

New Forest National Park Local Plan 2016 – 2036

Examination Statement – New Forest National Park Authority

Matter 1 – Procedural / legal requirements

Issue – Whether the Authority has complied with the relevant procedural and legal requirements.

1.1 *Has the Plan been prepared in accordance with the Local Development Scheme in terms of its form, scope and timing?*

1. As set out in the Authority's submitted Self-Assessment of the Legal Compliance of the Local Plan (CD14), the draft Local Plan has been prepared in accordance with the adopted Local Development Scheme (LDS) (CD17).
2. The Authority's previous LDS (2016) set out the timetable for the early stages of the Local Plan Review process. This included an initial Regulation 18 consultation in autumn 2015 to be followed by the publication of a non-statutory draft Local Plan in October 2016. Both of these milestones were met. The LDS (2016) also confirms that the Local Plan Review would cover the whole of the National Park and would contain the full review of the local planning policies (i.e. no other follow up Development Plan Documents were proposed).
3. The Authority's current LDS (CD17) sets out the timetable for the latter stages of the Local Plan review process. This included the Regulation 19 consultation on the proposed Submission draft Local Plan commencing in January 2018 and this was achieved. The LDS proposed submission in April 2018. In reality, the draft Local Plan, supporting documents and the representations received at the Regulation 19 stage were submitted on 14 May 2018, 2 weeks after the proposed LDS timetable. This information was made available on the Authority's website and was also communicated with the Planning Inspectorate and the Department for Communities and Local Government.
4. The Authority's Annual Monitoring Reports (CD18) have reported on progress made against the relevant LDS timetable. Regular updates on the Local Plan timetable have also been provided on the Authority's website since the review commenced in 2015.

1.2 *Have the requirements been met in terms of the preparation of the Local Plan, notification, consultation, publication & submission of documents?*

1. The Authority has complied with the relevant Planning Regulations and more detail on the consultation undertaken at each of the statutory stages can be found in Consultation Statement (CD12) and Self-Assessment of Legal Compliance of the Local Plan (CD14). The Consultation Statement sets out who was consulted at each of the main stages between 2015 - 2018; how the consultation was undertaken and publicised; summarises the main points raised in the representations received; and (where appropriate) sets out how the representations have been taken account of.

2. In terms of the requirements of the Regulations, the Consultation Statement (CD12) outlines the consultation undertaken at both the Regulation 18 and 19 stages, as well as the non-statutory consultation undertaken by the Authority in autumn 2016 and summer 2017. In accordance with Regulation 22(1)(c) the annex of the Consultation Statement lists all of the specific and general consultation bodies consulted. The Regulation 18 consultation lasted 6 weeks and was widely publicised in accordance with the requirements of our adopted Statement of Community Involvement (SCI) (CD11) and the relevant Planning Regulations. Pages 3 – 6 of the Consultation Statement set out how the representations received at the Regulation 18 stage were taken into account.
3. At the Regulation 19 stage the Authority published a Statement of the Representations Procedure alongside the proposed Submission draft Local Plan confirming the consultation period of 17 January – 28 February 2018 (6 weeks) and how representations could be made. This statement was sent to general and specific consultation bodies. The proposed submission documents and the Statement of the Representations Procedure were published on the Authority's website and copies were also made available at Lymington Town Hall. As required by the Regulations, the Consultation Statement summarises the main points raised during the Regulation 19 consultation.
4. In accordance with Regulation 22, all of the submission documents were made available at Lymington Town Hall and on the Authority's website shortly after the submission of the Local Plan on 14 May 2018. All general and specific consultation bodies were notified of the submission.

