Background and context

1. The Inspector’s Note ID/15 gives an initial overview of the new evidence/proposed changes in relation to compliance with the Habitats Regulations, based on documents considered by the Council’s Cabinet on 4th September 2013 and sent to the Inspector.

2. The Council published the following documents for a six week public consultation commencing on 4th October 2013.

<table>
<thead>
<tr>
<th>NFDC45</th>
<th>Schedule of Main Modifications</th>
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<tr>
<td>NFDC46</td>
<td>Draft Mitigation Strategy</td>
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<tr>
<td>NFDC47</td>
<td>Revised Habitats Regulations Assessment (S12)</td>
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<tr>
<td>NFDC48</td>
<td>Infrastructure Delivery Plan (Revised September 2013) (EV2)</td>
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<tr>
<td>NFDC49</td>
<td>Sustainability Appraisal of Main Modifications (S11)</td>
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3. These documents set out changes proposed by the Council to address matters covered by Inspector’s Notes ID/9, ID/12 and ID/13.

4. In ID/15, the Inspector indicates that when the Examination re-opens he will want to consider:
   - Whether the chosen SANGS are justified in relation to alternatives, and whether they are deliverable
   - Evidence on why the SANGS sites chosen have been selected and whether they were considered against alternative sites.
• The justification for some sites previously being allocated for additional playing fields being re-allocated to achieve on-site SANGS.

5. This paper sets out the Council’s response to the matters raised in ID/15 by the Inspector.

Policies and Proposals in the Local Plan Part 2 relating to Recreational Impact Mitigation

6. Revised Policy DM2b sets out the Local Plan’s proposed approach to the mitigation of recreational impacts on European nature conservation designations. The Inspector will need to consider whether the approach to mitigation is ‘sound’. Changes to other policies in the submitted Plan are required to implement the strategy set out by policy DM2b. The table below summarises the changes that have been made to the Local Plan Part 2 regarding mitigation of recreational impacts.

<table>
<thead>
<tr>
<th>Policy/Proposal</th>
<th>Purpose of policy change</th>
<th>Modification nos.</th>
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| Policy DM2b: Mitigation of impacts on European nature conservation sites | Sets out the overall Mitigation Strategy:  
- Provision of SANGS – new informal open space, enhancements and increased use of existing (including footpaths/public rights of way)  
- Access and visitor management measures  
- Monitoring | MM10 |
| Policies TOT1, TOT3, TOT11, MAR2, LYM2, LYM6, NMT2, NMT4, RING3, FORD1 | Provision of on-site SANGS: Revisions to site-specific residential land allocation policies to comply with policy DM2b. | MM26, MM28, MM29, MM38, MM55, MM56, MM72, MM74, MM85, MM89 |
| Policies TOT19, TOT20, HYD6, HYD7, NMT10, NMT11 | Revisions to public open space allocations, requiring delivery as SANGS as opposed to alternative forms of POS. | MM34, MM50, MM77 |

7. In addition to changes to the Local Plan Part 2 itself, the Council has produced a draft Supplementary Planning Document (NFDC46) and a revised Infrastructure Delivery Plan (NFDC48) to show how policy DM2b will be implemented. Both these documents provide part of the evidence base and background material for the Local Plan Examination, but neither of these document is a matter for detailed consideration by the Local Plan Inspector, beyond being part of the evidence base to show that the mitigation measures set out in the Local Plan policies are deliverable.

Justification for selection of sites for new SANGS and their deliverability

8. The Addendum to the Habitats Regulations Assessment report prepared by Land Use Consultants (Appendix 1 of Document NFDC47) recommends an appropriate mitigation strategy for this Local Plan area. A Steering Group was set up to oversee the development of the mitigation strategy. This Steering Group comprised, as well
as NFDC and LUC, representatives of Natural England, New Forest National Park Authority (NFPNA), the Royal Society for the Protection of Birds (RSPB), the Hampshire and Isle of Wight Wildlife Trust.

