

**Winchester City Council Local Plan:  
Part 2 Development Management & Site Allocations**

**MATTER 1 –**

**Plan Background, evidence base, sustainability**

**MATTER 16 –**

**Implementation and Monitoring**

**TUESDAY 12<sup>TH</sup> JULY 2016**



**STATEMENT ON BEHALF OF THE  
ROYAL SOCIETY FOR THE PROTECTION OF BIRDS (RSPB)**

**Representor No: 52007**

**Heather Richards**

**Matter 1****i) Is the Plan supported and justified by clear and robust evidence?**

1.1 The RSPB is concerned that conclusions in the Habitat Regulation Assessment (HRA) supporting the Plan have not taken appropriate account of the evidence available. In respect of the New Forest, the approach adopted by Winchester is not considered to be justified, as it does not reflect the available evidence (as detailed below) nor is it the most appropriate approach when compared with that of neighbouring local authorities. The Council therefore has not taken proper account of the legal requirements of the Conservation of Habitats and Species Regulations 2010 (as amended) when assessing its plan. The approach adopted by the Council in relation to this issue leaves uncertainty about the legal compliance of the Plan, as well as concern over the deliverability of individual sites within some of the plan area, thereby failing to meet the test of effectiveness. Furthermore, the Plan is considered to be inconsistent with the requirements of the Habitats Regulations, as it does not make appropriate provision for the Council to seek contributions towards the delivery of necessary avoidance/mitigation measures in line with new housing.

**ii) Will it satisfactorily and sustainably deliver the new development needed over the plan period to implement the objectives and requirements of Local Plan Part 1 ?**

2.1 The RSPB remains concerned that the failure to incorporate appropriate policy wording, in relation to recognising in-combination impacts on the New Forest and in respect of developer contributions to mitigate for in-combination impacts on the European sites, could compromise the Council's ability to seek developer contributions towards the full range of mitigation and avoidance measures necessary for new housing in order to comply with the Habitats Regulations. The approach adopted by the Council raises concerns over the deliverability of individual sites within the plan with the potential for in-combination effects on the European sites.

**iii) Are any policies or proposals inconsistent with national policies in the NPPF and, if so, is there a local justification supported by robust and credible evidence?**

3.1 Failure to incorporate robust policy wording to allow for appropriate mitigation for in-combination effects on internationally designated sites, particularly the New Forest Special Protection Area (SPA), is inconsistent with NPPF policies to conserve and enhance the natural environment.

**iv) Has the plan been the subject of suitably comprehensive and satisfactory sustainability appraisal [SA] strategic environmental assessment [SEA] and habitats regulations assessment (HRA)?**

**Habitats Regulation Assessment (HRA)**

4.1 The HRA screening report (September 2015) for Winchester LPP2 relies upon that HRA for the LPP1 (June 2012) as adequate assessment of the in-combination effects of the Winchester Housing and Employment Allocations on the integrity of any European sites. This concluded that “there would not be any adverse effects on the integrity of any European sites, subject to the inclusion of a number of recommendations” (Page A6-1).

4.2 The available evidence supports a 20km zone of influence for the New Forest SPA, in which new housing development in-combination has the potential to adversely affect the site integrity and therefore mitigation is required. The New Forest National Park Authority are working to establish a strategic mitigation strategy to address the in-combination recreational disturbance impacts of all housing developments within the 20km zone of influence established for the New Forest SPA/SAC/Ramsar. In order for the HRA to be lawful, it should recognise the latest evidence base identifying the need to mitigate recreational disturbance within 20km of the New Forest SPA. Residential planning applications coming before Winchester that fall within the 20km zone of influence around the New Forest SPA should include a requirement for strategic mitigation to address in-combination recreational disturbance impacts. The Plan does not provide a robust and clear basis for this type of mitigation. The LPP2 is therefore not sound because of the omission of consideration of its impacts on the New Forest SPA.