1.3 *Has the preparation of the Local Plan complied with the Statement of Community Involvement?*

1. The Authority's Statement of Community Involvement (CD11) sets out how the Authority will involve local communities and others in its planning policy work. The SCI includes specific policies on the preparation of the Local Plan (SCI-1) and the publication of the draft Local Plan (SCI-2).
2. As set out in the Consultation Statement (CD12), the consultation undertaken on the Local Plan review between 2015 – 2018 significantly exceeds the commitments made in the SCI. As well as the two statutory stages outlined in the relevant Regulations, the Authority undertook an additional non-statutory consultation on the draft Local Plan in autumn 2016; followed by a further 6-week consultation on potential alternative housing sites in summer 2017.
3. At the Regulation 18 stage, in line with the commitments in the SCI, copies of the consultation document were sent to all statutory and other relevant consultees and made available for inspection at the Authority's offices in Lymington. The consultation was promoted extensively through the Authority's website, Facebook page, Twitter, local press and Parklife newspaper (a six-monthly supplement inserted into a local newspaper and made available throughout the Forest) as well as posters on Parish Council noticeboards.

4. At the Regulation 19 stage, the consultation was undertaken in accordance with policy SCI-2 in the SCI and the requirements of the regulations, with all of the main documents available electronically on the Authority's website and for inspection at Lymington Town Hall. In terms of publicity, consultation posters were exhibited at all 9 Local Information Points in and around the National Park highlighting the consultation period and how the Local Plan (and supporting documents) could be viewed. In addition, updates on the Submission draft Local Plan were given at the Parish Quadrant meetings (in January and February 2018) and at the New Forest Consultative Panel prior to and during the final 6 week consultation. The Authority included regular updates on the consultation via its Facebook page and Twitter account. In terms of notifications, everyone who had submitted representations at the Regulation 18 stage and the other (non-statutory) consultations undertaken prior to the publication of the Regulation 19 Local Plan were directly notified of the consultation. All general consultation bodies and specific consultation bodies were directly notified of the consultation on the Regulation 19 Submission draft Local Plan.

Sustainability Appraisal

1.4 *How has the Sustainability Appraisal (SA) informed the preparation of the Local Plan at each stage and how were options considered?*

1. The Local Plan has been informed by the SA at each stage. The SA Scoping Report in 2016 (CD156) set out the context and overall approach of the SA for the Local Plan review. The report informed the Local Plan by including baseline information about the National Park; the international, national and local policy context; key sustainability issues which may be affected by planning policies; and the development of a sustainability framework, including objectives and criteria for assessing the Local Plan. Setting a sustainability framework for testing the Local Plan was important to inform the development of the objectives, policies and alternative approaches throughout the Plan review.
2. This scoping work also assisted in early evidence gathering for the Local Plan. Views on the scope of the SA were sought from Natural England, Historic England and the Environment Agency (as statutory consultees) and from neighbouring authorities under the duty to co-operate. This ensured the key elements of testing and measuring sustainability in the Park were appropriate.
3. The Authority then prepared a draft Local Plan for consultation, which was informed by an SA, and both were published for public consultation in October 2016. The SA of this draft Local Plan (CD157) included a test of the Local Plan objectives against the SA framework to ensure the objectives were sustainable. A number of Local Plan policy options were considered at this stage. The policies and alternative options were then subject to the SA framework. Some areas of potential adverse impacts on sustainability objectives and/or areas where it was uncertain whether the policy would cause potential adverse impacts were identified, and measures were considered that would provide mitigation for these. Those policies that showed potential for adverse impacts on the sustainability objectives, together with proposals for mitigation of these impacts, were set out in Section 4 Stage B (b). The method for monitoring the effects of implementation was also identified in Section 5.

4. The key findings of the SA assessments were that:
 - The majority of the draft policies were likely to either have a positive impact on sustainability objectives or have a neutral impact.
 - There were, however, a few draft policies where the impact on the sustainability objective had a potential for an adverse impact. Where this was the case, recommendations for improving the draft policy or mitigation for the negative impacts were outlined. In many cases it was considered that other policies contained in the Submission draft Local Plan would ensure that the impacts either would be avoided, or would be mitigated.
5. The assessments in the SA of the draft Local Plan were then subject to public consultation. The assessments of the sustainability of the proposed policies, together with the proposed mitigation measures and the comments received in the consultation about the SA of the draft Plan, were then used to inform the further development of the policies and approaches in the Local Plan, making it more sustainable.
6. The SA of the Submission Local Plan was completed in Jan 2018 (CD10). This contains an assessment of all the final policies contained in the Submission Local Plan. The conclusion of the SA Report is that the majority of the Submission draft Local Plan policies are likely to either have a positive or neutral impact on sustainability objectives, and that the few potential adverse impacts on SA Objectives will be mitigated.
7. Following responses received from the consultation of the Submission Local Plan the Authority proposed a number of modifications to the Local Plan. To ensure these amendments were also sustainable, a further SA was done on these proposed modifications in May 2018. The conclusion of this SA Addendum (CD08) was that none of the proposed modifications to the Submission Local Plan are considered to have a negative sustainability impact on the SA Objectives, and, in a number of cases, could strengthen the delivery of one or more of the SA Objectives.
8. Clarification of the options considered in the SA process was included in Section 4, Stage B (c) of the SA Report of the Submission Local Plan.

