



London Borough of Enfield

Title of Report:	Epping Forest Special Area of Conservation agreement
Report to:	Leader of the Council
Date of Report:	15 August 2023
Cabinet Member:	Cllr Caliskan
Directors:	Sarah Cary, Executive Director Housing, Regeneration and Development Brett Leahy, Director Planning and Growth
Report Author:	May Hope
Ward(s) affected:	Whitewebbs, Bullsmoor, Enfield Lock, Town, Carterhatch, Southbury, Brimsdown, Grange Park, Ponders End, Bush Hill Park, Jubilee, Highfield, Haselbury, Lower Edmonton, Edmonton Green, Upper Edmonton
Key Decision Number	KD 5613
Implementation date, if not called in:	25-August 2023
Classification:	Part 1

Purpose of Report

1. The purpose of this report is to seek approval of the proposed Strategic Access Management Measures Strategy, governance arrangements and updated approach to securing financial contributions to mitigate visitor pressure on the Epping Forest Special Area of Conservation. Participating in this Strategic Access Management Measures Strategy Partnership Agreement will ensure meeting the Council's legal duty under the Habitats and Conservation of Species Regulations 2017.

Recommendations

- I. Agree the proposed Strategic Access Management Measures Strategy, governance arrangements and updated approach to securing financial contributions to mitigate visitor pressure on the Epping Forest Special Area of Conservation.
- II. Delegate authority to the Director of Planning Growth in consultation with the Leader of the Council to enter into the final Epping Forest SAC Strategic Access Management Measures Strategy Partnership Agreement.
- III. Delegate authority to the Director of Planning and Growth in consultation with the Executive Director of HRD and the Leader of the Council to approve future amendments to the governance arrangements and payment tariff.

Background and Options

Epping Forest SAC and Status

2. Epping Forest is a designated Site of Special Scientific Interest (SSSI) and a portion is designated as a Special Area of Conservation (SAC). SACs are internationally important areas given special protection under the EU's Habitats Directive (92/43/EEC) which is transposed into UK law by the Habitats and Conservation of Species Regulations 2017 as amended (known as the Habitats Regulations).
3. The Epping Forest SAC lies within Epping Forest District Council, the London borough of Waltham Forest and the London borough of Redbridge administrative areas. These three local authorities have a duty as a 'competent authority' under the Conservation of Habitats and Species Regulations 2017, to ensure that planning application decisions comply with those Regulations and do not result in adverse effects on the integrity of the Epping Forest SAC.
4. Local authorities falling within the recreational Zone of Influence are required to collect financial planning obligations for Strategic Access Management Measures (SAMMs) and Suitable Alternative Natural Green Space (SANGs) to mitigate the harmful impacts by visitors to Epping Forest SAC. Local

authorities are also required to identify and develop SANG sites to encourage visitors away from Epping Forest.

5. At Enfield, developers are treated on a case-by-case basis for SAMMs if their new development falls within the 6.2km Zone of Influence (ZOI) from Epping Forest SAC. The money should be paid to the City of London Conservators of Epping Forest to offset the use and mitigate the impact of the forest from additional visitors as part of an interim SAMMs strategy. The interim strategy costs have been reviewed and are set out in table 1, below.
6. At present, there is formal governance structure, spend or monitoring arrangements in place for SAC payments for SAMMs or SAMGs (appendix 1).
7. Enfield is also required to identify SANG sites and projects in the borough to ease the recreational pressure at Epping Forest from Enfield's visitors. The aim is to divert visitors towards using parks and green spaces within our boundary. Large scale developments over 100 units falling within the ZOI needs to provide a package of SANGs measures which can include improving access and facilities to our open spaces, green infrastructure and SANG sites. This is funded through S106 contributions from developers.

