

Details of Representations Received to the Proposed Submission Local Plan (Reg19) January 2025

Habitats Regulation Assessment

This document has been prepared to provide details of the representations received to the Proposed Submission Plan and the Council's response. It draws upon information contained within the submitted documents SD07b [Regulation 22 Statement of Consultation Part 2 \(November 2024\)](#) and SD16 [Regulation 20 representations \(November 2024\)](#). It is not considered that this document contains information which is substantially different to that set out within those submitted documents, but it has been prepared to assist in navigating and considering the representations received and Council Response.

For each plan policy or associated document, it sets out some key information from the regulation 22 statement regarding the number of representations received, representation numbers, an overall summary of responses made, and a list of the main issues raised by the representations. It then contains all of the representations recorded against that Plan policy or document, along with links to supporting documents. Finally, it sets out the Council's response to the representations made for that Plan policy or document, and any changes the Council now recommends are made to the Plan policy or document, alongside any other relevant information.

Local Plan Reference or document	Habitats Regulations Assessment
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Total Number of Representations received	2
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Summary of Representations

The primary issues revolve around nutrient impacts on protected sites and the uncertainty of mitigation strategies proposed to address them by sites that lie outside the Winchester District. There is concern that developments within other authorities would also be seeking to use these resources. Therefore the data in the Nutrients Topic Paper is likely to be misleading as it refers to “the total number of kilograms of total nitrogen per year (Kg/TN/yr) available for use by development in Winchester”, this does not reflect that this allowance is also available for use by development in other local authorities.

There is a lack of evidence to demonstrate that the mitigation forecast in Figures 2 and 3 of the Topic Paper is deliverable. Thus, on the Council’s own HRA, it is clear that there is not the requisite degree of certainty that the proposed mitigation measures will be effective to avoid harm to the integrity of the protected sites. On this basis, the HRA does not (and cannot) conclude that there will be no adverse effects on the integrity of relevant Habitats Sites.

Natural England also raise matters in relation to nutrient impacts as it is Natural England’s view that there is a likely significant effect on internationally designated sites in the River Itchen and Solent catchments due to an increase in wastewater from new housing - The Plan HRA is supported by a Nutrient Topic Paper setting out the plan level budget and expected mitigation requirements across the plan period. Paragraph 5.66 relies upon policy NE16 requiring allocations and windfall development to assess nutrient impacts and provide mitigation at project level. This conclusion is not correct and would not meet the tests of the Habitats Regulations. Natural England has advised the Council that the plan must produce a nutrient budget and expected mitigation across the plan period, this work has been set out in the supporting Nutrient Topic paper. Natural England have worked with the Council on agreeing the nutrient topic paper, we will continue to engage on strategic nutrient mitigation schemes as they come forward.

Natural England advise that the Local Plan does not currently pass the tests of soundness described in Paragraph 35 of the National Planning Policy Framework (NPPF), on the basis that the Plan should address the impacts of air quality on the natural environment. In particular, it should address the traffic impacts associated with new development, particularly where there are impacts on European sites and SSSIs. Natural England is concerned regarding potential air quality impacts from the Bushfield Camp allocation (Policy W5), the air quality assessment provided does not assess potential impacts to ecological receptors and does not follow the methodology set out in the NE001 Air Quality Assessment guidance published by Natural England. Therefore, Natural England cannot agree with the conclusion of the HRA (dated July 2024) prepared for the Reg 19 Plan, that there will be no adverse effect on integrity of the River Itchen SAC as a result of air quality.

Physical loss of habitats is also raised as an issue with reference to functionally linked land and Solent Wader and Brent Goose Strategy (SWBGS) sites. Paragraph 5.14 of the Appropriate Assessment infers that only those sites identified as Core areas in the SWBGS require and HRA, this is incorrect all levels of classification will require an HRA where direct or indirect impacts from development are identified as these sites are supporting habitats for the qualifying features of the SPA regardless of classification level.

