

# ISLAND PLAN



## Solent Special Protection Areas

### Supplementary Planning Document



**Adopted May 2014**





## Contents

<b>1. Why a Supplementary Planning Document is required</b>	<b>4</b>
The Solent SPAs.....	5
The Isle of Wight Council’s responsibilities .....	5
Natural England and Solent Disturbance Mitigation Project.....	6
Map 1: 5.6km buffer around the Solent SPAs .....	9
<b>2. When will mitigation be required?</b>	<b>10</b>
Where will mitigation be required?.....	10
What type of development is this applicable to?.....	10
<b>3. What type of mitigation will be put in place and how much will it cost?</b>	<b>11</b>
<b>4. How will the framework be implemented?</b>	<b>13</b>
Process Flowchart.....	14



## 1. Why a Supplementary Planning Document is required

- 1.1 The Island Plan Core Strategy was adopted by the Isle of Wight Council in 2012, and is the overarching strategic document within the Island Plan. Policy DM22 (Developer Contributions) of the Core Strategy establishes the strategic principles towards developer contributions on the Isle of Wight, but does not set out precise levels of contributions. It does though give the commitment to prepare Supplementary Planning Documents (SPDs) to set out the mechanisms through which contributions are achieved and to ensure that contributions are based upon a co-ordinated and consistent approach.
- 1.2 The role of this SPD is therefore to provide detailed advice and detail on the implementation of Policies SP1 (Spatial Strategy) and SP5 (Environment) which sets a policy framework to ensure that new development complies with the Habitats Regulations.
- 1.3 The Isle of Wight and the wider Solent area have a wealth of natural habitats and a coastline which are part of the attractiveness of the area for recreation. Large sections of the Solent coastline have been internationally recognised as Special Protection Areas (SPAs).
- 1.4 For the purposes of this guidance, the "Solent SPAs" refers to:
- Portsmouth Harbour SPA;
  - Chichester and Langstone Harbours SPA; and
  - Solent and Southampton Water SPA
- 1.5 Evidence, as referred to in this document, shows that recreational disturbance associated with an increase in local population from new residential development can reduce the quality of the habitat in the Solent SPAs. As a result, in order to meet the requirements of the Habitats Regulations<sup>1</sup>, mitigation measures will need to be provided where necessary from residential development schemes before works can lawfully go ahead. More detail on both the importance of the Solent SPAs and the council's legal obligations are given below.
- 1.6 This Supplementary Planning Document (SPD) has been prepared to address the identified issues. It will facilitate and guide residential development proposals whilst ensuring that the Isle of Wight Council continues to comply with the regulations protecting the SPAs. It ensures that developers can have certainty that the issue can be addressed quickly, simply and at reasonable cost.

---

<sup>1</sup> The Conservation of Habitats and Species Regulations 2010 (and subsequent amendments).

## The Solent SPAs

- 1.7 A the boundaries of the Solent SPAs are shown in Map 1 on page 9. These SPAs have been designated mostly for the protection of significant numbers of waders and waterfowl which spend the winter in the Solent.
- 1.8 At their winter peaks, the population of Brent geese in Chichester and Langstone Harbours SPA represents 13% of the national population and 6.5% of the global population of this species. The three SPAs together have been estimated to support between 10% and 13% of the global population of Brent geese and about a third of the UK population.
- 1.9 The Solent also supports in excess of 90,000 waders. Many of these will travel thousands of kilometres to over-winter at the Solent. The intertidal habitat which the Solent provides, particularly the mudflats, shingle and saltmarsh provide ideal feeding and roosting grounds for these species which are specially adapted to feeding in such habitat.

