



## **Bird Aware Solent Definitive Mitigation Strategy**

### **Explanatory Note – March 2024 New Forest National Park Authority**

#### **1. Introduction**

- 1.1 This note provides an overview of the implications of the Habitats Regulations for development close to the Solent coastline. It sets out the framework developed by the Solent Recreation Mitigation Partnership (SRMP), to ensure that new development close to the Solent complies with the legal requirements of the Habitats Regulations.

#### **2. Requirements of the Habitats Regulations**

- 2.1 The Government's Conservation of Habitats and Species Regulations 2017 transpose European legislation relating to the conservation of certain species and habitats. This includes the Natura 2000 network of nature conservation designations, comprising Special Protection Areas (SPAs) and Special Areas of Conservation (SACs), of which the Solent coastline includes three.
- 2.2 This legislation confirms that plans and projects (including spatial plans and planning applications) can only go ahead if it can be shown there will be no adverse effects on the integrity of these protected sites. An assessment must consider potential impacts on these designations both alone and in-combination with other plans and projects. If it cannot be demonstrated that there will not be an adverse effect on the integrity of the designated site, then the plan or project cannot be lawfully permitted.
- 2.3 Addressing this issue and ensuring that new development close to the Solent coastline (including that within the New Forest National Park) is in line with the Habitats Regulations is therefore essential.

#### **3. The Solent SPAs**

- 3.1 The Solent coastline is internationally important for its wildlife interest and is also extensively used by millions of people each year for recreation. Significant stretches of the Solent coast are designated due to the species and habitats they support. These internationally important designations include the Solent & Southampton Water SPA, which seeks to protect a number of bird species that over-winter in the Solent. The whole of the New Forest National Park's 26 miles of coastline is covered by this designation.

#### **4. The need for mitigation**

- 4.1 There is evidence from across the country that increased recreational activity can have an impact on bird populations in protected sites. Natural England has advised that the likely increase in recreational use of the Solent arising from new development is likely to have a significant effect on the designated sites.
- 4.2 The original Solent Disturbance Mitigation Project (SDMP) was initiated in 2007 to gather evidence and develop a joint way forward for local authorities along the Solent coast to address this issue. Evidence and surveys carried out in subsequent years showed that recreational disturbance associated with new residential development can reduce the quality of the habitat of the Solent SPAs. All the detailed reports of the project's research into the potential impacts have been published at: <http://www.birdaware.org/strategy>
- 4.3 Following the evidence gathering, Natural England wrote to all of the local planning authorities along the Solent coast confirming that a significant effect arising from new housing development around the Solent cannot be ruled out. "Natural England's advice is that the SDMP work represents the best available evidence and therefore avoidance measures are required in order to ensure a significant effect, in combination, arising from new housing development around the Solent, is avoided." Natural England's advice is that avoidance and mitigation measures are therefore required.
- 4.4 Avoidance and mitigation measures could be put in place individually in response to each development. Alternatively, a more beneficial course of action was to take a strategic approach for development throughout the Solent area. Without appropriate avoidance and mitigation measures, Natural England would object to proposals for new development close to the Solent coastline.

#### **5. Requirements for development in the New Forest National Park**

- 5.1 The 15 local planning authorities along the Solent coastline (including the National Park Authority) agreed to work together to establish a joint approach to mitigation and formed the Solent Recreation Mitigation Partnership (SRMP) to do this. Based on the evidence available, the SRMP recommended that avoidance and mitigation measures are sought from all residential development within 5.6 km of the SPA<sup>1</sup>. The extent of this 5.6 km catchment area as it relates to the New Forest National Park is illustrated on the final page of this note.
- 5.2 As the 'competent authority' under the Habitat Regulations for considering planning applications within the National Park, the Authority worked with neighbouring local authorities along the Solent and Natural England to put together a short-term, interim framework for a strategic avoidance and mitigation package. This interim mitigation scheme was established in 2014 and applied in the National Park. In the intervening years the Solent Recreation Mitigation Partnership has developed a longer term 'definitive' strategy to ensure mitigation would cover the lifetime of the impacts arising from new

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<sup>1</sup> This represents the distance within which 75% of visitors to the Solent coastline came from, based on the SDMP survey work. Natural England supports this recommendation.

housing development in the Solent area. The Partnership now operates under the name of Bird Aware Solent.

