

<b>Committee(s):</b> Epping Forest & Commons Committee – For Decision	<b>Dated:</b> 08032021
<b>Subject:</b> Epping Forest District Council SAC Mitigation progress (SEF 14/21)	<b>Public</b>
<b>Which outcomes in the City Corporation’s Corporate Plan does this proposal aim to impact directly?</b>	11, 12
<b>Does this proposal require extra revenue and/or capital spending?</b>	<b>N</b>
<b>If so, how much?</b>	<b>N/A</b>
<b>What is the source of Funding?</b>	<b>Local Risk</b>
<b>Has this Funding Source been agreed with the Chamberlain’s Department?</b>	<b>Y</b>
<b>Report of:</b> Colin Buttery, Director of Open Spaces	<b>For Decision</b>
<b>Report author:</b> Jeremy Dagley, Head of Conservation, Epping Forest, Open Spaces	

### Summary

This report sets out the current situation with regards to the Epping Forest District Council’s (the Council) Local Plan and proposed SAC mitigation measures, both in relation to its Green & Blue Infrastructure Strategy, and SANGS, and in relation to air pollution. In relation to the latter proposals on mitigating air pollution impacts, the Council has proposed an Air Pollution Mitigation Strategy and will soon invite your officers to become members of an APMS Stakeholder Working Group. The APMS also includes a specific measure in relation to the *Next* plc proposed distribution centre development to which this report proposes an objection is retained.

### Recommendation(s)

Members are asked to:

- delegate authority to the Town Clerk, in consultation with the Chairman and Deputy Chairman, to complete a response to the proposed Green & Blue Infrastructure Strategy amendments discussed with Council officers, reiterating the concerns on SANGS capacity and quality and on SAMMS contributions from masterplan sites;
- approve the ‘in principle’ acceptance of any invitation by Epping Forest District Council for membership of the APMS Stakeholder Working Group, with the provisos listed in this report;
- instruct the Comptroller & City Solicitor to review the terms of reference, and other membership rules, in relation to the APMS Stakeholder Working Group and to make recommendations in a further report to your Committee for decision;
- approve the reiteration of objections, by your officers, to the *Next* plc development in line with the proposals set out in this report.

## Main Report

### Background

1. Epping Forest District Council (the Council), whose boundary includes 64% of Epping Forest, is in the process of completing the main modifications to its Local Plan submission version (LPSV), following its examination-in-public in 2019.
2. The key parts of the main modifications, required by the Planning Inspector, have been addressing the incomplete data in the Local Plan's Habitats Regulations Assessment (HRA) in relation to air pollution and providing a Suitable Alternative Natural Green Spaces Strategy (SANGS Strategy), in order to prevent adverse impacts on the Epping Forest Special Area of Conservation (SAC).
3. A Green & Blue Infrastructure (G&BI) Strategy was produced by the Council in June 2020, incorporating an approach to SANGS. The Chairman made a response to this (see **Appendix 1**), approved by your Committee, on 6<sup>th</sup> July (see *Background Papers* below - Report SEF18/20) pointing out ongoing concerns with the lack of detail of SANGS and the lack of certainty with their capacity and as effective alternative greenspaces to the Forest.
4. In relation to air pollution impacts on the Forest, there have been a series of iterations of the HRA analysis of traffic and air quality models and a number of meetings between Council officers, their consultants, Natural England and your officers. Following Natural England's agreement with the Council on the final elements of the Air Pollution Mitigation Strategy (APMS) in November last year, the Council published it on 7<sup>th</sup> January as a decision of the Planning & Sustainability Portfolio holder (see link in **Background Papers** below). This decision was subsequently confirmed, with amendments, at a meeting of the full Council on 8<sup>th</sup> February 2021.
5. One of the additional elements of the APMS introduced late into the proposals and which had not been discussed with your officers, is the proposal for a right-hand-turn ban at Forest Side, Honey Lane Quarters (see Map at **Appendix 3**). This traffic control element is required by Highways England if a proposed development of a distribution centre for *Next* plc is to be approved. The site for the distribution centre is allocated in the LPSV and had originally been objected to by your officers at the Local Plan examination-in-public.
6. However, a planning application of reduced scale (Phase 1 only) was submitted by *Next* plc in November 2020 and your officers maintained the objections (see **Appendix 2** for letter of objection) because of the development's likely impacts on traffic levels through the Forest, on the openness of the Green Belt and on the lack of consultation on the newly-proposed right-hand-turn ban.