Representation Numbers (Statutory consultees in bold and named)

ANON-AQTS-32TE-Q/5/Habitats Regulations Assessment

BHLF-AQTS-3282-8 - Natural England/16/Habitats Regulations Assessment

Main issues raised in representations received in regulation 19 consultation

- Compliance with Habitat Regulations in relation to nutrients, habitat loss and air quality.

Policy/Evidence base document	Habitats Regulations Assessment
Name of respondent (or client)	O'Flynn Group
Personal reference number	ANON-AQTS-32TE-Q
Full reference number	ANON-AQTS-32TE-Q/5/Habitats Regulations Assessment
Legally compliant?	
Sound?	
Complies with duty to co-operate?	
Policy/Document comment	<p>This comment has been summarised – see supporting information for full response</p> <p>The O'Flynn Group considers that the Habitat Regulations Assessment (HRA) (July 2024) does not demonstrate that the Local Plan is not likely to have significant adverse effects on protected sites in relation to nutrients.</p> <p>The O'Flynn Group highlight that the strategic mitigation set out in the HRA and The Nutrients Topic paper does not reflect that this available for any authority within the East Hampshire catchment, and they state that the supply in the catchment is therefore meaningless. The O'Flynn Group highlight that the HRA and the Local Plan does not appear to have regard to the combined demand being placed on that capacity from developments across the wider catchment and how that relates to the prospective availability of mitigation or its deliverability. The Group also state that there is no information as to what mitigation is required for Winchester or the phasing of mitigation or development across the relevant areas or whether this is deliverable. The Group note that no analysis has been undertaken as to what specifically will secure future capacity or a credible land use strategy.</p> <p>The Group note that assurance that is being ascribed to these SOCGs by the HRA is in the future tense. No SOCGs exist. The Group highlight that there is not the requisite degree of certainty that the proposed mitigation measures will be effective to avoid harm to the integrity of the protected sites. On this basis, the HRA does not (and cannot) conclude that there will be no adverse effects on the integrity of relevant Habitats Sites. The Group highlight that the Council has not demonstrated the requisite degree of certainty that the mitigation the Local Plan relies on to avoid harm to the integrity of the protected sites also puts in doubt the ability of the Council to deliver the allocated sites necessary to meet its identified housing needs let alone the unmet needs from the wider PFSH area.</p> <p>The Group consider that it cannot be concluded that the approach to dealing with the nutrient issues have been effectively addressed as part of this Local Plan or that the strategy in this respect is sound. The strategic mitigation identified is acknowledged as being insufficient, with the prospect of additional works and</p>

	<p>improvements being asserted rather than demonstrated. Whilst the Council states that these issues will be resolved through SOCGs with Natural England and Southern Water, neither is currently in place. The approach to mitigation and how different development approaches (such as a new settlement dealing with nutrient mitigation on site) have not been adequately addressed in the local plan strategy. This then has direct consequence for the delivery of new development, particularly housing.</p> <p>The Group consider that allocating land at Micheldever Station for a new settlement (an option rejected by the Local Plan earlier in the plan making process) would enable a development to come forward because the wider landholding allows all the necessary mitigation to be provided to avoid adverse effects to the integrity of any protected site.</p>
<p>What modification(s) are necessary to make the policy legally compliant or sound?</p>	
<p>What is your suggested wording or text for the policy?</p>	
<p>Do you agree with how the policy will be monitored?</p>	
<p>If no, please explain</p>	
<p>Do you want to participate in hearing sessions for this policy?</p>	
<p>Have you submitted supporting information? <i>All relevant information related to the specific policy or allocation has already been included in the representation. However, the links provided may contain additional details, such as images, tables, or tracked changes, if applicable.</i></p>	<p>Yes Letter (commenting on Policies, Duty to Co-operate & Evidence Base)</p>