Visitor Survey and Natural England involvement

8. A visitor survey at Epping Forest was conducted in 2019 which found that the majority of visitors came were from the London Borough of Redbridge, Epping Forest District Council and the London Borough of Waltham Forest. Interim apportionment costs at this time were assigned and for Enfield this totalled £0. The rate applied per unit was £0 per unit within the ZOI.
9. Following continued discussions with Natural England and relevant parties, new modelling has been conducted, accounting for the predicted increases in population from planned new housing in the boroughs. As visitor numbers from Enfield to the SAC were small and as we are only anticipating a moderate level of development within the ZOI, LB Enfield's contribution is the second lowest of all the boroughs. The percentage additional pressure from Enfield visitors to Epping Forest now rises to 2.52% (this percentage is subject to change).
10. The apportionment of costs for in perpetuity (80 years) for Enfield could mean that our total contribution towards SAMMs is £625,400.22 which would roughly equate to a charge of £45.40 per unit within the whole 0-6.2km zone. This figure is subject to change as housing estimates are updated and costing are further interrogated and is likely to increase. The administration fee is £90 but may be subject to change following future review.

Table 1: Proposed costs in perpetuity for all contributing local authorities or signatory local authorities (figure are subject to change)

Authority	% of pressure caused by new development	Apportionment (80 years)	Proposed rate per unit in perpetuity

Epping Forest District Council	15.66%	£3,886,415.65	£1,334.69
LB Waltham Forest	68.13%	£16,908,141.66	£681.61
LB Redbridge	12.51%	£3,104,665.38	£255.84
LB Enfield	2.52%	£625,400.22	£45.40
LB Newham	1.18%	£292,846.13	£44.81
SAMM Programme Total		£24,817,469.05	

Preferred Option and Reasons For Preferred Option

The proposals

11. The Epping Forest Conservators have proposed several SAMMs projects in their EFSAC Mitigation Strategy to be funded by the contributions being collected by the Local Authorities. These include physical improvements, signage, visitor surveys, engagement campaigns and forest-wide ambassadors (rangers). The City of London Corporation will be responsible for the daily operation of the SAMMs projects.
12. The costs of the SAMMs EFSAC mitigation strategy have increased to £26.7m to account for 80 years in perpetuity costs, which means that Enfield will have to pay in accordance with their visitor share proportion.
13. The increased costs are due to the mitigation measures being covered for in perpetuity. The tariff is split across the boroughs depending on the proportion of recreational pressure from visitors (from the 2019 visitor survey and future visitors from new residential developments) and forecasted housing figures. The forecasted housing figures are used as a proxy indicator for the number of future visitors as well as potential financial planning obligations income. The tariff costs are expected to increase annually and will be agreed by all parties.

Governance Arrangements

14. Enfield is working with the following Local Authorities together with Natural England to develop, agree and implement formal and strategic solution with governance arrangements and procedures for expenditure and monitoring for SAMMs only: Epping Forest District Council, London Borough of Waltham Forest, London Borough of Redbridge, London Borough of Newham, London Borough of Enfield, and City of London Conservators of Epping Forest. These local authorities contribute financially towards the SAMMs measures because they either fall within the ZOI of Epping Forest SAC; are the Competent Authority under the Conservation of Habitats and Species Regulations 2017;

and were identified via the visitor survey as contributing to the majority of visitor pressures.

15. There are other parties involved in earlier discussions (and may be possibly become future signatories to the agreement) because they fall within the ZOI but were not identified in the visitor pressure survey so do not need to financially contribute towards the SAMMs measures. Those parties are: Harlow District Council, East Hertfordshire District Council, Uttlesford District Council, Broxbourne Borough Council, Brentwood Borough Council, London Borough of Hackney, London Borough of Haringey, London Borough of Tower Hamlets, London Borough of Barking and Dagenham, London Legacy Development Corporation, Lee Valley Regional Park, Essex County Council and the Greater London Authority.
16. Enfield and the other Local Authorities as named in paragraph 14 and the City of London Corporation will form a Partnership. All parties will agree to the allocation for SAMMs contributions.
17. The City of London Corporation will be the delivery body for the SAMMs projects and will report to the proposed Technical Oversight Group.
18. Enfield will be a member of the proposed Technical Oversight Group which will be chaired by Natural England. The Technical Oversight Group shall be responsible for the delivery of the project outcomes and will keep the project plan, and progress towards meeting it, under review.
19. A quorum of 3 voting parties will be required for the meetings and Redbridge must be present along with Epping Forest District Council and London Borough of Waltham Forest for any decision- making.

