

- species;
- increased demands on recreational resources in the area which can potentially disturb sensitive species or even destroy habitats.
- Climate change with a number of consequences including sea-level rise which could result in the loss of important coastal habitats such as salt marshes and mudflats through the process of coastal squeeze.
- Other related issues include balancing increasing access to the natural environment without harming it and improving the quality of life of residents by taking opportunities to enhance biodiversity across the Borough.

12.67 The Borough Council's role as the local planning authority is critical in safeguarding internationally, nationally and locally important sites as well as protected species and other features of nature conservation importance. The following policies relate to how development proposals will be considered in relation to these features.

POLICY LP42: INTERNATIONALLY AND NATIONALLY IMPORTANT HABITATS

- 1. Planning permission will not be granted for development which will affect the integrity of internationally important sites. Such sites will be subject to the highest level of protection as set out in the relevant international and national regulations.**
- 2. All new residential development will be required to avoid or mitigate likely significant 'alone' and 'in-combination' effects on internationally important habitats caused by recreational disturbance.**
- 3. Planning permission will not normally be granted for development if it directly or indirectly harms a Site of Special Scientific Interest (SSSI). Development that affects a SSSI will only be permitted where it has been demonstrated that:**
 - a) the objectives of the designated area and overall integrity would not be compromised; or**
 - b) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social and economic benefits of national importance.**
- 4. In the exceptional circumstances where development that affects a SSSI is permitted the Borough Council will use conditions or planning obligations to ensure the protection of the site's nature conservation interest and that any adverse impacts are appropriately mitigated for, with compensatory measures only used as a last resort.**

EXPLANATION OF POLICY LP42

Internationally Important Habitats (point 1 of policy LP42)

12.68 A short definition for each of the three relevant designations in the Borough is outlined in box 12.9.

Box 12.9: Summary of International designations

The legal requirements for all three designations are set out in the Conservation of Habitats and Species Regulations 2010

Special Protection Area (SPA) - SPAs are designated under the European Union Birds Directives and Member States are required to take special measures to protect migratory, rare and vulnerable species of birds. SPAs are particularly important for birds which depend on specialised or restricted habitats for breeding, feeding, wintering or migration.

Special Area of Conservation (SAC) - designated under the European Union Habitats Directive. This requires Member States to protect important wildlife habitats and the rare or threatened plants and animals that they support.

Ramsar Sites- These sites are designated as wetlands of international importance under the 1971 Ramsar Convention. As a matter of policy, Ramsar sites in England are protected as European sites. Where the sites are identified for waterfowl interest, the criteria are similar to those for SPAs.

12.69 The Borough has four internationally important designations which are outlined below and identified on the Policies Map:

- *Portsmouth Harbour Special Protection Area (SPA)*: This includes a significant part of Portsmouth Harbour within the Borough including a number of creeks such as Frater, Forton, Haslar, Workhouse and Stoke Lakes. Other parts of the SPA are within Fareham Borough and Portsmouth City.
- *Portsmouth Harbour Ramsar site*: This covers the same areas as the Portsmouth SPA but has additional features of interest.
- *Solent and Isle of Wight Special Area of Conservation (SAC)*: This includes Gilkicker Lagoon within Gosport Borough. This is part of a larger designation which includes a series of saline lagoons around the Solent.
- *Solent and Southampton Water Ramsar Site*: It also includes the Gilkicker Lagoon. This is part of a much larger designation which includes a variety of habitats including saline lagoons stretching from Hurst Spit in the New Forest to Gilkicker.

12.70 In addition to these sites which are cross-boundary designations, the Borough Council is minded that development in Gosport Borough in-combination with other developments in the sub-region may in certain circumstances have an effect on other international designations, for example the Solent and Southampton Water SPA which is adjacent the Borough boundary at Hill Head within Fareham Borough. It will also be necessary to protect the integrity of these designations including the consideration of the effects of development on important sites outside the SPA and Ramsar site which support important populations of bird species such as Brent geese which may use a site for feeding and roosting.

12.71 In relation to internationally important sites the Government's Conservation of Habitats and Species Regulations 2010²²⁹, which transpose the European Union Habitats Directive into national law, are relevant. These are often

²²⁹ From 1st April 2010, this legislation updates and consolidates all the amendments to the Regulations since they were first made in 1994 which transposed the European Union Habitats Directive into national law.

referred to as the Habitats Regulations. It is now a requirement for each local planning authority to conduct a Habitats Regulation Assessment (HRA) of relevant DPDs. Policies and proposals in the Gosport Borough Local Plan in combination with other plans and programmes within the Borough and the sub-region (and beyond) will not be acceptable where there is the potential for an adverse impact on the features of an internationally important site. An HRA Report²³⁰ accompanies the Local Plan and its recommendations have been taken into account throughout the Plan including issues relating to recreational disturbance, traffic-related air pollution and coastal defences.

