Dear Ms Duncan,

**New Forest Local Plan Part 2 – Examination. Inspector’s pre-hearing and other questions (Dec 2013)**

Many thanks for your email of the 02/12/2013, including the above questions. Our response to these is set out in red below.

**Habitat Mitigation Strategy and related matters**

1. *In these questions I refer to the Council’s Draft SPD Mitigation Strategy for European Sites (NFDC46). This seeks to illustrate how the Council intends to apply policy DM2b in practice. It is not a document before me for approval and I cannot make recommendations on its contents. However, I have had regard to the draft SPD, and the representations made on it, in so far as it helps test the likely effectiveness/delivery of the policies in the plan. It also serves as the Council’s main supporting evidence on these aspects.*

**Overarching question**

2. Is the suggested combination of SANGs, Access and Visitor Management and Monitoring an appropriate combination of measures to mitigate likely effects? Will what is proposed be effective and is there sufficient confidence about delivery? *(The focus is not whether there are other approaches, but whether the selected approach is one that is justified.)*

With respect to the Solent, the Solent Disturbance and Mitigation Plan (SDMP) has been accepted by a number of local planning authorities and Natural England, and the element of the SDMP included in the DPD is considered appropriate by us.

In terms of the New Forest SPA, we regard the suggested combination to be effective in that:

1) It is sufficiently precautionary. Some aspects we feel are under precautionary (e.g. assumption that all visitors to new measures will be displaced from the SPA, rather than from other recreational locations or are induced visits), but this is more than compensated for by other elements being over precautionary (notably the number of visitors anticipated to use the new measures), with the net result being that the proposals are suitably precautionary, and;

2) Monitoring and review is built into the SPD, so that should the measures prove not to be effective, the SPD can be modified, and;

3) In addition visitor access management measures are proposed which give an added tier of certainty.

We also have sufficient confidence of delivery in that:

1) We are confident that the proposed contributions will be collected.
2) Specific spatial projects have been identified, together with data around land ownership etc.
3) Should certain of these fail to be delivered than a) there are a large number of remaining measures, and no reason to believe there are any systemic reasons for a large number to fail to be delivered and b) there is the scope for alternative measures to come forward in other locations in the Plan area.
4) The monitoring and review process will provide a mechanism for third parties to hold NFDC to account in terms of delivering their commitments.

Consequently in our view the answer is yes.

Policy DM2b

3. 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….*)

We don't think greater clarity is needed in this policy.

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….*)

We agree this would make it clear earlier on that this policy only pertains to all residential developments that result in additional dwellings.

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 of limited public access;
   - Existing open space which could be changed in character.

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

   - *Existing open space of SANGS quality with no existing public access…. This seems something of a contradiction. If there is no public access how is this open space? Is this category simply a recognition that the 30-40 ha of land intended to be provided as a consequence of the various allocations in the plan is not the only land that could serve as SANGs and that other land might be equally suitable, either as additional or, more likely, as a substitute for the allocated land?*

   - *Is this category intended as the main acknowledgement in the policy of the enhanced walking routes (which are developed in some detail in the SPD, see below)? If so, does this need to be made clearer?*

   - *Existing open space which could be changed in character. Again, is this intended as a substitute for allocated SANGS or additional to the 30-40 ha of SANGS? If additional, what scale of provision is intended/required?*

   - *Policy DM2b (penultimate paragraph) indicates that informal open space required by policy CS7 will be accepted as part of the mitigation contribution where it meets SANGS requirements. This suggests that it could substitute for the new SANGS space on housing sites. Is that the intention, bearing in mind that the SPD tables for each settlement appear to ascribe a mitigating benefit to both the required CS7 space and the new SANGS, thus expecting both to be delivered? If the Council consider that the wording in the plan does not reflect its intentions please provide an alternative wording in the pre-hearing statement. More appropriate for NFDC to clarify.*

6. The penultimate paragraph of DM2b states:

   *On sites of 50 or more dwellings, where there is physical capacity and there are suitable opportunities, the full direct mitigation requirements may best be met by provision of SANGS on-site or close to the site, based on a standard of 8ha of SANGS per 1,000 population. (My emphasis.)*

But the changes to the policies for the larger housing allocations (e.g. MM26 for TOT1; MM89 for FORD1) require mitigation measures to include *on-site provision* of SANGS. (My emphasis.)