Implications for Enfield

20. The burden for paying the SAMMs and SANGs contributions falls upon developers. This adds another financial pressure on developers and may affect viability of developments again.
21. The Council is subject to presumption in favour of sustainable development as it cannot show a 5-year housing land supply and has failed its housing delivery test. There is a significant need for new housing in the borough which will have to be met by new developments.
22. If sufficient funds cannot be raised for the SAMMS and SANGs mitigation measures by developers, then the Local Authority will have to bear the shortfall costs to accord with the Habitats Regulations.

Relevance to Council Plans and Strategies

23. The Council has a legal duty to avoid or mitigate any likely significant impact on a Special Area of Conservation, like Epping Forest. In doing so, it also supports a number of the Council's corporate objectives in relation to the environment and the health and wellbeing of Enfield's residents.
24. In relation to Priority one: the Council will aim to become greenest borough in London. Contributing towards the protection and conservation of an internationally significant Special Area of Conservation on the borough's

doorstop while enabling ongoing sustainable growth, is in line with, and contributes to delivering, this priority.

25. In relation to Priority 4: The Council will make sure our residents are healthy, happy, safe and cared for to enable them to thrive. Ensuring ongoing access to a high quality, well managed, biodiverse and unique natural space like Epping Forest is a key contributor to residents' health and wellbeing.

Alternatives considered

26. The Council could choose to not seek to mitigate the impacts of visitor pressure on Epping Forest SAC. This approach is not recommended as Natural England could seek to prevent any development from coming forward within the ZOI within LB Enfield. This has occurred in other parts of the country. Such a decision could also risk the emerging Enfield Local Plan being found unsound at Examination.
27. The Council could choose not to sign up to the partnership agreement and joint SAMM Strategy and develop its own strategy. This approach is not recommended as developing our own strategy would use officer time and further external expertise to duplicate work already undertaken. Undertaking the work jointly with other councils, Natural England and the Conservators has reduced costs and time requirements for the Council.
28. The Council could choose to raise its portion of the funds through different mechanisms than developer contributions. This includes the Council paying the charge directly from general fund or by adding a council tax precept. These approaches are not recommended due to the significant financial pressure the Council is under from reducing central government funding and the wide range of alternative requirements for general fund and council tax funding for which there are no alternative funding sources.

Financial Implications

29. This report seeks to agree the proposed Strategic Access Management Measures Strategy, governance arrangements and updated approach to securing financial contributions (from developers) to mitigate visitor pressure on the Epping Forest Special Area of Conservation.

Local authorities falling within the recreational Zone of Influence are required to collect financial planning obligations from developers. At Enfield, developers are treated on a case-by-case basis for SAMMs if their new development falls within the 6.2km Zone of Influence (Zoi) from Epping Forest SAC - the financial contributions is paid to the City of London Conservators of Epping Forest.

The apportionment of costs for in perpetuity (80 years) to Enfield developers could mean that our total contribution towards SAMMs is £625,400.22 which would roughly equate to a charge of £45.40 per unit within the whole 0-6.2km zone. This figure is subject to change as housing estimates are updated and costing are further interrogated and is likely to increase.

