

Committee(s): Epping Forest & Commons – For Decision	Dated: 13092021
Subject: Statement of Common Ground for London Borough of Waltham Forest Local Plan (SEF 36/21)	Public
Which outcomes in the City Corporation’s Corporate Plan does this proposal aim to impact directly?	11, 12
Does this proposal require extra revenue and/or capital spending?	N
If so, how much?	N/A
What is the source of Funding?	Local Risk
Has this Funding Source been agreed with the Chamberlain’s Department?	Y
Report of: Colin Buttery, Director of Open Spaces	For Decision
Report author: Jeremy Dagley, Head of Conservation, Epping Forest, Open Spaces	

Summary

This report sets out the reasons for agreeing a Statement of Common Ground (SoCG) with the London Borough of Waltham Forest (the Council) as part of its ongoing Local Plan development. The SoCG, appended to this report, sets out the areas of agreement and progress since The Conservators’ detailed response to the Council’s Regulation 19 Local Plan consultation and also the significant outstanding issues in relation to the protection and enhancement of Epping Forest. It is recommended that the SoCG is submitted to the Local Plan Inspectors to assist them in their deliberations and focus on The Conservator’s key concerns ahead of the examination-in-public.

Recommendation(s)

Members are asked to:

- approve the Statement of Common Ground (SoCG) with London Borough of Waltham Forest in relation to its Local Plan as set out in **Appendix 1** of this report.
- delegate authority to the Town Clerk, in consultation with the Chairman and Deputy Chairman, to make and agree minor changes to the SoCG to ensure it evolves and is kept up-to-date as a working document, while any major alterations to the SoCG as a result of substantive Local Plan Policy re-wording may be reserved for further Committee approval.

Main Report

Background

1. As reported to your Committee in March (Report SEF15/21 – see ‘Background Papers’), the London Borough of Waltham Forest (the Council) is in the process of updating and developing its Local Plan for examination-in-public. Its Local Plan’s housing requirement has been set at 27,000 homes by the end of the Plan period, which is year 2035.
2. The Borough lies entirely within the Epping Forest Special Area of Conservation’s (SAC) 6.2km Zone of Influence (Zol) for recreation, as determined by two recent Epping Forest Visitors Surveys (2017 and 2019). Furthermore, City Corporation-owned Epping Forest Land makes up 45% of the publicly accessible green space within the Borough
3. The projected level of increase in the Borough’s residential population has significant implications for the protection and management of Epping Forest because of the potential adverse impacts of recreation and air pollution. These issues were raised with the Council in your response to its Regulation 19 Local Plan consultation in December 2020.

Current Position

4. In response to your concerns, the Council has made some amendments to its Local Plan in its April 2021 modifications. In particular, on Policy 83 concerning the protection of Epping Forest, there is additional wording and detail. Council Officers have also engaged regularly with your officers, and with Natural England, since the Regulation 19 consultation, to examine mitigation options in detail. Progress has been made on mitigation proposals, especially on the range of alternative sites that are now being considered in the Borough to reduce future recreational pressure on the Forest.
5. The revised Local Plan Habitats Regulations Assessment (HRA) from April 2021 reflects some of this progress. However, the recently appointed Inspectors for the examination-in-public have requested, in their *Preliminary Matters* paper (see Appendix 2), further detail on the effectiveness of the range of mitigation being proposed by the Local Plan and how the HRA recommendations would be integrated into the Plan. They have asked the Council for a topic paper on the HRA. They will use this topic paper and other responses from the Council to formulate the *Matters, Issues and Questions* (MIQs) which would go out for public consultation ahead of the examination-in-public.
6. In addition, both your officers and Natural England are continuing to raise issues concerning the HRA as there remain uncertainties about the effectiveness of proposed mitigation, both for recreational pressure and air pollution.
7. The scale of development remains a significant concern with the level of proposed housing remaining the same in the Borough. Current site allocations and density of housing close to Epping Forest pose considerable problems (e.g. the proposed Whipps Cross residential allocation of 1500 homes) and, in addition

to more detail required on the HRA, a follow-up consultation is awaited on revised site allocations.

