (see below) the HRA itself did not

deal with the impact pathways nor the scale of change adequately (see page 21 of our response letter, Document 19STAT0035). We attach a pair of histograms which 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).

(136 words in representation on Issue 5.2c)

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**Issue 5.2d**

***For each likely significant effect identified for Epping Forest SAC, has an appropriate assessment been carried out to ascertain that its integrity will not be adversely affected?***

At present, no Appropriate Assessment has been forthcoming, and we do not consider (see comments on pages 21 – 24 of Conservators' response **Document 19STAT0035**) that a step-by-step approach to each likely significant effect was taken in the HRA (**Document EB206**).

(40 words in representation on Issue 5.2d)

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**Issue 5.2e**

***In preparing any appropriate assessment, has avoidance of harm been considered before mitigation or compensation? If not, should it have been?***

As will be clear from our response to Regulation 19 we do not consider that avoidance of harm has been considered early enough or sufficiently in relation to transport and air pollution or SANGs. We have emphasised the need for adherence to the mitigation hierarchy approach. This approach would emphasise the need for *no net loss* and a *net positive impact* on Epping Forest through the Local Plan. In our view this requires a positive approach, which should include habitat enhancement and creation.

Air quality is poor for Epping Forest and the impacts of nitrogen pollution have been significant. We would look for leadership and partnership from the Local Plan and District Council, respectively, in seeking to improve the situation. We still await Appropriate Assessments of transport and air pollution impacts.

(131 words in representation on Issue 5.2e)

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**Issue 5.2f**

***For the purpose of any appropriate assessment, is it justified to defer consideration of the implications of allocated sites to the planning application stage, as suggested by Policy DM2? For example, how will any new green spaces required be found and secured if not through the plan-making process (e.g. in a SANG Strategy)?***

As made clear in our comments on Regulation 19 (Paragraphs 8.1.2.1 and 8.2.2.1 of **Document 19STAT0035**) we do not consider that deferment to project-led appraisals is justified in Policy DM2. We set out extensive changes that we consider would make Policy DM2 justified and effective and compliant with a strategic approach.

A Plan-led SANGs Strategy is required to provide green space of sufficient quality and sufficiently attractive to provide an alternative to the Forest SAC areas. The creation of SANGs on the City of London Buffer Lands and even improvements to other areas of the Forest Land, for example, could be at a scale and location to meet some of these requirements. The City of London Corporation, as

the Conservators of Epping Forest, considers SANGs of fundamental importance to avoid impacts to the SAC and has reiterated this point to the District Council, in discussing the Mitigation Strategy (please see **Appendix** for examples).

Reliance on project-level assessment is a risk. There needs to be confidence at Plan level that necessary avoidance and mitigation measures can be secured, otherwise there is a risk that project-level HRAs would not be able to rule out adverse effects on integrity of Epping Forest SAC. If this were to be the case, the Local Plan would be at risk of promoting sites that could not actually be deliverable.

(224 words in representation on Issue 5.2f)

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#### **Issue 5.2g**

***For the purpose of any appropriate assessment, is it justified to rely upon the forthcoming Mitigation Strategy to conclude that the integrity of the relevant sites will not be adversely affected given that the effectiveness of the Strategy cannot yet be fully appreciated?***

The Conservators have put considerable resources in to developing and providing the table of mitigation proposals, or Strategic Access Management & Monitoring Measures (SAMMs), for managing on-site recreation, which forms the centrepiece of the Interim Mitigation Strategy (**Document EB134**). Implementation, with regular monitoring and review to ensure changes are made as required, should enable the management of recreational pressures to mitigate the impacts that have been foreseen. This remains on the basis that other avoidance measures (e.g. SANGs) are taken as we have requested in our Local Plan responses to date and in this representation on the MIQs.

These SAMMs, however, do need further development and costing. In our response to the Mitigation Strategy Document (see **Appendix** Conservators' Letter of 14<sup>th</sup> September to EFDC), we sought a costs-undertaking from the District Council in September, as lead competent authority, to help achieve this. We welcome the District Council's approval of the Interim Mitigation Strategy in October 2018 but await undertakings to assist in the detailed cost assessments work for the SAMMs. In the absence of a response on this to date, and in the absence of agreement from other SAC competent authorities to the Interim Mitigation Strategy, we have commissioned further development work to ensure that the on-site mitigation measures are comprehensive and robust and meet the constraints of SAC protection.

In addition to this development work on SAMMs, however, we re-emphasise the need for SAMMs to be complemented by a full Plan-level SANGs Strategy. (see the Conservators' letters of 23<sup>rd</sup> July and 14<sup>th</sup> September 2018 in **Appendix**) Other European site mitigation strategies in other parts of the country, such as the Thames Basin Heaths, the Dorset Heaths and in South-east Devon, all include SANGs alongside SAMMs.

The agreement of other competent local authorities is required now and we await developments in relation to their participation. Their participation is essential, in our view, to ensure that the Interim Strategy (Document EB134) can be developed into a full and effective Mitigation Strategy.

