

Committee: Epping Forest Consultative * Epping Forest & Commons	Dated: 20/10/2021 For information 15/11/2021 For Decision
Subject: EFSAC Mitigation for Local Plans: on-site SAMM Proposals progress and update (SEF 47/21)	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	11 and 12
Does this proposal require extra revenue and/or capital spending?	No
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?	Yes
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Summary

This report provides an update on the negotiations on SAMMS mitigation measures to protect the SAC. It follows from the report to Consultative Committee in October 2020 which laid out detailed, costed mitigation proposals. Those proposals form the basis of the final SAMMS package, but elements have been removed and the overall cost of the package has been reduced by removing proposals that did not meet strict mitigation criteria. The overall SAMMS package seems likely to be over £20M for an 'in perpetuity' period of 80 years or more. However, this cost and the 'in perpetuity' period are yet to be agreed by the six competent authorities involved in the provision of the mitigation and its oversight. Governance and finance arrangements for mitigation implementation are nearing a conclusion but also remain to be agreed. Authority is sought in respect of the position to be adopted by the City Corporation in discussions with the competent authorities

Recommendation(s)

Consultative Committee Members are asked to:

- Note the report; and,
- Offer any comment on the revised SAMMS proposals for consideration at the Epping Forest and Commons Committee in November 2021.

Main Report

Background

1. A large proportion of Epping Forest (2450ha) is under statutory protection for its features of international importance for nature conservation, as a Special Area of Conservation (SAC) (1605ha), and features of national importance, as a Site of Special Scientific Interest (SSSI) (1728ha).

2. In formulating their Local Plans, the local authorities (“competent authorities”), around and within which the Epping Forest Special Area of Conservation (EFSAC) is located, are required to determine if their respective local plans (both individually and cumulatively with other plans) may affect the protected features. They achieve this through a Habitats Regulations Assessment (HRA) governed by the Habitats Regulations 2017 (as amended) (the Habitats Regulations), Regulations 63 and 105.
3. Further details on this HRA process and identifying “likely significant effects” were covered in the report to your Committee in October 2020 (Report SEF27/20 - see *Background Papers*). The likely significant effects identified by the HRA process as requiring mitigation at EFSAC are:
 - air pollution (mostly from road traffic),
 - increased recreational visits
and
 - additional urbanisation impacts.
4. The air pollution mitigation is being dealt with by each local authority separately through each Local Plan.
5. The impacts of recreational pressure can be mitigated by avoidance (alternative sites to visit) or by direct management on the EFSAC itself, with avoidance being the preferred route of mitigation.
6. However, due to the scale of development proposed by the Local Plans of authorities around the EFSAC, with >68,000 planned new homes within 6.2 km of the EFSAC boundaries, direct management and monitoring within the Forest will be essential to prevent adverse impacts.
7. The direct management options are the subject of this report and are being covered within a Strategic Access Management & Monitoring Strategy (SAMMS).
8. In November 2020, The Epping Forest & Commons Committee approved a comprehensive set of SAMMS mitigation proposals as a basis for discussion and negotiation with Natural England (NE), the GLA and the competent authorities. These proposals and their costs were previewed by your Consultative Committee at its meeting of October 2020 (Report SEF27/20).
9. The SAMMS proposals put forward for consideration by the competent authorities, GLA and NE were initially costed to cover a range from £17M to £63M for either 25-year or 125-year ‘in perpetuity’ periods respectively. These proposals have been the subject of lengthy consideration by the competent authorities, in liaison with NE, GLA and City Corporation Epping Forest officers since January 2021.

Current Position

10. There are six local authorities considered by Natural England to require mitigation measures in their local plans, as determined by the currently accepted 6.2km recreational Zone of Influence (Zoi) around the EFSAC. These authorities, along with the London Legacy Development Corporation (LLDC), are required to agree on the mitigation measures and the distribution of the costs of the measures amongst themselves.
11. In addition to the consideration of the package of mitigation measures, the question of 'in perpetuity' is still under consideration, with legal counsel having been sought by the competent authorities. A final determination is awaited on this issue, but it is expected that it is not likely to be as low as a 25-year period and is more likely to be 80-years or greater.
12. Governance for the implementation phase is likely be through some form of continuation of the SAC Mitigation Oversight Group, but it is not clear yet whether the competent authorities will delegate to officers or will wish for Members to attend the meetings. In addition to this governance structure, there is likely to be a separate sub-Committee of the City Corporation required to oversee the spending and auditing of the mitigation budget. It is likely that the competent authorities would be part of this sub-Committee to oversee the spending being undertaken on their behalf.
13. Currently, it is proposed that the City Corporation as The Conservators and owners of the EFSAC, would receive the mitigation funding directly and act, therefore, as the banker for the SAMMS. Such a financial management arrangement, along with its interaction with the SAC Mitigation Oversight Group governance structure, is still to be confirmed.
14. The negotiations on the SAMMS package have still not been finalised, but the next meeting of the SAC Mitigation Oversight Group of competent authorities will be held on 21st October 2021. It is hoped that the cost and 'in perpetuity' questions will be resolved at this meeting, along with agreement on future governance and financial arrangements for the delivery of mitigation measures over the extended period required.