9. LUC’s report concluded that approaches used elsewhere for SANGS provision were not directly transferrable to this area (Section 6 of LUC report). Paragraph. 6.27 of the report states:

“...SANGS sites should be readily accessible to the new residents of New Forest District they are designed to attract in order to maximise the likelihood that they will divert trips to the New Forest European sites. Detailed siting considerations will need to reflect the availability of suitable land for creation of newly accessible open space or improvement of existing open space....”

And that:

“......there is no guarantee that any amount of SANGS would successfully divert the required number of visitor trips. This is because residents of New Forest District have a particularly large and attractive open space resource right on their doorstep, in the form of the National Park (including those parts designated as European sites). It is hard to envisage any form or quantity of SANGS that is conceivably deliverable from developer contributions which could guarantee to compete with such an attraction Even if very large levels of funding were available, the dispersed nature of development in New Forest District would make it very difficult to identify locations for large SANGS sites which would be effective in capturing the additional recreational visits from the majority of planned development locations within their likely catchment areas. For this reason, it will be essential for NFDC to also support access management measures within the New Forest National Park and along the Solent coast and improvement of existing open spaces........” (Paragraph 6.26)

10. A mitigation strategy, appropriate to the Plan Area, has been developed by NFDC and LUC in consultation with the Steering Group. It is summarised as follows in the LUC Report (NFDC47 Appendix 1):

**Box 1: Outline mitigation strategy proposed by NFDC**

<table>
<thead>
<tr>
<th>Alternative open space</th>
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<tbody>
<tr>
<td>NFDC has confirmed that the alternative open space element of its mitigation strategy will comprise delivery of new areas of green space as well as enhancement of existing green space and linear routes, as set out below.</td>
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<table>
<thead>
<tr>
<th>New green space</th>
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<tr>
<td>Delivery of 30 ha of Informal Open Space which is not currently available for this use. Developers will be required to fund this through a mixture of on-site provision (in line with the Core Strategy requirement for residential developments on sites of 0.5 ha or more to provide Informal Open Space) and contributions to off-site open space allocations. The mitigation strategy for European sites will be detailed in a Supplementary Planning Document (SPD) which will address design requirements for this open space to maximise its potential for attracting the specific group of visitors who might otherwise visit the New Forest or Solent Coast European sites.</td>
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<table>
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<tr>
<th>Enhancement of existing green space and footpaths / rights of way</th>
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| A programme of enhancement of footpaths/rights of way and existing open spaces in all settlements in which the Local Plan provides for residential development. This will seek to link up and improve the accessibility and attractiveness of rights of way and open spaces outside European sites to residents of the District who might otherwise visit the New Forest / Solent Coast European sites. Attractiveness to dog walkers, for example, might be enhanced by provision of a small car park and provision of routes/open spaces that are fenced off from busy roads. Where mitigation is to be provided via enhancement of open spaces which are already in use, a baseline survey followed by regular
monitoring will be put in place to establish the additional usage achieved. Details of the projects to be brought forward will be provided in the mitigation strategy SPD.

### Access management

NFDC will agree contributions towards the funding of appropriate access management measures, including provision of additional wardens/rangers, for the New Forest European sites with the New Forest National Park Authority (and Natural England, if appropriate) - this will draw on evidence provided in LUC's Evidence Review and HRA Addendum and be designed in partnership with the NFNPA. The potential will be explored to tie in with the Local Sustainable Transport Fund work, which is identifying a core network of community routes. Access management within the National Park is under the control of the Forestry Commission and other landowners and will therefore be planned and implemented via joint working. Appropriate access management measures for the Solent Coast are set out in the SDMP Phase III report and Natural England’s advice on interim measures (see above) and NFDC will gather contributions towards these.

### Monitoring

Contributions will be gathered to support monitoring of the condition of European designated habitats and species, progress in implementing the mitigation strategy, and visitor patterns at new and enhanced open spaces and within the New Forest and Solent Coast European sites.

11. Where the mitigation strategy has land-use implications that need to be dealt with through Local Plan policy, modifications to the Submitted Plan (NFDC 45) are proposed (as set out in Table 1 above). New Policy DM2b of the Local Plan Part 2 (MM10) provides the over-arching policy framework for the mitigation strategy. However, the details of, and implementation arrangements for, the mitigation strategy are set out in the Mitigation Strategy for European Sites SDP, prepared within the framework set out in the Local Plan.