(329 words in representation on Issue 5.2g)

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**Issue 5.2h**

***What is the scope of the forthcoming Mitigation Strategy and what type of mitigation is envisaged for each type of likely significant effect? How is this/could this be secured in the Plan? What progress has been made with the Mitigation Strategy and when will it be completed?***

**Issue 5.2h How is this/could this be secured in the Plan?**

In our suggested changes to Policy DM2 of the Local Plan (see paragraph 8.2.3.7. (Conservators' response to Regulation 19, **Document 19STAT0035**) we are clear that there should be a European site conservation supplementary planning document (an SPD) and we would welcome the opportunity to work with the competent authorities to produce the SPD. The SPD would be able to deal with the cross-border/trans-authority issues of the Forest, especially as a joint SPD, and would ensure clarity for developers and all other stakeholders.

Currently, the avoidance and mitigation measures are not embedded in the Policies and the Memorandum of Understanding for the protection of the SAC (Document EB1200) is not legally binding. Also, the London Boroughs are not signatories to the MoU. A joint SPD approach is required in our view to ensure an integrated approach across the Local Plans and clear guidance to developers.

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**Issue 5.2h – progress with the Mitigation Strategy (MS)**

Please see our representation for **Issue 5.2g** above.

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**Issue 5.2h- when will MS be completed?**

Mitigation needs to be in place and working prior to occupation of new sites and there needs to be confidence of this at the planning permission stage.

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**Issue 5.2i**

***Might certain proposals within the Mitigation Strategy itself, such as those for Wake Arms Roundabout, themselves have potentially significant effects upon designated sites which require appropriate assessment? If so, how and when will this be done?***

Yes, as currently proposed the expansion of Wake Arms and the future proposed modification to Robin Hood Roundabout, as well as other road modifications within the Forest, would be likely to physically damage and adversely impact the SAC. Without further analysis, through an Appropriate Assessment it remains unclear how much the quantum of growth and site allocations proposed in the Local Plan are reliant on these infrastructure changes (see also our comments on **Matter 4 Issue 3.1** below).

Since we commented on these proposals (see paragraphs 4.1.1 and 4.1.2 (page 3) of the Conservators' Regulation 19 response, **Document 19STAT0035**), there has been no updated HRA or AA. The Wake Arms Roundabout proposal has not been withdrawn and remains in the Highways Assessment (HA – **Document EB502, Table 3-8**) and is in the Infrastructure Development Plan (IDP) Part B (**Document EB1101B Section 8.3**) as Project DW6 "Essential". Furthermore, the Wake Arms

Roundabout enlargement and other proposals within the Epping Forest SAC are further referenced in the Infrastructure Delivery Topic Paper, a recent additional paper submitted for the Local Plan Examination (**Document ED2 (also EB1101c), 15<sup>th</sup> October 2018**). On page 17 of **Document ED2** it states, in the table under the Local Growth Fund (LGF):

*“LGF funding has the potential to provide some or all of the funding required for transport mitigation measures, including improvements to Wake Arms roundabout, A104 Epping New Road (Robin Hood) roundabout, and the A121 Woodriven Hill/Woodgreen Road junction”.*

It is clear to us that these developments require an Appropriate Assessment. Alternatives, to ensure avoidance of adverse impacts on the SAC, should have been considered in the Local Plan.

(446 words in representation on Issues 5.2i & h)

***Issue 5.2j. In the absence of a final Mitigation Strategy at this stage:***

***i. Is it necessary to modify the Plan to require development proposals to comply with its recommendations?***

See comments in 5.2jiii below.

***Issue 5.2j In the absence of a final Mitigation Strategy at this stage:***

***ii. Would this course of action be justified and effective, or is it essential for the Strategy to be completed before the Plan is adopted? Is it clear that the necessary mitigation could be implemented without threatening the delivery of the Plan’s strategy?***

Without the full Mitigation Strategy there would be uncertainty about the impacts on the Forest and, therefore, about the delivery of the Plan’s strategy. In our view, mitigation needs to be in place and working prior to occupation of new sites and there needs to be confidence of this at the planning permission stage.

The mitigation for air pollution and highways impacts is essential. In addition, the avoidance measures for recreational pressure require a Plan-led approach for Sustainable Natural Greenspace (SANGs) provision.

***Issue 5.2j In the absence of a final Mitigation Strategy at this stage:***

***iii. If it would be necessary, justified and effective to address the absence of the Mitigation Strategy through modifications to the Plan, what changes are needed? (In responding, the Council should have full regard to the representations of Natural England [19STAT0027] and the Conservators of Epping Forest [19STAT0035]).***

As proposed above in response to Issue 5.2h, we would request that a joint SPD on SAC Mitigation is written to ensure that a Mitigation Strategy is completed and agreed across multiple authorities. In our view, this would give the confidence in the mitigation being secured, clearly communicated and the mechanisms for delivery clearly set out. It would allow more detail and clarity to all and would ensure confidence that the plan would be compliant with the Habitat Regulations 2017.

