



Kevin Ward and Caroline Mulloy
The Planning Inspectorate
Temple Quay House
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4 July 2018

Dear Mr Ward and Ms Mulloy,

Thank you for your letter dated 12 June 2018 regarding the examination of the draft New Forest National Park Local Plan 2016 - 2036. Following our written response dated 22 June 2018 which addressed the majority of the points raised, there was one outstanding question and our response to this is below.

Habitats Regulations

The legal judgment in the *People Over Wind and Peter Sweetman v Coillte Teoranta*¹ case has implications for the way in which Article 6(3) of the Habitats Directive is interpreted. In your letter you ask the National Park Authority to consider the extent to which the Habitats Regulations Assessment report (Core Document 15) for the Authority's Submission draft Local Plan is compliant with this legal judgement.

As suggested in your letter, we have subsequently reviewed the Habitats Regulations Assessment (HRA) report to determine whether the HRA screening relied on avoidance and mitigation measures, contrary to the Court's decision in April 2018. This work has been undertaken by Land Use Consultants (LUC) – the consultants commissioned to undertake the HRA of the draft Local Plan on behalf of the Authority.

Attached at Annex 1 to this letter is the detailed review of the HRA. The main conclusions from the review include:

- An assessment of the reliance of the HRA screening on avoidance or reduction measures to rule out likely significant effects is shown in Table 3.1 of the attached report. This concludes that the HRA screening of the Authority's draft Local Plan relied on mitigation measures to rule out likely significant effects in relation to urban edge effects, recreation pressure, changes in water quantity, and changes in water quality.

¹ Judgement of the Court (Seventh Chamber) of 12 April 2018 – *People Over Wind and Peter Sweetman v Coillte Teoranta*

- The Court's decision in April 2018 states that reliance on mitigation is not appropriate at the screening stage. Table 3.2 of the attached report therefore sets out the amended conclusions of the HRA Screening of the draft Local Plan in relation to these types of effects in the absence of mitigation.
- Since likely significant effects on European sites cannot be ruled out for the effects highlighted in Table 3.2, an Appropriate Assessment is required and this is presented in Chapter 4 of the attached report (Annex 1).
- The amended conclusions of the HRA of the Submission draft Local Plan are summarised in Table 5.1 of the attached report.

Following the revisions to the HRA necessitated by the legal decision in the *Sweetman* case, the overall conclusion of the HRA of the Submission draft New Forest National Park Local Plan 2016-2036 is that it will have no adverse effect on the integrity of any European site, either alone or in combination with other plans and projects. In the Authority's view, this updated work ensures the HRA is compliant with legal case law.

The National Park Authority trusts that this response addresses the query raised.

Yours sincerely

David Illsley
Policy Manager

Annex 1: Habitats Regulations Assessment of New Forest National Park Local Plan 2016-2036 - Addendum to review implications of CJEU judgment in the *People Over Wind and Sweetman v. Coillte Teoranta* case for the HRA at Submission Draft stage