1.5 How has the SA been reported?

1. The Sustainability Appraisal of the Submission Draft Local Plan is set out in Core Document CD10.
2. The first stage of the SA process was to produce a SA Scoping Report (CD156), which set out the context and overall approach of the Sustainability Appraisal for the Local Plan. This was done in June 2016. The consultation bodies were consulted on this SA Scoping Report.
3. The next stage to be reported was a SA Report for the non-statutory Draft Local Plan in Sept 2016 (CD157). This accompanied the Draft Local Plan as part of the public consultation in October and November 2016.

4. The SA Report for the Submission Local Plan was completed in January 2018 and accompanied the Submission Local Plan during a public consultation between January and February 2018.
5. An Addendum to the SA Report of the Submission Local Plan was produced in May 2018 (CD08) to provide an assessment of the implications for the Sustainability Appraisal of the modifications to the Submission Local Plan being proposed by the Authority prior to Examination of the Local Plan.

1.6 *Has the methodology for the SA been appropriate? What concerns have been raised and what is the Authority's response to these? Have the requirements for Strategic Environmental Assessment been met?*

1. National Planning Practice Guidance (CD26) sets out the methodology for completing a Sustainability Appraisal of a Local Plan and the SA of the National Park Local Plan conforms to this. Details of the methodology, and how it was followed, is outlined in Section 4 of the SA Report (CD10).
2. There were very few concerns raised about the Sustainability Appraisal of the Consultation draft Local Plan during the public consultation in Autumn 2016. One concern was that allocations should provide mitigation for landscape and biodiversity impacts. The Authority considered that the SA Objectives that would assess any chosen land allocation would cover the impacts on landscape and biodiversity (see Section 4, Stage A (d) of the SA Report of the Submission Local Plan, CD10)
3. There was concern raised about the testing of alternative housing scenarios. The Authority did test alternatives for the spatial location of housing as set out in Section 4, Stage B (c) of the SA Report of the Submission Local Plan. In terms of alternative housing sites, details of these assessments are set out in the Strategic Housing Land Availability Assessment (CD104). The housing sites chosen for inclusion in the Local Plan were then subject to SA assessment. There was a further concern that the SA did not set out consideration of alternative options for the Plan. Clarification of this was included in Section 4, Stage B (c) of the SA Report of the Submission Local Plan.
4. There were also very few comments made about the Sustainability Appraisal of the Submission Local Plan, but these included the following comments.
5. The Environment Agency did not agree with the SA assessment that indicates that Policy SP25 will have a positive impact on SA objective 6, due to concerns regarding flood risk. The Authority responded to this by proposing main modification MAIN-09 in the Revised Schedule of Proposed Main Modifications, 4 July 2018 (CD155). The Environment Agency has subsequently signed a Statement of Common Ground (CD173) confirming that its concerns regarding flood risk and Policy SP25 have been addressed.
6. Natural England outlined that the SA process was undertaken in an iterative way alongside the preparation of the Local Plan. Natural England had been consulted at each stage and understood that its comments had been taken on

board during the revision process. Historic England raised no concerns about the SA.

7. The requirements of the Strategic Environmental Assessment have been met in the production of the Sustainability Appraisal. Those parts of the SA Report that meet the specific requirements of an 'Environmental Report' under the SEA Directive have been identified in Section 3, Table 1. Natural England confirmed that the SEA/SA of the Submission Local Plan meets the requirements of the SEA Directive.