### Current Position

7. Following the Chairman's letter of 6<sup>th</sup> July and further discussions with Natural England (NE), the Council and its consultants have developed some modified proposals for the G&BI Strategy. Although not yet in finalised form for publication, the Council has discussed some outline proposals with your officers and NE and

as recently as 5<sup>th</sup> March 2020 set these out in some more detail. The main changes proposed relate to the function of the SANGS provided on the five masterplan sites at Harlow Water Lane Garden Town (2,100 homes), Latton Priory Garden Town (1,050), North Weald Bassett (1,050), Epping South (450) and Waltham Abbey North (740). These were originally declared as “strategic SANGS” providing the impression that they could serve a wider area than the immediate masterplan site. It has been indicated that this would be revised in the light of the concerns expressed in the Chairman’s letter.

8. This would be an important concession to our concerns but there remain doubts over the function of Latton Priory’s SANGS as the proposals in the G&BI Strategy suggest at the moment that some of the capacity may be available to other sites. The capacity should be designed as a bespoke solution to the master-planned site, particularly because greenspaces associated closely with major developments are significantly less likely to attract visitors from outside those developments.
9. Furthermore, it remains unclear at this stage whether the master-planned sites will also be contributing to the on-site Strategic Access Management & Monitoring Measures (SAMMS) mitigation for the Forest. For other international site strategic solutions, large development sites deliver both SANGS and SAMMS mitigation to ensure that mitigation is certain and effective. Without SAMMS contributions from such large developments, there would need to be clarity that the level and quality of the SANGS would provide complete mitigation for the additional recreational pressure on the Forest.
10. This represents a high bar and the lack of detail on the design of the SANGS for the master-plan areas, thus far, does not provide sufficient confidence that the mitigation provided will be adequate. Water Lane and Epping South are of particular concern in this regard.
11. In addition to the masterplan sites, it has been indicated that the G&BI Strategy would begin to recognise our previously expressed concerns about the need for other alternative greenspaces to be provided for the other homes outside the master-planned sites. However, in the recent discussions with Council officers, no new SANGS have been identified for the non-masterplan housing. Instead, two existing sites seem likely to be put forward as so-called “infrastructure projects”, the capacity of which for visitors would be enhanced by various measures to make the sites more attractive and better sign-posted destinations. The scale of mitigation of these two sites is not yet clear and there would be likely to be constraints at each.
12. Overall, the discussions, thus far, do not, in your officers’ opinions, provide enough certainty about the list of infrastructure projects or additional SANGS for the non-masterplan sites. Furthermore, as currently drafted the Local Plan Policy DM2 does not clearly set out that such alternatives will be secured before the development and the process by which such infrastructure projects will be identified for each development, or cluster of housing developments, is not set out as yet.

13. The APMS approved by the Council on 8<sup>th</sup> February contains detailed appendices with proposed actions and spending commitments, including some spending (£40,000) on Forest Land (see *Background papers for Air Pollution Mitigation Strategy*: see paragraph 5.45 of the APMS and the APMS's appendix 4 on page 37(Document EB154)).
14. The foundation of the proposed mitigation in the APMS is in two parts: an increase in electric vehicles using Forest roads and a Clean Air Zone (CAZ) introduced from year 2025. The CAZ would involve vehicle charging for use of roads passing through the Forest, although the Council has yet to decide on the type of CAZ and the vehicles to be charged. The APMS proposes a "Stakeholder Working Group" onto which your officers and those of Natural England would be invited to take forward the development of the CAZ" (see *Background papers for Air Pollution Mitigation Strategy*: appendix 2 on page 33 of the APMS (Document EB154)). This suggests that officers are expected to advise on the way in which the CAZ might operate to protect the Epping Forest SAC.
15. At the Council's 8<sup>th</sup> February meeting, a Portfolio Advisory Group (PAG) of Epping Forest District councillors has also been set up and its membership of district councillors is currently being decided. The Council has undertaken to consider how your Committee might be able to feed its concerns and views into this PAG, and the role of the Members' Duty-to-Cooperate Board meetings in relation to this.
16. In relation to the right-hand-turn ban, the Council has responded to the objections made in your officers' response on 7<sup>th</sup> December (**Appendix 2**). As a result, an updated HRA was provided with further traffic modelling to examine the impacts on air quality along Forest Side and the other roads in and around the High Beech area. The HRA concludes that impacts of the right-hand-turn ban on air quality in the Forest would be largely neutral. This provides an answer to some concerns but the HRA did not analyse the impact on the Wake Road, only on the A104. The Wake Road bisects the heathland of Sunshine Plain a key habitat of the SAC designation. In addition, the impact on the Forest car park at Honey Lane and on rat-running and potential erosion damage to verges along the minor roads on the western flank of the Forest are not fully addressed.