## The Isle of Wight Council's responsibilities

- 1.10 The European Habitats<sup>2</sup> and Birds Directives<sup>3</sup> protect rare habitats and species. Member States are required to classify particular habitats as Special Protection Areas (SPAs) and manage them to a favourable condition. Other 'European Sites' (Special Areas of Conservation (SACs) and Ramsar sites) have also been designated for other habitats and species but it is the potential impact of development through recreational disturbance on the Solent SPAs that is addressed by this SPD.
- 1.11 The Directives have been transposed into UK law through the Habitats Regulations. Under these regulations, the Isle of Wight Council must assess whether or not a proposed development is likely to have a significant effect on an SPA. This assessment is called a Habitats Regulations Assessment (HRA). It involves an initial 'screening stage' to determine whether the proposal is likely to have a significant effect on a European site. This assessment needs to identify the interest features of the European sites and whether the plan or project would cause harm to them.
- 1.12 If necessary, avoidance and/or mitigation measures could be included to remove the harm which otherwise would have occurred. It is also necessary to look at the proposal in combination with other developments in the local area. A second stage, called the Appropriate Assessment (AA), comprises a detailed assessment to determine whether

---

<sup>2</sup> European Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

<sup>3</sup> European Council Directive 2009/147/EC on the conservation of wild birds.

there will be an adverse effect on the site. Only once the HRA has determined that there will not be an adverse effect can the proposal be authorised.

- 1.13 Due to the precautionary approach<sup>4</sup> in the regulations, it is necessary to demonstrate, with a reasonable degree of certainty, that the project will not be likely to have an effect on the SPA before it can lawfully be authorised.
- 1.14 The Habitats Regulations also ensure that any planning permission which is deemed to be granted through the mechanisms of the General Permitted Development Order (GPDO)<sup>5</sup> is compliant with the regulations. If consent is given through the GPDO then under Regulation 75 of the Habitats Regulations, a separate HRA will also need to be done.
- 1.15 The National Planning Policy Framework (NPPF) sets out the Government's planning policies and how they should be applied and is a material consideration in planning decisions. The Framework contains a presumption in favour of sustainable development, which informs the framework. However the NPPF also states that this presumption does not apply where development requiring an appropriate assessment is being considered, planned or determined.

#### Natural England and Solent Disturbance Mitigation Project

- 1.16 There is a body of evidence which shows that recreational activity on designated areas (and supporting habitats) can have an adverse impact on bird populations. This applies to a number of sites across the country, including the Thames Basin and Dorset Heathlands, as well as the Solent coastline.
- 1.17 A briefing note<sup>6</sup> on the Solent Disturbance and Mitigation Project (SDMP) issued jointly by the Solent Forum and SDMP Project Group states that:

*“Natural England advised that the cumulative impact of additional development, in terms of the likely increase in recreational use of the Solent coastline, is likely to have a significant effect on the designated sites. Without mitigation of these effects this has the potential to restrict development within the area.”*

Development can increase the population at the coast and thus increase the level of disturbance and the resultant effect on the SPA's conservation objectives.

---

<sup>4</sup> The precautionary principal: if an action or policy has a suspected risk of causing harm to the public or to the environment in the absence of scientific consensus that the action or policy is harmful, the burden of proving it is not harmful falls on those seeking to take the action or adopt the policy.

<sup>5</sup> Town and Country Planning (General Permitted Development) Order 1995.

<sup>6</sup> Solent Disturbance and Mitigation Project (SDMP) Briefing Note, August 2013, Solent Forum/SDMP Project Group



- 1.18 Human disturbance to birds is essentially understood to arise from any activity which results in a change in the bird's behaviour. An acknowledged issue is the impact which disturbance, much of which is caused by recreation, can have on the protected species which use the Solent SPAs and thus on the conservation objectives of the SPAs themselves.
- 1.19 Disturbance can have a variety of impacts including:
- habitat that would otherwise be perfectly suitable and has a high density of food could be unused or underused
  - birds could be forced to fly away from the source of the disturbance, using more energy as a result
  - birds could be more alert when feeding, reducing their feeding efficiency over a given time period
- 1.20 Ultimately, this can cause a reduction in the amount of energy which the individual bird has available at the end of the winter period to migrate back to their breeding grounds. If such a reduction occurs, birds will be unable to make the journey and this can result in mortality in the bird population.
- 1.21 Individual birds may well be able to compensate by modifying their behaviour, for example feeding for longer, feeding at night or temporarily switching to other estuaries/sites. In such cases the birds may still survive, but with increased pressure put on the system it is likely to be more vulnerable in the long-term, and the 'slack' in the system greatly reduced. There is evidence that the bird breeding success and migration patterns are linked to the quality of the wintering sites so gradual deterioration on wintering sites might link to reduced breeding success, or even the number of birds able to migrate back to the breeding grounds at the end of each winter.
- 1.22 The Isle of Wight Council has been working with neighbouring local authorities along the Solent coastline, including the Partnership for Urban South Hampshire, Natural England and other stakeholders to investigate this issue. A great deal of research has now been done, through the Solent Disturbance and Mitigation Project (SDMP)<sup>7</sup>, to assess whether the Solent SPAs suffer from mortality in the bird population due to disturbance caused by recreation. This research has involved:
- a desktop review of existing national and local research
  - a survey of visitors at the Solent SPAs asking them about their visit
  - a survey of households living close to the Solent SPAs about their use of the coast
  - bird disturbance fieldwork at the SPAs to assess how birds respond to potential disturbance events

