

Committee(s): Epping Forest and Commons	Date(s): 09 09 2019
Subject: Epping Forest District Council: Examination of the District Local Plan, 2011-2033 (SEF 34/19)	Public
Report of: Director of Open Spaces	For Information
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Summary

The hearings stage of the Inspector's examination into the soundness and legal compliance of the Epping Forest District Local Plan 2011-33, which involved 17 hearings held between February and June this year, closed on 11 June 2019. The Inspector advised participants in her closing statement that the Inspector would provide interim advice on the plan, which was published on the District Council website on 8 August.

The interim advice recommends 39 actions for the District Council, including responses to the City Corporation's representations. Three actions address concerns regarding compliance with The Habitats Regulations Assessment (HRA) regarding the impact of the plan on the Epping Forest Special Area of Conservation (SAC). A further three actions relate to disturbance from recreation and urbanisation with regard to Sustainable Alternative Natural Greenspace (SANG), amendment of main modifications and a request to seek alternative sites given the impacts on the SAC. Two more general actions refer to a review of developments in the Open Space Strategy and the deletion of the proposed housing allocation on Public Open Space at Jessel Green, Loughton.

Recommendation(s)

Members are asked to

- Note the Inspector's Advice to the District Council included at **Appendix 1**.

Main Report

Background

1. Epping Forest District Council (the Council), whose boundary includes 64% of Epping Forest, submitted its Local Plan to the Secretary of State on 21 September 2018.
2. The Local Plan addresses the next phase of the District's development for the 15 years to 2033, including the allocation of 11,400 new homes, of which nearly 4,378 units are currently allocated within 3km of the Forest's boundaries and the majority, over 6,000, are within 5km. The Conservators'

overall response to the Plan concluded that it is not consistent with national legislation, including The Conservation of Habitats & Species Regulations 2017 (The Habitats Regulations) and does not do enough to protect Epping Forest as a whole.

3. At the January Epping Forest & Commons Committee (Report SEF 03/19) approval was given for officers to attend the hearings for the Local Plan's Examination-in-Public, to continue to advocate for changes to the Plan and to respond to the Matters, Issues and Questions (MIQs) from the Inspector.

Current Position

4. The 7-week hearings stage of the Inspector's examination into the soundness and legal compliance of the Epping Forest District Local Plan 2011-33 commenced on 12 February and closed on 11 June 2019. Officers representing your Committee appeared at 11 of the 17 hearing sessions.
5. The Inspector advised participants in her closing statement that the Inspector would provide interim advice on the plan, which was published subsequently on the District Council website on 8 August.
6. The interim advice (see **Appendix 1**) recommends 39 actions for the District Council, including a number of points that reflect the concerns outlined in the City Corporation's representations previously approved by your Committee.
7. Three actions (3,4 & 5) resulting from comments at paragraphs 12-16 address the Inspector's concerns regarding compliance with The Habitats Regulations Assessment (HRA) regarding the impact of the plan on the Special Area of Conservation (SAC). The Inspector describes the dispute between the District Council's position and the City Corporation's and Natural England's concerns as 'most unfortunate'.
8. A further three actions (6, 7 & 9) relate to disturbance from recreation and urbanisation (paragraphs 17-19) with regard to Sustainable Alternative Natural Greenspace (SANG), amendment of main modifications and a request to seek alternative sites given the impacts on the SAC.
9. Two more general actions (22 & 36) refer to a review of developments in the Open Space Strategy and the deletion of the proposed housing allocation on Public Open Space at Jessel Green, Loughton.

Proposals

10. The Inspector is very clear at paragraph 83 that she is not inviting comments nor will she accept further evidence at this stage. The District Council has thanked the Inspector for her comprehensive and helpful advice, which will assist the Council to complete the additional work and progress to the Main Modifications. The District Council has also indicated that it will not be making any further comment until it has considered the Inspector's advice and its implications carefully and taken appropriate professional advice.

Corporate & Strategic Implications

11. The recommendations of this report support the Corporate Plan with particular reference to the following aims:

a. Contribute to a flourishing society

- i. People enjoy good health and wellbeing
- ii. Communities are cohesive and have the facilities they need.

b. Shape Outstanding Environments

- i. We inspire enterprise, excellence, creativity and collaboration
- ii. We have clean air, land and water and a thriving and sustainable natural environment
- iii. Our spaces are secure, resilient and well maintained.

12. And supports the Open Spaces Business Plan as follows:

a. Open Spaces and historic sites are thriving and accessible.

- i. Our open spaces, heritage and cultural assets are protected, conserved and enhanced
- ii. London has clean air and mitigates flood risk and climate change

Implications

13. **Financial:** In addition to considerable officer time required to respond to the Local Plan, the costs of representation with regard to the Local Plan, total £55,000. The high cost of representation should be seen in the context of the Plan's proposed duration of 15 years.

14. **Legal:** The Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) ("the 2012 Regulations") set out the requirements and the statutory procedure for the preparation of a Local Plan.

15. The legislation allows for three possible outcomes to the examination:

15.1 The Inspector finds that the plan is sound and legally compliant as submitted. In these circumstances the Inspector must recommend that the plan is adopted.

15.2 The Inspector finds that the plan is unsound and/or legally noncompliant as submitted, but that it is possible to make it sound and legally compliant by making main modifications to it. In these circumstances the Inspector must recommend the necessary main modifications, if requested to do so by the LPA. The main modifications must relate directly to the reasons why the Inspector has found the plan unsound or legally non-compliant.

15.3 The Inspector finds the plan unsound and/or legally non-compliant as submitted, and that it is not possible to make it sound and legally compliant by making main modifications to it. The Planning

Inspectorate 5 Procedure Guide for Local Plan Examinations details the circumstances in which the Inspector must recommend non-adoption of the plan. In practice, the LPA would be asked to consider withdrawing the plan before any such recommendation was made.

16. At the end of the examination the Inspector produces a report for the LPA setting out recommendation(s) and the reasons for them. The report is not binding on the LPA, but the LPA may not adopt an unsound plan.
17. **Property:** The Local Plan sets out how and where land and property will be used in Epping Forest District for the next 15 years. It is important to the City Corporation's stewardship of the Forest to ensure a balanced view is taken regarding both the protection of the Forest and opportunities to best utilise land and property required for operational and surplus to operational purposes.
18. **Charity:** Epping Forest is a registered charity (number 232990). Charity Law obliges Members to ensure that the decisions they take in relation to the Charity must be taken in the best interests of the Charity.
19. **Equalities & diversity;** An initial screening exercise of the equality impact of this Plan process has been undertaken by Epping Forest District Council.
20. **Exiting the European Union:** The main influence of EU law on plan making in the UK relates to the Environmental Assessment of Plans and Programmes Regulations 2004 (the 'SEA Regulations') and the Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna & Flora, which is incorporated into UK law as the Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations'). The future influence of existing EU Directives and the Regulations may be affected by the EU and will also be consequent on the terms reached with the EU as part of Brexit negotiations and the future governments views on 'Retained EU law' contained within the EU (Withdrawal) Act 2018.

Conclusion

21. The District Council is an important strategic partner for the City Corporation and the Local Plan consultation process provides an important opportunity to both draw together City Corporation and the District Council aspirations for the area over the next 15 years, while also ensuring the continued protection and conservation of Epping Forest.

Appendices

Appendix 1 - Planning Inspectorate (Inspector Louise Phillips) *Epping Forest District Council: Examination of the District Local Plan, 2011-2033.* (Aug 2019)

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