

June 2018

Statement of Common Ground

London Borough of Newham & Natural England

Concerning Habitat Regulations Assessment of the Local Plan

During the 'Regulation 19' consultation on the Proposed Submission Version of Newham's Local Plan (November 2017-January 2018), Natural England submitted representations relating to the need for a fuller Habitat Regulations Assessment (HRA) of the new plan.

These representations diverged from Natural England's previous submissions at IIA Scoping Assessment and 'Issues & Options' (Regulation 18) stage (December 2016 and April 2017 respectively) which had indicated the HRA approach set out was appropriate.

The feedback given at Regulation 19 stage reflected new internal Natural England guidance (available only in late 2017) which in turn responded to the Wealden judgement (March 2017) and its impact on the assessment of in-combination effects on Natura2000 sites in the UK, particularly in regard to assessing the significance of effects of potential changes in air quality.

Due to the timescale committed to in relation to plan submission and the discussion of the issues and likely remedies, an interim *draft* HRA was prepared in consultation with Natural England. This was submitted to the Planning Inspectorate along with other submission documents, including a schedule of Proposed Minor Amendments some of which arose from the HRA, and confirmation of ongoing work between both parties to finalise the HRA and to work constructively to address matters arising from it and other plans in the area.

The HRA has now been finalised, with further consideration undertaken in light of the additional Sweetman 2 judgement, and is accordingly published with this Statement of Common Ground. This SoCG serves as confirmation that both parties are of the view that this HRA, and the Plan as a whole incorporating the latest Minor Amendments identified below, satisfies the associated legal requirements in relation to Local Plan preparation, whilst noting an ongoing intention during implementation to co-operate with Natural England and other stakeholders to investigate further in-combination and cumulative effects of development on Epping Forest SAC and, as necessary, to develop a 'Strategic

Solution'. The output of this process can, as necessary, be taken into account within site specific HRAs brought forward in support of individual planning applications.

From Schedule of Proposed Minor Amendments & Post Submission Minor Amendments as combined, with some further changes¹:

Plan Section	Policy/ Site ref.	Modification or addition to: Sub-section / Paragraph
Jobs	<p>J1</p> <p>6.84a.i In responding to the criterion concerned with balancing, inter alia economic needs and those of the environment, it will be expected that policies SC1-5, SP5, INF9, INF6&7 and INF2 will be particularly relevant noting the need to consider off-site indirect and in-combination effects, particularly in relation to traffic movements and resultant of air/water quality impacts, as well as those on site.</p>	Justification / para. 6.84
Homes	<p>H1 <i>[Note: post submission minor amendment re-words submission minor amendment which should be disregarded; deletions in this case are highlighted in yellow]</i></p> <p>H1:2f Housing densities will reflect environmental capacity, (as per SC1-5) local context and character (in line with Policies S1 – S6 and SP3) and be appropriate in relation to the availability of open space (including public green space, private gardens and play space), transport, retail, community and other supporting facilities as per S1 and INF9.</p> <p>6.121b As strategic principles set out, in considering appropriate densities, including accounting for the local context – which also includes any emerging context as per the spatial policies - the provision of quality family housing should also be factored in, as well as local infrastructure capacity and accessibility (as per S1, INF9) and broader environmental capacity (as per policies SC1-5) being aware, as per SC4, that this process may require impact on any European site to be considered, having regard to all relevant information available at the time and other relevant policies of the potential for off-site in combination significant effects on air/water quality and recreational intensity (see also INF2, INF7). Design responsive to context (as per SP3 and SP5) should be able to achieve the necessary quality across all sizes of housing on a site.</p>	H1:2f/implementation 6.121b

