



Temporary 'pop-up' campsites

Guidance for complying with the Habitats Regulations – May 2021

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the 'GPDO') provides an exemption for temporary 'pop-up' campsites¹ which allows the use of land as a camping site for up to 28 days a year without the need for planning permission. The government has extended this to 56 days for 2021.

However, as with all permitted development rights, the exemption for 'pop-up' campsites is subject to the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations'). The Habitats Regulations protect rare wildlife and habitats in designated nature conservation sites². Over half of all the land in the New Forest National Park is designated for this protection. Given the range and scale of internationally protected nature conservation sites in the New Forest and on its coast, these legal considerations are particularly important in the National Park. Details of how development can impact these protected sites, the evidence of assessments of these impacts, the need for mitigation, and how applicants can comply with the Habitats Regulations is outlined on the following website pages: <https://www.newforestnpa.gov.uk/planning/development-impacts-on-protected-areas/> and <https://www.newforestnpa.gov.uk/planning/guidance-on-applying/supporting-documents/nutrient-mitigation/>

The Habitats Regulations (Paragraphs 75 to 78) set out the process that any development coming forward under the GPDO needs to follow to ensure compliance with the Regulations. It is a condition of any permitted development right that development which is likely to have a significant effect on a designated site cannot commence without the approval of the local planning authority under the Habitats Regulations, and this approval must be given before the development is carried out. This approval can only be given where the local planning authority is certain that development will not adversely affect the integrity of a protected site.

The first stage of the process is to determine whether new temporary campsites will have a likely significant effect on the designated sites. A Habitats Regulations Assessment (HRA)³ prepared for the National Park Local Plan has already tested

¹ Permitted by Schedule 2, Part 4, Class B of the GPDO

² The designated sites that could be affected by the proposed development are New Forest Special Area of Conservation (SAC); New Forest Special Protection Area (SPA); New Forest Ramsar Site; and either Avon Valley SPA; Avon Valley Ramsar site; River Avon SAC; or Solent and Isle of Wight Lagoons SAC; Solent Maritime SAC; Solent and Southampton Water SPA; Solent and Southampton Water Ramsar site.

³ see https://www.newforestnpa.gov.uk/app/uploads/2018/01/HRA_of_New_Forest_NPA_Local_Plan_Reg_19.pdf, and <https://www.newforestnpa.gov.uk/app/uploads/2018/07/Review-of-HRA-of-New-Forest-NPA-Local-Plan-re-People-Over-Wind.pdf>

whether development would have a likely significant effect on the internationally designated sites in the National Park. It details the key aspects and features of the designated sites and the types of impacts that could have a likely significant impact on them, including the impacts from new visitor accommodation. The Local Plan HRA concluded that it is not possible to rule out likely significant effects from either recreational pressures or from changes to water quality on the designated sites from new housing or any form of overnight visitor accommodation.

The Authority has also carried out a HRA screening for temporary campsites, which draws the same conclusion for temporary campsites relying on permitted development rights. It is not possible to rule out likely significant effects on the internationally protected sites of the New Forest from additional overnight visitor accommodation in relation to both increased recreational impacts and impacts on water quality.

These conclusions mean that approval from the Authority is required under Regulations 75-77 of the Habitats Regulations before any new temporary campsite pitches can be used.

The Authority will make an appropriate assessment of the implications of the new campsite development for the protected sites in view of their conservation objectives. This process covers both the recreational impacts of development and the need to achieve 'nutrient neutrality', which are covered in more detail below.

To allow the Authority to complete this assessment, the applicant should fill in the HRA Information Form, which can be downloaded at <https://www.newforestnpa.gov.uk/planning/development-impacts-on-protected-areas/>, and submit it to the Authority at dev.control@newforestnpa.gov.uk

In most cases, once the form has been submitted and assessed by the Authority, mitigation will be required prior to any issue of approval. Subject to demonstrating that satisfactory mitigation of the impacts of the development on protected sites will be put in place, a decision for approval under the Habitats Regulations will be made within 4 weeks.