12. The mitigation strategy will be funded and secured by agreements with the developers of new residential development (as required to comply with Policy DM2b of Local Plan Part 2 and policy CS25 of the adopted Core Strategy).

13. The effectiveness of the mitigation strategy elements has been considered against the following criteria:
   - Accessible to potential users from new residential development
   - Encourages activities to take place outside SPA/SAC
   - Results in increased recreational capacity
   - Provides a natural environment, enhances bio-diversity
   - Increases local opportunities for walking in a natural environment
   - Attractive to dog-walkers
   - Deters visits to European sites
   - Modifies behaviour relating to visits to European sites
   - Reduces impacts from visits which continue to the European sites
   - Improves understanding of impacts and refinement of mitigation measures

14. The Council has assessed the proposed mitigation measures against these performance criteria, and the results are set out in the draft Mitigation for European Sites SPD (document NDFC 46 page 25).

15. The provision of new SANGS is only one component of the mitigation strategy. The other components of the mitigation strategy may well be more effective in terms of diversion of potentially harmful impacts away from the European nature conservation designations or better management of recreational pressures so that they do not
harm the European designations. Monitoring will assess the effectiveness of the various measures.

16. The selection of the SANGS has been based on the following two key considerations:
   - The SANGS will need to actually work in terms of attracting people’s walking/dog-walking, and other potentially harmful activities, away from the designated areas in the New Forest and the coast. It would not be realistic to attempt to create alternatives to the New Forest and coast in terms of the special qualities of these areas, so for the SANGS to work as alternatives for walks/dog-walking etc they need to be readily accessible to the residential areas.
   - The SANGS proposals need to have a realistic prospect of timely delivery. There will be a good prospect of achieving this if their delivery is related to the delivery of the new development they are ‘mitigating’ in order to ensure funding and implementation.

17. The modifications to the Local Plan recognise that there are opportunities to include site-specific SANGS alongside some of the larger housing allocation sites, particularly in Totton, Ringwood, and Fordingbridge (see Table 1 above). Policy DM2b (MM10) sets out the requirement for new SANGS open space associated with the larger residential development. The areas already identified for additional public open space associated with the major residential development have clear advantages, as already identified in preparing the Local Plan, in terms of their accessibility from areas of new and existing residential development; and the opportunity to secure their delivery alongside residential development proposals. Their identification as SANGS will allow recreational pressure to be mitigated close to its source, enhancing the effectiveness of the SANGS. There are also distinct advantages in terms of securing the implementation and delivery of SANGS, where appropriate SANGS can be provided on-site as part of a development.

18. The Council’s view (based on the LUC Report) is that an approach based on large new free-standing SANGS, as in Thames Basin Heaths and the Dorset Heaths, would not be the appropriate approach to mitigation within this Plan Area. Such an approach would not be effective as the new SANGS could not compete in terms of the attractions offered by the New Forest and the coast. In any case, given the relatively low level of contributing development in the plan area, funding will not be sufficient to implement proposals for large new free-standing SANGS. The Council has therefore focussed its approach on providing smaller scale, local ‘SANGS’, which can be delivered in a timely manner alongside the implementation of residential development, in combination with the other mitigation measures proposed. The Council considers that alternatives would be likely to be less effective and would be likely to have major issues relating to deliverability. Given the clear advantages in terms of accessibility and deliverability of the sites already identified, and having regard to government advice regarding the “proportionality” of evidence and the need to concentrate scarce resources on effective plan-making, the Council did not consider it useful or an appropriate use of resources to carry out an extensive exercise of evaluating potential alternative SANGS sites.

19. Policy DM2b refers to the SANGS related to new major new development as being “on site or close to the site”. While the Council’s expectation is that the SANGS associated with major development would be provided on-site where there are clear opportunities to do this, Policy DM2b gives some scope at the planning application stage for considering alternatives to on-site provision that may be put forward by developers. However, it would need to be demonstrated that such alternatives would work equally effectively in terms of providing easily accessible open spaces (without
needing a car journey) that would function as attractive places for walking/dog walking etc., successfully reduce potentially harmful impacts on the European nature conservation designations, and would be delivered at the same time as the proposed residential development.