¹ subsumed as **Post Submission Minor Amendments**

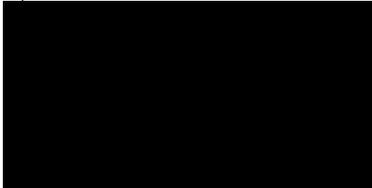
Plan Section	Policy/ Site ref.	Modification or addition to: Sub-section / Paragraph
Sustainability and Climate Change	<p>SC4 <i>[Note: post submission minor amendment re-words submission minor amendment which should be disregarded; deletions in this case are highlighted in yellow]</i></p> <p>2a Trees subject to TPOs, and, the integrity of European Sites (notably Epping Forest SAC) and other Sites of Importance for Nature Conservation (SINC) (see INF6) will be specifically protected, considering having regard both to direct and indirect impact pathways.</p> <p>3b Any development that creates one or more residential unit or pertains to 500 sq. m or more GIA of any non-residential use should be accompanied by a Biodiversity Statement that:</p> <ul style="list-style-type: none"> i. demonstrates the opportunity to enhance biodiversity has been maximised, including through the provision of soft landscaping and the management of non-native invasive species on the site;... v. incorporates, where required, a Habitats Regulations Assessment (and in accordance with the Strategic Site allocation or policies INF7 or SC5) which considers direct and indirect impact pathways and in-combination and cumulative effects on the Epping Forest SAC. vi. in the case of Major developments, uses recognised biodiversity accounting technologies to demonstrate how biodiversity net gain is delivered; and vii set outs proposals for off-site mitigation via payments in lieu to a relevant provider where either net gain is impossible to achieve on site due to conflicts with the safe operation of transport and utilities infrastructure, or off site impacts on European sites are likely <p>6.183b. The Council will work together under the auspices of Duty to co-operate and generally with Natural England and other authorities in reasonable proximity to the Epping Forest SAC to improve the understanding of indirect in-combination and cumulative impacts of development on the SAC (notably in relation to air quality and recreational intensity) and, as necessary where indicated, monitor these and work towards a strategic solution, if required. Any HRA required in respect of any development proposal should have regard to the output of this on-going exercise. which development proposals going forward will need to be cognisant of, in assessing, avoiding and mitigating impacts.</p>	Policy criteria 2a & 3b Implementation / para. 6.183b/d

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	<p>*Some of whom are working together under a Memorandum of Understanding entitled Managing the impacts of growth within the West Essex/East Hertfordshire Housing Market Area on Epping Forest Special Area of Conservation</p> <p>6.183c ...</p> <p>6.183d Biodiversity net gain should be delivered within the application site as far as possible. Where this cannot be accommodated for operational or other reasons a payment in lieu to a relevant provider should be established and secured via planning obligation. In the first instance the onus is on the applicant to mitigate the impacts of the proposed development, this development cost should be embedded within delivering a policy compliant scheme. This would include contributions to any necessary mitigation of in-combination significant effects on Epping Forest SAC by way of a 'strategic solution' which may emerge from the investigation work currently underway .</p>	
	<p>SC5 <i>[Note: post submission minor amendment re words submission minor amendment which should be disregarded; deletions in this case are highlighted in yellow]</i></p> <p>e. Developments likely to generate any significant in-combination traffic, and hence air quality impacts, on the A12 and A406 that (whether alone or in combination with other development) which pass within 200m of the Epping Forest SAC will need to undertake an assessment of impact on the SAC as part of a HRA.</p> <p>6.185ai Given the sensitivity of the Epping Forest SAC to air quality, it is considered that any development likely to give rise to significant traffic generation on the sections of the A12 and/or the A406 which fall within 200m of the SAC will be likely to require assessment pursuant to the Conservation of Habitats and Species Regulations 2010. A development may give rise to such traffic generation alone or in-combination with other development. The HRA Screening Report highlights the potential for in-combination significant effects on the Epping Forest SAC through air quality (traffic on roads notably the A406 and A12 passing within 200m of the site) impacts arising from certain types/locations of development. The policy criterion relating to this therefore highlights the legal requirements of the Conservation of Habitats & Species Regulations 2010 for development likely to result in traffic and air quality impacts on such roads to undertake its own assessment, cognisant of in-combination effects and any proposed emerged strategic solutions (see SC4).</p> <p>6.185d The principles of minimising exposure to poor air quality are of particular importance in 'sensitive receptor' uses, i.e. where vulnerable user groups are present (schools, health facilities, older peoples and other forms of</p>	<p>Policy criteria 3e Justification / para. 6.185 Implementation / para. 6.185d</p>