(167 words in representation on Issue 5.2j)

(Total text in representation on Matter 1: 1,486 words)

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## **Matter 4: The Spatial Strategy/Distribution of Development**

### **Issue 3: Is the distribution of employment land in the Plan justified in light of the distribution of housing?**

***Issue 3.1 In light of the housing growth proposed around Harlow, does the Plan's proposal to locate the majority of employment land at North Weald Bassett and Waltham Abbey risk creating unsustainable travel to work patterns? How will this be avoided? (Reps Harlow DC).***

#### **WAL E8 – employment land**

We have previously made comments in response to the Local Plan Regulation 18 and 19 pre-submission documents in relation to one of the employment sites at Waltham Abbey (Local Plan Policy P3, WAL E8) and the transport infrastructure that might serve this site. We reiterate our comments made above on **MIQ Issue 5.2i** and also those set out in our Regulation 19 response in relation to Local Plan Policy DM22 (see paragraph 11.1.3, page 15 of Document 19STAT0035) concerning the Wake Arms Roundabout.

However, since these responses there has been a consultation related to a planning application EPF/1413/18 for this employment site involving a warehouse distribution centre. In our view the specifics of this application shed light on the MIQ Matter 4. The proposed employment site as envisaged would add to congestion along the A121 and at the Wake Arms Roundabout. The technical documents supplied with the application do not seem to address this issue. In one of the concluding paragraphs in the Transport Assessment for the proposals it stated that delivering development on this site (WAL E8) *“does not mean building bigger junctions for more capacity”* but there was no evidence offered to support this conclusion when considered ‘in combination’ with other developments proposed in the Local Plan. In this particular case, the 2-year funding from a S.106 for a proposed bus service left considerable uncertainty, in our view, as to the long-term viability of the proposed modal shift in travel-to-work patterns required for WAL E8's sustainability.

In addition, the related issue of HGV traffic was only addressed in a cursory way with an aspiration to *“restrict, where practically possible, HGV routing to stores.....through Epping Forest”*. However, the Transport Assessment for this application on WAL E8 goes on to add that even this very limited restriction on HGV movements would be set-aside as soon as the M25 was congested or obstructed in any way.

This is highly significant for Epping Forest SAC. At the nearby Sainsbury's Distribution centre depot a S.106 put in place at the beginning of the development, to prevent HGV movements through the Forest, is no longer in force as a result of the business' request to reach retail outlets in residential areas on the east side of the Forest. The original protection for the Forest has thus been removed.

(388 words in representation on Issue 3)

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**Issue 6: Is the distribution of development justified in respect of its effect upon transport and other infrastructure in the District? Will the Plan be effective in securing the infrastructure necessary to support proposed growth?**

**Transport**

**Issue 6.1. Have the transport impacts of the Plan as a whole been tested? Has all necessary mitigation been identified and is there confidence that it can be delivered in time to support the proposed growth? Are there any remaining uncertainties or shortcomings?**

We are still awaiting the traffic and air quality modelling within an updated Habitats Regulation Assessment (and Appropriate Assessment). Without scrutiny of this information there remain considerable uncertainties and the comments made in our Regulation 19 submission, therefore remain unchanged.

The only available additional transport information has been provided, outwith the Plan, in relation to the proposals for the WAL E8 employment site highlighted in our comments on **Issue 3.1 above**. The proposals for mitigating transport impacts at this employment site did not remove the uncertainty about impacts on the Forest, in our view.

(94 words for representation on Issue 6.1)

**Issue 6.2. Is planned growth dependent upon a “step-change” towards sustainable travel? What does this mean and how will the Plan facilitate it? What has been done to assess the need for increased public transport and how will this be provided? How will success be monitored?**

For a “step change” towards sustainable travel to be effective as mitigation it is necessary that there is confidence in its delivery. It is essential that the EFDC, as competent authority, can demonstrate that the mitigation is appropriate, fit-for-purpose and will result in no adverse effects on the integrity of Epping Forest SAC.

In relation to this issue we would raise concerns about the public transport infrastructure in general to the allocated sites. For the proposed developments at Harlow, the current lack of proposals to extend four-tracking or otherwise improve the West Anglia rail track capacity beyond Broxbourne, is a concern in relation to managing demand for car transport along the M11 and B1393 corridors.

(62 words for representation on Issue 6.2)

**Other Infrastructure**

**Issue 6.3. Does the Infrastructure Delivery Plan and Schedule (EB1101A & B) demonstrate that the development in the Plan can be served by adequate infrastructure at the appropriate time? Are there any significant omissions or funding gaps?**

There seem to be no alternative infrastructure plans to those proposed along roads towards and through Epping Forest SAC. These plans have not yet been subject to an Appropriate Assessment under the Habitats Regulations 2017. We commented on this in our Regulation 19 response and reiterate our concerns here (see under **Issue 5.2i above**) in the light of the recent Infrastructure Delivery Topic Paper (**Document ED2 (also EB1101c), 15<sup>th</sup> October 2018**) that has been provided since submission of the Plan.

(80 words in representation on Issue 6.3)

(Total text for Matter 4: 624 words)