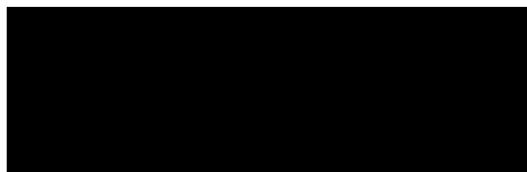


STATEMENT OF COMMON GROUND

1. List of Parties involved:

- Elmbridge Borough Council (EBC)
- Natural England (NE)

2. Signatories:

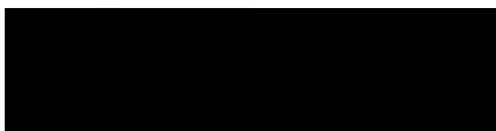


18.09.2023

Elmbridge Borough Council
Kim Tagliarini, Strategic Director

18.09.2023

Natural England
Miranda Petty, Sustainable Development Senior Adviser



3. Strategic Geography

This Statement of Common Ground (SoCG) is between Elmbridge Borough Council (EBC) and Natural England (NE). It applies to Elmbridge Borough.

NE is an executive non-departmental public body, sponsored by the Department for Environment, Food & Rural Affairs (DEFRA) and are the government's adviser for the natural environment in England. NE's purpose is to help conserve, enhance and manage the natural environment for the benefit of present and future generations, thereby contributing to sustainable development.

Elmbridge Borough has varied natural environments, many of which are identified as of international, national, and local importance. This includes the Thames Basin Heaths Special Protection Area (TBHSPA).

EBC has sought this SoCG setting out the matters of agreement and on-going work insofar as the Strategic Matter of the Natural Environment including TBHSPA.

4. Strategic Matters

Duty to Cooperate

EBC has engaged NE on an active and on-going basis throughout the preparation of its draft Local Plan 2037. This has included engagement on the evidence base documents, potential Suitable Alternative Natural Greenspace (SANG) site visits, at the Regulation 18 & 19 Stages, and up until the submission of the draft Local Plan for Examination in Public (EiP).

Duty to cooperate activities up until the Regulation 19 Stage are recorded in EBC's Duty to Cooperate: Statement of Compliance (June 2022). Specifically, activities relating to Strategic Matter 11: Natural Environment including TBHSPA, are set out in page 200 – 209.

NE agrees that the above document sets out an accurate record of their engagement up until the Regulation 19 Stage and has not raised an objection to the draft Local Plan in relation to the duty.

A summary of the activities undertaken prior to the Regulation 19 stage is set out below:

- **Local Plan Evidence Base Preparation** – in 2016, EBC published the 'Review of Absolute Constraints' (2016) to development within the borough. In regard to the Strategic Matter of the Natural Environment including TBHSPA, the TBHSPA, RAMSAR sites and SANG were all identified as an absolute constraints. As part of the preparation of the document, on 16 July 2015, the council consulted on a draft methodology. This included engaging with the NE.
- **Elmbridge Local Plan: Strategic Options Consultation (2016/17)** – NE commented that it may be necessary to outline avoidance and/or mitigation measures at the plan level, including a clear direction for project level Habitat Regulation Assessment (HRA) work to ensure no adverse effect on the integrity of internationally designated sites. NE stated that it might be necessary for plans to provide policies for strategic or cross boundary approaches, particularly in areas where designated sites cover more than one local planning authority (LPA), such as the TBHSPA. It was also stated by NE that the use of SANGs is a strategic solution approach for the TBHSPA which has been agreed across LPA areas in order to mitigate recreational impacts of development in close proximity to the designated site. NE confirmed their agreement with this approach to ensure that development does not have a likely significant effect on the SPA.
- **Elmbridge Local Plan: Options Consultation (2019)** – under each potential development option, NE stated that for residential dwellings within 5km of the SPA, mitigation in the form of SANG and SAMM would be required. The potential impact on the SPA and other habitats was also highlighted under each development option on the basis of the location of the relevant sites. NE stated their agreement with the conclusions of the Habitats Regulation Assessment (2019) and welcomed discussions and a consultation on future HRA and Strategic Environmental Assessment (SEA) documents as the Plan progressed and it is likely that a full Appropriate Assessment (AA) will be required at a later stage.

- **Local Plan: Creating our vision, objectives, and the direction for the Development Management Policies (2020)** – in response to the consultation, no comments were received from NE relating to the Thames Basin Heaths SPA.
- **SANGs Option Assessment (2022) & Avoidance & Mitigation Strategy (2022)** – through on-going monitoring of SANG and the Habitats Regulation Assessment of the Regulation 18 Local Plan Options Consultation (2019), EBC identified that additional SANG capacity would be required to mitigate the delivery of new development at varying scales / distributions. Looking to provide additional SANG capacity, the parties have work together to identify and consider potential opportunities. This has included examining land within EBC's ownership; discussing with neighbouring authorities if they've any spare capacity; and assessing potential SANG sites in third party ownership.
- **Habitats Regulations Assessment of the Elmbridge Local Plan (Regulation 19) (2022)** – the Assessment highlights the need to continue to liaise with NE to ensure the suitability of any proposed SANG solutions.