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	<p>specialist housing), but also protected habitats and species. Screening of The potential developments impact of development on the for Epping Forest SAC would be expected to be considered as take place as part of an the HRA process to accompany any planning application for that development. That HRA process should have regard to all relevant information available, including the output of any current investigation of in-combination and cumulative impacts on the Epping Forest SAC the EIA process, and be articulated as part of wider options appraisal and mitigation proposals..</p>	
Infrastructure	<p>INF1 <i>Add text at the end of paragraph:</i></p> <p>It will be expected that this process and associated design and Environmental Statements should result in the clear articulation of the different environmental and spatial impacts of the proposals (with particular reference to spatial policies S2-6 and thematic policies SC1-5, SP5, INF6&7 and INF2), and refinement of options and mitigation accordingly. Given that some strategic transport developments will result in changes in traffic distribution, where relevant, this should include screening of developments for in combination SAC impacts as per the Local Plan HRA and HRA guidance.</p>	Implementation / para. 6.204
	<p>INF2 1a (vi) Maintaining careful management of the supply of routes and transport network capacity and parking for motor traffic in order to reduce or minimise congestion and the dominance and environmental impacts of motor-vehicular traffic in the public realm, and to make space for other modes, having regard to the need to alleviate and not add to cumulative congestion issues as particularly highlighted in congestion zones in policy SP9, and to avoid off-site individual and in-combination effects on air/water quality in the vicinity of the Epping Forest SAC.</p> <p>6.208...This includes managing the location of development and positive measures secured through the planning process to ensure a good transport experience for residents and prevention/mitigation of impact on the Epping Forest SAC, with particular focus on convenient access for non-car modes,...</p> <p>6.219...These should include acceptable robust, measured strategies and travel plans for mitigating or minimising adverse impacts, including cumulative impacts on traffic flows in the wider network that may affect air/water quality within 200m of the Epping Forest SAC and highlighted by the defined congestion zones in Newham, through measures to</p>	<p>Policy 1a, vi/ Justification 6.208</p> <p>Implementation / para. 6.219</p>
	<p>INF7 <i>[Note: post submission minor amendment re words submission minor amendment which should be disregarded; deletions in this case are highlighted in yellow]</i></p>	New policy clause 3f within

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	<p>f. Developments within 6.2km of the Epping Forest SAC with the potential to give rise to significant recreational disturbance impacts (bearing in mind likely travel routes) should undertake an assessment of impact on the SAC.</p> <p><i>[delete proposed submission minor amendment as dealt with better in 6.272ci]</i></p> <p>6.272 As population levels increase so will pressures on existing spaces, particularly true of the Arc of Opportunity given the relative scarcity of park space in this historically industrial area, and in Urban Newham where there is more limited opportunity to provide new open space, and with potential to affect the Epping Forest SAC if these deficiencies are not addressed. As such, the policy...</p> <p>6.272b Parks deficiency is defined according to London Plan benchmarks (Table 7.2) and mapped above, with updates published as part of IDP updates as part of Cumulative Impact policy SP9, which highlights particular deficiencies in local and district park access – the former in Urban Newham, the latter particularly in the east and west of the borough. Development should respond to expected levels of growth, meeting its own needs as well as addressing existing deficiencies. Even where existing access to open space meets distance benchmarks, population growth will lead to increased pressure on those spaces, and which should be accounted for as per INF9 with reference to the IDP which sets out strategic parks management projects to enhance quality and accessibility, and hence absorb recreational pressure. Developers should also be aware, as per INF9 and S1, that there is a particular onus on sites in the Arc to makes strategic contributions to open space and outdoor recreation, given more limited opportunity in Urban Newham. Developers will need to refer to latest IDP updates.</p> <p>6.272ci <i>[Note minor amendments moved around and altered]</i> The availability of current or (Additional Local recreational opportunities may also be relevant in assessment of any including accessible greenspace are also important to help offset the likelihood of recreational greenspace demand impact on the sensitive Epping Forest SAC. The need for HRA screening in relation to potential impacts on the SAC is signposted as relevant within the Strategic Site schedule (Appendix 1, ‘constraints and other advisory information’). Whilst the requirement for an HRA is not generally considered relevant to sites of lesser scale, whether or not such an assessment is required for Major schemes should be the subject of pre-application discussion with the Local Planning Authority.</p>	<p>Design and technical criteria, associated implementation wording at 6.272b/6.272ci</p>
Appendix 1	<p><i>[Note: post submission minor amendment re words submission minor amendment which should be disregarded; deletions in this case are highlighted in yellow]</i></p>	<p>Further Sources of Information &</p>

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	<p>S05, S10, S29, S09, S07, S04, S11, S14, S12, S01, S25, S26, S03, S27</p> <p><i>Under 'Further Sources of Information' section of these sites add:</i></p> <ul style="list-style-type: none"> • HRA screening report (2018); <p><i>Under 'Constraints and Other Advisory Information' section of these sites add:</i></p> <p>Appropriate Assessment of potential need for impact on Epping Forest SAC [SC1-5, INF2, INF6, INF7] (including through in-combination effects) to be considered through an HRA having regard to all relevant information available at the time; from in-combination significant effects on recreational intensity and air/water quality;</p>	<p>Constraints and Other Advisory Information</p>

<p>Signed on behalf of LBN</p>  <p>Planning Policy Manager 15th June 2018</p>	<p>Signed on behalf of Natural England</p>  <p>Senior Planning Adviser 15th June 2018</p>
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