

**REPORT TO:** CABINET

**DATE:** 13 OCTOBER 2016

**TITLE:** MEMORANDUM OF UNDERSTANDING:  
MANAGING THE IMPACTS OF GROWTH  
WITHIN THE WEST ESSEX/EAST  
HERTFORDSHIRE HOUSING MARKET AREA  
ON EPPING FOREST SPECIAL AREA OF  
CONSERVATION

**PORTFOLIO HOLDER(S):** COUNCILLOR DANNY PURTON, PORTFOLIO  
HOLDER FOR ENVIRONMENT

**LEAD OFFICER(S):** GRAEME BLOOMER, HEAD OF PLACE  
SERVICES (01279) 446270

DIANNE COOPER, PLANNING AND  
BUILDING CONTROL MANAGER  
(01279) 446595

**This is not a Key Decision  
Call-in Procedures may apply  
This decision will affect no Ward specifically.**

**RECOMMENDED that Cabinet:**

- A** Approves the draft Memorandum of Understanding (MoU) between East Hertfordshire District Council, Epping Forest District Council, Harlow Council, Uttlesford District Council, Essex County Council, Hertfordshire County Council, City of London Corporation (Conservators of Epping Forest) and Natural England managing the impact of growth on Epping Forest Special Area of Conservation.
- B** Delegates authority to the Chief Executive in consultation with the Portfolio Holder for Environment to approve any minor and inconsequential amendments to the draft Memorandum.
- C** Subject to B, the Chief Executive be authorised to sign the MoU in consultation with the Leader and the Portfolio Holder.

## **REASON FOR DECISION**

- A** The MoU, once signed, will provide evidence of the four Local Authorities and the other parties named above working together under the Duty-to-Cooperate (as defined by the Localism Act 2011) to support and manage planned growth. This evidence is a requirement of the Local Plan being found sound by the Inspector when it is submitted to the Secretary of State for examination.
- B** This joint partnership working on the collation of evidence and the preparation of a joint strategy will help to mitigate any adverse effects of growth. It will provide the context to protect Epping Forest Special Area of Conservation (SAC) to promote the efficient use of resources, reduce the risk of unacceptable adverse impacts and support sustainable development across the wider area.

## **BACKGROUND**

1. This is one of three draft memoranda produced by the Duty to Cooperate (DtC) Board to signal and guide cooperation towards meeting in full the Objectively Assessed Housing Need (OAN) of the West Essex/East Hertfordshire Housing Market Area (HMA). This MoU concerns the management of the impact(s) of growth on Epping Forest SAC. Once signed, the MoU takes immediate effect and will remain in place until adoption of the last of the West Essex/East Hertfordshire Local Plans. The MoU can be reviewed and amended if future circumstances dictate, subject to agreement between the DtC partners.
2. The MoU on Highways and Transportation is dealt with in a separate Cabinet report.
3. The MoU covering the Distribution of the Objectively Assessed Housing Need for the four Local Authorities is being reconsidered in light of the Special Council resolutions of 31 August 2016.

## **KEY ISSUES**

4. The purpose of this MoU is to help to mitigate any adverse impacts of growth in the HMA on Epping Forest SAC which also contains a Site of Special Scientific Interest (SSSI). Compliance with European Union (EU) regulations and other primary and secondary legislation depends on protecting these areas.
5. In 2014 the European Commission began infraction proceedings on the UK after a declaration by the UK Supreme Court that the UK was in breach of its obligations to comply with the limit values for Nitrogen Dioxide in the Air

Quality Directive. The UK Department for Environment, Farming and Rural Affairs (DEFRA) then made clear in a letter to local authorities that the government could require responsible authorities to pay all or part of any infraction fine.

6. This MoU agrees that the Councils will work together to facilitate the collection of data and evidence, as outlined in section 3 of the MoU, in order to develop a Joint Strategy to address potential adverse impacts on the integrity of Epping Forest SAC as required under the Habitats Regulations 2010. Epping Forest District Council (EFDC) will act as the coordinating competent authority in relation to Epping Forest SAC as defined by the Habitat Regulations 2010 and as described in the Defra Guidance 2012.
7. The MoU attached is a draft as there could be further refining of the document in relation to technical details which would need to be reflected in the final MoU. This MoU harbours little or no implications that would be incompatible with the Council resolutions of 31 August 2016.

## **IMPLICATIONS**

### **Place (includes Sustainability)**

The MoU promotes and enhances sustainable development and helps to ensure that the Local Plan is found sound.

Author: **Graeme Bloomer, Head of Place**

### **Finance (Includes ICT)**

None specific.

Author: **Simon Freeman, Head of Finance**

### **Housing**

None specific.

Author: **Andrew Murray, Head of Housing**

### **Community Wellbeing (includes Equalities and Social Inclusion)**

The MoU will help to deliver high quality environment.

Author: **Jane Greer, Head of Community Wellbeing**

### **Governance (includes HR)**

The MoU will help to reduce risk of infraction proceedings by failure to meet EU Directives on Air Quality. It will also assist in providing the evidence necessary to satisfy the requirement of the Duty to Cooperate under the Localism Act 2011 and of compliance with national Regulations on air quality.

Author: **Brian Keane, Head of Governance**

## **Background Papers and Documents**

Planning and Compulsory Purchase Act, 2004  
[www.legislation.gov.uk/ukpga/2004/5/contents](http://www.legislation.gov.uk/ukpga/2004/5/contents)

Natural Environment and Rural Communities Act, 2006  
[www.legislation.gov.uk/ukpga/2006/16/contents](http://www.legislation.gov.uk/ukpga/2006/16/contents)

Climate Change Act, 2008 [www.legislation.gov.uk/ukpga/2008/27/contents](http://www.legislation.gov.uk/ukpga/2008/27/contents)

Localism Act 2011 [www.legislation.gov.uk/ukpga/2011/20/part/2/enacted](http://www.legislation.gov.uk/ukpga/2011/20/part/2/enacted)

The Conservation of Habitats and Species Regulations, 2010  
[www.legislation.gov.uk/uksi/2010/490/contents/made](http://www.legislation.gov.uk/uksi/2010/490/contents/made)

The Town and Country Planning (Local Planning) (England) Regulations 2012 as amended  
<https://planningjungle.com/wp-content/uploads/SI-2016-No.-871-The-Town-and-Country-Planning-Local-Planning-England-Amendment-Regulations-2016.pdf>  
in effect from 01.10.16

### **Glossary of terms/abbreviations used**

Duty to Cooperate- created in the Localism Act 2011 this places a legal duty on local planning authorities in England to engage constructively, actively and on an ongoing basis to maximise the effectiveness of Local Plan preparation in the context of strategic cross boundary matters.

HMA- Housing Market Area- A geographical area defined by household demand for all types of housing, reflecting the key functional linkages between places where people live and work.

MoU- Memorandum of Understanding- an agreement between two or more parties outlining the terms and details of an understanding, including each parties' requirements and responsibilities.

SAC- Special Area of Conservation- a designation under the European Union's Habitats Directive to protect habitats and species which are considered to be of European interest.

SSSI- Site of Special Scientific Interest- a conservation designation made by Natural England for any area of land which is considered to be of special interest by virtue of its flora, fauna, geological or geomorphological features.