

Committee(s):	Date(s):
Epping Forest & Commons	14 01 2019
Subject: Epping Forest District Council Local Plan – Examination in Public (SEF 03/19)	Public
Report of: Colin Buttery, Director of Open Spaces	For Decision
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Summary

Epping Forest District Council (the Council), whose boundary includes 64% of Epping Forest, submitted its Local Plan to the Secretary of State on 21st September 2018. Subsequently, dates for an Examination-in-Public (EiP) have been published. This report seeks your Committee's approval for officers to attend the hearings of the EiP to ensure that The Conservators' representations on the Local Plan, and the associated interim Mitigation Strategy, are heard and that a dialogue is continued with the Council.

This dialogue is important to ensure that a full and effective Mitigation Strategy is approved and that any development proposals likely to have adverse impacts on the Forest are avoided, mitigated or withdrawn from the Local Plan. This dialogue would be in line with the express intentions of the Memorandum of Understanding (MoU) for the protection of the Epping Forest Special Area of Conservation (SAC), to which The Conservators', the Council and three other local authorities are co-signatories.

Recommendation(s)

Members are asked to approve:

- the proposals encompassed in Option 17 c)i) & ii), namely that officers attend the EiP to represent The Conservators' responses on the Local Plan, to advocate off-site avoidance measures and to respond to any new information from the Council or questions from the Inspector on other matters related to The Conservators' representations;
- under the terms of the approved MoU, that officers continue to work with the Council and other local authorities to create a full and effective Mitigation Strategy, including consideration of off-site measures on the Buffer Lands and other sites;
- that officers report back to your Committee on the outcome of the Examination-in-Public and the Inspector's findings and main modifications;
- that officers bring forward any proposed full Mitigation Strategy for your approval.

Background

1. Epping Forest District Council (the Council), whose boundary includes 64% of Epping Forest, published its Local Plan, under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012), in mid-December 2017. It sought representations from the public and other bodies, under Regulation 20, over a 6-week period that concluded on 29 January 2018.
2. In the development of this submission version Local Plan the Council, along with three other local authorities, signed a Memorandum of Understanding (MoU) in 2016 with The Conservators and Natural England to ensure the protection of Epping Forest Special Area of Conservation (SAC) from any adverse impacts resulting from the Local Plan proposals (see *Background Papers* below).
3. In line with the MoU, the Regulation 20 response on behalf of The Conservators was made by the Town Clerk under delegated authority, in consultation with the Chairman and Deputy Chairman, on 29 January 2018. This was reported to your Committee in March, with the detailed response attached as Appendix 1 of that report. This same response letter is now attached to this current report for further reference, also as **Appendix 1**.
4. 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' response letter (**Appendix 1**) concludes that the Local Plan is 'unsound' because it is not consistent with national legislation, including The Conservation of Habitats & Species Regulations 2017 (The Habitats Regulations) and is not considered 'justified' or 'sustainable'.
5. Following the closure of the consultation period, the Council sought advice from both your officers and those of Natural England (NE), in relation to proposals for mitigation that might be included in its Local Plan Mitigation Strategy for the Epping Forest Special Area of Conservation (SAC). The Council as the 'Competent Authority' (as defined by The Habitats Regulations) for the SAC in respect of its Plan is required to ensure that adverse impacts on the SAC are avoided or mitigated. NE is the statutory body which advises competent authorities concerning the protection of internationally-important sites from adverse impacts.
6. Your Committee approved delegated authority for the development of detailed proposals for such a Mitigation Strategy at its meeting of 14 May 2018. On the basis of the evidence provided by the Epping Forest Visitor Survey 2017, interim proposals were prepared and submitted to the Council in July 2018. These proposals contained outline costings for on-site operations and activities that would aim to mitigate the additional recreational pressures due to the increase in residential development around the Forest SAC boundaries.