Why is the flexibility in DM2b not carried through to the allocation policies? *My preliminary view is that, provided delivery can be secured and any adjoining/nearby land will be suitable/effective, then flexibility is appropriate to ensure that the most effective and efficient use can be made of land suitable for housing and suitable for SANGS (which may be land not suitable for development).*

More appropriate for NFDC to clarify.

7. Natural England (NE) seek additional text to the penultimate paragraph of DM2b namely: *The details of the SANGS will need to be agreed with NE as part of the planning application process and delivered in advance of the housing occupation.* Questions particularly for NE:

   - Why does NE consider this clause necessary?
   - Is this statement a common part of adopted development plan policies setting out mitigation strategies elsewhere in relation to European sites?
- What further detail would make such a statement unnecessary?
- Should any such detail be in the Plan or SPD?

**NE seek this line for a number of reasons:**

1) we are the Government Adviser on Nature Conservation, and we want to make sure what is designed would maximise the potential for biodiversity gain.
2) we have worked on SANGs all around the country, we have more expertise on the matter than NFDC, therefore in terms of consistency, it would make sense.
3) as we have worked on SANGs all around the country, we can offer specific advice on how to design the site to manage visitors away from the SPA, which is the primary objective for the SANG.

Such a statement is common. For example, it is in the live policy NRM6 from the South East Plan, which was retained by the SoS. It is also within all of the Local Plans for the 11 Thames Basin Heaths LPA (either in their draft policies, or in their adopted policies, depending on which stage they have reached).

We do not believe further detail could be specified in the in the DPD, such that it would be appropriate to not include the additional text we seek.

Full SANG Management Plan, listing how it would be maintained, managed and funded in perpetuity. This would need to be fully costed showing, what developer money would be spent upon. Who will own it going forward, and what solutions would be in place if the owner was not to be the LPA, and they were to go bankrupt, i.e. step in rights for the LPA.

8. The SPD (paragraph 6.70) says that where SANGS provision is to be provided (at least in part) on site it should be available for new occupants at the time of occupation. Should this be made clear in the policy? This may provide added clarity.

**SANGS**

9. Whilst the function of SANGS is clear (to divert trips which might otherwise take place to protected sites) is the size/nature/quality of sites to serve as SANGS sufficiently clear?

- How will developers or the Council assess whether any land offered as SANGS would be effective as SANGS?
  A more prescriptive approach has been taken at the Thames Basin Heaths (TBH) (see, for example, appendix 1 of [http://www.bracknell-forest.gov.uk/sangs-guidelines-and-checklist-12-06-08.pdf](http://www.bracknell-forest.gov.uk/sangs-guidelines-and-checklist-12-06-08.pdf)). This is based largely on the presumption that SANGS would be driven to, while NFDC’s mitigation is based on the not unreasonable assumption that once locals get into a car they will not go to a SANG, so the emphasis is on locating them in easy walking distance of new or existing populations. However, the other qualities deemed to make of TBH SANGs effective are likely to make NFDC SANGs effective. It therefore may be appropriate to provide greater detail in the SPD.

- The SPD (paragraph 5.28) lists **likely attributes of SANGS.** Are these the most appropriate to make SANGS effective?
  We tend to agree that this list (in 5.28) could be improved. It could usefully include a) proximity to population (possibly a minimum population within 400m walk), and b) multiple, easy and attractive pedestrian access links.

- Should essential attributes be listed in the plan for effectiveness?
  We imagine that inclusion in the SPD is sufficient.

10. Will SANGS sites of 1ha or less be effective (bearing in mind the long standing threshold of 2ha used elsewhere and recommended by Natural England)?

**Potentially yes.** Given the high level of site specific variation in how effective a mitigation site will be (e.g. in terms of population catchment) we do not think it appropriate to be too prescriptive in how mitigation should be delivered, merely that the suite of measures, as a whole needs to be effective.