Habitats Regulations Assessment

1.7 How was the Habitats Regulations Assessment (HRA) carried out and was the methodology appropriate?

1. A summary of the process followed, and the methodology used, to carry out the HRA can be found in Chapter 1 and Chapter 3 of the Habitats Regulations Assessment of New Forest National Park Local Plan January 2018 (CD15) and in Chapter 2 and 3 of the HRA of New Forest National Park Local Plan Addendum to review implications of CJEU judgment (People over Wind and Peter Sweetman v Coillte Teoranta) July 2018 (CD158). These demonstrate that the methodology and process used to carry out the HRA have been appropriate to the development and submission of the National Park Local Plan and to ensure the Local Plan complies with the Habitats Regulations (CD145).
2. A HRA Scoping Report was produced in April 2016 (CD159). The purpose of this was to draw together and update the relevant evidence that was gathered during the HRA work undertaken previously for the adopted Plans for the New Forest National Park and the New Forest District, to describe the approach that will be taken to the HRA of the new Local Plan, and to obtain the views of Natural England and other selected stakeholder bodies on these.
3. This Scoping Report was completed by Land Use Consultants (LUC) and outlined the methodology (which was informed by various guidance) to be used in the HRA process. It covered Stage 1: Screening (the 'Significance Test'), Stage 2: Appropriate Assessment (the 'Integrity test'), and Stage 3: Assessment where no alternatives exist and adverse impacts remain taking into account mitigation.
4. In addition to establishing the process to be used for the HRA, LUC identified the methodology to be used for the Screening. This Screening would identify which components of the Local Plan have the potential to have likely significant effects on European sites. LUC also outlined that a risk-based approach would be adopted involving the application of the precautionary principle in the Screening assessment, such that a conclusion of 'no significant effect' will only be reached where it is considered very unlikely, based on current knowledge and the information available, that a policy or site allocation would have a significant effect on the integrity of a European site.

5. In October 2016 the Authority published a Draft Local Plan for public consultation. To ensure that the developing policies and approaches would be consistent with the Habitats Regulations, the Authority commissioned a non-statutory HRA discussion document to assess the draft Local Plan and to inform associated discussions with key consultees. This document outlined the intended approach to the HRA during NFNPA's preparation of the Publication draft Local Plan. It also informed the Authority about whether the developing draft policies and approaches could have significant effects on the internationally designated sites and how these should then be considered for the Submission Local Plan.
6. During 2017 revised housing site allocations together with amended policies and text were included in the development of a draft Submission Local Plan. An initial draft Habitats Regulations Assessment of this was done in the autumn of 2017. This provided a range of recommendations, some of which resulted in further amendments to the draft Local Plan. The HRA of the final version of the Submission draft Local Plan was then completed in Jan 2018 (CD15).
7. Following the responses received from the consultation of the Submission draft Local Plan, the Authority proposed a range of modifications to the Local Plan before it was submitted for Examination. To ensure that none of these minor modifications would have any adverse significant effects on the European designated sites, the Authority commissioned LUC to conduct an HRA of these. The Addendum to the Habitats Regulations Assessment of the Submission Local Plan, LUC May 2018 (CD09) provided an assessment of the implications for the HRA of the modifications to the Submission draft Local Plan being proposed by the Authority prior to Examination. The conclusion of this Addendum to the HRA of the NFNPA Local Plan, as amended by proposed minor modifications, was that the Local Plan will not have an adverse effect on the integrity of any European site, either alone or in-combination with other plans or projects.
8. To ensure that the HRA of the Submission Local Plan is compliant with the Court of Justice of the European Union (CJEU) judgment in the case of People over Wind and Peter Sweetman v Coillte Teoranta (see 1.8 below), the Authority commissioned LUC to review the HRA and determine whether there would be any change in its conclusions (CD158). For each of the potential effects of the Local Plan on the internationally designated sites, this Addendum to the HRA concluded that none would affect the integrity of the European designated sites.

