

Solent Special Protection Areas

**Gosport Bird Disturbance Mitigation
Protocol**

April 2022

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1. INTRODUCTION

- 1.1 The Solent coastline is internationally important for its wildlife interest. This importance has been recognised by international protective designations including four Special Protection Areas (SPAs) – the Portsmouth Harbour SPA, the Solent and Southampton Water SPA, the Chichester and Langstone Harbours SPA, and the Dorset and Solent Coast SPA. These SPAs have been designated predominantly for the protection of the large numbers of waders and wildfowl which spend the winter on the Solent.
- 1.2 It is estimated that 60,000 new homes are planned around the Solent up to 2034 and this new housing can have potential impacts on the SPAs. One of these potential impacts is increased recreational activity at the coast resulting from population increases associated with the new homes. Extensive research has quantified this impact and recommended measures - known as 'mitigation measures' - to ensure that the additional recreational activity would not result in harm to the SPAs.
- 1.3 The protection afforded by the SPA designations has particular consequences. Under the Habitats Regulations¹ any plan or project can only lawfully go ahead if it can be shown that the development, either on its own or in combination with other plans or projects, will have no adverse effect on the integrity of the SPAs.
- 1.4 Research has shown that these will lead to more people visiting the coast for recreation which will potentially create additional disturbance to these birds and have a detrimental impact on the protected species of the SPAs. In order to understand the issue of recreational disturbance and its potential impact on internationally important habitats extensive detailed research has been undertaken as part of the Solent Disturbance and Mitigation Project (SDMP). This work was 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 internationally important sites as a result of recreational disturbance generated by local residents.
- 1.5 In 2013 Natural England² 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 therefore expects that all residential development contributes towards the avoidance and mitigation measures.
- 1.6 As a result of this requirement the relevant authorities including GBC formed the Solent Recreation Mitigation Partnership (SRMP). The SRMP now also adopts a public-friendly brand name called 'Bird Aware Solent' which it will use for its day to day work and public engagement.
- 1.7 Due to the complexity of understanding what mitigation measures would be effective Natural England agreed that an Interim Mitigation Strategy could be implemented until 31st March 2018 and that this would need to be replaced by a definitive long-term strategy. The Interim Strategy has been in operation since October 2014 and Gosport Borough Council and the other partners have been collecting a financial contribution for each new dwelling permitted

¹ The Conservation of Habitats and Species Regulations 2010 (and subsequent amendments)

² See Document LP/E2/2 on the Council's Local Plan evidence page

<https://www.gosport.gov.uk/sections/your-council/council-services/planning-section/local-developmentframework/gosport-borough-local-plan-2029/gosport-borough-local-plan-2011-2029-adopted-october-2015/evidence-studies/>

within a 5.6km zone of the SPAs³, which includes the whole of Gosport Borough. The original Gosport Bird Disturbance Protocol was prepared to link with the Interim Strategy.

- 1.8 The SRMP has now prepared the definitive Solent Recreation Mitigation Strategy (SRMS) which covers the period to 2034. A copy of the SRMS can be viewed on the Bird Aware Solent website <https://solent.birdaware.org/strategy>. Consequently it has now been necessary to update the Council's Gosport Bird Disturbance Protocol.

2. THE SPECIAL PROTECTION AREAS

- 2.1 The Solent shoreline stretches from Hurst Castle (near Lymington) in the west to West Wittering in the east and includes the northern shore of the Isle of Wight from Warden Point (near Colwell) to Whitecliffe Bay (near Bembridge). This 250 kilometres shoreline includes the tidal sections of the rivers which flow into the Solent as well as Chichester, Langstone and Portsmouth Harbours. The Solent is internationally important for its wildlife interest and there are various protective designations including three Special Protection Areas (SPAs).
- 2.2 The four SPAs on the Solent are: Chichester & Langstone Harbours SPA; Portsmouth Harbour SPA; Solent & Southampton Water SPA; and Dorset and Solent Coast SPA. The SPAs were designated principally for the protection of internationally significant numbers of over-wintering waterfowl (different at each) that include geese, ducks and wading birds. The Dorset and Solent Coast SPA (adopted 2020) protect important foraging areas at sea used by three species of tern⁴. The Solent supports over 90,000 waders and over 10 per cent of the global population of Brent Geese. Many of these birds travel thousands of miles to over-winter on the Solent. The intertidal habitats, particularly the mudflats, shingle and saltmarshes, provide essential winter feeding and roosting grounds for these species.
- 2.3 The Solent coast, including the coastline within the SPAs, is popular with local people and enjoyed for a wide range of recreational activities. The wildlife interest is part of the specific draw for many people, and some travel quite long distances to access the coast. However, recreation and the presence of people in and around the SPAs can result in disturbance to the birds, albeit often unintentional.
- 2.4 Human disturbance of the birds can have several impacts. Birds may be more alert, resulting in a reduction in the amount of food eaten, or they may fly away from the disturbance. A bird which flies away forgoes valuable feeding time whilst in the air and also uses energy in flying - a double impact on the bird's energy reserves. If the disturbance is substantial, then food-rich areas may be little used by the birds or avoided altogether, leading to other areas hosting a higher density of birds and intensifying the competition for the available food. Ultimately, the consequence of human disturbance can be increased bird mortality or a reduction in the amount of energy which the individual bird has available at the end of the winter period to fly back to its breeding grounds. If as a consequence the birds are unable to complete their migratory journey or are not in sufficiently good condition to breed when they arrive, then this would lead to a reduction in the bird population.