11. Paragraph 5.19 of the SPD indicates that to achieve full mitigation in accordance with the requirements of policy DM2b (8ha of SANGS per 1,000 population) a site of 50 dwellings would generate a requirement of around 1ha of SANGS. The Draft SPD seeks to illustrate how the Council intends to apply the policy in practice, but the scale of new SANGS provision on allocated housing sites suggested/used in the SPD does not seem to directly relate to the scale of housing on that site. Why is this? Does this suggest any potential difficulties in delivering policy complaint full mitigation on these sites?

- **TOT1 Durley Farm 80-100 dws, 1.8ha of new SANGS is suggested;**
• MAR2 Park Farm 100 dws, 1.3 ha new SANGS;
• LYM2 north of Alexandra Road 80 dws, 1.08 ha;
• NMT4 East of Caird Avenue 90dws, 1.21 ha;
• RING3 Crow Lane 150 dws, 2.1ha ha;
• FORD1 Whitsbury Road 100dws, 1.34 ha.

Stand alone designations for SANGS: MM34 - TOT 19, TOT20; MM50 - HYD6, HYD7; MM77 - NMT10 and NMT11.

12. On what basis have these sites been chosen for SANGS? What makes them more suitable than other land adjoining the settlements?
More appropriate for NFDC to clarify.

13. Is the main purpose of the sites to divert some existing trips away from the SPA to compensate for, rather than directly cater for, new trips arising from new housing?
We regard the purpose as being to divert net trips, irrespective of whether they originate from new or existing dwellings.

14. What are the prospects for delivering all these allocations for SANGS? Council to summarise its understanding of the position of the landowners (with dates of most recent discussions) and any relevant decisions taken by public bodies owning the land.
Natural England has similarly requested information on the risks to deliverability to these SANGS allocations. We now regard these risks to be acceptable, based on information we have received.

15. How/when will the Council acquire sufficient control/agreement with private landowners to deliver SANGS? Do the project costs for these sites in the IDP include land acquisition costs?
More appropriate for NFDC to clarify.

16. In relation to HYD7 (Land west of Lower Mullins Lane) the Council (NFDC50 paragraph 22) comment that its priority will be securing a public right of way across the land which is privately owned, whilst not closing the door on the implementation of the whole SANGS proposals in the longer term.
• Given the high priority that needs to be given to the delivery of the SANGS, is the allocation of the privately owned part of HYD7 in the plan justified and effective?
• Should the plan refer only to the access link in relation to this land, which the Council sees as a priority and may be more deliverable?
• What are the prospects for delivery of that part of HYD7 owned by the Town Council, given that longstanding proposals for open space which have not been delivered? Council to respond to the possible difficulties for early implementation highlighted in rep 123 (e.g. paragraph 2.12).

(I do not regard the merits of residential development on any part of the land at Mullins Lane as a matter for discussion at these hearings. It is not a matter that arises directly from the Proposed Modifications/supporting evidence.)
More appropriate for NFDC to clarify.

17. In relation to NMT10, paragraph 4.128 of the plan says: in the event that the existing playing fields become surplus to the Education Authority requirements … Have the Education Authority expressed any view as to whether this land will or will not be surplus in the future?
More appropriate for NFDC to clarify.

18. What are the consequences if some of the free standing SANGS allocations are undeliverable or not otherwise justified?
More appropriate for NFDC to clarify.

New/enhanced walks

19. Will the proposals be effective in contributing to mitigation?
• What are the key components of making walking routes more attractive on a regular basis (bearing in mind that all rights of way should be accessible in any case)?
• Are there realistic prospects of delivering such enhancements?
• Do suggested improvements require 3rd party agreement or do they have to be delivered by the Highway Authority.
We welcome these questions.
20. Suggested walking route proposals are shown as thick red lines on the settlement plans in the SPD. To better illustrate what is proposed would the Council please provide revised plans for the settlements which show the character of the enhanced routes more clearly i.e. what are existing rights of way; what parts are using footways alongside a road (i.e. pavement); what parts will always require walking on road; and what, if any, are new (ROW or other) links. As these proposals are shown only in the SPD, I am not intending to consider the merits of individual routes only better understand the scope for what this type of provision might achieve. We welcome these questions.

