

AM 559/20

**NEW FOREST NATIONAL PARK AUTHORITY
AUTHORITY MEETING – 9 JULY 2020**

REVISED HABITAT MITIGATION SCHEME SPD – ADOPTION

Report by Tony Spence, Policy Officer

Summary:

At the 18 December 2019 Authority Meeting, Members approved the immediate application of the habitat mitigation measures and the higher developer contribution level included in the draft Revised Habitat Mitigation Scheme for new planning applications that require mitigation. This decision was in accordance with Natural England's advice. This followed the December 2019 Planning Committee's consideration of the draft Revised Habitat Mitigation Scheme Supplementary Planning Document (SPD) and its approval for public consultation. This consultation ran for 6 weeks from 8 January until 19 February 2020.

There were 25 responses to the consultation, 14 showing some level of support, 10 indicating an objection, and one comment. There was specific support for (a) long-term in-perpetuity mitigation and funding; (b) the package of mitigation measures and the focus on ranger services (c) using the Scheme for visitor accommodation (d) the use of new evidence when available, and (e) seeking a strategic cross boundary mitigation solution for the New Forest.

The main objections raised related to the effectiveness of the Scheme and the mitigation measures; a view that monitoring should be more robust with more specific monitoring criteria; the impact on tourism businesses; and a range of specific issues.

The Authority is assured about the overall support for the effectiveness of the Scheme and its measures. The Habitats Regulations Assessment (HRA) of the adopted Local Plan supports the use of the Revised Scheme set out in this SPD and its diverse package of measures and considers that it will provide effective mitigation. Natural England supports the Scheme's approach to provide mitigation and supports the revised contribution rate. The Local Plan Inspectors' Report (July 2019) concluded that Policy SP5, which relies on the mitigation in the Scheme, is justified, effective and consistent with national policy. The mitigation measures are also consistent with other established mitigation schemes, such as those for Solent Bird Aware and Dorset Heathlands.

The Authority has considered all of the comments received and proposes a number of modifications that would improve the Scheme and clarify its wording. The modifications include a greater emphasis on monitoring with measurable criteria to be used; detailed advice for applicants about the designated features of the protected sites; an adjustment to the contribution for visitor accommodation; and clarifying advice for development which does not require planning permission. A summary of the main issues raised during the 6-week consultation and how they have been taken into account in the revised SPD are set out in the Consultation Statement in Annex 1.

Recommendation:

Members formally adopt the Revised Habitat Mitigation Scheme SPD (Annex 2).

1. Introduction

- 1.1 This Supplementary Planning Document (SPD) provides guidance on the implementation of Policy SP5: *Nature conservation sites of international importance* of the adopted New Forest National Park Local Plan (August 2019). This policy sets out how all development within the National Park can comply with the legal requirements of the Conservation of Habitats and Species Regulations. The Authority has a legal requirement to be certain that there will be no adverse impacts on the integrity of any of the internationally designated sites when granting planning permission. To achieve this, the Authority has to be certain that sufficient and effective measures to avoid or fully mitigate any likely significant adverse effects from a proposed development will be put in place.
- 1.2 As a method of demonstrating that adequate measures are put in place the Authority has devised a package of appropriate mitigation measures in this Revised Habitat Mitigation Scheme SPD. Therefore, an applicant can make a financial contribution to the Authority's Revised Habitat Mitigation Scheme to secure the necessary mitigation measures to avoid recreational impacts affecting the integrity of the New Forest Special Conservation Area (SAC) and Special Protection Area (SPA).
- 1.3 Whilst securing mitigation through a contribution to the Authority's Scheme is not compulsory, complying with the Habitats Regulations is. As an alternative to making a contribution to this Scheme, applicants may wish to evidence the potential impacts on the designated sites of their proposed development and propose their own appropriate mitigation measures that will need to be implemented and managed over the full lifetime of the development (for dwellings 100 years). This evidence will have to demonstrate why their proposed mitigation will overcome the likely significant in-combination recreational effects identified in the HRA of the Local Plan for all new residential and visitor accommodation.
- 1.4 The HRA of the Local Plan 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 new residential development or visitor accommodation throughout the National Park. Consequently, for development to proceed, mitigation is required for all proposals for new residential dwellings or visitor accommodation.
- 1.5 An initial draft Revised Habitat Mitigation Scheme was developed in 2017/8 in parallel with the new Local Plan and was submitted as part of supporting evidence for the Local Plan Examination in 2018/19. The draft Revised Scheme was developed following liaison with the Authority's Habitat Mitigation Scheme Steering Group which includes representatives from Natural England, the Hampshire & Isle of Wight Wildlife Trust, the RSPB, and New Forest District Council, and revises the 2012 Habitat Mitigation Scheme that operated for proposals under the Authority's Core Strategy.
- 1.6 The Revised Scheme is designed to mitigate the recreational impacts of *new* additional development *within* the National Park on the qualifying features of the

New Forest SPA and SAC (birds, such as nightjar and Dartford warbler, and habitats such as heathlands). It does not address the wider recreational pressures on the National Park arising from existing visitors and is a requirement which is separate from the development of a Recreation Management Strategy for the National Park. The mitigation measures identified are proportionate to the scale of the planned development within the National Park and the proximity of new development to the protected sites.