4.3 The failure of the LPP2 to appropriately reference the impacts of residential development in LPP2 on the New Forest, consistent with the approach taken by neighbouring local authorities, shows that the plan does not take account of factors arising from the needs of other authorities and therefore also does not demonstrate compliance with the duty to cooperate. Other authorities have made such commitments in their plans. For instance, the approach to recreational disturbance taken by Fareham as detailed in their Local Plan Core Strategy (adopted) HRA reads as follows (our emphasis added):

*“Disturbance effects from recreational activity at Chichester & Langstone Harbours SPA/Ramsar, Portsmouth Harbour SPA/Ramsar, Solent & Southampton Water SPA/Ramsar, and the New Forest SPA are overcome through the delivery of alternative natural greenspace for recreation, and access management measures at European sites, facilitated through developer contributions. The detail of these measures is developed and promoted through the South Hampshire Green Infrastructure Strategy, Solent Disturbance and Mitigation Project and New Forest Recreation Management Strategy. They are strengthened by the plan’s commitment to flexibility in the rate, scale and distribution of development, to enable it to respond to the findings of new evidence and further assessments.”*

4.4 Fareham’s Core Strategy (2011) contains the following policy wording to reflect its HRA *“The Borough Council will also support any further work that may be required on assessing impacts on the New Forest, in particular recreational disturbance, and air quality and proposing any necessary avoidance or mitigation measures.”*

4.5 Test Valley Revised Local Plan (2014) also illustrates a similar commitment to addressing recreational disturbance impacts on the New Forest SPA (once again, our emphasis added):-

*“The Council is committed to working with other local authorities and groups to develop and implement a strategic approach to protecting international and European sites from the effects of development, including recreational disturbance and air pollution. This may include a range of mitigation, access management and monitoring measures, including for the New Forest and Solent designations.”*

4.6 As it stands, the LPP2 is inconsistent with the requirements of the Habitats Regulations, because it does not make provision for the authority to seek developer contributions for new residential development, within 20km of the New Forest SPA, towards the delivery of necessary mitigation measures that are being developed to avoid the loss of integrity of the New Forest SPA rising from such development.

4.7 The HRA (AA) for the Submission Core Strategy (June 2012) recommended inclusion of further supporting text in Policy CP21 (HRA paragraph 4.4; Table 1 below). The HRA stated the purpose of the additional policy wording was to *“ensure that the Core Strategy provides a sound basis to implement necessary developer contributions towards strategic avoidance / mitigation measures so as to protect the Solent and New Forest SPAs”*. However, this recommended policy wording was not included in the adopted Plan. LPP2 provides the opportunity to rectify this omission through inclusion of appropriate policy wording to allow the Plan the flexibility to deliver housing whilst protecting the European sites by addressing in-combination effects of recreational disturbance.

<b>Table 1 – LPP1: Policy CP21 - Infrastructure and Community Benefit</b>		
<i>HRA Recommendation (4.4)</i>	<i>Proposed action</i>	<i>Adopted LPP1</i>
<i>Include the following text as a bullet point in the supporting text of Policy CP21: Other strategic avoidance/ mitigation measures necessary to protect the European sites within and adjacent to the District.</i>	<i>Amended bullet in the supporting text of Policy CP21: Green infrastructure, including recreation provision and measures necessary to protect European sites.</i>	-

Sources: Columns 1 & 2 - HRA (AA) of Submission Core Strategy (June 2012); Column 3: LPP1

**Housing Figures**

5.1 Assessment of likely significant in-combination effects on the European sites has been based upon local authority housing figures. Winchester is part of the Partnership for Urban South Hampshire (PUSH). PUSH look to publish a new spatial strategy which will include a review of the housing need, it is understood that an upward adjustment to housing figures within the PUSH area will be required. Including robust policy wording to appropriately consider in-combination impacts on the European sites would provide a method under which new housing can be delivered without harming the SPA, and allow flexibility to account for future housing figure uncertainties.

***Access Management***

6.1 Access management is a key part of strategic mitigation for recreational disturbance and is essential alongside the provision of green infrastructure to protect SPAs. Access management (including wardening, signage and education) measures aim to reduce the effects of residents which still choose to use the SPA. The Solent coastline and New Forest have considerable appeal for recreational users, demonstrated by evidence on visitor use patterns. An established zone of influence has been determined for the Solent of 5.6km and 20km for the New Forest, illustrating the draw of these sites. As a result of in-combination effects with residential development from other neighbouring authorities, new housing developments within these zones need to provide appropriate mitigation to avoid significant adverse effects on the integrity of these sites.