- 12.72 Developers should refer to the Habitats Regulations in instances where a proposal may impact upon the integrity of such sites. Policy LP42 reinforces the significance of this issue and consequently developers will need to consider these matters at the earliest possible stage when preparing their proposals and provide sufficient information for the Local Planning Authority to undertake the appropriate assessment.
- 12.73 Any proposal which may have a significant effect upon a European site or a species protected by European legislation, either alone or in combination with other current proposals and projects, will need to be subject to an 'appropriate assessment' and is likely to require an Environmental Impact Assessment. The information provided by the developer will enable the Local Planning Authority, with guidance from Natural England, to ascertain whether the proposal will have an adverse impact on the nature conservation value of a site.

Recreational Disturbance (point 2 of policy LP42)

- 12.74 In order to understand the issue of recreational disturbance and its potential impact on internationally important habitats detailed research has been undertaken as part of the Solent Disturbance and Mitigation Project (SDMP). This work has been coordinated by the Solent Forum and has involved a number of organisations including Natural England, Environment Agency, all the local authorities around the Solent, relevant harbour groups and the RSPB. The work has concluded that existing and new residential development is likely to have an adverse impact on protected bird species that use the European sites as a result of recreational disturbance generated by local residents.
- 12.75 Natural England²³¹ have made it clear that the SDMP work represents the best available evidence and therefore avoidance and mitigation measures are required in order to ensure a significant effect, arising from new housing development around the Solent, is avoided. It acknowledges that partnership work is underway and expects that all residential development contributes towards the avoidance and mitigation measures. The nature and level of the mitigation will depend on the scale and location of the residential development and whether there are any specific impacts related to the development or whether the impacts are primarily as a result of being in-combination with other development around the Solent.
- 12.76 Consequently it will be a requirement of new residential development to contribute towards the measures identified by the Project as well as other

²³⁰ www.gosport.gov.uk/localplan2029-evidencestudies

²³¹ NE's letter dated 31 May 2013 Planning application affecting Solent Special Protection Areas http://www.solentforum.org/forum/sub_groups/Natural_Environment_Group/Disturbance_and_Mitigation_Project/Advice_to_PUSH_and_Solent_Forum%20310513.pdf

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measures that may be considered appropriate. A broad level study 'Towards an Avoidance and Mitigation Strategy' has been produced as part of the SDMP. This could include the implementation of on-site measures as part of the development proposal and/or financial contributions to local and/or sub-regional projects. It has been recognised by the SDMP that an important component of the mitigation measures will be the creation of the Alver Valley Country Park as a suitable alternative natural greenspace (SANG) to deflect pressure from sensitive parts of the coast. The package of measures could also include, coastal rangers, education initiatives particularly focussed at dog walkers, as well as various potential access management projects. The work is on-going and the latest information can be found on the relevant website.²³² The Solent Recreation Mitigation Partnership (SRMP), which includes Gosport Borough Council, has been formed to implement a package of mitigation measures. The Borough Council has prepared a protocol²³³ describing how 'in combination' effects can be mitigated by a financial contribution. Certain developments, due to the proximity to the SPA or their size may lead to significant effects alone, in which case additional avoidance and mitigation measures will be required.

Nationally Important Habitats- Sites of Special Scientific Interest (points 3 and 4 of policy LP42)

12.77 The Borough's Sites of Special Scientific Interest (SSSI's) are designated and protected under the Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act 2000. The Borough contains all or part of five SSSIs which are outlined below:

- *Portsmouth Harbour* (also a Ramsar and SPA site) contains a number of important habitats including inter-tidal mudflats and marshes which support internationally important wetland bird species;
- *Gilkicker Lagoon* (also a Ramsar and SAC site) is a saline lagoon, which is a rare habitat and supports specialised species including several national rarities;
- *Browdown Ranges* is an extensive shingle beach with extensive areas of rare grass heath habitat supporting specialised plants and invertebrates;
- *The Wildgrounds* is largely an acid oakwood, a type of habitat which was formerly widespread on coastal commons in Hampshire (the site is also a Local Nature Reserve);
- *Lee-on-the-Solent to Itchen Estuary* includes the coastline at Lee-on-the-Solent which is important for geological reasons, particularly for bird fossils.

12.78 The Borough Council recognises the significant ecological and geological importance of SSSIs and will consult Natural England (or where appropriate use its relevant standing advice) when considering planning applications affecting these sites. The Borough Council will aim to protect these sites from the direct and indirect impacts of development. In exceptional cases, there may be occasions when the importance of the development will justify damage to an SSSI. Such occasions may occur when there is an overriding need for the development and the reasons for the development clearly outweigh the value of the site itself. In such instances developers must prove that the need for a development clearly overrides the Government's policy to

²³² http://www.solentforum.org/forum/sub_groups/Natural_Environment_Group/Disturbance_and_Mitigation_Project/

²³³ <http://www.gosport.gov.uk/sections/your-council/council-services/planning-section/pre-application-advice/>

safeguard the intrinsic nature conservation value of SSSIs. Where development is permitted the Local Planning Authority will use conditions or planning obligations to ensure appropriate measures are taken to mitigate for any adverse impacts that are likely to occur with compensatory measures only used as a last resort.

