NEW FOREST DISTRICT COUNCIL – LOCAL PLAN (PART 2) SITES AND DEVELOPMENT MANAGEMENT DPD EXAMINATION

ASSOCIATED BRITISH PORTS – PORT OF SOUTHAMPTON (ABP) RESPONDENT NUMBER 350

STATEMENT FOR HABITAT MITIGATION STRATEGY AND RELATED MATTERS HEARING SESSION TO BE HELD ON TUESDAY 21 JANUARY 2014

Produced by Adams Hendry Consulting Ltd on behalf of Associated British Ports – Port of Southampton

8 January 2014
Introduction

1. ABP’s interest in the NFDC Local Plan (‘the Plan’), together with a summary of the company’s position in respect of Part 2 of the Local Plan (‘LP2’), can be found as the preface to ABP’s statement for the previous hearing session dealing with Issue 5. That information, which is not repeated here, is also relevant to this statement, which should be read in conjunction with ABP’s representations of March and September 2012, ABP’s other written statements previously submitted to the examination, and ABP’s representations of November 2013.

2. This statement responds to relevant questions and queries raised by the Inspector in note ID/18 under the heading ‘Habitat Mitigation Strategy and related matters’.

ID/18 Number 3 Policy DM2b – Does it need to be made clear how this policy relates to the first paragraph of DM2a? (e.g. by the addition at the beginning of the following phrase – Except as provided for in the first paragraph of DM2a, development proposals ….) Does it need to be made clear that the mitigation measures are relevant only for residential development? (e.g. begin For residential development the required suite ….)

3. In ABP’s opinion the answer to both of the questions raised under ID/18 No.3 is yes.

4. Paragraph 154 of the National Planning Policy Framework (NPPF) requires Local Plans to contain “clear policies on what will or will not be permitted….” and “Only policies that provide a clear indication of how a decision maker should react….” Without the type of amendments suggested there is a lack of clarity between the first part of policy DM2a and policy DM2b as to what local policy test is to be applied to development affecting designated European nature conservation sites.

5. ABP notes the example amendments that have been suggested by the Inspector under ID/18 No.3. Whilst such additions would be helpful, it is ABP’s view that there would still be an element of confusion if they alone were taken forward. Such confusion would arise because at the outset it would not be clear that policy DM2b is dealing specifically and solely with residential development.

6. ABP, therefore, consider that the first example amendment put forward under ID/18 No.3 should be slightly amended so that the start of policy DM2b would
read - Except as provided for in the first paragraph of DM2a, residential development proposals …..

7. In addition, for the Plan to be fully clear and accurate on these matters, changes are necessary to the first paragraph of policy DM2a. As currently proposed through main modification MM8, the first paragraph of policy DM2a is, as explained in ABP’s representation on MM8, incorrect in law. Amendments to policy DM2a are necessary, as detailed in ABP’s representation on MM8.

ID/18 Number 4 Policy DM2b indicates that SANGS will be delivered in 3 ways (summarised):
- New areas of informal open space (30 – 40 ha);
- Existing open space of SANGS quality with no existing public access or limited public access;
- Existing open space which could be changed in character.

ID/18 Number 5 I am unclear how these categories will work in practice and the relationship between them and the total SANGS expected to be delivered.

• ……..
• …….. (see ID/18 for the full text of the questions raised)

8. In submitting its representations on the main modifications, ABP proceeded on the basis that:

i. the proposed SANGS measures/projects referred to in policy DM2b(a) have been identified on the various maps contained within the draft SPD Mitigation Strategy (NFDC46), and

ii. the further development of the draft SPD Mitigation Strategy leading to the production of a final SPD for adoption would not likely identify any additional or revised mitigation projects (NFDC50 of October 2013 makes clear in paragraph 33 that the projects put forward are those which NFDC consider are most appropriate to deliver mitigation for the proposals in LP2).

9. On this basis, the proposed SANGS measures/projects do not directly affect any of ABP’s landholding, and ABP did not therefore comment on them.

10. ABP, however, notes the various questions which have now been raised by the Inspector under ID/18 No.5 which relate to the need for clarity within policy DM2b. In particular ABP notes the questions raised in respect of what is meant by ‘Existing open space of SANGS quality with no existing public access…’ (DM2b(a) second bullet) and ‘Existing open space which is already accessible but which could be changed in character….’(DM2b(a) third bullet).

11. The Outline Mitigation Strategy that is said to have been developed by NFDC with its consultants in consultation with the steering group (and which is set out in NFDC47, the draft SPD (NFDC46) and NFDC50) does not, however, describe these SANGS measures in this way. Rather, it is made clear that in addition to the provision of new open space areas, the alternative open space element of NFDC’s mitigation strategy will comprise the enhancement of
existing green space and linear routes. This is further clarified as 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 (NFDC50 Box 1).

12. ABP agree that there is a lack of clarity in what is set out in policy DM2b(a), particularly when read alongside the supporting evidence which has been provided.

13. For the sake of clarity and soundness, policy DM2b(a) has to be consistent with and reflect the mitigation strategy that has been developed by NFDC and on which the detailed work within the draft SPD is based. For the avoidance of any doubt, therefore, policy DM2b(a) should be amended so that it makes clear that the alternative green space element of the mitigation strategy consists of the provision of additional areas of informal open space, enhancements to existing open space, and enhancements to existing footpaths/rights of way.

14. ABP has consistently raised similar concerns on such clarity issues throughout the LP2 process in respect of Green Infrastructure matters (and in particular on the possible incorrect identification of its strategic land holding between the Marchwood Seamounting Centre and Hythe Marina Village as Green Infrastructure). Clarity is needed in respect of the provision of SANGS so that similar concerns do not arise in the future in this regard.

Word Count – 881 (including headings but excluding questions).