

Letter to be sent to:

Epping Forest District Council Cabinet Member for Local Plan – Cllr John Philip

(to be copied to the EFDC Local Plan Planning Inspector via the Programmes Officer

To be copied to Natural England)

Dear [XXXX]

**Re: Epping Forest District (EFDC) Local Plan (2011-2033) Examination: –
EFDC Position Statement and Post-Hearing Advice**

This letter is intended to respond to a number of issues that have arisen following the Inspector’s post-hearing advice dated 2 August 2019 (ED98) and the Council’s response (ED100) dated 11 October 2019 (“EFDC’s Response”), along with the Council’s Position Statement (ED101) dated 15 October 2019, that was published on the website on 20 October 2019 (“the Position Statement”).

1. The Position Statement (ED101)

It is disappointing that the Council did not seek to consult The Conservators of Epping Forest (“The Conservators”) on the preparation of the Position Statement, especially since it purports to summarise the position which The Conservators have taken in objection to the Local Plan Submission Version (“LPSV” EB114). We note that the Position Statement indicates that it is not intent on “assigning blame” (paragraph 8, ED101). However, we consider that its tone in this regard is unfortunate and does not accurately reflect the ongoing engagement, support and assistance that The Conservators have provided throughout this process, which includes (but is by no means limited to) the commissioning and coordination of the 2017 Visitor Survey, the preparation of the interim mitigation strategy SAMMs proposals (at no cost to any other competent authority) and advice and provision of scientific data in determining and planning air pollution monitoring.

We also consider that the Statement does not accurately reflect the role of the Council as the Competent Authority in relation to development impacts on the Epping Forest Special Area of Conservation (SAC). This lack of clarity seems to have been reflected in advice being provided by the Council’s planning officers to developers. We also note that the Position Statement and EFDC’s Response both appear to suggest that the Council no longer intends to engage with The Conservators during the preparation of its additional work and, in this respect, we are concerned that we have now been excluded from the ongoing technical meetings that are taking place with Natural England. With our in-depth site and habitats knowledge and our previous provision of scientific data on Forest air quality and involvement with earlier air quality monitoring by the Council’s consultants, we consider that our contribution on any updated air quality work is important, given the issues raised on this subject during the Plan’s Examination.

For the avoidance of any doubt, The Conservators are, and always have been, committed to assisting the Council in the preparation and adoption of a new sustainable local plan which will not have an adverse effect on the integrity of the Epping Forest SAC (“the SAC”). In this respect, therefore, we consider that it would be beneficial to replace the Position Statement with a joint position statement that is agreed by the Council, Natural England and The Conservators. This would also assist by clarifying the position for those with an interest in the undetermined planning applications, who are currently being directed by officers at the Council towards The Conservators and Natural England for a solution to the problem. Prior to agreeing such a joint statement, we would request that that current Position Statement (ED101) is removed from the Council’s website.

2. Inspector’s post-hearing advice on the proposed mitigation strategy for recreational pressure on the SAC

Turing to the Inspector’s post-hearing advice, we are aware that the Inspector expressly indicated that she was not inviting any further comments on the contents of her letter and would not accept any further evidence at this stage. However, in light of our comments above, and in recognition of the importance of ongoing engagement so as to avoid future delays in the preparation of the Plan, we feel that it is essential to clarify The Conservator’s position in respect of the emerging mitigation strategy for recreational pressure so as to ensure that there is no misunderstanding going forwards.

The Inspector dealt with the issue of recreational pressure at paragraphs 17 – 18 of her post-hearing advice in which she noted that:

“17. There was general agreement in principle that the adverse effects of increased recreation upon the SAC could be mitigated by the implementation of a Strategic Access and Management & Monitoring (SAMM) Strategy and a Suitable Alternative Natural Greenspace (SANG) Strategy. A SAMM Strategy, in the form of an Interim Mitigation Strategy developed in conjunction with the Conservators and signed off by Natural England, was adopted in October 2018 (EB134). A SANG Strategy is also needed to mitigate the full effect of recreational pressure upon the SAC, but the adopted SAMM Strategy, kept under review, will address the effects of development within 3km of the SAC.

18. A SANG Strategy is being prepared which seeks bespoke on-site or strategic off-site SANG for sites accommodating 400 or more dwellings within 3 – 6.2km of the SAC. Sites accommodating less than 400 dwellings would not provide or contribute towards SANG, but this is justified in light of the visitor survey which demonstrates that the requirements for the larger sites are themselves precautionary and would be sufficient. However, at present there is no clear evidence to demonstrate that the necessary SANG, or an appropriate quality and in the right place, could be delivered to support these larger sites. This is needed to provide confidence that the Council’s strategic allocations are deliverable within the Plan period; and, for effectiveness, any

SANG needed within five years of the Plan’s adoption should be secured by the Plan itself.” (emphasis added by underlining)

We appreciate that the Inspector’s post-hearing advice does not contain her full reasoning and is *without prejudice* to the conclusions that she might ultimately reach. However, we are concerned that the representations provided by The Conservators and Natural England regarding the proposed SANGs element of the full SAC Mitigation Strategy have been misunderstood, and, if this is the case, we wanted to ensure that it was clarified at an early stage.