---

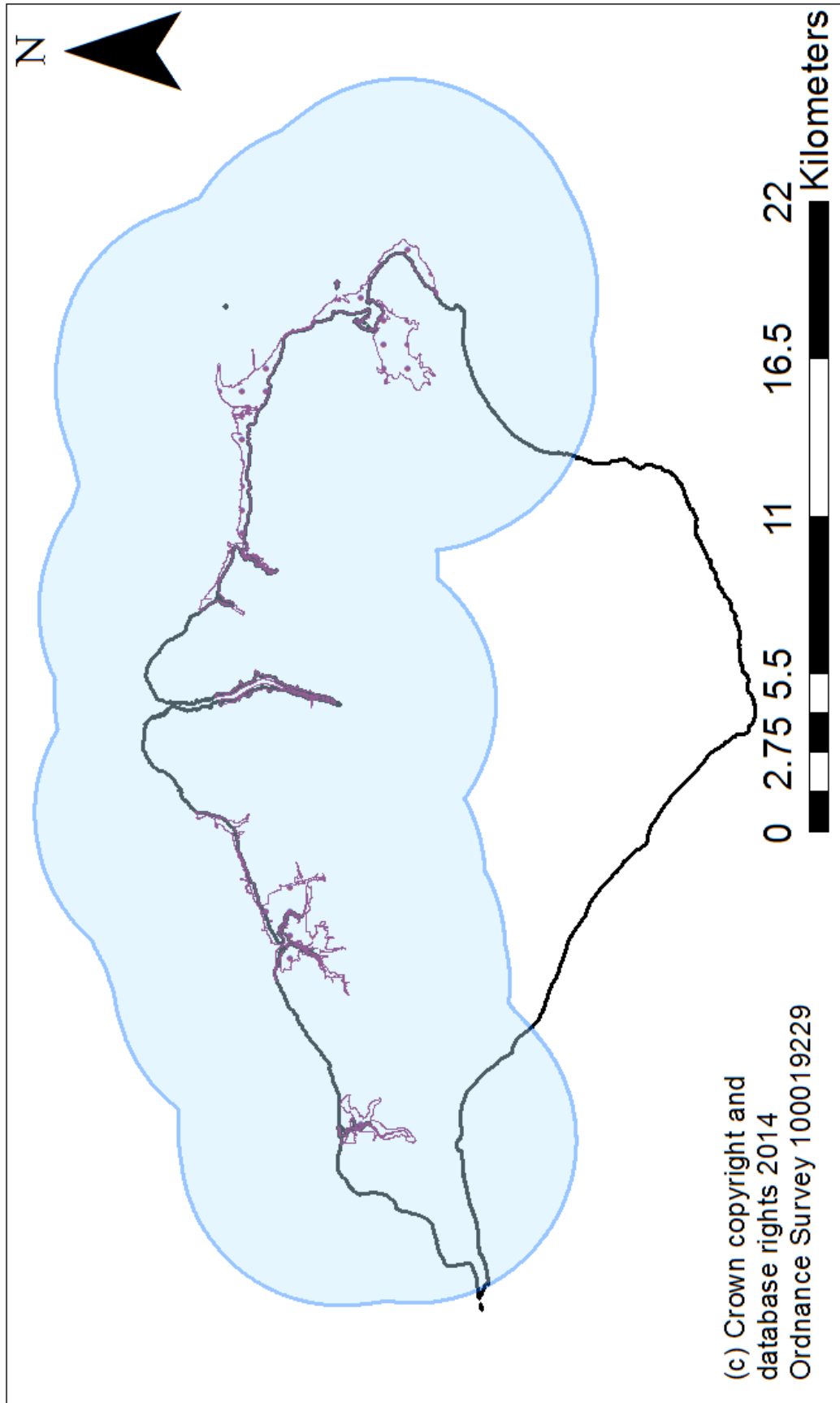
<sup>7</sup> This research is available at [www.solentforum.org/forum/sub\\_groups/Natural\\_Environment\\_Group/Disturbance\\_and\\_Mitigation\\_Project/](http://www.solentforum.org/forum/sub_groups/Natural_Environment_Group/Disturbance_and_Mitigation_Project/)