## Proposals

17. In relation to the G&BI Strategy it is recognised that the discussions with NE and your officers were preliminary, non-public and were not set against any published or approved new draft G&BI Strategy. However, further observations from The Conservators have been requested by Council officers. Therefore, it is proposed that the Town Clerk be given delegated authority to respond with the concerns outlined above and to reiterate the compliance problem with the lack of clarity on the capacity, quality and process of establishing SANGS for all developments, particularly non-masterplan developments.
18. Furthermore, the precision of the wording of the related Policy DM2 remains a point of difference with the Council and it is proposed that this would be raised in detail in the letter to reiterate the concerns expressed at examination-in-public,

and since then, by your officers. The letter would also recognise the recent positive discussions with councillors in relation to their intentions towards the *Green Arc* project and the enhancement of the overall green connections across the District. In that regard it is proposed that the role of Buffer Lands is raised for more detailed consideration in the development and refinement of the G&BI Strategy's "infrastructure projects". The Council has indicated that it would wish to receive any further comments from the City Corporation, as Epping Forest Conservators, by Friday 12<sup>th</sup> March 2021.

19. Given the complex issues to be monitored during the implementation of the APMS, and the need to ensure that the proposed mitigation, including alternatives to the CAZ, is fully explored and carefully implemented, it is proposed that your officers should accept any invitation to become a member of the APMS Stakeholder Working Group in principle. However, it is proposed that this would be with three key provisos:

- that Natural England accepts membership and is able to actively participate in the Stakeholder Working Group;
- that the Local Plan Policies DM2, DM22 and D8 are worded with sufficient precision, to your officers' satisfaction, to ensure that triggers and brakes on development are enforceable and that the mitigation measures can be secured before any related development;
- that the Terms of Reference of membership of the Group are acceptable, with advice from the Comptroller & City Solicitor and approved by your Committee.

20. In terms of the *Next* plc development (see **Appendices 2 and 3**), it is proposed that the objection to the development is retained and reiterated in a follow-up response to the Council by your officers this month. Although the air quality issues have been addressed to some extent, in relation to the impact of the right-hand-turn ban, the other impacts of that ban and the wider issues, including the impacts on the Green Belt and the traffic congestion likely to be caused by the development remain.

## Options

**21. Option 1:** no further responses are made in relation to the G&BI Strategy, Local Plan policies, the APMS or the air quality issues of *Next* plc development. Although officer time would be saved, the further opportunity to influence and improve the Local Plan and its impacts on the Forest would be missed and reliance for any improvements would rest with Natural England only. **This option is not recommended.**

**22. Option 2:** no further responses are made at this point for the G&BI Strategy and responses are reserved for full the Planning Inspector's Main Modifications consultation later this year, including any further reference to the Buffer Lands. Responses, however, are made to the APMS and *Next* plc air quality issues. Such an option would not provide further opportunity to influence the major adverse impact of recreational pressure. **This option is not recommended.**

**23. Option 3:** Further responses are made on all points as proposed: to the G&BI Strategy, including the proposed reference to the Buffer Lands and “infrastructure projects”; to the APMS reserving our position in relation to Stakeholder Group membership; to the accompanying Local Plan policies influencing both air pollution and recreational pressure; and to the *Next* plc development. This approach would continue, and further open up, the dialogue with the Council, both councillors and officers, and may secure the required changes to the Local Plan prior to the Main Modifications (MM) consultation. This is likely to maximise influence on the Local Plan mitigation outcomes and engagement thereafter. **This option is recommended.**

### **Key Data**

24. The EFDC Local Plan is close to Main Modifications (MM) consultation stage. The target number of homes remains the same as at the Local Plan examination, with 11,400 residential units proposed for completion by 2033. However, within this total, there are now fewer planned for Epping South and Loughton, as it stands, prior to the MM consultation. There are 5 new master plan housing sites in or around the perimeter of the 6.2km recreational Zone of Influence for the SAC. These are proposed to provide 5,390 new homes by 2035.