1.8 *Was the approach in accordance with recent judgement of the Court of Justice of the European Union (12 April 2018-Case C-323/17) which ruled that it is not appropriate to take account of measures intended to avoid or reduce the harmful effects of a plan or project on a European site at the screening stage as part of the HRA.*

1. Subsequent to the completion and consultation of the Submission Local Plan and the HRA of this, the Court of Justice of the European Union (CJEU) made a judgment in the case of People over Wind and Peter Sweetman v Coillte Teoranta in April 2018.

2. To ensure that the HRA of the Submission Local Plan is compliant with this judgement, the Authority commissioned LUC to review the Submission Local Plan and determine whether there would be any change in the conclusions of the HRA of the Submission Local Plan.
3. The Addendum to the HRA of New Forest National Park Local Plan to review the implications of CJEU judgment (People over Wind and Peter Sweetman v Coillte Teoranta) was completed in July 2018 (CD158). The methodology used to review the HRA of the Submission draft Local Plan can be found in Chapter 2, and the review of the screening can be found in Chapter 3.
4. The Summary and Conclusions in Chapter 5 outline that the HRA of the Submission Local Plan was reviewed to determine whether the screening stage relied on mitigation measures to rule out the need for Appropriate Assessment, contrary to the direction of the CJEU judgment. Where this was found to be the case, action was taken to amend the HRA in line with the approach required by the CJEU judgment. The review concluded that ... *“Following the revisions to the HRA necessitated by the CJEU judgment, the overall conclusion of the HRA of the Submission draft New Forest National Park Local Plan 2016-2036, as modified by NFNPA proposed modifications, 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. This is the same overall conclusion as that reached by the HRA Report for the Submission draft Local Plan, as amended by proposed minor modifications, in May 2018 and it is based on the same evidence.”*
5. Natural England have considered LUC’s review of the HRA of the Submission Local Plan and support their view that the conclusions of the HRA remain valid.

1.9 What were the relevant designated sites considered?

1. Chapter 3 of the HRA of the Submission Local Plan, LUC Jan 2018 (CD15) outlines the methodology used for selecting the European sites that were considered, and Paragraph 3.7 identifies the following European sites that are included in the HRA:
 - River Avon SAC;
 - Avon Valley SPA;
 - Avon Valley Ramsar site;
 - Dorset Heaths SAC;
 - Dorset Heathlands SPA;
 - Dorset Heathlands Ramsar site;
 - Mottisfont Bats SAC;
 - The New Forest SAC;
 - New Forest SPA;
 - The New Forest Ramsar site;
 - River Itchen SAC;
 - Solent and Dorset Coast pSPA;
 - Solent and Isle of Wight Lagoons SAC;
 - Solent Maritime SAC;
 - Solent and Southampton Water SPA;
 - Solent and Southampton Water Ramsar site.

1.10 What potential impacts of the Local Plan were considered? What were the conclusions of the HRA and how has it informed the preparation of the Local Plan?

1. The HRA considered the impacts of all development proposed in the Local Plan and assessed this against a range of different 'pathways' which could connect the type of development with a potential impact on a European site. Details of these various impacts can be found in the HRA of the Local Plan (CD15), but these included:
 - Direct loss or physical damage to European sites.
 - Loss or damage to offsite supporting habitat
 - Urban edge effects
 - Changes in air quality
 - Traffic collision risk
 - Recreation pressures
 - Changes in water quantity
 - Changes in water quality
2. The conclusions of the HRA are summarised in Chapter 6 of the HRA of the Submission Local Plan, Jan 2018, and Chapter 5 of the Addendum to the HRA of the Submission Local Plan, July 2018 (CD158). In summary, it is concluded that the Submission Local Plan will not adversely affect the integrity of any European site, either alone or in combination with other plans and projects.
3. The assessments completed as part of the HRA process have been important in informing the development of the Local Plan in an iterative manner. Ensuring that planned development throughout the National Park must not adversely impact the designated nature conservation sites has influenced some significant aspects of the Local Plan.
4. The context for planning development in the National Park has been influenced by the fact that more than 50% of the land within the National Park is designated as European nature conservation sites (subject to the Habitat Regulations and Birds and Habitats Directives), which is believed to be the largest proportion of any planning authority in England. Moreover, development in much of the rest of the area may have the potential to impact this 50% protected area and, therefore, a large proportion of the planning area for the Local Plan is influenced by the Habitats Regulations. For instance, the HRA concludes that, prior to mitigation, the potential for adverse in combination recreational effects on the integrity of New Forest SAC and SPA cannot be ruled out for any residential development or visitor accommodation throughout the National Park. In this situation, Paragraph 119 of the NPPF makes it clear that the presumption in favour of sustainable development may not apply in many circumstances in the National Park. Moreover, Paragraph 14 of the NPPF confirms that Local Plans should meet assessed needs unless policies in the NPPF indicate development should be restricted, such as those in footnote 9 which includes 'those policies relating to sites protected under the Birds and Habitats Directives'.

