



Harlow Local Development Plan Examination

List of Matters and Questions

Matter 1: Duty to co-operate and other legal requirements

Questions:

1.1 Duty to Co-operate:

- **What are the strategic matters dealt with by the plan to which the duty applies and which other authorities and organisations are affected by them?**
- **For each strategic matter, how has the engagement been carried out, what has been the outcome and how has this addressed the strategic matter?**
- **Overall, has the Council engaged constructively, actively and on an on-going basis with the relevant bodies in maximising the effectiveness of the HLDP in relation to the strategic matters? Has the duty to co-operate thus been met?**

Natural England confirms that from our perspective **the council has complied with the duty to co-operate** in relation to the biodiversity aspects of the plan. The key areas of strategic importance requiring a collective approach which relate to biodiversity are the potential impacts the plan could have on Epping Forest Site of Special Scientific Interest ('SSSI') and Special Area of Conservation ('SAC'), particularly in relation to air quality and recreational pressure on the important SAC features (beech woodland, wet and dry heathlands and stag beetle) and recreational pressure on both Harlow Woods SSSI and Hatfield Forest SSSI and National Nature Reserve ('NNR').

To address the impacts on Epping Forest SAC/SSSI, the council, along with 5 other local authorities, The City of London Corporation ('CoL') as conservators for Epping Forest, and Natural England are co-signatories to the Memorandum of Understanding ('MoU') *'Managing the impacts of Growth within the West Essex/East Hertfordshire Housing Market Area on Epping Forest Special Area of Conservation'* (examination document reference EB1200). The purpose of the MoU is to set out the actions, evidence, monitoring and mitigation required to ensure all of the plans covered by the MoU are compliant with the Habitats Regulations.

We are currently unable to agree that this objective has been achieved as the most recent version of the Habitats Regulations Assessment ('HRA') submitted for examination makes reference to the need for it to be updated, however, the level of engagement from Harlow Council officers has been exemplary.

Natural England advises that there is a need for continued co-operation between the MoU authorities (in particular Epping Forest District Council and Harlow Council) to resolve the issue of recreational pressure on Harlow Woods SSSI and understands that this may be addressed alongside the Epping Forest SAC/SSSI mitigation strategy.

We are aware that Harlow Council have only very recently received the evidence relating to a potential impact on Hatfield Forest SSSI. Natural England will continue to work with Harlow Council, the landowners (National Trust) and other planning authorities to ensure these matters are adequately addressed

1.2 Have the likely environmental, social and economic effects of the plan been adequately addressed in the Sustainability Appraisal? Does the appraisal test the plan against reasonable alternatives for the spatial strategy of the plan and the distribution of housing and employment land?

Natural England do not generally hold a view on concentrations or dispersal of development but advises that distribution of allocations should be informed by Sustainability Appraisal ('SA') and HRA processes. Given the absence of an up-to-date HRA and our concerns relating to SA as set out in our letter of the 31st of July 2019 we are concerned that opportunities to avoid impacts may have been missed.

With regards to HRA we are supporting the MoU Authorities in preparing mitigation strategies for their local plans and are committed to the principle of mitigation, however, national policy requires that avoidance measures are considered in the first instance.

The SA should also assess potential impacts on Hatfield Forest SSSI and NNR and Harlow Woods SSSI. Note also the comments in our letter dated the 31st of July 2018 relating to air quality and specific policies.

1.3 In the light of the July 2018 Habitats Regulations Assessment, the comments of Natural England, recent studies and those planned in the near future, can an adverse effect on the integrity of Epping Forest SAC as a result of the plan be ruled out (either alone or in combination with other plans or projects)? If not, what mitigation measures would be necessary to protect the SAC from (a) recreational pressure and (b) air pollution as a result of development proposed in the plan?

The HRA submitted alongside Harlow Local Plan clearly states that there is a requirement for the document to be updated. We understand that Harlow Council agree in principle that there is a need for an addendum and that they are actively pursuing this. Given the complexity of the air quality issue in particular, we do not consider that it would be appropriate at this stage to speculate on the contents of such a document.

Not only does the HRA need to take account of the most recent and best available air quality and traffic modelling it also needs to consider the implications of recent CEJU Judgements (in particular, Cases C-293/17 and C-294/17 *Coöperatie Mobilisatie for the Environment UA and Others v College van gedeputeerde staten van Limburg and Others*).

Natural England can confirm that we have been consulted by Epping Forest District Council on their updated HRA but cannot comment further until we have formally responded to their consultation. We therefore advise that an adverse effect on the integrity of Epping Forest SAC cannot be ruled out at this stage and cannot advise on mitigation requirements as these need to be informed by an appropriate assessment based on up-to-date information to be compliant with the *'People of Wind, Peter Sweetman v Coillte Teoranta'* judgement.

With regards to recreational pressure the most recent HRA correctly states that the Zone of Influence ('Zol') identified in the October/November 2017 surveys for Epping Forest SAC is 6.2km and that this Zol is currently being used to inform the mitigation strategy. The only allocation proposed in the Harlow Local Plan which falls within this zone is HS2-9 which is itself currently an area of land used for public recreation but the plan also supports development outside the district boundary in policy HGT1. In addition it should be noted that there is a commitment from the MoU authorities to conduct further visitor surveys in summer 2019 to address potential seasonal variations and test whether the Zol requires revision.

The Local Plan should set out appropriate plan policies to ensure that allocation HS2-9, the strategic garden town communities and any development captured by any expansion of the Zol are in conformity with the mitigation strategy agreed by the MoU authorities. It is likely that provision of Suitable Alternative Natural Greenspace ('SANGs') will be a key part of the mitigation strategy. Consideration should be given to how this can be provided in the event that the summer surveys requires significant revision of the Zol.