30. A monitoring administration fee is applied which should be 5% of the chargeable amount of the Epping Forest SAC, or £90, whichever is higher

Legal Implications

31. The Council has a legal duty under the Habitats Regulations 2017 to protect internationally important sites, such as the Epping Forest SAC, from the effects of development. This can be best achieved using measures put in place at the Local Plan level so that development projects have clarity on where they can develop and what measures may be necessary to incorporate into a development proposal or addressed through off-site measures including through either direct provision or by securing financial contributions towards their implementation. Strategic approaches to site mitigation often include, for example, access management strategies, habitat management, provision of new alternative natural greenspace for recreation, and sustainable transport choices and other air pollution management interventions.
32. The Council has a duty to ensure that planning application decisions comply with the Habitats Regulations. The Strategic Access Management Measures Strategy and entry into the related Partnership Agreement will assist with the Council's duties pursuant to the Habitats Regulations and obligations will be imposed on developments where appropriate through agreements entered into with developers via section 106 of the Town and Country Planning Act 1990.
33. Pursuant to the Community Infrastructure Regulations, a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:
 - (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.
34. The Council has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals may do, provided it is not prohibited by legislation. This includes, pursuant to section 1(4):
 - (a) power to do it anywhere in the United Kingdom or elsewhere,
 - (b) power to do it for a commercial purpose or otherwise for a charge, or without charge, and
 - (c) power to do it for, or otherwise than for, the benefit of the authority, its area or persons resident or present in its area.
35. The Council may exercise the general power of competence for its own purpose, for a commercial purpose and/or for the benefit of others. The Council, moreover, has power under s.111 Local Government Act 1972 to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions (which would include childcare functions). The recommendations within this report are in accordance with these powers.
36. This report constitutes a Key Decision under the Council's Constitution and, as such, must comply with the Key Decisions process.

37. By entering into the Partnership Agreement, the Council will be permitting CoL, as Delivery Body, to procure services on its behalf. It is not clear if the CoL will inform the other local authorities each time it procures services and what if any tendering responsibilities and rights will the Council have. It is recommended that procurement implications are sought from the Procurement and Commissioning Hub, in particular in relation to the CoL's procurement rules appended to the Agreement.
38. There are no provisions allowing the Council the right to withdraw from the Agreement. If at any point the Council decided to withdraw and develop its own SAMM Strategy, this option will not be immediately available. There is no defined term or expiry date of the Partnership Agreement.
39. Any changes to the Partnership Agreement should be agreed in writing and implemented by way of a deed of variation, executed under seal by the Legal Services.
40. At the time of drafting of the legal implications, Legal Services have not had sight of the financial implications. The following provisions should be considered if not subsequently covered in the financial implications section and appropriate budgetary allowance should be made to allow the Council to meet its obligations.
41. The SAMM contributions under the Agreement will be index linked with the increase to be agreed and set in March each year and brought into effect on the 1st April each year;
42. The Partner parties to the Agreement will be responsible and liable in equal shares for all legal, professional and financial advice procured under the Agreement, including by the Technical Oversight Group. This will not be covered by the SAMM contributions.

Equalities Implications

43. This report is accompanied by an Equalities Impact Assessment, which has found that the impacts are neutral to those with protected characteristics.

Environmental and Climate Change Implications

44. The Epping Forest SAC, is one of the largest green spaces within and around the borough and is one of England's few remaining areas of ancient woodland. It provides an extremely valuable resource for both carbon sequestration and local climate management – creating an area of cooling to help counter London's urban heat island effect.
45. Both the Woodland Trust and the Royal Botanic Gardens in Kew have highlighted the importance of protecting existing ancient woodland as soil which has only ever been wooded is especially beneficial for biodiversity and effective at carbon capture. The Woodland Trust estimates that woodlands in the UK hold 213m tonnes of carbon, and ancient and long-established woodlands hold 36% of that, even though they make up just 25% of all woodland. Only 3% of the UK is ancient woodland.

46. Ensuring the long term maintenance and sustainability of one of England's last remaining ancient woodlands contributes towards delivering the aims of the Climate Action Plan.

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Appendices

1. Final draft Epping Forest Governance Arrangement with SAMMs mitigation measures
2. EqlA screening paper

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