- computer modelling to establish whether the patterns of activity which were observed at the Solent SPAs lead to mortality in SPA bird populations
  - advice on the kinds of mitigation measures that could be used to remove any mortality in the SPA bird population.
- 1.23 The research looked at where people travel from to reach the coast and the distance they have to travel. It found that 75% of all visits to one of the Solent SPAs are from 5.6km or less.
- 1.24 The computer modelling looked at SPA bird populations and specifically modelled the level of activity which was recorded, how the birds reacted and where the food was. This modelling found that some species were able to compensate for increased disturbance by altering their feeding habits. However a number of species suffered mortality as a result of disturbance and the rate of mortality would increase as a result of a new development.
- 1.25 Natural England have advised the Isle of Wight Council that *"the (Solent Disturbance and Mitigation Project) 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"*<sup>8</sup>.
- 1.26 The available evidence shows that a significant effect on the Solent SPAs from recreation caused by new development is likely. As a result, under the regulations, it will be necessary for an HRA to be done on all residential developments which would result in a net increase in population to ensure that this effect is avoided or mitigated in order to be able to lawfully authorise the development.
- 1.27 In the long-term the most effective solution to this issue would be a joint mitigation framework amongst all local authorities within 5.6km of the Solent SPAs, as shown on Map 1 overleaf. However whilst work continues on this, an interim mitigation framework will enable development to provide the necessary mitigation in order to go ahead in compliance with the Habitats Regulations.

---

<sup>8</sup> Letter from Simon Thompson to the PUSH Planning Officers Group (31<sup>st</sup> May 2013)

Map 1: 5.6km buffer around the Solent SPAs



## Isle of Wight SPA Buffer 5.6KM

## 2. When will mitigation be required?

2.1 The council is proposing the following mitigation framework as an interim measure. This will be a way for developments to provide a sufficient mitigation package in order to go ahead whilst further discussions take place between local authorities, PUSH, the Solent Local Enterprise Partnership and Natural England to establish a long-term mitigation framework.

### Where will mitigation be required?

2.2 Local authorities along the Solent have agreed that mitigation should be sought from all relevant developments within 5.6km of a Solent SPA, as shown in Map 1 (on page 9). Mitigation measures will be sought from any applicable development proposed within this area.

### What type of development is this applicable to?

2.3 Following the results of the research, mitigation will be sought from any development which would lead to a net increase in population. The need for mitigation will be raised by the council with applicants at the earliest possible stage in the development process. Developments which will lead to a net increase in population are considered to be:

- proposals for one or more (net) new dwellings falling within class C3 of the Use Classes Order (please note that this includes new dwellings created as a result of approval granted the General Permitted Development Order).
- development intended to provide residential accommodation on a permanent basis outside of the C3 use class.

2.4 Mitigation will generally not be sought from proposals for changes of use from dwelling houses to houses in multiple occupation (HMOs) (classes C4 or sui generis) as there would not be a net increase in population. Changes of use from a Class 4 HMO or a C3 dwelling to a sui generis HMO are considered to represent an increase in population equivalent to one unit of C3 housing, necessitating a mitigation requirement.

2.5 Developments such as care homes for the elderly (Class C2) are unlikely to need to provide mitigation but will be assessed on a case-by-case basis.