Recreational Impacts

The HRA of the Local Plan concludes that, prior to consideration of mitigation, adverse recreation effects on the integrity of the designated sites cannot be ruled out. Therefore, mitigation is required to enable compliance with the Habitats Regulations.

The Authority has devised a package of appropriate mitigation measures in a Revised Habitat Mitigation Scheme SPD⁴ that will allow most visitor accommodation proposals to mitigate their recreational impacts on the designated sites. Financial contributions to this Scheme will be used to implement a range of measures that will mitigate the recreational impacts on the designated sites. This approach is supported by Natural England.

⁴ see <https://www.newforestnpa.gov.uk/app/uploads/2020/07/Revised-Habitat-Mitigation-Scheme-SPD-.pdf>

However, due to the scale, type, or proximity of the proposed campsite in relation to the designated sites, avoidance or mitigation by the use of a financial contribution to the Mitigation Scheme may not be possible in all cases.

With regard to financial contributions to the Authority's Scheme, applicants will need to calculate the amount payable in accordance with the formula, using the number of pitches and number of days open during the year, as set out in Appendix 1. In 2021, as the maximum period allowed under the permitted development rights will be 56 days, the contribution for this period is shown in Section 5(a) of the HRA Information Form.

If the applicant wishes to secure appropriate mitigation from the Authority's Habitat Mitigation Scheme, **please indicate on the HRA Information Form if a contribution to the Scheme is proposed and the amount to be made.**

Applicants, however, are not precluded from proposing their own mitigation measures. When considering these measures, the evidence presented will need to allow the Authority to be certain that there will be no likely significant adverse effects from the proposed development on the designated sites. Applicants will need to provide sufficiently detailed information about the potential impacts of their proposed development and mitigation measures on the designated features, species and habitats of all the internationally protected sites to demonstrate conclusively to the Authority that it will comply with the Habitat Regulations and there will be no likely significant adverse effects on the designated sites. This will need to take into consideration the impacts and conclusions outlined in the HRA for the Local Plan and the proposal's potential impacts in combination with all other planned development that may have recreational impacts in the National Park and its surrounding areas. Under a precautionary principle, if the applicant does not demonstrate certainty that the development (with any proposed mitigation) will not impact the integrity of the designated sites, approval will not be granted.

Water Quality impacts

During the summer of 2018, a review of the condition of designated sites of the Solent harbours was undertaken. The best available up-to-date evidence has identified that some interest features at the designated sites, such as intertidal mudflat habitat and the wildlife they support, are widely in unfavourable condition due to existing levels of nutrients and are therefore at risk from additional nutrient inputs.

Following recent case law, Natural England has advised that there is a likely significant effect on the Solent's designated sites due to the increase in wastewater from new housing and any development providing overnight accommodation which would discharge into the Solent would also be likely to cause a significant effect. Therefore, prior to mitigation, there is considered to be a potential likely significant effect on the Solent's designated sites alone and in-combination through increased levels of nitrates. These designations cover the majority of the coastline of the New Forest National Park and the majority of the land area of the National Park falls within the wider Solent catchment area. Therefore, mitigation is required to enable compliance with the Regulations.

In relation to water quality in the River Avon, a Nutrient Management Plan has been established that includes measures to help reduce and manage phosphorus levels in the River Avon SAC. A Memorandum of Understanding – signed by the Environment Agency, Natural England, Wessex Water, the National Park Authority, New Forest District Council and others – describes how each local planning authority will ensure that development is “phosphate neutral.” The Authority has committed to ensuring that effective and proportionate measures are put in place to remove, mitigate or offset the phosphate load from new developments. In the absence of mitigation, it is considered that there would be a potential likely significant effect on the River Avon designated site due to phosphates arising from new residential and visitor accommodation development. Therefore, mitigation is required to enable compliance with the Habitat Regulations.

Like applicants for new residential development or other forms of visitor accommodation, landowners of campsites would need to demonstrate effective mitigation for either nitrates entering the Solent designated sites catchment; or phosphates in the River Avon catchment to the west of the National Park. The requirement for nutrient neutrality in new development applies across the whole of the National Park and landowners should prepare a site-specific ‘nutrient budget’ setting out how the nutrients arising from the planned development will be managed.

