

Report to the Cabinet

Report reference: C/086/2007-08.

Date of meeting: 17 December 2007.



**Epping Forest
District Council**

Portfolio: Planning and Economic Development.

Subject: East of England Plan – Habitats Directive Assessment and Further Proposed Changes.

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Recommendations :

- (1) That the more thorough October 2007 Habitats Directive Assessment be welcomed and the Further Proposed Changes be supported in principle;**
- (2) That the acknowledgement of waste water capacity constraints at Rye Meads and potential impact on development phasing be welcomed;**
- (3) That the Government be urged to give high priority to funding bids under the Programmes of Development scheme for urgent studies of waste water options arising from the situation at Rye Meads;**
- (4) That concern be expressed about uncertainty arising where Habitats Directive Assessments are effectively deferred to subsequent more detailed studies or planning stages.**

Introduction:

1. The emerging East of England Plan sets the regional and sub-regional planning framework to 2021 - and beyond. Following an Examination in Public and report by the Panel, the Secretary of State published her Proposed Changes for comment earlier this year. The Proposed Changes were accompanied by an Appropriate Assessment, a statutory requirement under the European Habitats Directive to ensure the protection of sites of European (or international) wildlife significance from adverse impacts, whether direct or indirect. This did not identify any likely adverse effects on relevant sites.

2. The Cabinet considered the Proposed Changes on 19 February 2007 and, amongst many other matters, was advised that the adequacy of the Habitats Directive Assessment (HDA) was in doubt. The District Council in its formal response pointed out that an independent HDA Review commissioned by the East of England Regional Assembly had highlighted lack of site-specific analysis and potential omission of impacts. Some HDA conclusions (i.e. no adverse impacts) could therefore be challengeable.

3. Particular reference was made by the District Council to traffic generated air pollution impacts on Epping Forest Special Area of Conservation (SAC) – a report commissioned by the Council from Robert West Associates in 2005 had concluded that a small increase in traffic flows would result in significant increases in pollution levels at roadside locations.

4. The Secretary of State was therefore asked to undertake a revised HDA to address these deficiencies and to revisit her conclusions about urban extensions for Harlow/Epping Forest District.

5. A revised HDA has indeed been commissioned by the Secretary of State from

independent consultants not previously involved, and the Proposed Changes to the East of England Plan have been revisited. The Report of the new HDA, together with the consequential Review of the Sustainability Appraisal/Strategic Environmental Assessment (SA/SEA) and the Secretary of State's Further Proposed Changes to the East of England Plan have been published for consultation. Copies of the three consultation documents have been placed in the Members Room. Responses are required by 18 December. Final adoption of the East of England Plan is now not expected until early 2008.

The Habitats Directive Assessment and SA/SEA:

6. The HDA has been more thorough and site specific than the previous assessment, using a more structured and evidence based approach. It has addressed all the particular issues raised by the District Council when commenting on the earlier HDA. As well as air quality concerns, there had been no analysis in the first HDA of potential recreational disturbance within Epping Forest SAC and the Lee Valley Special Protection Area for birdlife (SPA/Ramsar), or of potential adverse impacts upon the Lee Valley SPA arising from expansion of the Rye Meads Sewage Treatment Works. The new specific assessments relevant to the District are summarised at Appendix 1.

7. Further information has been sought from the consultants concerned about air quality impacts on Epping Forest, and is reported in Appendix 1.

8. The one finding of potential adverse effects concerned the Lee Valley SPA and Ramsar Site – i.e. direct effects of expansion of Rye Meads Sewage Treatment Works and possible discharge related effects on water quality dependent flora and fauna. Further Changes are therefore proposed – see paragraph 12 below.

9. The overall conclusion of the HDA is that, taking into account the Further Proposed Changes, there will be no adverse effects on the integrity of European or Ramsar Sites – subject to a few reservations which do not affect sites in Epping Forest District or the surrounding area. The consultants also consider that this conclusion reinforces that of the SA/SEA that the Proposed Changes Plan should have no significant adverse effects, and that the Further Proposed Changes are likely to improve the overall sustainability of the Plan.

Secretary of State's Further Proposed Changes:

10. Members are reminded that the Further Proposed Changes deal only with matters arising from the HDA. The District Council has already commented on broader development, transport and infrastructure issues at the previous Proposed Changes stage; the outcomes will not be known until the East of England Plan is adopted.