2.6 All other proposed development will generally not need to provide mitigation. Nonetheless, if it is considered necessary to do so in accordance with the regulations, the

council will conduct project level HRAs on such proposals in consultation with Natural England.

- 2.7 It should be noted that the proposals in this SPD are one way in which developments could provide a package of mitigation measures which would remove the likelihood of a significant effect as a result of disturbance on the Solent SPAs. Applicants are free to propose an alternative approach to the protection of the Solent SPAs from disturbance caused by recreation, and this will be considered by the Isle of Wight Council, in consultation with Natural England on a case by case basis.
- 2.8 It should be noted that there may be some developments which, due to their scale or location, could cause a significant effect alone, regardless of other development which might take place nearby. In these situations, developers will need to present a bespoke mitigation package for the development, after having had the proposal assessed at the appropriate (HRA) level and to the satisfaction of the council and Natural England.

### **3. What type of mitigation will be put in place and how much will it cost?**

- 3.1 Based on evidence gathered through the recent research, the following interim mitigation scheme will be implemented:
- a project officer to oversee and co-ordinate across the Special Protection Areas and to oversee the rangers;
  - a team of rangers who will work on the ground at European sites to reduce disturbance levels and initiate specific measures at the sites to reduce disturbance levels;
  - a Coastal Dog Project; and
  - a monitoring scheme
- 3.2 This package of measures is considered sufficient in order to effectively mitigate the significant effect which will arise from that development in current Local Plans across the Solent. The package of measures will need to be secured in perpetuity, in order to ensure that it is in place for the lifetime of the development. As such, sufficient funds will need to be invested so that at the end of the plan period, the mitigation scheme is self-financing.
- 3.3 Natural England has endorsed this approach as an effective interim solution.
- 3.4 The local authorities along the Solent have coordinated an assessment of the costs of funding the interim mitigation scheme and of the amount of housing which will be

delivered within 5.6km of the Solent SPAs. The methodology which was used can be found at Appendix 1 of this SPD.

- 3.5 **The total cost of the mitigation framework will be £172 per net additional dwelling provided through a development scheme.** A legal administration fee per application will also apply.

## 4. How will the framework be implemented?

- 4.1 For most developments, if a planning obligation or funds by Deed<sup>9</sup> are completed prior to granting planning permission which provides a necessary level of mitigation, proportionate to the scale of development being proposed, the LPA will be able to conclude that a significant effect on the SPA as a result of the development is unlikely and a HRA would not be required.
- 4.2 Development proposed under the General Permitted Development Order will require a separate HRA to be done, alongside the prior approval process. As part of this process, mitigation will be need to be secured from the new development, proportionate to the scale of development being proposed. This will require a legal agreement to be prepared.
- 4.3 The measures set out in the interim mitigation scheme are not considered to be infrastructure under Regulation 123 of the Community Infrastructure Levy Regulations. As a result, they can be secured from new development using a legal agreement.
- 4.4 Contributions towards mitigation will be collected through a legal agreement, which will be made available on the council's website, <http://www.iwight.com/Residents/Environment-Planning-and-Waste/Planning/Planning-Development/Submitting-a-planning-application>
- 4.5 The interim mitigation framework is designed to allow developments to provide a suitable mitigation package in order to proceed in compliance with the Habitats Regulations. It is designed to secure the funds necessary to provide a proportionate amount of mitigation in relation to the harm caused to the Solent SPAs from the new development.
- 4.6 The council will keep the framework under close review to ensure that it continues to meet these goals.
- 4.7 The council will continue to work with other local authorities, PUSH, the Solent LEP, the Local Nature Partnership, Natural England and other relevant organisations as appropriate to establish a long term mitigation framework which will replace this SPD in due course.
- 4.8 A standard monitoring report will be used to monitor the implementation of this framework and the long term framework once it has been approved.

---

<sup>9</sup> A planning obligation, secured by agreement with the city council, by the landowner or a unilateral undertaking given by deed in accordance with Section 106 of the Town and Country Planning Act 1990 (as amended). For further details, please see [www.iwight.com](http://www.iwight.com)

Process Flowchart