25. Under the Council’s Air Pollution Mitigation Strategy, a Clean Air Zone is proposed for introduction by 2025. By that date, the other mitigation measure, for the air quality in the SAC, is for 5% of vehicles passing along Forest roads to be electric (ULEVs).

### **Corporate & Strategic Implications**

26. The engagement by officers in responding to the EFDC Local Plan, and its SAC mitigation proposals, aims to uphold the target Outcomes 11 and 12 of the Corporate Plan. Outcome 11 states that: “*We will have clean air, land and water and a thriving and sustainable natural environment*”. Outcome 12 states that: “*Our spaces are secure, resilient and well-maintained. Build resilience to natural and man-made threats by strengthening, protecting and adapting our infrastructure, directly and by influencing others*”.

### **Financial implications**

27. None at present. The financial implications of SAMMS were subject to a separate report to your Committee in November 2020 (see *Background Papers - Report SEF27/20*) and remain subject to discussion by the local authorities around the SAC, including the London Boroughs of Waltham Forest, Enfield, Newham, Hackney and Redbridge as well as Epping Forest District Council. The outcomes of these local authority discussions would be reported to your Committee in future and any decisions on SAMMS funding and management would be subject to your Committee’s separate approval.

### **Resource implications**

28. Significant staff resources continue to be required throughout both this and the next financial year to respond to and negotiate with the Council, its consultants

and to liaise with Natural England on air quality and recreational impacts on the Forest. However, this is to influence policy extending to 2033 and well beyond.

### **Legal implications**

29. None at this stage for the options recommended above. Any involvement in the APMS Stakeholder Working Group, and its terms of membership and other terms of reference, would need to be agreed with the Comptroller & City Solicitor, and approved by your Committee, prior to officers taking an active role in the Group.

### **Risk implications**

30. Any involvement on the Stakeholder Working Group for the Council's APMS carries a potential reputational risk for the City Corporation as Conservators of Epping Forest. A final decision would be requested from your Committee on this, under a separate report, after the terms of membership are confirmed.

### **Equalities implications**

31. None.

### **Climate implications**

32. The responses to the Council's Local Plan policies that are proposed in this report have no direct climate implications.

### **Security implications**

33. None.

### **Charity Implications**

34. 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.

### **Epping Forest Consultative Committee**

35. The Consultative Committee has not been consulted on this report due to the timings in relation to the G&BI Strategy discussions, the Council's 8<sup>th</sup> February decision to approve the Air Pollution Mitigation Strategy and ongoing discussions with the Council in relation to *Next* plc and an updated project-level HRA.

### **Conclusion**

36. The discussions on the Green & Blue Infrastructure Strategy have shown some progress towards better mitigation solutions in terms of alternative greenspaces. However, more remains to be done to secure full recreational mitigation and the newly proposed infrastructure projects require further scrutiny. A further response, therefore, is proposed now to seek to make changes before the Inspector's Main Modifications consultation.

37. In relation to air pollution, the Council's Air Pollution Mitigation Strategy (APMS) provides the mechanisms for effective mitigation provided the Local Plan policies are tightened up in terms of the precision of their wording. However, within the APMS, the Clean Air Zone leaves much detail to be sorted out. Alternatives to this form of mitigation need to be further explored. Your officers' roles in helping to influence and monitor the implementation of the mitigation through a proposed APMS Stakeholder Working Group may be effective, but only provided that the

Local Plan policies offer enforceable brakes on development and provided that the terms of membership for the Group are deemed acceptable by the City Solicitor and through further approval by your Committee.

## **Appendices**

**Appendix 1:** Chairman's letter of 6<sup>th</sup> July 2020 in response to 1<sup>st</sup> draft EFDC G&BI Strategy

**Appendix 2:** Letter of objection 7<sup>th</sup> December 2020 to *Next* plc planning application

**Appendix 3:** Map of areas affected by proposed right-hand-turn-ban

## **Background Papers**

- Epping Forest District Council Document EB154 - Epping Forest Air Pollution Mitigation Strategy (71 pages, with 4 appendices)  
<https://www.efdclocalplan.org/wp-content/uploads/2021/01/EB154-Adoption-of-the-Interim-Air-Pollution-Mit-Strategy-v2.pdf>
- Report to Committee 6<sup>th</sup> July 2020: *Local Plans Update: Green Infrastructure Strategy consultation* (SEF 18/20)
- Report to Committee 16<sup>th</sup> November 2020: EF SAC Mitigation for Local Plans: on-site SAMM proposals (SEF 27/20)

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