20. Some other areas, not directly related to major residential development sites, are allocated as SANGS in the Main Modifications (see Table 1 above). HYD6, HYD7 and NMT11 are stand-alone SANGS proposals which are not in the same ownership as land allocated for residential development or already in public ownership. The Council considers that these SANGS proposals could also help mitigate the overall level of planned residential development. These proposed public open spaces have all been discussed at the Examination Hearings. The Inspector has not (in Note ID/12) required any changes to HYD6 (South of Hardley Lane). Further comments on the potential role of HYD7 and NMT11 as SANGS are given below.

21. The following sites, TOT19: North east of Bartley Park, TOT 20: South of Bartley Park, and NMT10: Off Culver Road, which are proposed public open space to be managed as ‘SANGS’, are all in public ownership, and therefore readily deliverable as SANGS provision.

22. **HYD7: Land west of Lower Mullins Lane:** The Council has agreed earlier in the Hearings that the inclusion of the eastern part of the HYD7 site (the land which is in private ownership) in an allocation for new informal public open space could not be justified as there was no deficit of informal public open space provision in Hythe (in relation to Core Strategy policy CS7). However, the Council considers that the inclusion of this land as part of SANGS proposals for Hythe and Dibden could help to mitigate recreational impacts in this part of the plan area (under policy DM2b(a)), although not directly related to a particular residential proposal. Residential development in Hythe and Dibden is in particularly close proximity to both the New Forest and coastal SPA/SAC. The New Forest SPA/SAC, immediately adjoins the western boundary of Hythe and Dibden, separated only by the A326. (See figure 3.2 in LUC Report: Appendix 1 to NFDC47). SANGS provision in this part of Hythe and Dibden, as proposed in project hd2, would be particularly beneficial in providing an alternative walking/dog walking area for local people. Particular benefit would be gained from providing public access from the Mountfield residential area to the north to the SANGS proposal (project hd2, in the draft Mitigation Strategy (NFDC46)) in the Fern Hill area. This public access would need to cross the part of the HYD7 site which is not in public ownership. The Council is well aware of the site owner’s continuing aspirations for residential development on this site (Representee 123). However, the Council’s view is that this site is not a site appropriate for future residential development. The land (which is outside the defined built-up area boundary) is substantially covered by trees which are protected by TPOs, and is of local landscape character importance, and is suitable land for SANGS provision as part of the hd2 mitigation project. The Council acknowledges that there may be difficulties in acquiring this site as part of the SANGS proposal, given the landowner’s views. In this situation, the Council considers that the priority will be to securing a public right of way across the land owned by Representee 123, while not closing the door on the implementation of the whole SANGS proposal in the longer term.

23. **NMT11: South of Lymington Road, north of Chestnut Avenue.** The Inspector has accepted that a ‘pocket park’ in this area would address (in part) a local deficiency in informal open space within the immediate area. Provision of a small area of open space where local dog walkers can safely let their dogs off the lead, could be particularly beneficial in an area where alternative opportunities to do so do not exist.
The Council has acknowledged that a small amount of ‘enabling’ development may be considered as a way of securing the delivery of the open space/SANGS provision in this location. (See MM77).

The re-allocation of previously formal open space proposals to SANGS.

24. The Main Modifications allocate as SANGS both land within sites: TOT1 (Durley Farm, Hounsdown), RING3 (South of Ringwood), FORD1 (East of Whitsbury Road, Fordingbridge), where in each case, additional public open space for SANGS is proposed alongside the residential land allocation; and stand-alone proposals, HYD6 (South of Hardley Lane), and NMT10 (Off Culver Road). All of these sites are well related to existing or proposed residential development and are capable of being designed and laid out as SANGS to provide a local recreational opportunity which will provide an alternative to walking/dog walking in either the New Forest or coastal European sites.

25. A consequence of these modifications is that some of the proposals to increase the provision of playing fields/pitches in parts of the district, through new land allocations, are no longer included in the Local Plan. The Council is not proposing to identify alternative site allocations for formal public open space provision to ‘replace’ the sites now identified as part of the SANGS provision.