Proposals

8. The Council is required by the Inspectors to demonstrate that it has fulfilled its *duty-to-cooperate*, as required by Section 33A of the Planning & Compulsory Purchase Act 2004. The new National Planning Policy Framework (NPPF) published in 2018 (and as updated since) further required that the *duty-to-cooperate* with other local authorities and “*relevant bodies*” (Sections 24 -27, NPPF) was evidenced by Statements of Common Ground (SoCGs) between the parties. The Inspectors have requested SoCGs from the Council in their *Preliminary Matters* published on 22nd June.
9. Given your officers’ detailed involvement in discussions on the HRA and the essential role of the City of London Corporation as The Conservators in advising on and/or implementing and monitoring much of the mitigation, it seems clear that CoLC is a relevant body for the purposes of the NPPF and that it is important that such cooperation continues. It seems likely that the Inspectors would wish to know The Conservators’ position as early as possible, given the focus of the Preliminary Matters document on the HRA.
10. The matters laid out in the SoCG (**Appendix 1**) are likely to assist them in understanding the range of issues and in preparing their MIQs for consultation. Therefore, it is proposed that the SoCG at Appendix 1 should be submitted to the Inspectors as evidence of The Conservators’ constructive commitment to protecting the SAC through the Local Plan process.
11. It is likely that this SoCG will evolve, as SAC mitigation matters and other details of the Local Plan change (e.g. housing quantities or locations), requiring both minor and more substantive modifications. It is proposed that authority is delegated to the Town Clerk, in consultation with the Chairman, to make and agree further amendments to the SoCG. However, should major Local Plan policy changes be made, particularly around Green Infrastructure or the policies protecting Epping Forest (Local Plan Policy 83), then any concomitant changes or updates to the SoCG would be brought back to your Committee for approval.

Options

12. Option 1: the SoCG at Appendix 1 is signed by the Superintendent to show both progress with protection of the SAC but also to highlight outstanding concerns and their significance. Subsequent minor changes and updates to the SoCG would be agreed by the Town Clerk under delegated authority but major changes relating to Local Plan policy alterations would be brought to Committee for approval. **This option is recommended.**
13. Option 2: the SoCG is not signed and submitted and, instead, CoLC as The Conservators continues to reserve its position on all matters and awaits the Inspectors’ MIQs before making its position known in relation to the Local Plan

and its HRA, following further Committee consideration of the matters raised by the Inspector. **This option is not recommended.**

Key Data

14. The London Borough of Waltham Forest Local Plan proposes the building of 27,000 more homes in the Borough in the next 15 years, all within 3km of the Epping Forest SAC boundaries.
15. The Inspectors' *Preliminary Matters* paper was published on 22nd June requiring a response, including SoCGs, from the Council in August.

Corporate & Strategic Implications

16. The engagement by officers in responding to the LBWF Local Plan aims to ensure aims to be consistent with 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*" is met. 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

17. None beyond business-as-usual local risk expenditure at present. The financial implications of SAMMS were subject to a separate report to your Committee in November 2020 and remain subject to discussion by the local authorities around EFSAC, including LBWF.

Resource implications

18. Staff resources are required throughout the next financial year to negotiate and advise the Council and to liaise with Natural England.

Legal implications

19. These are contained within the body of the report.

Risk implications

20. In signing the Statement of Common Ground.

Equalities implications

21. None.

Climate implications

22. None

Security implications

23. None.

Charity Implications

24. 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

25. The Consultative Committee has not been consulted on this report due to the deadlines set by the examination-in-public process and the Inspector's *Preliminary Matters*, which included a request for evidence of co-operation and Statements of Common Ground. The *Preliminary Matters* were only published on 22nd June and required a response from the Council this summer. The Consultative Committee, however, would be updated on the Council's Local Plan in October by which time the Inspectors' MIQs may have been published and the revised site allocations may also be available from the Council for consultation.

Conclusion

26. In signing the Statement of Common Ground (SoCG), the City of London Corporation as The Conservators of Epping Forest would be accepting its role in the Local Plan process as a "relevant body" as described by the NPPF. The Conservators are not required to demonstrate a duty to co-operate under this legislation (Planning & Compulsory Purchase Act 2004). However, given the detailed responses made to the Local Plan, which are subject to continuing negotiations with the Council, alongside the vital role The Conservators would play in implementing any mitigation, an SoCG that sets out clearly the progress made, and the outstanding issues remaining, would assist the Inspectors in their deliberations and should ensure that the Local Plan examination would take full account of The Conservators' key concerns.

Appendices

- **Appendix 1:** Statement of Common Ground with London Borough of Waltham Forest
- **Appendix 2:** Inspectors' *Preliminary Matters* for London Borough of Waltham Forest Local Plan

Background Papers

- SEF15/21 *London Borough of Waltham Forest Local Plan*. Report to Epping Forest & Commons Committee 8th March 2021.

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