Please use the nutrient budget calculator for either the Solent or River Avon at <https://www.newforestnpa.gov.uk/planning/guidance-on-applying/supporting-documents/nutrient-mitigation/> to determine the amount of mitigation required and to read Natural England’s advice on achieving nutrient neutrality.

If, having undertaken the nutrient budget, the conclusion is that campsite development will result in a net increase in nitrates (Solent catchment), or phosphates (River Avon catchment), mitigation will be required to satisfy the legal requirements of the Habitats Regulations.

Potential mitigation options include:

- On-site foulwater treatment, through an existing package treatment plant.
- Retirement of intensively managed agricultural land elsewhere within the landholding, which would serve to reduce nitrogen pollution at catchment-level as a result of the discontinuation of fertilisation and cultivation.
- Wetland creation to intercept run-off into watercourses.
- The purchasing of nitrate off-setting credits for sites elsewhere within the catchment.
- Having the foulwater ‘tankered’ off site by a licenced operator (on the understanding that this would not have water quality impacts elsewhere)

Mitigation measures should be proportionate to the scale of the development (and associated impacts) proposed. In order to demonstrate compliance with the Habitats Regulations, temporary campsite operators could demonstrate that all waste is effectively removed from the site and will not eventually (through waste-water treatment works) make its way into either the Solent or the River Avon, or their catchments. Alternatively, some landowners may have the ability to manage nutrients on-site through effective land management; or off-site through off-setting schemes (as

outlined above). The Authority will consider any of these mitigation proposals on their ability to satisfy the Habitats Regulations. In the absence of being able to satisfy these requirements, the campsite use would no longer benefit from permitted development rights and the Authority would not be able to grant approval for the proposal. An application for planning permission would then be possible, which would be determined under Local Plan Policy DP47, but the requirements of the Habitats Regulations would still need to be satisfied under Local Plan Policy CP5.

Appendix 1: Contribution levels to the Revised Habitat Mitigation Scheme

The Revised Habitat Mitigation Scheme SPD⁵ provides a set of measures that are designed to mitigate the recreational impacts on the designated sites. The full contribution level is reduced for visitor accommodation based on the maximum occupancy during the year, and this principle will apply to temporary campsites. Therefore, if a temporary campsite was open for x days a year, the contribution should only reflect the duration that the campsite is open and therefore only $x/365$ of the full contribution to the Habitat Mitigation Scheme will be payable.

Furthermore, the £3,512 'full' contribution in the Revised Habitat Mitigation Scheme SPD is a one-off contribution that secures mitigation 'in-perpetuity' – this in-perpetuity element of the contribution would not be required as the temporary campsite is only looking for mitigation for the one-year period that equates to its permission to operate that year. Paragraph 14.4 to 14.6 of the Habitat Scheme SPD outlines that the developer contribution for the in-perpetuity element (ie funding the long term 20-100 year mitigation) equates to £2,262, with the remaining £1,250 contribution being the element to fund current mitigation during the Local Plan period. It is logical, therefore, that a contribution from a 'temporary' campsite would not include the in-perpetuity element but would only need to mitigate for the year of its operation.

Consequently, to calculate a contribution for just the one year that the campsite has permission to operate would be:

$£1,250 * 1.1\%$ (inflation adjustment for 2021) = £1264. This then needs to be divided by 20, being the number of years in the Local Plan period (from 2016-2036) to give the contribution for just one year.

Hence $£1,264 / 20 = £63.25$ per year, per pitch. Then this £63.25 would be 'discounted' by the proportion of the year that the camp site will be open.

Therefore, the contribution for the campsite each year will be:

$£63.25 \times (\text{number of days open})/365 = £$ per pitch for each year of operation
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For Example:

- a campsite open for 56 days, the contribution is $£63.25 \times 56/365 = £9.70$ per pitch per year.

All contributions would be subject to an inflation increase each year.

⁵ See <https://www.newforestnpa.gov.uk/app/uploads/2020/07/Revised-Habitat-Mitigation-Scheme-SPD-.pdf>