26. With regard to some of the formal open space sites now proposed to be re-allocated to informal SANGS open space, the Inspector has not indicated that he found the previous specific formal open space proposals to be “unsound”. However, he has indicated that he would find the submitted plan as a whole “unsound” because of inadequate EU nature conservation site mitigation proposals. The intention of the Main Modifications is to make the Plan as a whole “sound”. So even where the Inspector has not indicated that previous proposals to allocate land for formal public open space are “unsound”, the Council does not consider that they can continue to be included in the Plan where there is an over-riding need for SANGS informal open space in order to make the Plan as a whole “sound”.

27. With specific regard to TOT1: Durley Farm, the Inspector’s Note ID/12 indicates that he has concluded that the proposal for the provision of formal public open space in association with the TOT1: Durley Farm residential land allocation is unsound as it goes beyond the general open space requirements of Core Strategy Policy CS7. Having regard to the Inspector’s comments, the Council’s main modifications withdraw proposals to provide formal public open space as part of the TOT1 allocation. However, the Council considers that the area is eminently suitable for meeting the requirement for SANGS mitigation included in Policy DM2b. The site is particularly suitable for the provision of SANGS as it will be very accessible from the new residential development, can provide a natural environment with opportunities to enhance existing SINCs on the site (Sites of importance for nature conservation), and connects well with local walking routes for longer dog walks. Furthermore, the SANGS should be deliverable as it is within the control of those promoting the development of the site.

28. To be found ‘sound’, the Plan as a whole must comply with the requirements of the Habitats Regulations. Accordingly the modifications now proposed, to make the plan “sound”, give priority to proposals that will contribute to the delivery of mitigation projects as opposed to other local aspirations, such as addressing existing deficiencies in formal public open space (playing field) provision. The LUC report notes that it is not appropriate to consider addressing existing deficiencies in formal
public open space provision as an aspect of mitigation, as formal public open spaces provide for a different type of recreational activity to that which takes place on European sites.

29. The Council’s Plan must be ‘deliverable’ to be “sound”, and it is the Council’s view that, given the costs of the required mitigation projects (as set out in the IDP NFDC48), resources to fund the delivery of other open space projects not fulfilling a direct mitigation role will be very limited. The Council does not consider there to be a realistic to prospect of delivering both the full mitigation open space requirements and all proposals of the Submitted Plan to address existing shortfalls of formal public open space. Therefore, in order to achieve the Habitat Regulations mitigation requirements, it is inevitable that some formal public open space proposals have to be deleted from the Plan and not replaced by alternative allocations.

30. The Council considers it important to be realistic about the level of resources which will be generated through developer’s contributions (S.106 and CIL) to fund infrastructure projects identified in the Infrastructure Delivery Plan (NFDC48) during the plan period. There will be a relatively low amount of contributing development. Within the framework set in the Core Strategy, only 2265 dwellings remain to be permitted in the plan period. A substantial proportion of these will be affordable dwellings which are exempt from CIL. Hence the prospect of being able to fund further formal public open space (except that required to meet the needs of new development under Policy CS7) in addition the required mitigation measures is very limited.

31. Hence given this context, and the priority that has to be given to mitigation measures if the plan is to be found - as a whole - “sound”, the Main Modifications (NFDC45) do not allocate alternative sites to replace the sites which are now reallocated as SANGS. In the Council’s view, such further allocations would not be ‘sound’ as the Council does not consider it would be able to produce evidence that they would be ‘deliverable’ within the plan period.

**Consideration of alternative mitigation projects**

32. The new sites proposed as SANGS open space are included in the Main Modifications. However, as is set out above (paragraphs 9-14), the mitigation strategy includes various components of which the provision of new areas of SANGS open space is only one. A further key component of the mitigation strategy is the improvement of local recreational routes and open spaces, taking into account improvements that can be made to existing provision as well as the new SANGS proposals. The over-arching policy framework is provided by Policy DM2b with the details are set out in the Mitigation Strategy SPD (NFDC46) and the Infrastructure Delivery Plan (NFDC48).