3. RESEARCH

- 3.1 Housebuilding around the SPAs will result in an increase in the number of local residents and thus the number of people visiting the coast for recreation, with a consequential risk of increased disturbance to the birds. Extensive research into this matter was undertaken

³ This zone has been determined from the evidence studies which demonstrated that this is where the majority of coastal visitors live.

⁴

during 2009-2013 through the Solent Disturbance & Mitigation Project⁵ which preceded the SRMP. It included:

- 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;
- computer modelling to establish whether the patterns of activity which were observed at the Solent SPAs could lead to increased bird disturbance;
- recommendations on the mitigation measures that could be used to prevent housing development affecting the integrity of the SPAs.

- 3.2 Based on the research, it is estimated that around 52 million visits are made by households to the Solent coast each year, of which just over half are made by car. The majority of visitors make trips to the coast specifically to see the sea and enjoy the coastal scenery.
- 3.3 Dog walking was the most frequently observed activity, with walking, cycling and jogging being other common recreational activities. Most activities involved people staying on the shore/sea wall rather than being on the intertidal areas or in the water. Human activity that took place on the intertidal areas was more likely to result in bird disturbance; on those areas dog walking was particularly common and resulted in a disproportionate amount of the observed bird disturbance. The research found that disturbance tended to occur when the human activity was relatively close to the birds i.e. within 50 metres, and that birds tended to respond less the further the human activity was from them.
- 3.4 The Solent area is heavily populated and it is estimated that over 1.4 million people live within a ten minute drive of a car park on the Solent shoreline. Substantial additional housing is planned and much of this will be within a short distance of the coast. Based on studies elsewhere in the country, it considered new development would have an impact if it was built within a zone of 5.6km from the SPAs. This zone would include the whole of Gosport Borough.
- 3.5 The research predicted that while some birds will be able to compensate for increased disturbance by altering their feeding habits, a number of species will suffer increased mortality as a consequence of the additional recreational visits generated by housing development. The number of current visitors to each section of coast varies widely, as does the predicted future increase. These variations reflect differences in the attractiveness and accessibility of different parts of the coast; the variations in the predicted increase also reflect the geographical pattern of housing development foreseen by the planning authorities.
- 3.6 A key finding of the research is that the level of disturbance is determined more by how people behave and where they go, rather than purely by the number of people. Consequently, mitigation measures should focus on visitor management rather than simply curtailing access to the coast.
- 3.7 The research undertaken for the Solent considered a range of potential mitigation measures, from initiatives which will influence visitor behaviour (publicity, signage, rangers etc.) to access management and enforcement measures. The creation of new greenspace - Suitable

⁵ The research can be seen at:

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

Alternative Natural Greenspace (SANGs) - in less environmentally-sensitive locations was also seen as having the potential to deflect recreational pressure away from the SPAs. Although most people visit the coast specifically to see the sea and enjoy the coastal scenery, having a short travel time from home is also important to them and for dog walkers it is of equal importance. So the research concluded that some people may be persuaded to visit a SANG instead of going to a section of coast within the SPAs, provided that the SANG is attractive and close to their homes.

- 3.8 Overall, the research concluded that there is likely to be a significant effect on the Solent SPAs from the additional recreation which will result from new housing development. Natural England - the Government's advisor on wildlife matters - has advised that the research *"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"*.

4. INTERIM MITIGATION MEASURES

- 4.1 Based on the research and the principles above, as well as additional work relating to appropriate measures, the SRMP have now proposed a package of mitigation measures for the definitive SRMS. These are as follows:

- A team of 5-7 coastal rangers to advise people on how to avoid bird disturbance, as well as liaising with landowners, hosting school visits and undertaking other events with the public;
- Communications, marketing and education initiatives and an officer to implement them;
- Initiatives to encourage responsible dog walking and an officer to implement them;
- Preparation of codes of conduct for a variety of coastal activities;
- Site specific projects to better manage visitors and provide secure habitats for the birds;
- Providing new/enhanced greenspaces as an alternative to visiting the coast.
- A partnership manager to coordinate and manage all the above.