POLICY LP43: LOCALLY DESIGNATED NATURE CONSERVATION SITES

- 1. Locally designated sites such as Sites of Importance for Nature Conservation (SINCs) and Local Nature Reserves will be appropriately protected and opportunities will be taken to enhance them.**
- 2. Planning permission will not be granted on locally designated sites unless it can be clearly demonstrated that the benefits of the proposal outweigh the need to protect the nature conservation value of the site.**
- 3. In exceptional circumstances where development is permitted the Local Planning Authority will ensure that any adverse impacts are appropriately mitigated for, with compensatory measures only used as a last resort.**

EXPLANATION OF POLICY LP43

- 12.79 The Sites of Importance for Nature Conservation (SINCS) are identified by the Hampshire Biodiversity Information Centre following an ecological assessment and are considered by the Local Sites Panel. The panel comprises representatives from Natural England, Hampshire County Council and the Hampshire and Isle of Wight Wildlife Trust for ratification, in accordance with local sites guidance²³⁴ issued by DEFRA in 2006. These sites are shown on the Policies Map. It is acknowledged that following the adoption of the Local Plan further sites may be identified as SINCS. These additional sites will also be covered by Policy LP43. A list of all the sites including those added after the Local Plan is adopted can be found on the Council's website together with the list of qualifying criteria²³⁵.
- 12.80 The Borough has two Local Nature Reserves (LNRs): the Wildgrounds (also a SSSI) and the West of the River Reserves. Both sites are located in the Alver Valley and are owned and managed by the Borough Council. LNRs are a statutory designation made by local authorities under section 21 of the National Parks and Countryside Act 1949 (as amended by the Local Government Act 1972).
- 12.81 All these designated sites form an important network of habitats which support a range of species. The Borough Council will continue to protect them and encourage and support opportunities to enhance them, including the establishment of buffer areas around them. The Borough Council will resist any development proposals which would adversely affect these locally designated sites unless the benefits of the proposal outweigh the significance of the site. Where there is a risk of damage to a designated site, the Local

²³⁴ <http://www3.hants.gov.uk/biodiversity/hampshire/sincs/important-sites-sinc-criteria.htm>

²³⁵ <http://www.gosport.gov.uk/sections/your-council/council-services/planning-section/nature-conservation/local-sites/>

Planning Authority will impose planning conditions or require a Section 106 Agreement in order to secure measures that overcome any potential impacts. Such measures could include the long term management of the site, restriction of operations or the provision of nature conservation features to compensate for any such features lost when development takes place to ensure that there is no net loss in overall biodiversity.

POLICY LP44: PROTECTING SPECIES AND OTHER FEATURES OF NATURE CONSERVATION IMPORTANCE

- 1. Planning permission will not be granted on a site that would have an adverse impact on a protected species or its habitat unless it can be clearly demonstrated that there is an overriding need for the development that outweighs the significance of the nature conservation feature. In such instances, the planning authority will impose conditions on the planning permission or require a planning obligation to:
 - a) facilitate the survival of individual members of the species;**
 - b) reduce disturbance to a minimum;**
 - c) provide alternative habitats to sustain at least the current levels of population of the species; and**
 - d) take opportunities to enhance their habitat.****
- 2. Development proposals should ensure that habitats and species on the UK List of Priority Habitats and Species and included within Hampshire Biodiversity Action Plans are protected and populations strengthened.**
- 3 Planning permission will not be granted for development which would adversely affect, directly or indirectly, features of nature conservation importance unless it can be demonstrated that the justification for the development outweighs their importance for nature conservation or amenity value.**
- 4 Appropriate management of these features will be secured by the imposition of planning conditions and by entering management agreements with landowners where appropriate. Where such features are lost as part of a development proposal, the Borough Council will use conditions and/or planning obligations to ensure no net loss of biodiversity.**

EXPLANATION OF POLICY LP44

Protected Species and their habitats (Point 1 of policy LP44)

- 12.82 Development proposals should be aiming to achieve a net gain in biodiversity as set out in Policy LP41. There are numerous sites which are likely to contain animal and plant species which are protected by law. These species are principally identified under the Habitats Regulations 2010, the Wildlife and Countryside Act 1981 and other Acts which protect particular species, such as the Protection of Badgers Act 1992. All local authorities have a statutory obligation to conserve biodiversity under the Natural Environment and Rural Communities (NERC) Act 2006. The duty encourages local authorities to maximise opportunities for conserving and enhancing the natural environment.