33. In preparing the details of the draft Mitigation Strategy SPD, the Council considered a range of alternative projects. These included further opportunities for the creation of additional recreational walking routes and enhancements to existing public open spaces and green infrastructure. Not all potential projects considered have been included in the draft Mitigation Strategy SPD. The projects included in the draft Mitigation Strategy are those which the Council considers are most appropriate to deliver mitigation for the proposals in Local Plan Part 2. The Council understands that the duty of the Inspector is to take a view on whether or not the overall approach in the Mitigation Strategy will be effective in delivering appropriate mitigation of the
Local Plan’s residential development proposals and therefore on whether the Local Plan is sound in this respect, rather than to consider individual mitigation projects in the SPD in detail.

34. The draft Mitigation Strategy SPD does not suggest any potential ‘alternative’ or ‘reserve’ SANGS or other alternative projects. As part of the consultation on the draft Mitigation Strategy, the Council is inviting comments on the individual projects included in the draft strategy and suggestions for alternative or additional projects. The Council will also be working closely with Hampshire County Council’s Countryside Access Team to develop proposals of the Mitigation Strategy SPD further. The responses received to the draft SPD will be considered by the Council in revising the document to produce a final SPD for adoption. The proposed monitoring will assess the implementation and subsequent effectiveness of the mitigation projects. Based on this monitoring the Mitigation Strategy will be reviewed, and if necessary additional or revised mitigation projects identified.

35. It is the Council’s expectation that the total mitigation package being proposed is likely to perform better than being assumed, as the SANGS being provided have the capacity and potential to accommodate more than the 2.7ha visits per hectare per day which has been assumed for SANGS elsewhere. Again, as elaborated on below, the use and effectiveness of the SANGS and of the other projects identified in the SPD will be monitored and the details reviewed if appropriate.

Monitoring

36. The Inspector comments on monitoring in paragraph 9 of his Note ID/15. The Council publishes an Annual Monitoring Report and this will report progress on the implementation of both residential development and mitigation measures. The draft Mitigation Strategy sets out how the Council proposals to monitor the implementation and effectiveness of the mitigation strategy (see paragraphs 6.60 – 6.72, and Table 28 in document NFDC46). Particular attention is drawn to paragraph 6.70 which states: “Through the development management process, the Council will ensure that the implementation of appropriate mitigation measures is co-ordinated with the delivery of residential development. Where SANGS provision is to be provided (at least in part) on site, SANGS provision should be available to the occupants of the new dwellings at the time of occupation. The Council will work with developers to agree appropriate implementation schedules. The Council will programme off-site mitigations projects according to location and rates of residential development. Priority areas for mitigation measure implementation will be related to the grant of planning permissions for residential development, to ensure the timely delivery of mitigation projects with the implementation of the residential development. Developers’ contributions for off-site mitigation measures will normally be payable at the time the development commences. Progress in the implementation of residential development and mitigation measures will be published as part of the Council’s Annual Monitoring Report. The Annual Monitoring Report will inform an annual review of priorities in the Infrastructure Delivery Plan, to ensure the necessary mitigation projects receive the funding required for implementation in a timely manner.”

37. The Council is working with relevant organisations to agree responsibilities and programmes for undertaking various aspects of monitoring activities.

38. Monitoring will have an essential role to play in assessing the effectiveness of the mitigation strategy. Currently, there is little evidence from elsewhere on whether or not the SANGS approach to mitigation is proving successful. The ‘mixed’ approach being proposed in this plan area has the advantage of addressing the issue through a variety of measures and therefore is not totally dependent on the success, or
otherwise, of one particular (unproven) approach. Monitoring will not only look at the implementation of development proposals and mitigation projects, but will also try to assess the effectiveness of different mitigation measures, as well as the health of European sites. Monitoring may reveal that some aspects of the mitigation strategy are ineffective, or others particularly successful. Such information will inform priorities for implementation of SANGS mitigation projects which are not specifically related to a particular development and be used to consider what action needs to be taken if there are problems in delivering particular projects. Information gathered through monitoring will also inform future reviews of the mitigation strategy, which could require a change in emphasis in the type of mitigation measures pursued.

**Infrastructure Delivery Plan**

39. The Infrastructure Delivery Plan has been revised, and now makes clear the priority which will be given to the delivery of mitigation measures, in line with the implementation of residential development.