11. Many of the Further Proposed Changes are unexceptional minor wording changes, clarifying the nature conservation intent of the Plan and/or cross-referencing. The London Arc Sub-Regional Policy LA1, which covers the District (apart from Harlow urban extensions) is unaffected.

12. It is proposed to include in Harlow Sub-Regional Policy HA1 and its supporting text an acknowledgement that additional waste water treatment capacity will be required, planned and programmed with the water industry and its regulators, and informed by a study of options and constraints at the Rye Meads Works. It is specifically accepted at proposed paragraph 10.8 that restrictions in capacity will need to be overcome without harm to the Lee Valley SPA, that a strategic review of options is required (looking beyond incremental expansion to new facilities) in time to inform the preparation of Local Development Documents, and that necessary lead in times may bear on the rate of delivery. These Further Proposed Changes are very much in accord with earlier representations by the District Council. They also underline the urgency of a waste water capacity study and the case for Government funding for it – both are actively being pursued with partner Local Authorities and agencies.

13. Other Proposed Changes concern

- (a) specification of domestic water consumption targets;
- (b) a textual statement that additional water resource development (e.g. Abberton Reservoir) takes account of the European Habitats Directive;
- (c) an acknowledgement that waste water infrastructure capacity is a critical issue generally and that new development may have to be phased accordingly;
- (d) reference to water quality requirements of the Water Framework Directive; and
- (e) acknowledgement that that flood risk management measures should avoid harm to sites of European or international wildlife significance.

14. These proposals can be supported, although it seems strange to delete references to harm from Policies WAT 2 and 3, in favour of text.

Conclusions:

15. Members might feel disappointed that the revised HDA has not led to more radical change to the emerging East of England Plan, in the form of lesser urban extensions at Harlow. However, it is a positive response to District Council representations that the due process has been more thoroughly carried out, albeit belatedly, and relevant changes put forward. All can be supported in principle.

16. In particular there is a welcome recognition that waste water infrastructure capacity, especially at Rye Meads, is a major constraint on development phasing. This in turn highlights the need for Government funding for urgent studies of Rye Meads and other options, if coordinated LDDs for Harlow are to be informed by the outcomes and not be delayed. Officers understand that lack of capacity is more likely to be an issue for Stevenage expansion (currently served by Rye Meads), and that development in and around Harlow, including Harlow North, should not be seriously affected. The main issue is likely to be the timing of the studies for the expansion of the sewage treatment works in relation to the preparation of LDDs in the Harlow area. A decision on Government funding for the studies is anticipated this month.

17. The District Council had raised detailed concerns about air quality impacts on Epping Forest SAC, particularly in the context of urban extensions to the south and west of Harlow. Further information has been sought about the new HDA technical analysis and conclusions (ie no adverse impact predicted from overall traffic growth). There has to be residual concern that the suggested improvements in vehicle technology, with consequent reduction in emissions, will occur as quickly as suggested, and indeed those parts of the Forest within 70m of the M25 are still predicted to have NO deposition rates above critical levels in 2021. The conclusions of the latest HDA are included in Appendix 1.

18. General concern was previously expressed by the District Council about HDAs (e.g. of urban extensions to the south/west of Harlow, or surface access transport to Stansted) being addressed not at the strategic planning stage but at subsequent more detailed stages. This is still the case in many instances, but appears to be an inevitable outcome of prevailing planning procedures and lack of specificity in the East of England Plan, pending further studies.

Statement in Support of Recommended Action:

19. It is consistent with previous representations by the District Council about this important Regional Plan to respond to the HDA and Further Proposed Changes, and to highlight Government funding issues.

Other Options for Action:

20. The other options for action are:

- (i) to make no representations or comments; or
- (ii) to take the opportunity to respond to the consultation.

Consultation Undertaken:

21. None.

Resource implications:

Budget provision: From existing resources.

Personnel: From existing resources and consultant support.

Land: N/A.

Community Plan/BVPP reference: GU1 (a).

Relevant statutory powers: Regional Planning powers in the Planning and Compulsory Purchase Act 2004 (and European Habitats Directive).

Background papers: N/A.

Environmental/Human Rights Act/Crime and Disorder Act Implications: Environmental implications for wildlife as described in the report.

Key Decision reference (if required): N/A.