

Agenda item 4.2 Local Plan Main Modifications Public Consultation

In its entirety, we still believe that the Main Modifications (MMs) fail to put the Local Plan Submission Version (LPSV) into a state of compliance with the general law, and the Holohan judgment. We submit that you as Inspector cannot accept the Interim Air Quality Management Strategy as any more than a possible set of actions, for which there is no guaranteed success, which may or may not bring about the mitigation of pollution on the Special Area of Conservation (SAC) beyond any scientific doubt.

We consider this to be so important that it may vitiate the whole LPSV; therefore ask you to reconvene the EiP, in order that the chance of success with the Interim Strategy may be assessed in the light of the latest scientific thinking, the progress since 2020 or otherwise of decarbonisation, and further threats to tree and vegetation species.

On particular MMs, we have the following comments and objections:

MM22, page 39; after “in some locations” add “and following the processes of making this Local Plan,” and after “Chigwell Village Green”, insert “Jessel Green Loughton”. This is to give protection following MM114, LOU R5, p179

MM47 Page 74-75 (and Policy DM 2 Page 82-83)

The wording is insufficient; suggest instead:

Development that would be likely to have an adverse effect on the integrity of the SAC, either alone or in combination with other development, plans or projects, will not be consented unless it can be clearly demonstrated beyond all reasonable scientific doubt that adequate measures are secured and delivered to ensure there will be no harm to the integrity of the protected sites, as is commensurate with the ECJ judgement in *Holohan*.

For the Epping Forest SAC, the need for a strategic approach has been identified and such measures will therefore be expected to include those identified in the Mitigation Strategies adopted by the Council relating to air pollution and recreational pressure, which will be reviewed and updated in October of each year in the Plan period. There may need to be additional requirements depending on the location of each application site in relation to the SAC and routes through it, and the intended site use.

For the avoidance of doubt, the relevant strategies for the Epping Forest SAC, which have been adopted by the Council as a material consideration in the determination of planning and other relevant development related applications, are as follows:

MM47 Page 76-77 DM 2 Page 82-83

To read

In recognition of the risks posed to the Epping Forest SAC from urbanisation effects over and above that resulting from normal recreational pressures (including but not limited to effects from fly-tipping, the introduction of non-native plant species, erosion of the forest edge, and incidental fires) planning applications for development will not be consented within 1km of the boundary of the Epping Forest SAC, unless it can be demonstrated through the assessment of individual planning applications that no harm (including through increased vehicular traffic) will result to the SAC.

Footnote 2, to read

It can be noted that this is not a “no development” buffer as such, but it introduces a duty on any potential developer to *prove* beyond all reasonable scientific doubt (we suggest, to the satisfaction of the Conservators, who are best placed to adjudicate) that detriment to the SAC would not occur. This is commensurate with the test introduced by *Holohan*. It also prevents a good deal of ambiguity.

Note by LRAPG

It is impossible to describe a place as “perpendicular” to a boundary which is, by its very nature, highly indented and irregular in shape. Since the City of London are the conservators of the whole SAC, we believe their views will be paramount in any such assessment.

400 metres is a strange distance, unsupported by scientific investigation. It was argued, and not questioned, at the EiP and elsewhere, that this was taken from the roaming distance for domestic cats, at another SAC, where the point at issue was predation of ground-nesting birds. It is therefore irrelevant and unhelpful in relation to the EFSAC.

Detriments, particularly re damage caused by multiple domestic hazards, such as barbecues, bonfires, dog-walking, Chinese sky lanterns, smoky chimneys, drug taking and paraphernalia, litter, car boot fly tipping, etc occur in relation to the Epping Forest SAC from development in the vicinity, but further away than 400m. Although we would prefer a greater distance, a figure of 1km is more realistic than that suggested and would prevent significantly more harms to the SAC.

MM48 P77 Policy DM 3 Page 84

To read:

Amend Part A (i) and the addition of new Part as follows: “(i) be sensitive to their setting in the landscape, in particular in settlement edge locations, and to its local distinctiveness and characteristics.” “. The impact of proposed development and its design will be assessed with reference to the landscape sensitivity studies and the Historic Environment Characterisation Study or subsequent studies.”

Where the edge of the development is within 1km of the Epping Forest SAC, special and particular attention will be necessary to ensure beyond all reasonable scientific doubt there would be no detriment to the SAC, as assessed by the Conservators.

MM52 Page 79 Supporting text to Policy DM 6 p88

A process for designating Local Green Spaces must be set out in the policy, e.g.

Local Green Spaces will be designated within 2 years of the date of adoption as part of this Local Plan. Parish Councils and local organisations will be invited to submit suggestions within a year of adoption of this Plan. Natural England will be consulted on such suggestions, where appropriate, and the LPA will make the designation.

Replace the words “not extensive in size”, which are taken from the NPPF, but which are impossibly ambiguous, insofar as this Plan is concerned, with “under ten hectares in size”. A tract of land such as Jessel Green, (4ha) removed by the inspector, might otherwise not qualify. It is appreciated that a huge tract of open country, more suited to an AONB, would not qualify; we suggest 10 hectares (as this is equivalent to 25 acres) as one that would be relevant in most urban locations; 25 acres was so delineated in the 1998 Local Plan as “Urban Open Land”.

Add "Any Local Green Space" must be readily accessible to the public.

MM55 p81-82 Policy DM 7 Page 90

C to be reworded. Add:

The views of local historical and amenity societies will always be sought in relation to the local importance of any heritage asset.

In G add after "assets' conservation":

The Council will make arrangements for updating its Local List within 1 year of the adoption of this Plan.

MM74, p 98 Supporting text to Policy DM 22 Page 110-111

After "Lead to changes (including any potential increases or reductions) in vehicle-related emissions in the vicinity of the proposed development."

add additional para

- Give rise to potentially unacceptable impacts (such as dust or non-road vehicle air pollution) during construction for nearby sensitive locations, including the SAC.

MM79 p110 Supporting text to Policy P 2 Page 121-122; MM133 p195 Appendix 6 LOU.R7 Page 43

Site LOU R7

There is a serious inconsistency in that sites near the Forest (within 400m and we argue should be 1km) remain allocated despite the MM arguing for a *cordon sanitaire* in which development intensification is strongly discouraged. Site LOU R7 (within 5 min walk of the SAC) is perhaps the worst of these, given that its owners have stated their intention to build a 5-storey block with 38 dwellings, more than double the allocated capacity.

Delete site or at the least keep its capacity strictly to 18 in view of Policy DM 2 see Page76-77 above.

MM80 p115 Policy P 2 Page 122-124

Ambiguous wording; replace with:

"Sites within the Impact Risk Zone for the Roding Valley Meadows Site of Special Scientific Interest which are above the identified development threshold must make provision for avoidance and mitigation measures to address any impacts on this nationally important habitat."

MM132 p193 Appendix 6 LOU.R6 Page 41

Delete allocation and rubric as site has been built out