- 4.2 The additional coastal recreational activity generated from new housing development will be a permanent feature, so the measures to prevent that increased activity having an impact on the birds must also be in place for the lifetime of the new homes. The funding contributions as set out below must therefore provide for the mitigation measures to be continued in perpetuity which has been calculated on an 80 years basis after 2034. This approach is acceptable to Natural England. The SRMS therefore has a mechanism for funding the mitigation measures after 2034 and is described in detail in the SRMS.

- 4.3 Since the implementation of the coronavirus lockdowns the Bird Aware Solent team have adapted their mitigation measures to include more online communications, marketing and educational initiatives. Upon the lifting of the lockdown measures it is expected that the team will largely revert to their previous mitigation measures, while maintaining an enhanced online presence.

5. IMPLEMENTATION

- 5.1 The SRMS calculates that the annual costs of the mitigation measures including the in-perpetuity funding is £1,996,000 (see Appendix 1 for details). When this is divided by the proposed 3,538 homes per annum proposed across the Solent area, and index-linked, this equates to an average contribution per dwelling of £641. The contribution is calculated according to the number of bedrooms of each property and is set out below. Please note that the flat rate is usually used in cases of caravans, tents or gypsy and traveller sites:

| | |
|----------------|-------|
| 1 bed dwelling | £390 |
| 2 bed dwelling | £563 |
| 3 bed dwelling | £735 |
| 4 bed dwelling | £864 |
| 5 bed dwelling | £1014 |
| Flat rate | £652 |

- 5.2 The authorities will pool these contributions and implement the mitigation measures through SRMP. At regular intervals Gosport Borough Council (GBC) will transfer monies collected from developments that have commenced to the SRMP so that the mitigation measures can be implemented.
- 5.3 The cost of implementing the mitigation measures will rise in line with inflation on 1st April each year in line with the Retail Price Index.

Planning Applications

- 5.4 GBC will require a contribution for every net additional dwelling unless the developer can demonstrate to the satisfaction of the local planning authority and Natural England that it will provide alternative measures which fully mitigate the impact of the development on the SPAs.
- 5.5 GBC has prepared a Planning Obligations and Developer Contributions Strategy which was approved by the Council's Economic Development Board on 9th September 2014. This strategy indicates that SRMP payment is required in accordance with the Habitats Regulations and to meet the requirements of Policy LP42 in the Gosport Borough Local Plan 2011-2029 in order to demonstrate appropriate mitigation and that a proposal will not cause significant 'in combination effects' on internationally important habitats in terms of recreational disturbance. The developer will pay the contribution directly to GBC in its role as the 'competent authority' as defined by the Habitats Regulations. Without this contribution, the planning application would be unacceptable. It should be noted that some residential developments may have to mitigate significant 'alone' effects on internationally important habitats in terms of recreational disturbance. In addition to these 'in combination' impacts, certain developments may be required to mitigate impacts directly associated with the development.

Permitted Changes to Class 3 Dwellinghouses

- 5.6 The Town and Country Planning (General Permitted Development) (England) Order 2015 permit certain changes to Class C3 Dwellinghouses, subject to the submission of a Prior Notification to the Local Planning Authority.
- 5.7 The GPDO requires compliance with the Habitats Regulations in addition to the other specific provisions. The Habitats Regulations state that, where a development which is likely to have a significant effect on a relevant site, must not be begun until the developer has

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received written notification of the approval of the local planning authority under Regulation 77 (approval of local planning authority) of the Habitats Regulations.

- 5.8 It has been confirmed that the 'in combination' impact of additional residential development is likely to have a significant effect on the protected sites. There will, therefore be a significant effect unless evidence can be provided to demonstrate otherwise. A SRMP payment is appropriate mitigation for the significant effect on the protected sites and the relevant contribution set out in the SRMS and this Protocol similarly applies.
- 5.9 In the event that a payment is not made through the consideration of the Notification, applicants will be reminded that, in accordance with the Habitats Regulations it is a condition of a permission granted by GPDO that development must not be begun until approval under the Regulations has been granted by the Competent Authority.
- 5.10 Once the harm has been mitigated, by the payment of the SRMP payment GBC as the Competent Authority will confirm in writing, on receipt of the application under Habitats Regulations and payment of the required fee (currently £30) that the development may begin.