7. The Council accepted the proposals from your officers and included them in its draft interim Mitigation Strategy. This Strategy proposed that the money required for the mitigation work would be raised through tariffs on residential development.
8. The interim Mitigation Strategy was discussed at the Members' Co-operation for Sustainable Development Board (held under the local authorities' Duty-to-Co-operate (Section 110, The Localism Act 2011)) on 10th September. It was agreed that the interim Mitigation Strategy for Epping Forest SAC should be put to the three local authorities for whom tariffs had been identified as necessary for development under their Local Plans.
9. The Council requested that The Conservators also respond to the proposed interim Mitigation Strategy with their views. The Council insisted on a deadline of only a few days (by 14th September) in order to allow an October Cabinet decision.
10. Under delegated authority for developing the mitigation proposals, a response was sent on behalf of the Conservators on 14th September (**see Appendix 2**) outlining support for the contents of the interim Strategy but expressing concern over the lack of a full Strategy to address off-site avoidance measures, as well as adverse air pollution and urbanisation impacts.
11. The most effective off-site avoidance measures are Sustainable/Suitable Alternative Natural Greenspaces (SANGs) and the letter of 14th September reiterated the points made in the 29th January representations, that a SANGs Strategy and SANGs tariff were key to an effective **full** Mitigation Strategy. The 14th September representations also emphasised the continuing importance of the **Buffer Lands** to the protection of the Forest and how these areas could be used to support the provision of SANGs in the Local Plan.
12. The Epping Forest District Local Plan was submitted to the Secretary of State on 21st September 2018, prior to the Council's approval of the interim Mitigation Strategy.
13. Although the Strategy was subsequently approved by the Council's Cabinet on 18th October 2018, it has yet to be approved by the two other local authorities, which were identified in the Strategy as requiring tariffs for their Local Plan developments close to Epping Forest SAC (London Boroughs of Redbridge and Waltham Forest).
14. Furthermore, the interim Mitigation Strategy for the SAC remains only interim because it has yet to deal with the other potential adverse impacts on the Forest of air pollution from traffic and urbanisation effects and, also, it has not dealt with *off-site* avoidance measures. To protect the Forest a full Mitigation Strategy encompassing all these elements is required and, in addition, the outline costings for the recreational mitigation elements need to be subject to detailed appraisal to ensure the full costs are robustly assessed.

Current Position

15. Following the submission of the Local Plan on 21st September a Planning Inspector was appointed and the Plan's Examination-in-Public was confirmed as programmed for early 2019. The details of the hearings, venue and dates were then published on 28th November and Regulation 20 respondents, including The Conservators, were required to confirm their wish to attend Plan hearings by 21st December 2018.
16. Your officers confirmed to the Inspector that The Conservators would wish to be represented on all matters raised in their original submission (**Appendix 1**), and response to the interim Mitigation Strategy (**Appendix 2**), requesting changes to the Plan for which the Inspector has allocated time at the hearings. Currently, this would require your officers to attend on nine of the 15 hearing dates.

Options

17. There are three options available to your Committee:
 - a. **Option A** - to request that officers do not attend the hearings and leave the Inspector to determine the position, in regard to our representations of 29th January and 14th September, from our written submissions alone. **This option is not recommended** because of new information that is likely to be provided by the Council on the issues of air pollution and off-site mitigation, as well as the additional work that has been undertaken by your officers since the 29th January representations (**Appendix 1**). This additional work relates to on-site mitigation and the development of a **full** Mitigation Strategy.
 - b. **Option B** - to request that officers attend all hearings allowed by the Inspector and relevant to the 29th January representations and the subsequent representations related to the Mitigation Strategy (14th September letter at **Appendix 2**) but to make no further representations to the Inspector. **This option is not recommended** because of new information that is likely to be provided by the Council on the issues of air pollution and off-site mitigation, as well as the additional work required to agree a **full** Mitigation Strategy.
 - c. **Option C**
 - to request that officers attend all hearings allowed by the Inspector and relevant to the 29th January representations, as well as our subsequent representations related to the Mitigation Strategy; and
 - to make additional representations, ahead of each of the relevant hearing deadlines, as required, in order to provide additional proposals to better protect Epping Forest from the adverse impacts of proposed development in the Local Plan. **This option is recommended** as it allows a dialogue with both the Inspector and the Council to further develop the Mitigation Strategy towards a **full** Strategy, that would seek to avoid impacts, as well as mitigate them, through off-site provision for recreation and through reductions in air pollution and urbanisation impacts.