- 1.7 Members will also be aware of the recently published research reports commissioned by six local planning authorities (including the National Park Authority), working together with Natural England and Forestry England, and completed by the specialist consultants Footprint Ecology. These reports focus on the recreational impacts of future planned development in and around the New Forest. The primary aim of this research is to serve as an appropriate joint evidence base to inform the longer-term development of a cross-boundary strategic, proportionate and co-ordinated approach to mitigation, which will require partnership working across a range of local authorities and stakeholders. The results of this work will also inform the nature and type of measures that could be reviewed by the Authority's Habitat Mitigation Scheme Steering Group for use as effective mitigation in the Authority's Revised Habitat Mitigation Scheme in the future. It is encouraging to see that the mitigation measures in the Authority's Revised Habitat Mitigation Scheme SPD are consistent with the measures identified in these reports. In the medium to longer term it is still the Authority's aim to participate in a joint mitigation scheme with surrounding authorities to protect the New Forest designated sites. Until that time, it is essential that the Authority has an updated Scheme in place to ensure the impacts of new development in the National Park are appropriately mitigated.
- 1.8 Whilst separate from this Revised Mitigation Scheme, recent pressures on the New Forest demonstrate how vulnerable some key species and habitats are, and the importance of mitigating further potential impacts from planned development.

2. Consultation on the draft Revised Habitat Mitigation Scheme

- 2.1 At its 17 December 2019 meeting, the Planning Committee considered the draft Revised Habitat Mitigation Scheme SPD and approved it for public consultation. This consultation ran for 6 weeks from 8 January until 19 February 2020. The Consultation Statement (Annex 1) provides further details on the consultation.
- 2.2 During the 6-week consultation period responses were received from 25 individuals and organisations – with 14 showing some level of support, 10 indicating an objection, and one comment. There was specific support for:
- Long-term in-perpetuity mitigation and funding
 - The package of mitigation measures and the focus on additional ranger provision
 - The use of the Scheme for new visitor accommodation
 - The use of new evidence when available (such as from Footprint Ecology's recent work)
 - Seeking a strategic cross boundary mitigation solution for the New Forest

The main objections raised related to:

- The effectiveness of the Scheme and the mitigation measures
- The view that monitoring should be more robust with more specific monitoring criteria
- The impact on tourism businesses
- A range of specific issues

- 2.3 A majority of respondents provided various degrees of general support for the Mitigation Scheme. These included 4 parish councils, 2 individuals, neighbouring planning authorities including Bournemouth, Christchurch and Poole Council, Wiltshire Council, and New Forest District Council. It also included the Hampshire and Isle of Wight Wildlife Trust, the Verderers, the Commoners Defence Association, the RSPB, and Natural England.
- 2.4 Those that objected included Burley Food and Drink Festival, two parish councils, Go New Forest, a camp site, the National Trust, 3 individuals, and Friends of the New Forest.
- 2.5 The main issues raised and how the Authority has considered these are summarised in the table below. Further detail is provided in the Consultation Statement (Annex 1)

Main Issues Raised	Authority's response
<p>The effectiveness of the Scheme and the mitigation measures.</p> <p>Several responses questioned whether the range of mitigation measures in the Scheme were appropriate and whether they would be effective.</p>	<p>The integrity of the Scheme and its mitigation measures have been assessed through the Local Plan's Habitat Regulations Assessment (HRA), through the Local Plan Examination and is supported by Natural England. The mitigation measures are similar to those used in other established Habitat Mitigation Schemes, such as Solent Bird Aware and Dorset Heathlands. No change required.</p>
<p>Concern about whether monitoring is sufficiently robust and funded.</p> <p>Responses questioned the lack of specific measurable monitoring criteria and targets for measures and argued for more baseline data evidence for the mitigation measures.</p>	<p>The Revised Scheme provides for monitoring, and funding will be made available to monitor mitigation measures, particularly when they are being introduced.</p> <p>A modification is proposed to use more measurable criteria for monitoring the implementation of the mitigation measures. See detail of proposed Modification in Annex 1.</p>
<p>The impact on tourism businesses</p> <p>A lack of evidence is claimed to demonstrate that each new visitor bedroom built will generate any actual new impacts on the designated areas.</p> <p>Responses considered the contribution level was too high and could curtail or reduce new developments.</p>	<p>The Local Plan's HRA concludes that adverse recreational impacts cannot be ruled out for any new visitor accommodation. Consequently, for development to comply with the Habitats Regulations and proceed, mitigation is required for all new proposals for visitor accommodation.</p> <p>The Authority acknowledges that hotels and other serviced visitor accommodation are not always fully occupied throughout the year, and a proportionately lower level of contribution than dwellings to reflect this</p>