Elmbridge Local Plan – Regulation 19 Representation Period (June 2022)

EBC invited representations on their draft Local Plan (Regulation 19) between 17 June and 29 July 2022. Key points raised by NE in their representation (dated 22 July 2022) were:

1. NE were pleased to see the inclusion of draft Policy ENV5 (Thames Basin Heaths Special Protection Area) as part of Chapter 5 – Principle 2 – Protecting and enhancing our environment.
2. NE noted that there was insufficient capacity remaining in EBC's existing SANG sites to mitigate the impact of new development as set out in the draft Local Plan across the entire plan period.
3. NE noted that EBC were investigating the possibility of multiple sites to be brought forward as SANGs, including extending those already designated as well as searching for new opportunities.
4. NE expressed their preference for alternative sites for SANG provision not to be within other designated sites. However, that this did not preclude a site from being a SANG.
5. NE set out that any future SANG would need to be agreed with them but, as this is the Local Plan stage, NE did not need to see mitigation fully secured. Rather, that options are available that justify allocating these sites in this plan and show that they are deliverable in line with the National Planning Policy Framework (NPPF).
6. NE stated that, as it stands, EBC fails the tests of soundness within the NPPF.
7. NE stated that EBC needed to formally provide further evidence and justification that there are mitigation projects available in order to allow the Planning Inspectorate to be satisfied that there is enough mitigation available to allow the plan to be delivered.
8. NE noted that the parties are still engaged in ongoing discussions and that progress is being made on this matter.

9. NE stated that following receipt of further information, they hoped to issue a Statement of Common Ground, in advance of the Examination in Public and that they may then review their challenge upon the Local Plan.

Matters arising since the Regulation 19 Representation Period

The parties have continued to engage on options for providing additional SANG within Elmbridge Borough since the Regulation 19 Stage. This has included meetings; email correspondence and joint-site visits of potential SANG sites.

The parties met on 26 June 2023, where it was agreed that:

- Land at Field Common, Hersham had been identified as an additional SANG site capable of meeting NE's guidance on providing SANG and able to provide sufficient SANG capacity to help mitigate the development strategy for the borough as set out in the draft Local Plan up to 2037 and beyond.
- With the identification of the additional SANG, NE's objections raised at the Regulation 19 Stage had been partly addressed however, the identification of the SANG site on the Policies Map remains an outstanding matter. This was not submitted for the consideration of the Planning Inspector as a Main Modification to the Local Plan. Nevertheless, the Council would not raise an objection if the Planning Inspector was minded to require the sites' identification.

NE also provided additional suggested amendments to draft Policy ENV5:

- Refer to other types of development that could cause impact on the TBHSPA and therefore may also require mitigation e.g., C2 care homes, student accommodation and Housing in Multiple Occupation (HMOs). The policy should state that such uses and the potential need for mitigation will be considered on a case-by-case basis in consultation with NE.
- Make clear that within Zone C, development proposals that will result in a net increase of 50 or more residential units will be assessed on a case by case basis in consultation with NE.
- Strengthen the policy to make clear that proposals for new SANGs should be agreed with NE and adhere to the NE SANG Guidelines.

EBC welcomes the suggested amendments. These will be submitted to the Planning Inspector as Main / Minor Modifications for their consideration as part of the EiP process.

Prior to submission of the Local Plan for EiP, EBC has also reviewed and updated part of its evidence base relating to the TBHSPA. This includes:

- **SANGs Option Assessment (2023)** – to reflect the identification of Land at Field Common, Hersham as SANG site, and the position of other potential SANG sites that are linked to development sites emerging through the Development Management process.
- **Avoidance & Mitigation Strategy (2022)** – baseline updated to 31 March 2023 taking into account new planning permissions as well as removing sites where planning permission has expired and duplicate applications.
- **Habitats Regulation Assessment (HRA) (July 2023)** – prepared in support of the submission Local Plan taking into account the updated evidence base documents and proposed amendments to the draft Local Plan.

NE notes these updates and points of clarification sought on the Avoidance & Mitigation Strategy by NE have been responded to. This includes EBC's agreement to update the SAMM tariff per annum in line with inflation as agreed by the Joint Strategic Partnership Board (JSBP) in November 2022. This will be updated from April 2024 onwards.

NE also notes that EBC's Local Development Scheme (LDS) 2023 – 2026 (June 2023) sets out that a Supplementary Planning Document (SPD) on the TBHSPA will be prepared.

5. Governance Arrangements

The parties are committed to working positively together, sharing information and best practice, and continuing to engage with one another through the EiP process and beyond. This co-operation and collaboration will take place at an officer level.