5. The HRA influenced the allocated housing sites. Following advice about the proximity to the designated European sites from Natural England, the Authority reviewed the proposed housing site allocations and invited further representations on alternative sites in the Summer 2017.
6. Restrictions on the development of the allocated sites that are located close to the European designated sites (Lyndhurst Park Hotel and 'Forest View' in Landford) have also resulted from the HRA. Policy SP23 requires that development proposals incorporate measures to mitigate potential significant urban edge impacts on the adjacent protected habitats; and the supporting text notes that urban edge impacts to be considered include cat predation and the introduction of invasive species from fly-tipping of garden waste and that mitigation measures could include the use of legal covenants and arrangements for grounds maintenance. The Policy SP33 states that due to the proximity of the New Forest SAC, measures must be put in place to adequately mitigate the potential for the introduction of invasive species from fly tipping of garden waste.
7. Furthermore, the HRA concluded that in order to provide the necessary level of certainty that the loss of habitat associated with Policy SP25, it needed to include a requirement to undertake site-specific bird surveys to confirm the status of SPA/Ramsar species at the site to inform appropriate mitigation requirements.
8. The HRA process has also informed Policy SP5: Nature Conservation Sites of International Importance. This policy ensures that the Habitats Regulations are applied to all development within the Local Plan, which is essential given the scale of the area designated as European sites in the National Park. It covers all types of impacts on the designated sites, but, in particular, it outlines how development needs to consider recreational impacts on the designated sites. Prior to mitigation, the HRA concludes that it cannot rule out the recreational impacts of any new residential and visitor accommodation throughout the National Park having a likely significant in combination effect on the New Forest SPA and SAC sites. The HRA also supports the evidence from the Solent Recreation Mitigation Partnership (CD59) that recreational impacts cannot be ruled out for any residential development within 5.6 kilometres of the Solent SPA, SAC and Ramsar sites that cover the coast.
9. With these conclusions in mind, the Authority needed to consider what measures might be possible to mitigate these impacts. Subsequently, a revised version of the existing Authority's Habitat Mitigation Scheme was developed to accompany the Submission Local Plan. The HRA concluded that the diverse packages of measures set out in Authority's revised Habitat Mitigation Scheme (CD58) and in the Solent Recreation Mitigation Partnership's scheme (CD59) are capable of providing effective mitigation of the recreation pressures resulting from these developments in the Local Plan. In relation to urban edge effects, the HRA judges that dispersed small windfall housing development will be acceptable, but if the scale of windfall developments close to the designated sites is larger, then reliance can be placed on the Habitats Regulations' requirement for individual projects to also be subject to HRA, and this is reflected in the accompanying text to Policy SP5.

10. The HRA process has also informed a range of other policies in the Local Plan, including Policy SP1, DP8, DP13, and SP14.