6. HOW DO I MAKE A HABITATS REGULATIONS CONTRIBUTION

6.1 The developer will make a payment directly to Gosport Borough Council. This should be paid at the same time as a planning application/notification is submitted. The form set out below should be completed indicating how many dwellings are proposed to be created and the total contribution towards mitigation measures. It should be noted that:

1. The funds will be cashed immediately on receipt by Gosport Borough Council.
2. A refund will only be made if the application does not result in positive outcome:
 - a. The total amount refunded will be the same as that paid to Gosport Borough Council.
 - b. No interest accrual will be refunded
 - c. for planning applications, the money will only be refunded on withdrawal/refusal and not until the time period for appeal has passed or an appeal has been dismissed
 - d. If an appeal is made and the appeal is allowed the money will not be refunded.
 - e. For notifications, the money will only be refunded if the development has not been begun within the timescales set out within the legislation.

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HABITATS REGULATIONS MITIGATION CONTRIBUTION FORM

Application Reference Number (office use) _____

Form to accompany payment at the time a planning application /notification is submitted.
This form is only appropriate for residential dwelling developments.

Development consists of _____ (Number of) Dwellings

| A: Number of bedrooms | B: Number of properties proposed | C: Contribution as at 1 st April 2022 | Total (column B x C) |
|-----------------------|----------------------------------|--|----------------------|
| One-Bed | | £390 | |
| Two-Bed | | £563 | |
| Three- Bed | | £735 | |
| Four-Bed | | £864 | |
| Five-Bed or more | | £1014 | |
| Flat rate | | £652 | |

Address of Development _____

Please find attached a cheque for £ _____ as a contribution towards measures to mitigate the impacts of the Development on the Solent Special Protection Areas.

I understand that:-

1. This cheque will be cashed immediately on receipt by Gosport Borough Council.
2. A refund will only be made if the application/notification does not result in a positive outcome:
 - a. The total amount refunded will be the same as that paid to Gosport Borough Council;
 - b. No interest accrual will be refunded;
 - c. for planning applications, the money will only be refunded on withdrawal/refusal and not until the time period for appeal has passed or an appeal has been dismissed;
 - d. If an appeal is made and the appeal is allowed the money will not be refunded;
 - e. For notifications, the money will only be refunded if the development has not been begun within the timescales set out within the legislation.

Full Name of Applicant _____

Signature of Applicant _____

Date _____

Appendix 1 showing the calculation of the developer contribution

The table below sets out the estimated annual costs of each expenditure item, for the period up to 2034 and during the in-perpetuity period thereafter.

| Expenditure item⁶ | Up to 2034 £ | After 2034 £ | Notes |
|---|-------------------------|-------------------------|-------------------------------------|
| All-year rangers ⁷ | 200,000 | 200,000 | 5 posts @ £40k pa |
| Extra salary payment for Lead Ranger | 5,000 | 5,000 | |
| Branded vehicles for all-year rangers | 25,000 | 25,000 | £5k pa each (all year rangers only) |
| Winter-only rangers ⁸ | 42,000 | 42,000 | 2 posts @ £21k pa |
| Sub-total⁹ | 272,000 | 272,000 | |
| Communications & education post and Dog Walking Initiatives Post | 63,000 | - | Total of 7.5 days per week |
| Combined communications, education and dog walking initiatives post | - | 21,000 | 2.5 days per week |
| Partnership Manager | 30,000 | - | 3 days per week |
| Operating budget | 60,000 | 30,000 | |
| Monitoring | 30,000 | 15,000 | |
| Site specific visitor management projects | 400,000 | - | |
| Maintenance of capital projects | 20,000 | 20,000 | 5% of the £400k projects funding |
| Contingency | 10,000 | 5,000 | |
| Total expenditure | 885,000 | 363,000 | |
| In-perpetuity funding for expenditure beyond 2034 | 1,111,000 | | See Appendix D of the SRMS |
| Grand total | 1,996,000 | | |
| Divided by number of new dwellings | 3,538 | | See Appendix A of the SRMS |
| Developer contribution - £ per dwelling | 564 | | |

⁶ All the figures are at 2016 prices: the developer contribution is index linked, so that annual increase will cover inflation-related rises in the above figures.

⁷ This cost does not represent the Rangers salary level as it also includes other employment costs such as uniform, office space, national insurance and pension contributions.

⁸ The winter-only rangers' costs provide for their employment for seven months from 1 September, in order to allow one month for training and familiarisation ahead of winter patrols between 1 October and 31 March.

⁹ Each all-year ranger will have a small van to transport equipment for displays to local events etc. The seasonal rangers will use their own vehicles to get to sites. All the staff cost figures include the employer's national insurance and pension contributions, office accommodation, IT costs, as well as the individual's salary. The operating budget will cover website development and maintenance, graphic design and printing costs, display/exhibition materials, consultancy support, for all communications/education, dog walking initiatives and generic Partnership activities.