6.2 The RSPB remains concerned that disproportionate attention has been given to the delivery of green infrastructure (albeit a critical element of an avoidance/mitigation strategy), but comparatively little to access management within the designated sites themselves. Whilst we acknowledge that both of the SPAs lie beyond Winchester's boundary, to address in-combination effects from new housing developments effectively, robust access management measures at the European sites will be essential. For the Solent this is provided via contributions to the SRMP. The emerging New Forest Mitigation Strategy is anticipated to have access management as a key component, therefore Winchester needs to include policy wording to allow developer contributions from residential developments within 20km to effectively protect the New Forest.

***New Forest Recommended Changes***

7.1 In order to ensure that the Winchester Local Plan Part 2 adopts an appropriate approach to ensure the protection of the New Forest SPA, the RSPB considers that in-combination impacts on the New Forest SPA must be appropriately recognised in the HRA. We recommend that, consistent with the approach taken to mitigate against adverse impacts on the Solent SPA (Para 1.11 and 7.11-7.14 of the LPP2), a similar strategic commitment should be made in policy in the LPP2 to the emerging New Forest Mitigation Strategy. This would ensure a consistent approach within the New Forest zone of influence to address in-combination recreational disturbance and comply with

the duty to cooperate. In addition, all housing allocations within 20km should include a commitment to mitigate in-combination impacts on the New Forest SPA.

### ***Solent Recreation Mitigation Partnership (SRMP)***

8.1 We welcome the commitment (LPP2 1.11) to residential developments within the 5.6km zone of influence making contributions towards the SRMP strategy as the most appropriate, evidence based means to mitigate against recreational disturbance resulting from new housing around the Solent European Marine Sites (SEMS). The SRMP Interim Strategy is currently being developed into the Definite Strategy, which will provide for the necessary range of measures required to address recreational disturbance impacts from new residential development. It is important that the Solent Recreation Mitigation strategy is referenced rather than a commitment to the interim strategy which will be superseded shortly. This will ensure that the necessary developer contributions can be collected to deliver the mitigation strategy required.

**Recommended Change:** Removal of “Interim” from Policy LPP2 1.11 and 7.11-7.14

8.2 We continue to question the exemption (in the last two sentences of paragraph 7.12 in the LPP2) of certain residential developments from the requirements to make a financial contribution to the SRMP. The SRMP is seen to be the most cost effective, evidence based approach for mitigating recreational disturbance. The provision of significant green infrastructure for large residential developments should be in addition to SRMP contributions to provide the necessary access management measures as the SPA. The level of contributions under the SRMP to provide for the protection of the Solent SPA in perpetuity are assessed on the basis that all net new dwellings were to contribute. To depart from this principle risks inadequate finance to deliver the necessary mitigation measures to protect the Solent SPAs.

**Recommended Change:** Amend LPP2 Paragraph 7.12 as below:-

Winchester City Council will therefore seek a contribution for every net additional dwelling within 5.6km of the SPAs ~~unless the developer can demonstrate to the satisfaction of Winchester City Council and Natural England that it will provide alternative measures which will fully mitigate the impact of the development. The North Whiteley and Welborne developments are expected to fall into this category.~~

### **Implementation of recommendations**

9.1 The RSPB have made a number of key and specific suggestions about the scope of the HRA and the adequacy of policy in respect of the emerging New Forest mitigation strategy and the SRMP strategy. In our view, it is essential that these recommendations are written into the LPP2 so that the Plan appropriately reflects the requirements of the Habitats Regulations and provides policy wording to support necessary protection for the European sites (both the Solent and New Forest). If that does not happen, it will potentially put the integrity of the Solent and New Forest SPAs at risk by adopting an

inconsistent approach to residential in-combination effects on the European sites and the LPP2 would not be legally compliant.

**Matter 16**

**i) Bearing in mind the funding required, is the plan economically viable and practically achievable in the timescales envisaged and in the ways proposed?**

10.1 Further to our representation under Matter 1 above, the RSPB considers that the above recommendations are required to ensure the delivery of housing development within 20km of the New Forest and 5.6km of the Solent SPAs is achievable. Failure to include these recommendations introduces uncertainty due to lack of appropriate consideration of in-combination effects on the European sites.