1.11 Have any concerns been raised, and if so what is the response?

1. There have been very few concerns raised about the HRA (CD15) itself. Natural England, however, made a number of specific recommendations about the HRA and sought amendments to the Local Plan. The key issues raised and the way they have been addressed are as follows:
 - Local Plans should acknowledge the uncertainty around delivery of water resources over the plan period, and that policies requiring the highest standard of water efficiency and re-use should be adopted within the Southern Water area. This has been addressed in Policy DP8 and through the proposed minor modification MIN-18 in the Proposed Schedule of Minor Modifications, 4 July 2018 (CD154).
 - Whilst Natural England support the approach in Policy DP8, it recommends that the Local Plan includes a holistic water environment policy that would provide a basis for the protection of the water environment in its entirety with associated biodiversity gains. This has been addressed by the proposed main modification MAIN-02 in the Proposed Schedule of Main Modifications, 4 July 2018 (CD155).
 - Natural England and the Environment Agency have been working closely with the PUSH authorities with regard to the Integrated Water Management Study for South Hampshire and how the Solent Natura 2000 sites could be affected (the National Park coast is covered by these). Natural England's advice is that there is a potential for this ongoing work to result in a requirement for additional water mitigation measures for new builds. In the meantime Natural England advise that a precautionary approach to these matters is recommended, with the highest possible standards required for water efficiency while seeking appropriate methods to deliver as far as possible nitrogen and phosphate neutral development. This has been addressed by the proposed main modification MAIN-03 in the Proposed Schedule of Main Modifications, 4 July 2018 (CD155) and in the proposed minor modification MIN-17 in the Proposed Schedule of Minor Modifications, 4 July 2018 (CD154).
 - In relation to the River Avon SAC, Natural England and the Environment Agency are now aware of new evidence that affects two aspects of the River Avon Nutrient Management Plan relating to discharges from sewage treatment works and the efficacy of CSF measures. Natural England advice is that the new evidence still needs to be fully considered and may well conclude that some or all development will need to be phosphate neutral to achieve HRA compliance. As such, prior to the completion of this work, permissions should now only be considered to be HRA compliant if phosphate neutrality can be achieved. This has been addressed by the proposed minor modification MIN – 17 in the Revised Schedule of Proposed Minor Modifications, 4 July 2018 (CD154), whereby phosphate neutral development will be achieved through the application of Policy SP5.

3. It should be noted that Natural England have considered the proposed modifications to tackle the issues raised, which were assessed in the HRA Addendum of the modifications, and have now confirmed to the Authority that it believes that the above issues have been addressed.
4. Another respondent also raised some concern that the wording in Policy SP5 does not contain reference to the particular approach to mitigation that applied to housing development within 400 metres of the European sites outlined in the wording of the previous policy in the Core Strategy.
5. The key HRA conclusions relating to recreational and urban edge effects are stated in Paragraph 5.11 of the Local Plan. This states that "*Prior to mitigation, the HRA cannot rule out the recreational impacts of any new residential and visitor accommodation throughout the National Park having a likely significant in combination effect on the New Forest SPA and SAC sites.*" Consequently, the HRA clarifies that new residential and visitor accommodation throughout the National Park can affect the European sites, and not just those within 400 metres. In relation to urban edge effects, the HRA assumes that these can occur within 400 metres of the European sites, but states that "*Due to the expected small scale and wide distribution of individual windfall developments it was judged that these are not likely to give rise to significant urban edge effects on New Forest SAC or SPA, either individually or in combination with other windfall developments within 400 m of the New Forest SAC and SPA.*"
6. Paragraph 5.14 of the Local Plan recognises that due to the scale, type, or proximity of the proposed development in relation to the designated site, avoidance or mitigation and the use of financial contributions may not be possible in all cases. For example, if a larger number of windfall dwellings were to come forward on a single site, or a closely related cluster of sites, within 400 metres of the New Forest SAC and SPA, then the Authority will require the applicant to supply sufficient evidence for an appropriate assessment of the urban edge effects, as outlined in the HRA of the Local Plan.
7. Consequently, being informed by the HRA, the Authority has clarified the approach taken to the potential impacts on European sites from development throughout the National Park, including those areas close to the designated sites.
8. A number of concerns have also been raised in relation to Policy SP5 and how the European sites will be protected in the Local Plan, and whether mitigation will be available and sufficient for developers to comply with the Habitats Regulations. The Authority's response to many of these concerns can be found in the response to Question 5.2 in Matter 5 - Protecting and enhancing the natural environment.