The Conservators agree that the adverse effects of increased recreational pressure are capable of being mitigated by the implementation of a combined SANG and SAMMs Strategy, forming part of the full Mitigation Strategy agreed jointly with all other local authorities covered by the SAC’s Zone of Influence. However, throughout our representations to the LPSV, we have consistently maintained that there is currently insufficient evidence to enable us to reach any firm conclusions on the effectiveness of any proposed SANGs, in the continuing absence of a SANGs Strategy. Natural England has adopted a similar approach. Notwithstanding that general position, The Conservators highlighted a number of important concerns with the proposed strategy and the HRA’s assessment of it. These included:

- a. Lack of clarity regarding the recreational Zone of Influence (ZoI), which has been assessed in the HRA and reflected in the policy requirement seeking contributions towards SANGs.¹
- b. Lack of evidence and any justification to support the proposed two-tier approach for seeking provision/contribution towards SANGs, whereby only sites within 3 – 6.2km would be required to contribute and, even then, only if those sites were large sites containing more than 400 dwellings.²
- c. The lack of assessment of the relative suitability of SANG and SAMM mitigation measures³ and the need to have regard to the mitigation hierarchy to protect sites be seeking to **avoid** impacts as a priority.

In short, The Conservators’ position was that there was insufficient evidence to justify splitting the ZoI into two zones (0-3km and 3-6.2km), and insufficient evidence to demonstrate that the provision of SAMM contributions from all new dwellings within the inner zone, and SANG from only four large housing sites within the outer zone, would be sufficient to offset the adverse effects from the development of 60 residential sites within the zone of influence. If the Council’s position is that SANGs won’t work effectively for sites within 0-3km of the Forest, then the issue of their allocation being made at all is brought into question.

It is our understanding that Natural England adopted a similar position. In its original hearing statement, it noted that the HRA recommended the provision of SANGs for developments of

¹ See paras. 2.1 – 2.6 of Appendix 1C to the Conservators’ Matter 1 Issue 5 Hearing Representations.

² See paras. 2.7 – 2.10 of Appendix 1C to the Conservators’ Matter 1 Issue 5 Hearing Representations.

³ See para. 2.11 of Appendix 1C to the Conservators’ Matter 1 Issue 5 Hearing Representations.

400 dwellings or more and advised that it considered that “this will be required for allocations with significantly less houses”.⁴ In its updated response to the Inspector’s agenda, it noted that “Natural England considers that regardless of management Epping Forest SAC will have a finite carrying capacity and has previously advised that there is a need for a strategy covering both SAMMs and SANGs”,⁵ and went on to clarify that “Natural England considers that sufficient SANGs should be provided for the full quantity of development in the Zone of Influence proposed in the plan”.⁶

Summary and conclusions

In summary, and having regard to paragraphs 17 and 18 of the Inspector’s post-hearing advice note, it was not agreed that the proposed SAMMs Strategy, when taken in isolation (i.e. in the absence of SANGs contributions from the inner zone), would be sufficient to address the effects of all development within the 0-3km zone. Furthermore, it was not agreed that sites accommodating less than 400 dwellings would not need to make a contribution towards SANGs because the provision from the four larger sites was precautionary, nor was it agreed that the Visitor Survey 2017 provided evidence to support this approach. The Conservators will therefore continue to maintain their objection on this issue in the absence of any further evidence that is sufficient to demonstrate that this approach is justified.

In light of the above, we wanted to clarify The Conservator’s position on this issue now, so that it can be addressed in any further work that the Council is undertaking, and to avoid the possibility of any unnecessary delays further down the line following the publication of the full SAC Mitigation Strategy and the revised HRA for consultation in due course.

We are also concerned that, if the position is not clarified, paragraphs 17 and 18 of the Inspector’s post-hearing advice note may influence the determination of other applications or the preparation of plans by neighbouring authorities, who may not appreciate the context and the position of The Conservators and Natural England on this issue.

Given the potential importance of this issue to other decisions that are being taken in the region, we intend to copy this email to both PINS and Natural England. Therefore, we would ask that this letter is also uploaded onto the Council’s Examination website for the purposes of transparency.

Yours sincerely,

Graeme Doshi-Smith
Chairman, Epping Forest and Commons Committee

⁴ See p. 10 of Natural England’s Matter 1, Issue 5 Statement.

⁵ See para. 25.

⁶ See para. 27.