Proposals

15. The SAMMS package has been significantly modified through review and discussions at the SAC Oversight Group. Natural England advised that certain projects should be removed because they did not completely fit the strict criteria for adverse impact mitigation from new developments. The package of measures amounts currently to over £20M across 80 years, compared to the range between £17M – £63M cited in the report last year (see paragraph 9 above and *Background Papers*). However, negotiations are still not finalised, and this figure may change again.
16. The elements contained within the SAMMS package of measures are listed in **Appendix 1** for comparison with the original list provided in October 2020.

The highlights include the proposed employment of a Project Officer to manage the mitigation work and report to the competent authorities and NE. In addition, the proposals include the employment of three SAC Ambassadors who would carry out the liaison with new visitors and communities, manage recreational impacts through various schemes including engaging with groups like dog-walkers and through interventive techniques to prevent damage (e.g erosion protection measures) and monitoring of the impacts of recreation (e.g. fixed point photography etc).

17. Other elements of the SAMMS include path repair budgets and extensive signage and communication.

Options

18. As set out in the report, the decision as to the SAMMS Package is for the competent authorities to make. In respect of the City Corporation's position in its discussions with the competent authorities, authority is sought from your Committee to adopt Option 1 below. The options as regards the approach to be promoted by the City Corporation in its discussions with the competent authorities and other stakeholders are as follows:
19. **Option 1:** To approve confirmation of the 'in perpetuity' period provided it is 80 years or over (still to be confirmed), and the terms of governance and finance as negotiated and subject to the advice of Comptroller & City Solicitor. To approve the SAMMS package with its modified range of elements, including path repair, signage, Ambassadors and Project Officer, for the agreed 'in perpetuity' period. **This option is to be recommended to the EF&C Committee.**
20. **Option 2:** To reject the SAMMS proposals and governance/finance/'in perpetuity' arrangements and to pursue further negotiations with NE and the competent authorities. **This option is not to be recommended to the EF&C Committee.**

21. Corporate & Strategic Implications

22. 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.
23. The report 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

Other Implications

24. **Financial Implications:** In addition to considerable officer time required to respond to the Local Plans since 2017, the costs of legal representations and specialist consultancy advice with regard to the Local Plans thus far amount to approximately £70,000. The cost of representations should be seen in the context of the Local Plans' durations and the scale of proposed development (see paragraph 6 above).
25. All these mitigation costs would need to be funded through developer contributions or other funding mechanisms chosen and approved by the participating local authorities with 'in perpetuity' funding required to cover a period to be set by those competent authorities with advice from Natural England.
26. Financial arrangements for managing the tariff income for SAMMS implementation remain to be decided and await the outcome of the 21st October 2021 SAC Mitigation Oversight Group discussions.
27. **Legal:** These are contained in the body of this report and the previous report (SEF 27/20) in terms of the Habitat Regulations. However, issues of governance and the relevant agreements between the competent authorities would be subject to assessment by and advice from the Comptroller & City Solicitor where agreements might seek to involve the City Corporation as a signatory. The arrangements for audit and oversight of the City Corporation's implementation of the SAMMS mitigation measures would need to be the subject of legal scrutiny prior to any undertakings being made.
28. **Property:** The Local Plans of the surrounding authorities set out how and where land and property will be used into the 2030s. It is important to the City Corporation's stewardship of the Forest to protect the Forest from any likely adverse impacts of development while having regard to opportunities for the best use of property and land for operational purposes.
29. **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.
30. **Equalities & diversity:** Equality impact assessments of Local Plans and associated or incorporated documentation (e.g. SAC Mitigation Strategy) would be undertaken by the local authorities as the plan-making bodies.

Conclusions

31. After 9 months of discussions and negotiations at the SAC Mitigation Oversight Group, the SAMMS package of measures is nearing completion and is likely to represent over £20M of measures over an 80-year 'in perpetuity' period – although this remains to be agreed by the parties, may yet be subject to further change, and is ultimately a matter for decision of the competent authorities. The governance and finance structures also remain to be agreed but it is expected that these will involve all the competent authorities, along with NE and the City Corporation as Epping Forest SAC owner and manager.

Appendices

- **Appendix 1:** Current SAMMS proposals for Forest-wide and visitor hubs at High Beach, Chingford and Leyton Flats

Background Papers

- Report to Epping Forest & Commons Committee (SEF27/20): *EFSAC Mitigation for Local Plans: on-site SAMM Proposals*. 16th November 2020

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