Other Matters

1.12 *Has the Authority had regard to the specific matters set out in S19 of the 2004 Act (as amended) and Regulation 10?*

1. Section 19(1) of the Planning & Compulsory Purchase Act 2004 states that development plan documents must be prepared in accordance with the local development scheme. The Authority's response to this requirement is set out in our response to question 1.1 under Matter 1.
2. Section 19(1a) of the Act states that development plan documents must include policies to ensure the development and use of land contributes to the mitigation of, and adaptation to, climate change. The Authority's response to this requirement is set out in our response to question 1.13.
3. Section 19(2) of the Act requires planning authorities to have regard to national policies and advice contained in guidance issued by the Secretary of State. In response to this requirement the Authority has published a Self-Assessment of Soundness (CD13) which assesses the Submission draft Local Plan against the test of consistency with national policy and guidance issued by the Secretary of State. Pages 39 – 40 of CD13 set out that the draft Local Plan complies with national policy, but in a number of cases an alternative approach has been taken, reflecting the status and the specific circumstances in the National Park.
4. Section 19(5) of the Act states that local planning authorities must carry out an appraisal of the sustainability of the proposals in each development plan document. This requirement has been met through the preparation of the Sustainability Appraisal report (CD10) which has gone through a number of iterations since the Local Plan review process commenced in 2015.
5. Under Regulation 10 of the Town and Country Planning (Local Planning) (England) Regulations 2012, the Authority is required to have regard to the policies developed by the local transport authorities; the need to maintain appropriate distances between establishments and residential areas; and the national waste management plan. The Submission draft Local Plan has had regard to the respective Local Transport Plans prepared by Hampshire County Council and Wiltshire Council. The Local Plan also ensures that new residential development (and other uses such as schools) are not located within the relevant Health & Safety Executive Consultation Zones for the Fawley Oil Refinery. Indeed, this is partly why development within the National Park as part of the wider redevelopment of the former Fawley Power Station site (Policy SP25) is necessary. Finally, waste matters within the National Park are covered by the separate minerals and waste development framework.

1.13 *Does the Local Plan include policies in relation to the mitigation of any adaptation to climate change? Which?*

1. Chapter 5 of the Submission draft Local Plan addresses the challenges of climate change under the strategic objective of planning for the likely impacts of climate change on the special qualities of the New Forest. This chapter includes:

Policy DP8 on safeguarding and improving water resources (including restrictions on water usage); Policy SP11 on climate change which supports the sustainable design and construction of buildings (including improved water and energy efficiency); and Policy DP12 on flood risk.

2. The evidence base for the Local Plan includes a detailed Strategic Flood Risk Assessment (SFRA) (CD82), which has taken into account tidal, fluvial and surface water flood risk and the implications of climate change.
3. Outside the Local Plan process, the Authority is also working on a New Forest National Park Climate Change Adaptation Plan which will also contribute towards addressing the challenges of climate change.

1.14 How have questions of equality been addressed in the Local Plan?

1. The Authority published an Equalities Impact Assessment (CD16) which was submitted alongside the draft Local Plan in May 2018. The Submission Local Plan has been reviewed to consider the likely impacts of the policies on each of the nine protected characteristics in terms of their likely effects (positive, neutral or negative). The findings are set out in CD16.
2. The Assessment considers each of the draft Local Plan policies in turn and their potential impact on age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; gender; and sexual orientation. For the majority of the policies the assessment identifies a neutral impact. In addition, there are a number of policies where a positive impact is identified, including: (i) the policy support for new housing development where it would address an identified need or requirement for specialist housing for older people; (ii) the policy support for providing for the housing needs of gypsies, travellers in appropriate locations; and (iii) the allowance in the draft Local Plan for larger replacement dwellings or extensions in exceptional circumstances to accommodate genuine family need.
3. In conclusion, the Submission draft Local Plan has been subject to an Equalities Impact Assessment which considered each of the draft planning policies. The Assessment does not identify any negative impacts from the draft Local Plan.