### **Definitive Strategy**

- 5.3 The long term 'definitive' mitigation strategy was formally approved by the National Park Authority in January 2018 and **applies to all relevant developments granted planning permission from 1 April 2018 onwards**. The emphasis remains on managing the way visitors interact with the coastal environment, rather than trying to prevent access to it *per se*, in order to avoid harmful impacts on nature conservation interests. It focusses on informing and educating all users of the coast so as to influence how they behave when visiting the Solent.
- 5.4 The Definitive Strategy includes a full range of measures required to provide long term mitigation for the impacts arising in perpetuity from new housing. The main measures included in this updated Strategy are:
- a) A team of 5-7 coastal rangers**  
The team of rangers will focus their time on engaging with visitors at the coast, explaining the vulnerability of the birds, and advising people how they can avoid bird disturbance.
  - b) Communications, marketing and education initiatives**  
The overall approach of this strategy is to secure behavioural change through awareness raising. Communications, marketing and education are central to that mission.
  - c) Initiatives to encourage responsible dog walking**  
A dedicated member of staff for dog walker engagement will roll out a series of positive measures to actively work with this group and will draw from measures that have been successful in other areas.
  - d) Site-specific projects to better manage visitors and bird habitats**  
These projects could include small scale minor works which are designed to help manage the impact of recreational visits on the coast.
  - e) Providing new/enhanced greenspaces as alternative to visiting the coast**  
The research showed that some coastal visitors would be prepared to visit alternative greenspaces for at least some of their recreational trips. This would help moderate the predicted increase in visitors at the coast and thus the potential for bird disturbance.
  - f) In-perpetuity funding for the lifetime impacts of the development**  
Mitigation needs to last as long as the adverse impacts created by development affect the designated sites. This principle of providing mitigation over the lifetime of the development means that the strategy includes funding for mitigation measures over the long term.

- 5.5 The cost of all these mitigation measures, including the site specific projects, together with an allowance for the in perpetuity mitigation, will be covered by developer contributions. Under the definitive strategy, the above package of mitigation measures will be funded through developer contributions.

**From 1 April 2024, where planning permission is granted within 5.6km of the Solent habitats the following sliding scale of developer contributions will apply<sup>2</sup>:**

- **1-bedroom property £465**
- **2-bedroom property £671**
- **3-bedroom property £875**
- **4-bedroom property £1,029**
- **5-bedroom property £1,207**
- **Flat Rate £777 (usually used in cases of caravans, tents or gypsy and traveller sites)**

These contributions will be adjusted to reflect the rise in inflation each April. Details can be found at: <https://birdaware.org/solent/about-us/our-strategy/developer-contributions/>

- 5.7 This financial contribution allows a development to comply with the Habitats Regulations and the Authority's planning policies (which confirm that developer contributions may be required towards nature conservation mitigation measures). It should also be noted that this contribution towards mitigation measures for the Solent coastline is in addition to the contributions sought by the Authority for mitigating recreational impacts from development on the New Forest Special Protection Area (SPA) and Special Area of Conservation (SAC) that lie in the heart of the National Park.
- 5.6 Details of the Definitive Solent Mitigation Strategy, including the need for mitigation, the compliance with the Habitats Regulations, the full range of mitigation measures, the costs and funding for the mitigation, and the developer contribution levels can be found at <http://www.birdaware.org/strategy>. This website also include details of the various evidence base studies that led to the development of the Strategy and annual reports setting out the funding received each year and the projects supported.

## **Implementation**

- 5.7 In the National Park, contributions towards mitigation measures will be sought from applications resulting in one or more net new residential dwellings within 5.6 kilometres of the Solent designated sites. This will typically be secured through a Section 106 legal agreement or Unilateral Undertaking and the contributions will be legally ring-fenced for this purpose. The contribution is required to be paid on the commencement of development. Replacement dwellings will not generally lead to increased recreational pressures and will

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<sup>2</sup> These have been adjusted by inflation from the developer contributions levels in 2023. On the 1 April 2024 the developer contributions increased by 4.9% in line with the Retail Price Index (RPI) figures

have no likely significant effect on the designated site, so a contribution will not be sought. Contributions will however, be sought from new dwellings created as a result of approvals granted by the General Permitted Development Order. The Authority will also seek contributions from new hotels and holiday accommodation, but the scale of contributions from these developments within 5.6 kilometres of the Solent SPA will be assessed on a case by case basis.

- 5.8 The Solent Mitigation Strategy provides a convenient way for applicants to mitigate the impacts of their developments without having to provide bespoke measures. This does not, however, preclude applicants from considering the potential impacts on the designated sites and devising their own appropriate measures to offer the National Park Authority for assessment.
- 5.9 When considering any measures proposed by an applicant, applicants will need to provide sufficiently detailed information about the potential impacts of their proposed development on the designated features, species and habitats of all the internationally protected sites and their proposed mitigation measures 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. Under a precautionary principle, if the applicant cannot demonstrate with clear certainty that the development, including any proposed mitigation, will not impact the integrity of the site, permission will be refused.
- 5.10 Contributions from development within the New Forest National Park will be pooled with the financial contributions gathered by the other local planning authorities along the Solent coastline to provide the mitigation measures. Details of the mitigation measures funded each year through the use of the pooled contributions can be found in the annual reports contained on the Bird Aware website.