Proposals

18. It is proposed that combined Option 17c)i and 17c)ii above is pursued so that officers attend and make representations at the Examination in Public to clarify and reinforce our representations.
19. In addition, it is proposed that further work is done by your officers to develop ideas and promote proposals for off-site mitigation measures (SANGs), including the Buffer Lands, to be considered by the Inspector and the Council.
20. It is proposed that your officers would respond to any new information from the Council about air pollution and traffic impact modelling and provide further representations to the Inspector as required to clarify our position or to propose changes to the approach of the Plan.

Corporate & Strategic Implications

21. **Legal** – none relating to recommendations in this report.
22. **City of London Corporate Plan 2018 - 2023**: the protection of the internationally and nationally-important habitats of Epping Forest directly underscore the *third pillar* of the Corporate Plan, which is to “**shape outstanding environments**”. This *third pillar* of the Corporate Plan is measured by four outcomes. The protection and conservation of the outstanding environment of Epping Forest and its buffer lands contribute significantly to the achievement of two of these: firstly, Outcome 11 “We have clean air, land and water and a thriving and sustainable natural environment” and secondly, Outcome 12 “Our spaces are secure, resilient and well-maintained”.
23. **Open Spaces Department Business Plan 2016-19**: The Strategic Vision of this Business plan is to ‘Preserve and protect our world class green spaces for the benefit of our local communities and the environment.’ and one of the Department Objectives is to ‘Protect and conserve the ecology, biodiversity and heritage of our sites.’ Ensuring The Conservators’ responses are represented at the Local Plan EiP fully supports this objective.
24. **Epping Forest Management Plan, Strategy and Business Plan**: the responses on the Local Plan reflect the objectives of the previous and forthcoming Epping Forest Management Plans. These priorities will reflect the biodiversity and heritage importance of the Epping Forest SAC.

Conclusions

25. Since representations were made under delegated authority on behalf of The Conservators to the Regulation 19 Submission version of the Epping Forest District Council (EFDC) Local Plan, there have been significant developments with regard to on-site mitigation. After the Local Plan had been submitted to the Secretary of State by EFDC (the Council), an interim Mitigation Strategy, containing all on-site mitigation proposals from The Conservators, was approved by the Council’s full Cabinet in October. However, the two London Boroughs

identified as being required to charge mitigation tariffs have yet to approve the interim Strategy.

26. More work is required for a full and effective Mitigation Strategy to be developed to protect Epping Forest. Also, concerns remain over a number of potential significant adverse impacts to which the Local Plan could expose the Forest. However, in the meantime, the dates and hearings for the Local Plan's Examination-in-Public have been announced. This report seeks your Committee's approval for officers to attend the hearings relevant to The Conservators' representations and to ensure dialogues with both the Council and the Inspector are continued. This report also recommends that responses are prepared where new information is provided before or at the Examination-in-Public.

Appendices

- **Appendix 1:** Response of The Conservators of Epping Forest on the Epping Forest District Council Regulation 19 Submission Local Plan (29th January 2018 letter)
- **Appendix 2:** Response to The Conservators of Epping Forest to Epping Forest District Council's interim Mitigation Strategy for the Special Area of Conservation (SAC) (14th September 2018 letter).

Background Papers

- SEF 23/18 EF&C Committee Report: *Proposals for the development of a Mitigation Strategy for the Epping Forest Special Area of Conservation*. 14th May 2018
- SEF 19/18 EF&C Committee Report: *Epping Forest District Council Local Plan – Regulation 19 Consultation, Update*. 12th March 2018
- SEF 12/18 EF&C Committee Report: *Epping Forest District Council – Local Plan – Publication under Regulation 19 of the Town & Country Planning (Local Planning) (England) Regulations 2012 – Request for Delegated Authority*. 15th January 2018
- SEF30/16 EF&C Committee Report: *Epping Forest District Local Plan – proposed Memorandum of Understanding*. 4th July 2016

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