Access Management/enhanced Ranger services

21. What confidence is there that appropriate access management measures will be put in place?
No comment.

22. Table 28 in the SPD (p64) shows the likely time frame for the Wildlife Ranger and Coastal Warden as 2014-2018 and 2014-2026 respectively. Does this mean that the Ranger/Wardens will start in 2014. Do they need to and is there the money available to make this happen?
We welcome this question.

Overall delivery/funding/monitoring

23. The SPD (NFDC46 paragraph 5.37) states that through the monitoring process the Council will ensure that the appropriate mitigation measures are implemented in step with development of new residential development. Given that over half of the overall residential development over the plan period has already been built (SPD paragraph 7.8) without any mitigation what does this mean in practice? Is a catching-up exercise necessary? Am I correct in understanding that, as set out in the SPD, the total scale of mitigation has been assessed on the total number of dwellings expected to be built over the whole plan period (including those already built/permited)?
We understand that the intent is to mitigate the impact of the plan as a whole and that the Core Strategy was judged to be compliant with the Habitats Regulations on the basis that the impact of all dwellings was mitigated for (c.f. Core Strategy paras 6.7.12 and 6.7.13 which include saying NFDC will...“develop and implement a strategic approach to protecting such sites from recreational pressures. This will include a suite of avoidance and mitigation measures....”). As such a catching up exercise is necessary.

24. Is the Council’s approach to mitigation on a settlement-by-settlement basis appropriate? For smaller schemes making only financial contributions for mitigation would planning permission have to be refused if mitigation measures in that settlement had not been implemented or were not about to commence? If so, should this be made clear in the plan?
Natural England is satisfied with the package of measures proposed. We are not unduly concerned with the relationship between smaller schemes and the time frame of delivery of mitigation measures in that settlement, as we see the risks in not doing so to be small, and the practical difficulties in doing so to be significant.

25. How does the likely funding expected to be received from CIL over, say, the next 5 years (if the currently proposed rates, which are still at Examination, were to be adopted) compare with the expenditure necessary on mitigation projects necessary to overcome the mitigation deficit and likely further permissions in the same period. Is the Council’s expectation of delivery realistic, bearing in mind that CIL is not payable on affordable housing?
More appropriate for NFDC to clarify.

26. Several parties seek additional wording to emphasise the priority that the Council should give to funding mitigation projects. However, would any such wording (particularly if imposed as a main modification) be of any consequence for Council decisions on public spending?
More appropriate for NFDC to clarify.

27. What are the consequences if it appears that there will be a significant early shortfall in funding to implement planned mitigation? What are the alternatives?
We welcome this question.

28. Monitoring effectiveness of the mitigation strategy is part of the strategy. Given likely uncertainties about delivery and effectiveness should the plan make clear that progress will be monitored on an annual basis and the overall effectiveness will be reviewed in time to inform the planned Local Plan Review (i.e. within 2-3 years)?
We advise yes, as per point 10 of our response to the main modifications consultation 15th November 2013.

Consequential matter – formal open space
29. Some of the sites now proposed to be allocated as SANGS were previously proposed as formal public open space to meet identified local deficits, either as part of housing allocations or as free-standing open space sites. No replacement sites for formal open space are proposed. The Council’s justification for this approach is set out in the SPD paragraphs 5.25-5.26 and NFDC50 paragraphs 24 - 31. In particular, the Council considers that given the priority will be to fund the mitigation strategy there would be no funds available to deliver any other open space. There is no evidence to suggest otherwise. Any other further comment?

Habitat Regulations Assessment

30. Is the conclusion of the Habitat Regulations Assessment, September 2013 (NFDC47) justified?

Natural England (NE) express various concerns in their letter of 15 November 2013. I would urge the Council to (continue) to discuss with NE how its concerns might be met, so that NE is at least satisfied that the HRA is justified.

NFDC provided Natural England with a written response to our letter of the 13th November. Subject to the inclusion of the changes associated with points 3, and 10 of our letter, the additional information provided (including the additional data relating to the particular projects) we are now satisfied that the DPD is compliant with the Habitat Regulations (for the reasons largely set out under point 2 above).

Yours sincerely

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