Policy/Evidence base document	Habitats Regulations Assessment
Name of respondent (or client)	Ellen Satchwell
Personal reference number	BHLF-AQTS-3282-8 - Natural England
Full reference number	BHLF-AQTS-3282-8 - Natural England/16/Habitats Regulations Assessment
Legally compliant?	
Sound?	
Complies with duty to co-operate?	
Policy/Document comment	<p>This comment has been summarised – see supporting information for full response</p> <p>Natural England note that a Habitats Regulations Assessment (HRA) dated July 2024 has been prepared by LUC for the Regulation 19 of the Winchester District Local Plan. Currently, for the reasons explained above concerning the uncertainty about air quality impacts, Natural England are not able to agree with the conclusions of the Habitat Regulations Assessment that the Plan will not have an adverse effect on integrity of the River Itchen SAC in relation to Air Quality and consider the Plan Unsound. In particular the HRA should address the traffic impacts associated with new development, particularly where there are impacts on European sites and SSSIs. The environmental assessment of the plan (Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA)) should also consider any detrimental impacts on the natural environment alone and in-combination, and suggest appropriate avoidance or mitigation measures where applicable. NE do not currently agree with the conclusion of the HRA (dated July 2024) that there will be no adverse effect on integrity of the River Itchen SAC as a result of air quality (paragraphs 5.31).</p> <p>NE have requested that the Council assess the River Meon and River Dever as Compensatory Habitat for the River Itchen SAC in the Plan HRA. NE welcome the reference to FLL and the Solent Wader and Brent Goose Strategy in Policy NE5. NE highlight that the HRA should make reference to all levels of classification will require an HRA where direct or indirect impacts from development are identified as these sites are supporting habitats for the qualifying features of the SPA regardless of classification level. The strategy sets out that where a classification is disputed, a minimum of three years survey will be required.</p> <p>In relation to nutrients NE consider that paragraph 5.66 of the HRA relies upon policy NE16 requiring allocations and windfall development to assess nutrient impacts and provide mitigation at project level. NE consider this conclusion is not correct and would not meet the tests of the Habitats Regulations. Natural England has advised the Council that the plan must produce a nutrient budget and expected mitigation</p>

	<p>across the plan period, this work has been set out in the supporting Nutrient Topic paper. NE will continue to engage on strategic nutrient mitigation schemes as they come forward.</p> <p>In relation to Bird Aware there may be instances where a development proposal may pose impacts to a site alone. NE consider that this distinction is not made clear in the HRA or in Policy NE5. NE highlight that the HRA is updated to reflect the updated Bird Aware Strategy.</p> <p>NE recommend the HRA assesses whether any of the allocation policies are likely to fall within the Zone of Influence for New Forest Recreational Disturbance and update the allocation policy text accordingly. NE are continuing to work with the LPA on addressing this matter and welcome the opportunity to discuss the updated modelling and results when these are available. NE have signed an interim Statement of Common Ground dated September 2024 which sets out commitment to work through outstanding issues with the Council.</p>
<p>What modification(s) are necessary to make the policy legally compliant or sound?</p>	
<p>What is your suggested wording or text for the policy?</p>	
<p>Do you agree with how the policy will be monitored?</p>	
<p>If no, please explain</p>	
<p>Do you want to participate in hearing sessions for this policy?</p>	
<p>Have you submitted supporting information? <i>All relevant information related to the specific policy or allocation has already been included in the representation. However, the links provided may contain additional details, such as images, tables, or tracked changes, if applicable.</i></p>	<p>Yes Letter (Commenting on policies and evidence base) Email correspondence (between Officers and NE re: compensatory habitats and SWBGS sites) Form (commenting on Air Quality only)</p>

WCC Response:

Comments noted.

Discussions have been held between the Council and Natural England to resolve the matters raised. There is an agreed [Statement of Common Ground with Natural England](#) dated September 2024. [An Air Quality Assessment](#) has been undertaken to address Natural England's comment regarding air quality issues relating to Bushfield Camp and this is available on the Local Plan website. The Nutrients Topic Paper has been updated and is available on the Local Plan website.

WCC Recommended Changes arising from the representations:

No changes recommended.

[Natural England have withdrawn their objection](#) to the Local Plan.

An updated SoCG and an Addendum to the HRA is currently in the process of being agreed with Natural England.