<p>It was considered unfair to focus on a small number of accommodation providers to provide mitigation when there are so many other visitors and local residents who enjoy recreation in the National Park</p>	<p>is proposed. Occupancy rates are based on published national data and have been used on a precautionary basis. See detail of proposed Modification in Annex 1</p> <p>As an alternative to making a contribution, a developer can assess the impacts of their proposal and devise appropriate mitigation to last its full lifetime and propose this to the Authority, who will determine whether it meets the requirements of the Habitats Regulations.</p> <p>This Scheme addresses the specific impacts of new development in the National Park on the internationally protected New Forest SPA and SAC, but not the wider challenge of managing recreation pressures from all users and visitors to the Park.</p>
<p>Using opportunities to improve the delivery of measures.</p> <p>A suggestion was made to work in partnership with Go New Forest to help with the delivery of communication and messaging.</p>	<p>This offer is welcomed. Any opportunity to improve the delivery of mitigation measures through working in partnership with other New Forest organisation should be explored. See detail of proposed Modification in Annex 1.</p>
<p>Given the potential impacts from areas surrounding the National Park, there was support for seeking a strategic approach to mitigation for recreational impacts on the New Forest's internationally designated sites.</p>	<p>Whilst the Authority needs the Revised Scheme to provide mitigation for new development coming forward in the National Park for the immediate future, it will continue to work with Natural England and other neighbouring local authorities and stakeholders to develop a longer-term strategic approach to prevent adverse effects on the internationally designated nature conservation sites in the New Forest. No change required.</p>
<p>It is suggested that developers should have information and guidance about the special features of the internationally designated sites to help them identify proposals that may have adverse impacts and highlight mitigation needed.</p>	<p>Natural England have written Supplementary Advice notes on the Conservation Objectives for the New Forest designated sites (SPA and SAC). A modification proposes that these are referenced in the document. See detail of proposed Modification in Annex 1.</p>
<p>Clarification is sought for how to proceed when permitted development rights means that no planning permission is required.</p>	<p>A modification proposes that the Authority will provide further clarification in the circumstances when planning permission is not needed, but compliance with the Habitats Regulations is still required. See detail of proposed Modification in Annex 1.</p>

- 2.6 It was noted that several objections blur the distinction between addressing the impacts of the small-scale development planned for the National Park (the focus of this SPD) on the internationally protected New Forest SPA and SAC and the wider challenge of managing recreation pressures from existing and future users of the New Forest.

2.7 Further details of the main points raised in the consultation responses; how the Authority has considered these; and details of the proposed modifications to the Revised Habitat Mitigation Scheme SPD can be found in the Consultation Statement in Annex 1.

2.8 The Revised Habitat Mitigation Scheme SPD which incorporates all the proposed modifications is set out in Annex 2 and this is the document that members are being asked to adopt.

3. Conclusion

3.1 Following the adoption of the New Forest National Park Local Plan in August 2019, it is important that the Authority's Habitat Mitigation Scheme is updated in parallel. An initial draft of the revised Mitigation Scheme was published for consultation alongside the Submission draft Local Plan in early 2018 and was submitted as supporting evidence for the Local Plan Examination in 2018 – 19.

3.2 The preparation of the revised Habitat Mitigation Scheme SPD has been assisted by the input of the Authority's Habitat Mitigation Steering Group and it is positive that the draft SPD has been supported by a range of relevant bodies, including all of the members of the Steering Group. The principles of the Mitigation Scheme are based on the Habitats Regulations Assessment of the Local Plan and following the final 6-week consultation held in early 2020 a number of detailed modifications have been made to the SPD prior to it being presented for adoption.

3.3 Members are recommended to formally endorse the Habitat Mitigation Scheme SPD (July 2020) set out in Annex 2 to this report. The SPD enables appropriate new development to come forward within the National Park to help meet local housing needs and to support to visitor economy, while at the same time ensuring the Authority meets its legal obligations under the Habitats Regulations.

RECOMMENDATION:

Members formally adopt the Revised Habitat Mitigation Scheme SPD.

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Papers: AM 559-20 – cover paper
Annex 1: Consultation Statement
Annex 2: Habitat Mitigation Scheme SPD (July 2020)
for adoption

Equality Impact Assessment: No impacts have been identified.