1.4 Do the HRA findings have any implications for the strategy of the plan? Are there any specific implications for (a) the Harlow and Gilston Garden Town as a whole, (b) the HS3 strategic housing site east of Harlow, (c) the HS2 housing allocations or (d) any other proposals in the plan?

The HRA needs to be updated.

Both the Latton Priory and Water Lane allocations fall partially within the recreational pressure Zol for Epping Forest SAC. The HRA concludes that *"the garden communities being created around Harlow should deliver a suitably large amount of natural accessible greenspace to maximise their recreational self-sufficiency which could be achieved through a green infrastructure strategy."*

Whilst Natural England has held recent meetings with the promoters of Latton Priory and understands that their landholding is sufficient to provide significant green infrastructure it is not yet clear how the Water Lane allocation can deliver its infrastructure requirements, noting the housing density proposed and the lack of an agreed strategic approach to mitigation from the MoU authorities.

Natural England continues to work with the MoU authorities to develop a mitigation strategy to enable development within this region.

1.5 How would any necessary mitigation measures be delivered? What policies should be included in the plan to ensure this happens?

We advise that appropriately worded plan policies are needed to ensure that mitigation strategies are deliverable. These should be informed by the findings of the HRA which requires updating.

1.6 In the absence of agreed mitigation measures and suitable delivery mechanisms, can the plan be found sound?

In the absence of an updated HRA Natural England advises that the plan cannot yet be considered sound. Consistent with our work to date, we will continue to work with Harlow Council and the other MoU authorities to agree mitigation measures and ensure that solutions are incorporated and deliverable through the Local Plan.



Matter 3: Overall Strategy; Harlow & Gilston Garden Town - General Principles & Infrastructure

Strategic Infrastructure Requirements

3.7 Have the overall infrastructure requirements for the overall Garden Town, including the transport effects, been adequately assessed? What transport improvements would be required, and how would these be delivered? How does the development relate to the new M11 Junction 7a?

The requirements for the delivery of SANGs and green infrastructure to ensure that impacts on Epping Forest SAC can be avoided have not yet been assessed or agreed and need to be informed by an up-to-date HRA.



Matter 4: Strategic Housing Site East of Harlow

Questions:

4.8 Have the historic heritage and ecological impacts of the proposal been adequately assessed, including any recreational or air quality effects on the Epping Forest SAC? Are there any implications for the content of the development or its layout?

On the basis of the documents submitted, ecological impacts have not been adequately assessed as the HRA states that it needs to be updated. The implications with regards to air quality need to be considered through HRA processes and we do not feel that we can comment further at this time.

This allocation does not fall within the Zol currently identified for Epping Forest SAC in terms of visitor pressure. Please note our comments relating to summer surveys in matter 1.3 and the need to consider the implications of any significant expansion of the Zol.

It will, however, fall within the Hatfield Forest SSSI and NNR Zol which has been set at 14.6kms. No mitigation strategy is currently in place but a key element of avoidance of recreational pressure on designated sites is the provision of suitable quantity and quality of green infrastructure. Given that this site is being promoted as a strategic Garden Town Community we would expect to see significant provision of green infrastructure. Consideration needs to be given to how this is to be provided at the housing density proposed and specific mitigation requirements should be included in plan policy.



Matter 6: Other housing allocations – Policy HS2 sites

Are the other housing allocations listed in Policy HS2 the most appropriate when considered against any reasonable alternatives in the light of the current use, site constraints, infrastructure requirements and potential impacts? Do the sites meet the NPPF definition of either being deliverable or developable during the plan period? Are the estimates of site capacity justified? Does the plan provide sufficient guidance to secure suitable development on each site?

In turn:

- 1. Princess Alexandra Hospital**
 - **are plans for relocation sufficiently certain for this to be included?**
- 2. The Stow Service Bays**
- 3. Last east of Katherines Way, west of Deer Park**
- 4. Lister House, Staple Tye Mews, Staple Tye Depot and The Gateway Nursery**
- 5. South of Clifton Hatch**
- 6. Riddings Lane**
- 7. Kingsmoor Recreation Centre**
- 8. The Evangelical Lutheran Church, Tawneys Road**
- 9. Land east of 144-154 Fennells**
- 10. Pollard Hatch plus garages and adjacent land**
- 11. Land between Second Avenue and St Andrew's Meadow**
- 12. Coppice Hatch and garages**
- 13. Sherards House**
- 14. Elm Hatch and public house**
- 15. Playground west of 93-100 Jocelyns**
- 16. Fishers Hatch**
- 17. Slacksbury Hatch and associated garages**
- 18. Garage blocks adjacent to Nicholls Tower**
- 19. Stewards Farm**
- 20. Land between Barn Mead and Five Acres**
- 21. Pypers Hatch**

Natural England has no comments on any specific proposal but advises that deliverability and site capacity will need to be informed by an up-to-date HRA.



Matter 7: Development Management Policies

Are the development management policies in the plan positively prepared, justified, effective and consistent with national policy? This includes some specific questions in bullet point form.

In turn:

Placeshaping

PL7 Green Infrastructure and Landscaping

Natural England's refers you to our pre-submission comments in our letter dated the 5th of July 2018.

PL8 Biodiversity and Geodiversity Assets (also Policy WE3)

Natural England's refers you to our pre-submission comments in our letter dated the 5th of July 2018.

PL9 Pollution and Contamination

Natural England's refers you to our pre-submission comments in our letter dated the 5th of July 2018.

Infrastructure

IN6 Planning Obligations

Natural England's refers you to our pre-submission comments in our letter dated the 5th of July 2018.